

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MAY 13, 1997

The Council of the City of San Jose convened in regular session at 9:00 a.m. in City Council Chambers at City Hall.

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

Absent: Council Members: None.

Upon motion unanimously adopted, Council recessed at 9:05 a.m. to a Closed Session in Room 600 to confer with Labor Negotiator Pursuant to Government Code 54957.6: City Negotiator: City Manager designee Darrell Dearborn; Employee Organizations: San José Police Officers' Association and International Association of Firefighters.

By unanimous consent, Council reconvened from the Closed Session, recessed at 10:45 a.m., and reconvened at 2:19 p.m. in the Council Chambers.

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

Absent: Council Members: None.

INVOCATION

Zaida Rivera, MACSA Youth Center student, read a poem entitled, "Peace" written when she was 14, which expresses her commitment to youth advocacy and the promotion of peace. (District 5)

PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

5a Presentation of a commendation to City of San José Park Rangers for 25 years of service to the community. (Conventions, Arts and Entertainment)

Documents filed: None.

Discussion/Action: Mayor Hammer presented a commendation recognizing the 25th Anniversary of the City of San José Park Rangers to Rangers Roger Abe, Mike Azevedo, Steve Bergkamp, Doug Colbeck, Russ Dilley, Carlos Duenas, Pam Helmke, Jane

Lawson, Rob Reynolds, Bern Smith, Mike Will, Coleman Wright, Paul Wong, and Thom Jones. Mike Will accepted on behalf of the City of San José Park Rangers and Russ Dilley presented the Mayor and Council Members with a commemorative pin.

5b Presentation of plaque to Barbara Middaugh for 2 years 9 months service on the Senior Citizens Commission. (Mayor)

Documents filed: None.

Discussion/Action: Mayor Hammer expressed appreciation for service on the Senior Citizens Commission by Barbara Middaugh, who was not present; the plaque will be mailed to the recipient.

5c Presentation of proclamation declaring May 15, 1997 as “Police Memorial Observance Day”. (Mayor)

Documents filed: None.

Discussion/Action: Mayor Hammer presented a proclamation declaring May 15, 1997 as “Police Memorial Observance Day” to Police Chief Louis Cobarruviaz, who called to the podium Lt. Kenneth Christie and Captain Adonna Amoroso, thanked the Mayor and City Council and stated the Police Department joins City officials in honoring the nine San José Police Officers lost in the line of duty over the City’s history, as those who made the ultimate sacrifice to the City of San José and its residents.

5d Presentation of a proclamation declaring the week of May 18-24, 1997 as “National Public Works Week”. (Public Works)

Documents filed: None.

Discussion/Action: Mayor Hammer presented to Public Works Director Ralph Qualls a proclamation declaring May 18-24, 1997 as “National Public Works Week”. Director Qualls commended the Public Works Staff and called to the podium Carla Ruigh, Chief of Parks Planning, Jody Frizzell, dispatcher at the Mabury Yard with Streets and Traffic, Eric Rosenblum, Principal Engineer in Environmental Services, and Steve Lopez, Building Services Division of General Services, for recognition of their contributions to the City of San José.

**5e Presentation by the East San José Lions Club on their contributions and activities in the community. (Diaz)
(Deferred from 5/6/97 - Item 5j)**

Documents filed: None.

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

- 5f Presentation of proclamation declaring May 11-17, 1997 “National Preservation Week”. (Johnson)
(Rules Committee referral 5/7/97)**

Documents filed: None.

Discussion/Action: Council Member Johnson joined Mayor Hammer to present a proclamation declaring May 11-17, 1997 “National Preservation Week” to members of the San José Historic Landmark Commission, chaired by James Salada, who accepted behalf of the Commission and thanked the Mayor and City Council.

- 5g Presentation of San José Historic Landmark identification plaques. (Johnson)**

Documents filed: None.

Discussion/Action: Joining Mayor Hammer at the podium, Council Member Johnson displayed the newly designed San José Historic Landmark plaques and presented to Barbara Johnson a plaque for Historic Landmark No. 1, the Peralta Adobe, the oldest extant building in San José, which was built in 1797.

- 5h Presentation and commendation to the founders of the Northside Neighborhood Association - Joyce Ellington, Euphemia and Sheldon Nutter, and Florence Menteer (posthumous). (Pandori) (Rules Committee referral 5/7/97)**

Documents filed: None.

Discussion/Action: Mayor Hammer was joined by Council Member Pandori, who presented the commendation to Joyce Ellington, Euphemia and Sheldon Nutter, and Florence Menteer (posthumously), founders of the Northside Neighborhood Association. Council Member Pandori cited the many contributions of the Northside Neighborhood Association and thanked the founders on behalf of the community and the Mayor and City Council. Joyce Ellington, Euphemia, and Sheldon Nutter expressed appreciation for the recognition and John Menteer accepted on behalf of his mother, Florence.

- 5i Presentation of a commendation to Jesse Singh, Chief Executive Officer for BJS Electronics, for his outstanding efforts in hiring older workers. (Woody)
(Rules Committee referral 5/7/97)**

Documents filed: None.

Discussion/Action: Council Member Woody joined Mayor Hammer for presentation of a commendation to Jesse Singh, CEO of BJS Electronics, whose efforts in hiring older workers were cited by Council Member Woody as exemplifying the spirit of San José’s Aging Master Plan. Mr. Singh accepted the commendation on behalf of his family and employees of BJS Electronics, thanked the City Council for the recognition, and commended Mayor Hammer for her leadership in meeting the needs of seniors.

- 5j Presentation of a commendation by Yu-Ai Kai, Japanese American Community Senior Services, to recognize Mayor Hammer for her vision and leadership in establishing the Mayor’s Aging Leadership Council to implement the San José Aging Services Master Plan. (Woody)
(Rules Committee referral 5/7/97)**

Documents filed: None.

Discussion/Action: Mayor Hammer was presented a commendation by Mitsu Kumagai, Executive Director of Yu-Ai Kai, Japanese American Community Senior Services, honoring the Mayor for her vision and leadership in establishing the Mayor’s Aging Leadership Council and the Aging Master Plan to plan for the “Age Wave”. Mayor Hammer thanked Mr. Kumagai.

- 5k Presentation of a commendation to the members of the Mayor’s Aging Leadership Council involved in developing the Multilingual Senior Services Referral Locator in Santa Clara County. (Woody)
(Rules Committee referral 5/7/97)**

Documents filed: None.

Discussion/Action: Mayor Hammer and Council Member Woody presented a commendation to Deborah Bogart, who accepted on behalf of the Department of Parks, Recreation and Neighborhood Services’ Office of Aging and commended members of the Multicultural Working Group of the Aging Leadership Council.

- 5l Presentation of a commendation to Bud LoMonaco for his dedication and service to the community. (Diaz)
(Orders of the Day 4b)**

Documents filed: None.

Discussion/Action: Mayor Hammer was joined by Council Member Diaz, who presented a commendation to Bud LoMonaco for his dedication and service to the community and cited his many volunteer efforts on behalf of the residents of San José.

- 5m Presentation of a commendation to Janet Lane for her artistic contributions to the City. (Diaz)
(Orders of the Day 4c)**

Documents filed: None.

Discussion/Action: Council Member Diaz joined Mayor Hammer at the podium to present a commendation to Janet Lane for her artistic contributions to the City and unveiled the mural she designed to reflect the choices which are available to youth, titled,

“We Have Choices”. Ms. Lane accepted the commendation and expressed her appreciation for the recognition.

CONSENT CALENDAR

Minutes for Approval

6a(1) Regular Meeting of April 1, 1997

Documents filed: Minutes of April 1, 1997.

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

6a(2) Adjourned Regular Meeting of April 3, 1997

Documents filed: Minutes of April 3, 1997.

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

6a(3) Regular Meeting of April 8, 1997

Documents filed: Minutes of April 8, 1997.

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

Ordinances for Final Adoption Ord Titles from Contracts

6b(1) ORD. NO. 25299 - Adopts salaries for the Mayor and Council Members recommended by the Council Salary Setting Commission pursuant to City Charter Section 407.

Documents filed: Proof of publication of title of Ordinance No. 25299, submitted by the City Clerk.

Discussion/Action: Ordinance No. 25299 was adopted. Vote: 10-1-0-0. Noes: Dando.

6b(2) ORD. NO. 25302 - Adds a new Chapter 18.30 to Title 18 of the San José Municipal Code to establish a process for amendments to the Urban Growth Boundary established by the San José General Plan.

Documents filed: None.

Discussion/Action: This item was deferred to May 27, 1997.

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)
[Deferred from 5/06/97 - 6d(1)]

Documents filed: None.

Discussion/Action: Hank Young, McKay and Soms, explained that as a condition of zoning the developer has signed an agreement with the City to develop the full park and dedicate it to the City and the developer has a separate two-party agreement with the adjacent property owners wherein they are obligated to dedicate their portion of the park. Council Member Powers advised the park issues have been resolved, stated a new issue on the location of a water well needs to be resolved, and moved approval of a two-week deferral. Council Member Fiscalini seconded the motion. On a call for the question, the motion carried unanimously and the item was deferred to May 27, 1997. Vote: 11-0-0-0.

Contracts/Agreements

- 6e(1) Approval of the renewal of a commercial operation permit with Phariss Enterprises for the coin-operated telescopes at Terminal C, to extend the current permit on a month-to-month basis not to extend beyond ten (10) years, or May 31, 2007, with annual revenue to the City of \$220. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated April 25, 1997, recommending the renewal of said permit.

Discussion/Action: The renewal of said commercial operation permit with Phariss Enterprises was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(2) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1996-97 #23, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Documents filed: (1) Memorandum from Director of General Services, Ellis M. Jones, Jr., dated April 25, 1997, recommending the award of said open purchase order list. (2) Letter from the Treatment Plant Advisory Committee dated May 9, 1997, recommending approval of said open purchase order list.

Discussion/Action: The award of open purchase orders List No. 23 was approved and execution of the purchase orders authorized. Vote: 11-0-0-0.

- 6e(3) Approval of award for a sole source purchase of a Stat Alert Channel Program Upgrade to Motorola, Inc., in the amount of \$108,572.47, including tax and freight, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated April 25, 1997, recommending the award of said sole source purchase to Motorola, Inc., in accordance with Section 1217 of the City Charter and authorize the Director of General Services to execute the purchase.

Discussion/Action: The purchase was approved and execution of the purchase order authorized. Vote: 11-0-0-0.

- 6e(4) Adoption of a resolution authorizing the Director of General Services to extend the San José Arena Maintenance Oversight contract with Aztec/MCE Corporation to include additional services through June 30, 1998, for a total additional amount not to exceed \$37,000. (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated April 25, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67295, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute a Continuation Agreement with Aztec Consultants/MCE Corporation for San José Arena Maintenance Oversight”, was adopted. Vote: 11-0-0-0.

- 6e(5) Approval of an agreement with the County of Santa Clara to reimburse the City \$377,041, for the operation of the Grace Baptist Community Center Program for the period July 1, 1996 to June 30, 1997. (Parks, Recreation and Neighborhood Services)**

Documents filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated April 25, 1997, recommending approval of said agreement with the County of Santa Clara.

Discussion/Action: The agreement with the County of Santa Clara was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(6) Approval of a consultant agreement with Smith-Emery for field and pipe production plant welding inspection services for the South Bay Water Recycling Program (SBWRP) in the amount of \$203,000, and approval of additional services in the amount of \$25,000. CEQA: Resolution No. 64667. (Public Works)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 25, 1997, recommending approval of said agreement with Smith-Emery. (2) Letter from the Treatment Plant Advisory Committee dated May 9, 1997, recommending approval of said agreement.

Discussion/Action: James E. Partridge, Smith-Emery Company, spoke in support of the proposal. The consultant agreement with Smith-Emery was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(7) Approval of an amendment to the employment agreement with Dwayne Hearn. (Pandori)
(Rules Committee referral 5/7/97)**

Documents filed: None.

Discussion/Action: The employment agreement with Dwayne Hearn was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(8) Adoption of a resolution authorizing the City Manager to execute a grant agreement with the Bay Area Air Quality Management District for Project No. 96R86 - Bicycle Lanes in the amount of \$154,000 effective only if the City appropriates \$66,000 in local matching funds for Fiscal Year 1997/98. (Streets and Traffic)
[Deferred from 5/06/97 - 6e(5)]**

Documents filed: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated May 12, 1997, recommending approval of said agreement.

Discussion/Action: Resolution No. 67296, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Grant Agreement with the Bay Area Air Quality Management District for Project 96R86 - Bicycle Lanes in the Amount of \$154,000, Effective Only if the City Appropriates \$66,000 in Local Matching Funds for Fiscal Year 1997-1998", was adopted. Vote: 11-0-0-0.

- 6e(9) 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)
[Deferred from 5/06/97 - 6e(1)]**

Documents filed: Memorandum from Airport Director Ralph G. Tonseth, dated April 18, 1997, recommending approval of a first amendment with America West Airlines, Inc.

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

Routine Legislation

- 6f(1) Adoption of appropriation ordinance amendments in the Treatment Plant Operating Fund in the amount of \$1,700,000 to accelerate the Biosolids Reuse Program. (City Manager's Office)
[Deferred from 4/29/97 - Item 6f(2)]**

Documents filed: (1) Memorandum from Budget Director Larry D. Lisenbee, dated April 11, 1997, recommending approval of said appropriation ordinance and related revenue

resolution amendments. (2) Memorandum from City Attorney Joan R. Gallo, dated May 12, 1997, clarifying the lawsuit referenced in the staff memorandum, Central & South Delta Water Protection Agency v. State Water Resources Board, is still at the trial court level and does not directly involve the City of San José. (3) Letter from the Treatment Plant Advisory Committee dated May 9, 1997, recommending adoption of said appropriation ordinance amendments.

Discussion/Action: Ordinance No. 25349, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the San José-Santa Clara Treatment Plant Operating Fund in the Amount of \$1,700,000, for the Biosolids Reuse Program; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. Vote: 11-0-0-0.

6f(2) Adoption of appropriation ordinance amendments in the General Purpose Parking Fund for the McEnery Convention Center Marquees Project in the amount of \$50,000. (City Manager’s Office)

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated April 28, 1997, recommending approval of said appropriation ordinance amendments.

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

6f(3) Adoption of appropriation ordinance amendments in the Fire Construction and Conveyance Tax Fund for the Fire Station 32 Project in the amount of \$30,000. (City Manager’s Office)

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated May 7, 1997, recommending approval of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 25350, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the Construction Tax and Property Conveyance Tax Fund: (Fire) (392) in the Amount of \$30,000, for the Station 32 Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. Vote: 11-0-0-0.

6f(4) Adoption of a resolution authorizing the Director of Economic Development to submit an application to the Foreign Trade Zones Board to establish a Foreign Trade Subzone at Hewlett-Packard Company sites in San José, Oakland, and Lathrop, California. (Economic Development)

Documents filed: Memorandum from the Director of Economic Development, Leslie S. Parks, dated May 7, 1997, recommending adoption of said resolution.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Resolution No. 67298, entitled: “A Resolution of the Council of the City of San

José Authorizing the Director of Economic Development to File an Application for Foreign Trade Zone Subzone Authority for Hewlett-Packard”, was adopted. Vote: 11-0-0-0.

- 6f(5) Adoption of a resolution to amend Resolution No. 66908, Exhibit 18, to revise the salary of Plant Assistant General Operations Supervisor (3617) at a salary range of 62D. (Human Resources)**

Documents filed: Memorandum from Director of Human Resources, Nona Tobin, dated April 25, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67299, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 66908 (Unit 18), to Revise the Salary of the Class of Plant Assistant General Operations Supervisor (3617), Effective May 18, 1997”, was adopted. Vote: 11-0-0-0.

- 6f(6) Adoption of a resolution accepting a 1983 Chevrolet Truck from the City of Campbell, valued at between \$17,500 and \$20,000, for use by the Police Department’s Special Operations Division (MERGE, Street Crimes, NET, Bomb Unit, Traffic Investigations). (Police)**

Documents filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated April 25, 1997, recommending adoption of said resolution.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Resolution No. 67300, entitled: “A Resolution of the Council of the City of San José Accepting a Gift of a 1983 Chevrolet Diesel Truck from the Campbell Police Department Valued at Between \$17,500 and \$20,000 to be Used by the San José Police Department Special Operations Division”, was adopted. Vote: 11-0-0-0.

- 6f(7) Adoption of a resolution summarily vacating the northerly four (4) feet of the ten-foot public services easement located adjacent to the southerly property line of Lot 12, Tract No. 3057, located at 3280 Lynn Oaks Drive. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 25, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67301, entitled: “Resolution of the Council of the City of San José Summarily Vacating the Northerly Four Feet of the Ten Foot Public Service Easement Located Adjacent to and Northerly of the Southerly Property Line of Lot 12 of Tract Number 3057”, was adopted. Vote: 11-0-0-0.

- 6f(8) 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)
[Deferred from 5/06/97 - Item 6f(4)]**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., and Budget Director, Larry D. Lisenbee, dated April 29, 1997, recommending adoption of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 25351, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys 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; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 67302, entitled: "A Resolution of the Council of the City of San José Amending Revenue Resolution No. 66717 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1996-97 to Adjust Revenues in the Construction Excise Tax Fund" were adopted. Vote: 11-0-0-0.

**6f(9) Adoption of a resolution correcting Resolution No. 67286 to clarify that the amendment to the Standard Specifications for Public Works projects applies to future projects and projects currently advertised for bid. (City Attorney's Office)
(Orders of the Day 4a)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated May 9, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67303, entitled: "A Resolution of the Council of the City of San José Correcting Resolution No. 67286 to Clarify that the Amendment to the 1992 Standard Specifications for Public Works Construction Apply to Future Projects and Projects Currently for Bid", was adopted. Vote: 11-0-0-0.

COMMISSION, COMMITTEE, AND STANDING REPORTS

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

Documents filed: Rules Committee report of April 30, 1997

(1) Review of May 13 Council Agenda

The Committee approved the May 13, 1997 Council agenda with three changes.

(2) Add New Items to May 6 Amended Council Agenda

The Committee recommended sixteen additions to the May 6, 1997 amended Council agenda.

- (3) The Public Record. Attachment: (1) Memorandum from City Clerk Patricia L. O’Hearn, dated April 24, 1997, listing the items transmitted to the Administration and those items filed for the Public Record for the period April 16-22, 1997. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated April 29, 1997, summarizing actions taken on the items transmitted to the Administration and those items filed for the Public Record for the period April 16-22, 1997.

The Committee noted and filed the Public Record.

- (4) Report back on anti-graffiti proposal. Attachment: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated April 23, 1997, which analyzes the “Catch a Tagger” sign pilot project.

The Committee recommended implementation of a one-year pilot program that would install signs at frequently tagged, heavily traveled locations, which state, “Catch a Tagger in the act, call 277-3828”.

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

- (5) Report back on moving authority for issuing special events permits. Attachment: Memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated April 23, 1997, regarding the time and resources necessary to implement Council Member Fiscalini’s recommendation on moving authority for issuing special events permits for festivals held on private property.

The Committee referred the issue of moving authority for issuing special events permits held on private property to the Housing and Community Development Committee for review and referral to Council.

- (6) Legislative Report 97-02

AB 207 (Frusetta)	Witness or Victim: Disclosure of Address Telephone Number
AB 218 (Takasugi)	Salvage Certificates
AB 247 (Scott)	Firearms: Pre-emption
AB 300 (Escutia)	Child Care and Development Facilities
AB 371 (Figueroa)	Sexual Assault Felony Enforcement Team
AB 450 (Torlakson)	Housing Relocation Assistance Act
AB 673 (Boyd)	Public Employees: Mediation and Fact-finding
AB 243 (Peace)	Security Services: Peace Officer Exemption

This item was heard by the Council on May 6, 1997.

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

- (a) Request a breakdown of the crime rate Citywide and by district for 1994, 1995, and 1996

The Committee deferred this item to the May 7, 1997 Rules Committee meeting.

- (8) City Council and Rules Committee meeting schedules

None discussed.

- (9) Oral communications

None presented.

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

- (10) Adjournment

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

Discussion/Action: Upon motion by Vice Mayor Fernandes, seconded by Council Member Johnson, and unanimously carried, the Rules Committee report and actions of April 30, 1997, were accepted. Vote: 10-0-1-0. Absent: Pandori.

**7c Report of the Finance/Agency Finance Committee - April 23, 1997
(Deferred from 5/6/97 - Item 7c)**

Documents filed: Finance/Agency Finance Committee report of April 23, 1997.

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

Items 1-4 heard by the Redevelopment Agency.

- (5) Monthly Auditor's Report for March 1997. Attachment: March 1997 Report by City Auditor Gerald A. Silva.

The Committee accepted the report.

- (6) Quarterly Sales Tax Report for period ended March 31, 1997. Attachment: Quarterly Sales Tax Report for period ended March 31, 1997, by City Auditor Gerald A. Silva.

The Committee accepted the report.

- (7) Quarterly Audit Follow-up Report on recommendations for the period ended January 31, 1997. Attachment: Quarterly Audit Follow-Up Report for period ended January 31, 1997

The Committee continued this item to May 28, 1997.

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

- (8) Update to Auditor's Workplan. Memorandum from City Auditor Gerald Silva, dated April 16, 1997, providing Additions to the City Auditor's Workplan.

The Committee accepted the update.

- (9) UBS Audit. Attachment: Report by City Auditor Silva, entitled: *An Audit of the City of San José's Utility Billing System*, dated April, 1997.

The Committee sent the following issues to the Council with no committee recommendation: (a) retention of the lien process, (b) direction for an RFP process to outsource billing with the safeguards mentioned by the Auditor in the report, to include language that the RFP process be expedited as quickly as possible, and (c) upgrade of the system to Customer Star.

The Committee recommended direction for Staff to prepare a report on a described call management system on a pilot basis for report back to the Committee, acceptance of the Auditor's Report and approval of those items on which the Auditor and the Administration are in agreement and approval of outsourcing of the billing system.

See Item 9g for Council action taken.

- (10) Report on UBS Computer Operations. Attachments: (1) Memorandum from Director of Finance, John V. Guthrie, dated March 6, 1997, recommending the Committee approve and recommend to the Council the following actions: (a) Authorize the City Manager to amend an agreement with Electronic Data Systems, Inc. to migrate and convert the Utility Billing Services database to Customer Star II on the City's existing Oracle/UNIX platform at a total cost not to exceed \$170,000 with no additional appropriation of funds; and (b) Direct the Administration to develop an RFP and solicit proposals to provide the following services for the Recycle Plus Program: Bill Printing, Remittance Processing, and Computer System Operations and Maintenance. (2) Supplemental memorandum from City Manager Regina V.K. Williams, dated March 24, 1997, recommending an immediate upgrade conversion to the Customer Star System and issuance of an Request for Proposal containing options for either running Customer Star or a third-party system.

The Committee heard this item with Item 7c(9).

See Item 9h for Council action taken.

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

- (11) Report on Operating & Maintenance Impact of Capital Budget projects (New Realities TF Recommendation #1.03). Attachment: Memorandum from Budget Director Larry D. Lisenbee, dated March 6, 1997, recommending approval of said amendments to the Capital Budget Policies as described therein and refers the same recommendations to the Redevelopment Agency Board.

The Committee deferred this item to May 14, 1997.

- (12) Oral petitions

None.

- (13) Adjournment

The Committee adjourned at 12:00 noon, reconvened at 3:06 p.m. and adjourned at 4:58 p.m.

Discussion/Action: Council Member Woody requested a correction to the minutes (page 17) to indicate on Item 7c(9) that Council Member Powers' motion stated, in part, that the City would "maintain ownership of the database." Upon motion by Council Member Woody, seconded by Council Member Council Member Fiscalini, and unanimously carried, the Finance/Agency Finance Committee report and actions of April 23, 1997, were accepted as amended, with Items 1-4 heard by the Redevelopment Agency Board, and Items 7c(9) heard under Item 9g and 7c(10) heard under Item 9h. Vote: 11-0-0-0.

LAND USE AND DEVELOPMENT

- 8a PUBLIC HEARING and approval of an ordinance amending Title 20 of the San José Municipal Code by adding Chapter 20.38 to establish special zoning provisions for the Downtown. (City Attorney's Office)**
(Continued from 5/21/96 - Item 15d et al., and 4/15/97 - Item 8a)

Documents filed: Memorandum from Redevelopment Agency Executive Director, Frank M. Taylor, dated May 9, 1997 recommending the City Council adopt the Downtown Zoning Ordinance and direct the Redevelopment Agency Staff to develop design guidelines dealing with new construction near landmark buildings and historic districts.

Discussion/Action: Mayor Hammer opened the public hearing. Downtown Coordinator Dennis Korabiak stated the May 9, 1997, Staff recommendation incorporates suggestions from Council Members relative to Staff providing information on projects being proposed to the Redevelopment Agency and on current design review policies and

guidelines, and direction that Agency Staff develop guidelines dealing with new construction near historic landmark buildings or within or near historic districts to bring forward to Council with the first rezoning. He stated Staff proposes addressing Council's concerns about large or potentially controversial projects by moving residential projects with more than 25 units to the Conditional Use Permit Process with an appeal by the applicant or adjacent property owners coming to the Council through the Planning Commission. Council Member Diaz expressed concerns that the proposal would result in removing projects from Council review. Dennis Korabiak advised the Council would have two opportunities to review the projects, once as part of a permit procedure and another as part of Disposition and Development Agreements. City Attorney Gallo stated the proposed changes precede updating of the City-wide zoning code on which the Administration has been working, based on Council's previous direction to streamline the process and have fewer projects come forward to the Council. She stated mixed-use projects Citywide have already been changed to a Special Use Permit. She stated the proposal provides that projects, which are consistent with the guidelines, would not come to the Council and Council would review large projects as the Redevelopment Agency Board. In response to Council concerns, she stated large housing projects will now come to the Council on a Conditional Use Permit appeal. Council Member Fiscalini stated the changes would allow small projects to be dealt with at an administrative level and provide an opportunity to test the changes before adopting a Citywide zoning process update. Council Member Johnson suggested directing the Administration to bring the design guidelines forward for formal adoption when the first rezoning comes before the Council. In response to architectural design review concerns expressed by several Council Members, Member Pandori stated architectural design is reviewed by the Urban Design Review Board and review is available to Council through the Disposition and Development Agreement process and through the opportunity for appeal to the Council, in addition to the suggestion that Council formally adopt the design guidelines. He recommended that until design guidelines are developed for areas around sensitive historic buildings, architectural design review be appealable to the Council and requested the ordinance require a Conditional Use Permit for those situations. Vice Mayor Fernandes stated a mechanism that allows large or potentially controversial projects to be appealed to the Council is needed, commented on land use and architectural concerns, especially pertaining to projects like hotels. By way of clarification, City Attorney Gallo stated San José is unique in the way Planned Development zoning is used, an outgrowth of the fact that when San José became a fast growing suburban city, it was zoned for agricultural use and lacked zoning to address projects covering large areas of land, which had to be zoned on a project by project basis. She stated the downtown is different in that core land use issues have been decided and zoning for hotel, theater and housing uses already exist and will be updated as proposed changes are implemented. She advised that land use issues, including appeal mechanisms, need to be determined by categories, not on a case-by-case basis. Regarding architectural review, she pointed out that Conditional Use Permits and Special Use Permits are conditioning vehicles, which convey a particular land use and are not intended to be design review vehicles and the only design review vehicle is the Urban Design Review Board. Regarding hotel and theater projects, which go through the Redevelopment Agency, she noted Council will have more ability for review when the project comes through on a Disposition and Development

Agreement than when it comes though on a Conditional Use Permit. Council Member Fiscalini stated the expertise and experience of the Urban Design Review Board made it better qualified for design review than the Council. In response to various suggestions for appeal options, Planning Director Derryberry requested that for the purpose of maintaining uniformity, the Planning Commission should hear Site Development Permit Appeals and the Council should hear Conditional Use Permit appeals. He suggested if Council wants to review projects for both land use compatibility and architectural design review, one option would be using a Conditional Use Permit rather than changing the way site permits are appealed. Dennis Korabiak suggested Council's concerns about hotel and theater projects could be addressed by moving those two uses from the Special Use Permit to the Conditional Use Permit process. Council Member Pandori suggested moving into the Conditional Use Permit process any projects within certain distances of historic landmarks, and moved approval of the staff recommendation with the following additions: (1) Direction to Staff to report back with design guidelines and policies for Council review and action, (2) Direction to amend the proposal to move theaters and hotels into the Conditional Use Permit category, and (3) Direction to amend the proposal to require projects proposed within 100 feet of an historic landmark to have a Conditional Use Permit; and direction to Staff to report back with a one-year review. Council Member Dando seconded the motion. On a call for the question, the public hearing was closed, the motion carried unanimously, and the Staff recommendation dated May 9, 1997, amended to move theaters and hotels into the Conditional Use Permit category and to require projects that are proposed within 100 feet of an historic landmark to have a Conditional Use Permit, was approved, the City Attorney was directed to bring back an ordinance for Council review, Staff was directed to report back with design guidelines for Council review, and to provide a one-year report to the Council. Vote: 11-0-0-0.

- 8b Adoption of a resolution amending the 1996-97 Schedule of Fees to incorporate proposed processing fees for modification to the Urban Growth Boundary. CEQA: ND. (City Attorney's Office)
[Deferred from 4/29/97 - Item 8a(2)]**

Documents filed: None.

Discussion/Action: This item was deferred to May 27, 1997.

- 9a Report on bids and award of contract for the Slurry Seal 1997 Project, to the low bidder, Valley Slurry Seal Company, in the amount of \$1,440,945 and approval of a contingency in the amount of \$159,054.90, for a total contract amount of \$1,600,000. CEQA: Exempt. (Streets and Traffic)
(Deferred from 4/29/97 - Item 9b)**

Documents filed: None.

Discussion/Action: This item was deferred to May 27, 1997 at time certain of 2:00 p.m.

- 9b Adoption of a resolution initiating proceedings to consider the Montgomery Hotel as a landmark of special historic, architectural, cultural, aesthetic, or engineering interest or value of a historic nature, refer proposed landmark designation back to the Historic Landmarks Commission for its consideration at a public hearing, report, and recommendation, and setting a public hearing on August 19, 1997 at 1:30 p.m. CEQA: Exempt. (Historic Landmarks Commission)
(Deferred from 4/29/97 - Item 9e)**

Documents filed: See the May 15, 1997 Joint City Council/Redevelopment Agency minutes for documents.

Discussion/Action: Planning Director stated the Historic Landmarks Commission and the Staff believe the preservation of the Montgomery Hotel should be given a thorough public review and discussion on its merit. He advised that a CEQA exemption is the appropriate action for clearance of a decision to initiate landmark proceedings, while other actions such as demolition would require an Environmental Impact Report. James Salata, Chair of the Historic Landmarks Commission, and Jim Zetterquist, Chair-Elect, addressed Council in support of saving the Montgomery Hotel. Mayor Hammer stated that costs associated with asbestos removal and structural repair estimated at ± \$10 million would be virtually prohibitive of preserving the Montgomery and expressed concerns about raising expectations in light of uncertainties the hotel can be saved due to cost and other considerations. She stressed the Council is committed to historic preservation when it can be reasonably accomplished. Council Member Pandori stated the issue should be dealt with sooner than the December 1997 date recommended by Staff, in the interest of fairness to the public and developers and suggested the issue be deferred to the Thursday, May 15, 1997 Redevelopment Agency Agenda to be discussed simultaneously with Agency Item 10b--the proposal for a Predevelopment Agreement with Light Towers, Associates, L.P. for the proposed Fairmont Hotel Annex Project on Block 8. As Council Liaison to the Historic Landmarks Commission, Council Member Johnson stated the work of the Commission has been frustrated by the data on the Montgomery not being made available and by being denied access to the hotel to physically tour the building. Speaking to the issue of preservation costs, she pointed out that asbestos cleanup must be done whether the building is saved or demolished and removing at least a portion of those costs from the \$10 million figure would provide a more realistic estimate. Ellen N. Garboske, Preservation Action Council, spoke in support of saving the Montgomery. Upon motion by Council Member Diquisto, seconded by Council Member Fiscalini, and unanimously carried, the issue was deferred to Thursday, May 15, 1997. Vote: 11-0-0-0.

- 9c Approval of an ordinance amending Title 1 of the San José Municipal Code by adding a new Chapter 1.13 to provide for an Administrative Public Nuisance Abatement Process. (City Attorney's Office)**

Documents filed: None.

Discussion/Action: This item was deferred to May 27, 1997.

9d Presentation by Tri-County Apartment Association on the importance of fair housing. (Mayor)

Documents filed: None.

Discussion/Action: Kathryn M. Thibodeaux, the Government Relations Director, Tri-County Apartment Association, made a presentation on the importance of fair housing relative to the rental housing industry. No Council action was required.

9e Report on bids and award of contract for the South Bay Water Recycling Program (SBWRP) Evergreen Pipeline Reach SJ6 Project to the low bidder, West Valley Construction Company, Inc., in the amount of \$3,444,920, and approval of a contingency in the amount of \$345,000. CEQA: Resolution No. 64667. (Public Works)

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated April 25, 1997, recommending the award of said contract to the low bidder, West Valley Construction Company, Inc. (2) Letter from the Treatment Plant Advisory Committee dated May 9, 1997, recommending the award of said contract to the low bidder, West Valley Construction Company, Inc.

Discussion/Action: Bill Chew addressed the Council on the implications of the project and on fiber optics facilitation for the City of San José. Upon motion by Council Member Fiscalini, seconded by Council Member Johnson, and unanimously carried, the award of contract to the low bidder, West Valley Construction Company, Inc., with said contingency, was approved and its execution authorized. Vote: 11-0-0.

9f Report on bids and award of contract for the South Bay Water Recycling Program (SBWRP) Supervisory Control and Data Acquisition (SCADA) Project to the low bidder and approval of a ten (10) percent contingency. CEQA: Resolution No. 64667. (Public Works)

Documents filed: None.

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

9i Adoption of a resolution authorizing the Director of Housing to execute an amendment to the loan to the Emergency Housing Consortium in an amount not to exceed \$373,000, for a total new loan in the amount of \$2,973,000, 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) (Deferred from 5/06/97 - Item 9f)

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated May 8, 1997, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Powers, and unanimously carried, Resolution No. 67304, entitled: "A Resolution of the Council of the City of San José Approving an Amendment to the Loan to Emergency Housing Consortium and Authorizing the Director of Housing to Enter into the Amendment for the Rehabilitation of the Little Orchard Street Reception Center", was adopted. Vote: 11-0-0-0.

Items 9g and 9h were heard together.

9g Report on Utility Billing System Audit.

[Finance/Agency Finance Committee referral 4/23/97 - Item 7c(9)]

- 9h**
- (1) Report on Utility Billing Services Computer Operations,**
 - (2) Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with Electronic Data Systems, Inc., for the Customer Star conversion of the UBS system to increase the scope of services and increase the maximum compensation from \$60,000 to \$170,000, and**
 - (3) Direction to develop an RFP and solicit proposals to provide the following services for the Recycle Plus Program: (a) Bill printing, (b) Remittance processing, and (c) Computer System Operations and Maintenance.**

[Finance/Agency Finance Committee referral 4/23/97 - Item 7c(10)]

Documents filed: (1) See Items 7c(9) and 7c(10) for Finance Committee report and actions. (2) Memorandum from Council Member Woody, dated May 8, 1997, clarifying the actions of the Finance Committee pertaining to Utility Billing System. (3) Memorandum from Council Member Fiscalini, dated May 1, 1997, making recommendations concerning the operation of the Utility Billing System. (4) Hard copies of transparencies used in City Auditor Gerald A. Silva's report on the April 1997 Audit of the City of San José's Utility Billing System.

Discussion/Action: Council Member Woody reported on the Finance Committee meeting of April 23, 1997 where the Auditor's Report was presented. She stated her memorandum dated May 8, 1997 summarizes conclusions reached by the Committee, which accepted 19 of the Auditor's recommendations on which the Auditor and the Administration were in agreement: Recommendation Nos. 4-12, 16-17, and 18-20. She stated the Committee recommended contracting out the Utility Billing System and directing the Administration as part of a pilot project to work with haulers to develop a process to handle customer calls more efficiently. She advised that items coming forward with no recommendation from the Committee pertain to whether to convert from the current Socrates billing system to Customer Star II before an outside firm is sought to provide and operate a Recycle Plus billing system, and whether to retain the current lien system for collection of overdue garbage bills. She requested City Auditor Gerald A. Silva to summarize his recommendations for those issues on which agreement was not reached. City Auditor Silva reported on Recommendation Nos. 1 and 2 in his report, which recommend the City

replace the current lien system, described as a costly and labor-intensive process which accomplishes little compared to the cost of administering the program. He recommended the City use the County's special assessment process to accelerate the collection process, reduce the City's exposure to non-payment and which with fee adjustments, could result in a revenue neutral impact on the waste management fund. City Auditor Silva explained that Recommendation No. 3 deals with whether to retain all or part of the Utility Billing System, that his report includes six options for changing the current system and the Administration is recommending one of those options, i.e., that computer system operation and maintenance be outsourced. He stated the last issue before the Council deals with Recommendation Nos. 13-16, as to whether to upgrade and outsource the current system, which the Administration recommends, with outsourcing to include maintenance of the system and the RFP process estimated to take 17-30 months. He stated the San José Municipal Code requires an RFP be done when there is a likelihood that three or more bidders are available, and that information received from the two current haulers and the San José Water Company indicate the billing functions could be assumed within 4-6 weeks. He stated that, given the Administration's concerns about stability of the current system and the 17-30 months to do an RFP, there may be insufficient time for a full RFP process. Therefore, his Recommendation No. 14 calls for evaluation of the capabilities of GreenTeam, San José Water Company and Western USA Waste to provide Utility Billing System services to the Recycle Plus Program and report back to the City Council regarding results of that evaluation. The last recommendation, No. 15, is for the City Council to assess the need to upgrade to Customer Star II based upon the Administration's assessment of the abilities of GreenTeam, San José Water, and Western USA Waste to provide UBS billing services and the need for a lengthy competitive RFP process. City Attorney Gallo stated the process is complex because it entails placing an indebtedness on the title of real property, which provides the advantage that when the property is sold, the lien changes hands and the City is assured of collection. She suggested the process be reviewed to determine if steps could be eliminated and the process streamlined. City Auditor Silva noted the lien process complicates the process of outsourcing since even the present system does not accommodate the lien process and must be handled separately. Manager Regina V.K. Williams explained the Administration's position on the major issues, recommended continuation of the lien process and suggested Staff review ways to streamline the process and report back to the Finance Committee in 90 days. She stated two reasons for retaining the lien system are the lengthy assessment process and the possibility that terminating the lien system could result in \$200,000 in bad debt against the fund. She stated the Administration recommends including the billing function presently contracted out with San José Water Company, with the database and maintenance of the computer operations in the RFP. She stated the main issues of disagreement about outsourcing are timing and whether or not to exclude haulers. She stated the 17-30 month estimate involves writing the RFP, receiving and evaluating the responses, negotiating and executing the contract and turning over the service to the successful contractor. She indicated the Staff will expedite the process and suggested providing a status report to the Finance Committee in six months. She stated that allowing haulers to respond to the RFP could unfairly penalize haulers who lack expertise in billing functions and result in the City losing quality recyclers. Additionally, because the City is divided into sections for

collections, not billing, the result would be one hauler doing the billing for another, a situation to which the haulers would object; therefore, the Administration recommends haulers be excluded from responding to the RFP. Regarding conversion of the current system, she stated the Administration recommends conversion as the most prudent course of action and advised the RFP could be drafted to ensure that upgrading to the Customer Star II system would not exclude responders with other systems. She stressed the risk involved in attempting to maintain a system which is old and was never meant to be permanent or handle the present capacity, and stated the conversion would be a safeguard to protect the City's ability to perform the billing and customer service needed for a large system while an RFP is being issued and during the transition period. Deputy City Manager Darrell Dearborn advised that Staff initially estimated 6-12 months to develop and issue an RFP and select a provider, and the 12-30 month period was for negotiation of agreements and conversion to a new system. He stated a team headed by Environmental Services was formed to develop an RFP, and their first task identified 14 critical milestones, taking up to 14 months to prepare the RFP, to receive and evaluate responses, and make recommendations to Council for award of the contract. In response to questions from Council Member Johnson about the potential for losses under the special assessment system, City Attorney Gallo explained that under a special assessment system, the City would lose those properties that changed ownership in the interim period. She suggested deferring the issue so the Administration can review both the lien and special assessment processes, and provides a comparison of the two and options for streamlining. Mayor Hammer requested the report include time and cost elements of both systems. Upon motion by Council Member Woody, seconded by Council Member Powers, and unanimously carried, the lien process was referred to the City Attorney to report back to the Council with a comparison of the lien and the special assessment processes and options for streamlining the lien process. Vote: 11-0-0-0. Upon motion by Council Member Woody, seconded by Council Member Johnson, and unanimously carried, Council accepted the Finance Committee actions and report of April 23, 1997, which recommended acceptance of the City Auditor's report and approval of the 19 recommendations on which the City Administration and City Auditor are in agreement, Recommendation Nos. 4-12, 16-17, and 18-20, and directed Staff to prepare a report on a described call management system with the haulers to enhance customer service on a pilot basis for report back to the Committee. Vote: 11-0-0-0. Council Member Woody moved approval to outsource the billing system, to exclude haulers, with the City to maintain ownership of the database, and directed the Administration to provide a status report in four months, including a timeline and milestones on the development of a Request for Proposal. Council Member Johnson seconded the motion. Council Member Diquisto stated haulers should not be excluded from bidding on the proposal. Council Member Johnson stated that technically all haulers have to be excluded, not just those under contract to the City, in that it is unreasonable to ask haulers to have their billing performed by their competitors. She stated combining services will result in larger companies bidding, thereby limiting competitiveness and ultimately raising the cost of garbage service. Jennifer Lamb, representing GreenTeam, Cynthia Palacio, representing Western USA Waste, and William Garbett addressed the Council regarding this issue. Expressing opposition to excluding haulers from bidding on the Request for Proposal, Council Member Pandori stated that excluding those bidders would limit the City's

access to qualified providers and stated the proposal could be drafted to deal with any difficulties inherent in having the haulers eligible to bid on the proposal. On a call for the question, the motion carried, and the outsourcing of the billing system, with haulers excluded from bidding, and the City to maintain ownership of the database, was approved, and the Administration was directed to provide a status report in four months, to include a timeline and milestones on development of a Request for Proposal for billing services for the City's Recycle Plus Program. Vote: 8-3-0-0. Noes: Dando, Diquisto, and Pandori on the exclusion of recycle haulers from bidding eligibility, not in opposition to outsourcing the system. Council Member Woody moved approval of the conversion of the current billing system to the Customer Star II system. Council Member Powers seconded the motion. Council Member Dando stated she is opposed to continuing a system, which is antiquated and incomplete. Director Guthrie stated the provider has met his contractual obligations with the City and the only part of the system that is incomplete is the conversion, and noted the software components are now antiquated in terms of technical support. Council Member Fiscalini stated his opposition to the conversion in light of Council's authorization of an RFP for a new service provider. Vice Mayor Fernandes stated she does not support converting to Customer Star II and prefers a new system. In response to questions from Council Member Johnson about vulnerability of the current system, Director Guthrie stated components of the system are obsolete, technical support no longer available, and without the upgrade the current system is vulnerable. Council Member Pandori expressed a lack of confidence in the current provider, commented on the need for better administration of the system, and stated he does not support converting the system to Customer Star II. Council Member Diquisto stated his opposition to the conversion. On a call for the question, the motion to convert the current billing system to Customer Star II failed. Vote: 3-8-0-0. Noes: Dando, Diaz, Diquisto, Fernandes, Fiscalini, Pandori, Shirakawa; Hammer.

ORAL COMMUNICATIONS

- (1) Cathy Brandhorst addressed the Council regarding societal issues.
- (2) David Wall addressed Council regarding the Department of Environmental Services and Milpitas traffic issues.
- (3) William Chew addressed Council regarding governmental issues.

ADJOURNMENT

The Council of the City of San José adjourned at 6:21 p.m. to Thursday, May 15, 1997, at 1:30 p.m. to meet in joint session with the Redevelopment Agency Board.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK