

## MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JUNE 10, 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: Diaz, Diquisto, Fernandes, Fiscalini, Pandori, Powers, Shirakawa, Jr., Woody; Hammer.

Absent: Council members: Johnson (excused), Dando (excused).

Upon motion unanimously adopted, Council recessed at 9:05 a.m. to a Closed Session in Room 600 to confer with Legal Counsel pursuant to Government Code Section 54956.9; under Subsection (a) to discuss existing litigation in the cases of Alviso Community in Action v. City of San José, et al.; to conduct Public Employee Performance Evaluation Pursuant to Government Code Section 54957: Title: City Attorney; and to confer with Labor Negotiator Pursuant to Government Code 54957.6: (1) City Negotiator: City Manager Designee Darrell Dearborn, Employee Organizations: San José Police Officers' Association and International Association of Firefighters; and (2) City Negotiator: City Manager Designee Lynn Boland, Employee Organization: Municipal Employees Federation.

By unanimous consent, Council reconvened from the Closed Session, recessed at 11:45 a.m., and reconvened at 1:42 p.m. in the Council Chambers.

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

Absent: Council members: Johnson (excused), Dando (excused).

### INVOCATION

Reverend Cathryn Foote, First Congregational Church of San José, delivered the invocation. (District 6)

### PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

### ORDERS OF THE DAY

Upon motion by Council member Fiscalini, seconded by Council member Powers, and unanimously carried, Item 9d was deferred to June 17, 1997, and the Orders of the Day and the Amended Agenda were approved. Vote: 9-0-2-0. Absent: Johnson, Dando.

### CEREMONIAL ITEMS

**5a Presentation of plaque to Harry Martin for 1 year 11 months service on the Library Commission. (Mayor)**

Documents filed: None.

Discussion/Action: Mayor Hammer commended Mr. Martin, who was not present, for his service on the Library Commission and stated the plaque will be mailed.

**5b Presentation of proclamation declaring June as “Resources for Youth Month”. (Mayor)**

Documents filed: None.

Discussion/Action: Mayor Hammer presented a proclamation to Linda Bonin, Santa Clara County Office of Education, Cory Sanfilippo, 6th District PTA, Robert Simbe, Asian American Recovery Services, and Lynne Woodward, Santa Clara County Juvenile Justice Commission, and commended their leadership in the area of youth services.

**5c Presentation of proclamation designating June 7-14, 1997 as “National NeighborWorks Week”, in conjunction with the San José Neighborhood and Housing Services’ activities. (Housing) (Rules Committee referral 6/4/97)**

Documents filed: None.

Discussion/Action: Mayor Hammer presented a proclamation to Pete Major, Executive Director, San José Neighborhood and Housing Services and expressed appreciation for the volunteer work they do for San José residents.

**CONSENT CALENDAR**

Upon motion by Council member Fiscalini, seconded by Council member Powers, and unanimously carried, Item 6e(12) was corrected to be consistent with the Staff recommendation, and the Consent Calendar was approved and the below listed items taken as indicated. Vote: 9-0-2-0. Absent: Johnson, Dando.

**Minutes for Approval**

**6a(1) Regular Meeting of April 22, 1997**

Documents filed: Minutes of April 22, 1997.

Discussion/Action: The minutes were approved. Vote: 9-0-2-0. Absent: Johnson, Dando.

**Ordinances for Final Adoption (Ord. Titles from Contracts)**

**6b(1) 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.**

**[Deferred from 5/13/97 - Item 6b(2) and 5/27/97 - Item 6b(1)]**

Documents filed: None.

Discussion/Action: This item was deferred to June 17, 1997.

**6b(2) ORD. NO. 25361 - Grants a Commercial Solid Waste Collection Franchise to GreenTeam of San Jose.**

Documents filed: Proof of publication of title of Ordinance No. 25361, submitted by the City Clerk.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Ordinance No. 25361 was adopted. Vote: 9-0-2-0. Absent: Dando, Johnson.

**Public Hearings Set by Council**

**6c(1) Adoption of a resolution of intention to conditionally vacate portions of Fowler Road east of Littleworth Way, reserving a public service easement over the vacated portions of the street, and setting a public hearing on August 5, 1997 at 7:00 p.m. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 22, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67360, entitled: "Resolution of the Council of the City of San José Approving Certain Maps Showing Those Portions of Fowler Road East of Littleworth Way Which Said Council Proposes to Conditionally Vacate, Subject to the Reservation of Public Service Easements; Directing the City Clerk to File Said Maps in the Office of the City Clerk; Describing Said Portions and Easements to be Reserved; Setting a Public Hearing for August 5, 1997 at 7:00 P.M., and Directing Notice Thereof to be Posted", was adopted. Vote: 9-0-2-0. Absent: Dando, Johnson.

**Plans and Specifications**

**6d(1) TRACT NO. 8745 - Southerly terminus of Piercy Road, southeasterly of Tennant Avenue - Shea Homes Limited, a California Limited Partnership (Developer) - 120 multi-family attached residential lots. Adoption of resolutions approving the plans, final maps, and contract for Tract No. 8745. CEQA: Resolution No. 65660. District 2. (Public Works) (Rules Committee referral 6/4/97)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 30, 1997, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 67361, entitled: "A Resolution of the Council of the City of San José Fixing Official Curb Grades and Position of Curbs, and Adopting Plans for Tract No. 8745; Resolution No. 67362, entitled: "A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8745"; Resolution No. 67363, entitled: "A Resolution of the Council of the City of San Jose Approving and

Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 8745”, were adopted. Vote: 9-0-2-0. Absent: Dando, Johnson.

### **Contracts/Agreements**

- 6e(1) Approval of an agreement with BAYSPORT, Inc. for consultant services to implement a comprehensive wellness program for San José Fire Department employees for the period June 10, 1997 to June 30, 1998, in an amount not to exceed \$211,992. (Fire)**

Documents filed: Memorandum from Acting Fire Chief Robert Dorman, dated May 22, 1997, recommending approval of said agreement.

Discussion/Action: The agreement with BAYSPORT, Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Dando, Johnson.

- 6e(2) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1996-97 #26, and authorization for the Director of General Services to execute the purchase orders. (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated May 22, 1997, recommending approval of said open purchase orders.

Discussion/Action: The award of open purchase orders List No. 26 was approved and execution of the purchase orders authorized. Vote: 9-0-2-0. Absent: Dando, Johnson.

- 6e(3) Report on quotes and award of contract for the removal and installation of carpet at San José International Airport, Terminal C (South Concourse and Baggage Claim) to the contractor submitting the lowest quoted price, B.T. Mancini, for a total cost of \$154,213. (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated May 22, 1997, recommending award of said contract to the contractor submitting the lowest quoted price, B.T. Mancini.

Discussion/Action: The award of contract to B.T. Mancini was approved and execution of the contract authorized. Vote: 9-0-2-0. Absent: Dando, Johnson.

- 6e(4) Report on bids and approval of award of purchase and installation of eleven (11) surface mounted lifts to the sole bidder, Ferris Hoist and Repair, Inc., at a total cost of \$107,843.53, including tax, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis Jones, Jr., dated May 22, 1997, recommending Council award said purchase and installation to the sole

bidder, Ferris Hoist and Repair, Inc., and authorization for the Director of General Services to execute the purchase order.

Discussion/Action: The award of contract to Ferris Hoist and Repair, Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Dando, Johnson.

- 6e(5) Approval of a second amendment to the agreement with Sugimura & Associates/Architects, Inc., for consultant services for the Central Service Yard Phase I Project, increasing the compensation by \$189,517, from \$594,974 to \$784,491, and extending the term of the agreement by one (1) year, from December 31, 1997 to December 31, 1998. CEQA: ND. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 22, 1997, recommending approval of a second amendment to said agreement with Sugimura & Associates/Architects, Inc.

Discussion/Action: The second amendment to said agreement with Sugimura & Associates/Architects, Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Dando, Johnson.

- 6e(6) Report on bids and award of contract for the construction of Wheelchair Ramps Unit 2 Project to include the Base Bid and Add Alternate to the low bidder, Vanguard Construction, in the amount of \$182,580. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 22, 1997, recommending award of contract to the low bidder, Vanguard Construction.

Discussion/Action: The award of contract to the low bidder, Vanguard Construction was approved and its execution authorized. Vote: 9-0-2-0. Absent: Dando, Johnson.

- 6e(7) Approval of a first amendment to the agreement with David Powers & Associates, Inc., for the Oakland Road Bridge Replacement Project, extending the term of the agreement by seventeen (17) months, from July 1, 1997 to December 31, 1998, at no additional cost to the City. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 22, 1997, recommending approval of a first amendment to the agreement with David Powers & Associates, Inc.

Discussion/Action: The first amendment to the agreement with David Powers & Associates, Inc. first amendment to the agreement with David Powers & Associates, Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Dando, Johnson.

- 6e(8) Report on bids and award of contract for the Senter Road Median Island Landscaping Project to the low bidder, Blossom Valley Construction, Inc., in the amount of \$131,685, and approval of a contingency in the amount of \$13,000. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 22, 1997, recommending award of contract to the low bidder, Blossom Valley Construction, Inc.

Discussion/Action: The award of contract to the low bidder, Blossom Valley Construction, Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Dando, Johnson.

- 6e(9) Report on bids and award of contract for the San José International Airport Red Lot Reconstruction Project to the low bidder, O'Grady Paving, Inc., in the amount of \$152,862, and approval of a contingency in the amount of \$15,300. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 22, 1997, recommending award of contract to the low bidder, O'Grady Paving, Inc.

Discussion/Action: The award of contract to the low bidder, O'Grady Paving, Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Dando, Johnson.

- 6e(10) Approval of a first amendment to the agreement with Ruth and Going, Inc., for consultant services for the Boggini, DeAnza, and Foothill Parks Renovation Projects increasing the compensation by \$37,250, from \$49,950 to \$87,200. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 22, 1997, recommending approval of a first amendment to said agreement with Ruth and Going, Inc.

Discussion/Action: The first amendment to said agreement with Ruth and Going, Inc., was approved and its execution authorized. Vote: 9-0-2-0. Absent: Dando, Johnson.

- 6e(11) (a) (1) Approval of first amendments to the concession agreements and ground leases with Avis Rent A Car System, Inc., and Dollar Rent A Car Systems, Inc., extending the terms of the agreements by one (1) year, from June 13, 1997 to June 30, 1998.**
- (2) Adoption of a resolution authorizing the Director of Aviation to negotiate and execute first amendments to the concession agreements and ground leases with Budget Rent A Car Systems, Inc., and The Hertz Corporation, extending the terms of the agreements by one (1) year, from June 13, 1997 to June 30, 1998.**

- (b) **Approval of second amendments to the concession agreement and ground lease with Alamo Rent A Car, Inc., extending the term of the agreement by one (1) year, from June 13, 1997 to June 30, 1998.**
- (c) **Adoption of a resolution authorizing the Director of Aviation to negotiate and execute a concession agreement with National Rent a Car for the right to occupy counter space at Terminals A and C for the period July 1, 1997 to June 30, 1998, with annual revenue to the City of \$765,000.**

**CEQA: Exempt. (Airport)**

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

Documents filed: (1) Memorandum from Airport Director Ralph G. Tonseth, dated May 15, 1997, recommending approval of amendments to said concession agreements and ground leases, and authorization for the Director of Aviation to enter into concession agreement with National Car Rental. (2) Supplemental memorandum from Aviation Director Tonseth, dated June 5, 1997, advising that National Rent A Car has withdrawn its request to occupy counter space at the Airport and notification that Dollar Systems, Inc. has changed its company name to Dollar Rent A Car Systems.

Discussion/Action: The first amendments to said agreements and leases with Avis Rent A Car System, Inc., and Dollar Rent A Car Systems, Inc. and second amendments to said agreements and leases with Alamo Rent A Car, Inc., were approved, and Resolution No. 67364, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Aviation to Extend the Concession Agreements and Ground Leases with the Hertz Corporation and Budget Rent A Car Systems, Inc., for One Year", was adopted; and the adoption of a resolution to authorize the Director of Aviation to negotiate said concession agreement with National Rent a Car was dropped from the Agenda. Vote: 9-0-2-0. Absent: Dando, Johnson.

**6e(12) Adoption of a resolution authorizing the Director of General Services to:**

- (a) **Execute an agreement for park restroom maintenance with Tiger Contract Services with an initial 2-month term from June 29, 1997 to August 29, 1997, \$45,101.36 allocated in FY 96-97.**
- (b) **Then an option to extend the term of the agreement for 14 months from August 30, 1997 to October 30, 1998, \$283,079.87, subject to allocation in FY 97-98 and FY 98-99.**
- (c) **Thereafter, exercise four (4) one-year options for renewal based on the Consumer Price Index (CPI) adjustment, and contingent upon satisfactory performance of contractor and Council approval of the funds each year with the first option period to begin October 31, 1998.**

**(General Services)**

**[Deferred from 6/3/97 - Item 6e(5)]**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated June 2, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67365, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement with Tiger Contract Services Initial Term of Two Months and to Execute One Fourteen Month Extension and Four One-Year Options”, was adopted. Vote: 9-0-2-0. Absent: Dando, Johnson.

- 6e(13) Adoption of a resolution authorizing the City Manager to negotiate and execute agreement(s) with Eligible Youth Employment Service Provider(s) for the provision of services that would place youth in unsubsidized employment, in an amount not to exceed \$100,000. (Parks, Recreation and Neighborhood Services)  
[Deferred from 5/20/97 - Item 6e(11) et al., and 6/3/97 - Item 6e(12)]**

Documents filed: None.

Discussion/Action: This item was deferred to June 24, 1997.

### **Routine Legislation**

- 6f(1) Approval of an ordinance amending Section 3.28.030 of the San José Municipal Code to include holiday-in-lieu pay in the definition of compensation for members of the Federated City Employees’ Retirement System. (City Manager’s Office)**

Documents filed: Memorandum from Employee Relations Manager Lynn M. Boland, dated May 22, 1997, recommending approval of said ordinance.

Discussion/Action: Ordinance No. 25368, entitled: “An Ordinance of the City of San José Amending Section 3.28.030 of Chapter 3.28 of Title 3 of the San José Municipal Code to Include Holiday In Lieu Pay in the Definition of Compensation for Members of the Federated City Employees Retirement System”, was passed for publication. Vote: 9-0-2-0. Absent: Dando, Johnson.

- 6f(2) Adoption of a resolution amending the Administrative Citation Schedule of Fines to set forth administrative citation fine amounts for violations of San José Municipal Code Sections 9.10 and 20.08 regarding garbage collection authorization required, placement of solid waste containers, interference with collector prohibited, and parking and storage prohibited in front setback area. (Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated May 22, 1997, recommending said resolution.

Discussion/Action: William J. Garbett addressed the Council in opposition to this item. Resolution No. 67366, entitled: “A Resolution of the Council of the City of San José Setting Forth the Administrative Citation Schedule of Fines for Certain Violations of the San José Municipal Code, Effective June 10, 1997”, was adopted. Vote: 9-0-2-0. Absent: Dando, Johnson.

## COMMISSION, COMMITTEE, AND STANDING REPORTS

### 7b Report of the Rules Committee - Meeting of May 28, 1997

Documents filed: Rules Committee report of May 28, 1997

- (1) Review of June 10 Council Agenda

The Committee approved the June 10, 1997 Council Agenda with two items.

- (2) Add New Items to June 3 Amended Council Agenda

The Committee referred to the Administration a recommendation from Vice Mayor Fernandes that the City Council exempt the County from the sewer connection fees associated with the installation of a restroom in Reach Six of Penitencia Creek Park and recommended four additions to the June 3, 1997 amended Council agenda.

- (3) The Public Record

The Committee noted and filed the Public Record.

- (4) Boards and Commissions
  - (a) Arts Commission

The Committee directed the City Clerk to readvertise the two vacant positions on the Arts Commission.

- (5) Request to use Council General Funds to attend National Association of Latino Elected Officials 14th Annual Conference in Miami, Florida, June 18-21, 1997

The Committee approved a travel request from Councilmember Manny Diaz to attend the National Association of Latino Elected Officials 14th Annual Conference in Miami, Florida, June 18-21, 1997.

- (6) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee
  - (a) Request for report on existing City policy and recommendations for future policy regarding window bars

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

- (7) City Council and Rules Committee meeting schedules

The Committee noted that the June 24th Closed Session will begin at 8:00 a.m.

(8) Oral communications

William Chew commented on televised City Council meetings. Robert Niswonger commented on the City's regulations for cannabis clubs.

(9) Adjournment

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

Rules Committee report and actions of May 28, 1997 accepted.

Discussion/Action: Upon motion by Vice Mayor Fernandes, seconded by Councilmember Powers, and unanimously carried, the Rules Committee report and actions of May 28, 1997, were accepted. Vote: 9-0-2-0. Absent: Johnson, Dando.

**7b Report of the Rules Committee - Meeting of June 4, 1997 (Partial)**

(4) Legislative Report 97-04

The Committee approved the Legislative Report and the following recommended City positions for the bills listed below:

<u>LEGISLATIVE BILLS</u>	<u>RECOMMENDED</u>	<u>CITY POSITION</u>
AB 701 (Caldera)	Agreement with Charter Cities Taxation: Disclosure	SUPPORT
AB 750 (Pacheco)	Compensation of Contractors Public Works Contracts	SUPPORT & AMEND
AB 831 (Poochigian)	Public Works: Payment Bond	OPPOSE
AB 1381 (Thomson)	Bonds: Educational Facilities	SUPPORT & AMEND
AB 1462 (Morrow)	Governmental Liability Attorney's Fees	OPPOSE
AB 409 (Alpert)	Libraries	SUPPORT & AMEND

Discussion/Action: Upon motion by Councilmember Powers, seconded by Councilmember Diaz, and unanimously carried, the Rules Committee report and actions of June 4, 1997 on Item 7b(4) were accepted. Vote: 9-0-2-0. Absent: Johnson, Dando.

**7c Report of the Finance/Agency Finance Committee - May 28, 1997**

Documents filed: None.

- (1) Redevelopment Agency Financial Accounting System
- (2) Monthly Financial Statements for April 1997
- (3) Report on Operating & Maintenance Impact of Capital Budget Projects (NRTF Recommendation #1.03)
- (4) Capital Cost Report for April 1997
- (5) Cash Flow Projection

Items 1-5 will be heard by the Redevelopment Agency

- (6) Monthly Auditor's Report for April 1997
- (7) Report on Business Tax Liability Applicable to Independent Contractors (NRTF Recommendation #3.05)
- (8) Oral petitions
- (9) Adjournment

Discussion/Action: This item was deferred to June 17, 1997.

## **LAND USE AND DEVELOPMENT**

- 8a 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. (Planning, Building and Code Enforcement)  
[Deferred from 4/29/97 - Item 8a(2) et al., and 5/27/97 - Item 8a]**

Documents filed: None.

Discussion/Action: This item was deferred to June 17, 1997.

- 8b Adoption of an urgency ordinance and temporarily suspending Chapter 17.10 of the San José Municipal Code and adopting a new uncodified ordinance to establish the process and procedures for Geologic Hazard clearances to remain effective for an interim period and setting forth the facts constituting such urgency. CEQA: Exempt. (City Attorney's Office)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 6, 1997, recommending approval of the proposed Geologic Hazard Urgency Ordinance.

Discussion/Action: Upon motion by Vice Mayor Fernandes, Councilmember Diaz, and unanimously carried, Ordinance No. 25369, entitled: "An Urgency Ordinance of the City of San José Temporarily Suspending Chapter 17.10 of the San José Municipal Code and Adopting a New Uncodified Ordinance to Establish the Process and Procedures for Geologic Hazard Clearances to Remain Effective for an Interim Period and Setting Forth the Facts Constituting Such Urgency", was adopted. Vote: 9-0-2-0. Absent: Johnson, Dando.

- 8c PUBLIC HEARING ON MITIGATION PLAN for a Master Site Development Permit to allow up to 2.2 million square feet of office/R&D uses on property located at the south side of State Route 237, between Zanker Road and North First Street, on 72.16 gross acres (BNP Leasing Corporation, 3Com Corporation, and State of California, Owner; 3Com Corporation, Developer). CEQA: Resolution to be adopted.  
District 4**

Documents filed: None.

Discussion/Action: This item was continued to June 24, 1997.

### **GENERAL GOVERNMENT**

- 9a 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)  
(Deferred from 5/13/97 - Item 9c and 5/27/97 - Item 9b)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated May 1, 1997, recommending approval of the proposed ordinance.

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

- 9b Approval of services to participate in the pilot project for Public-Private Competition:**
- (1) Service Currently Provided In-House - Roadway Markings Services, Department of Streets and Traffic.**
  - (2) Service Currently Contracted-Out - Landscape Maintenance at Water Pollution Control Plant, General Services Department.**
- (City Manager's Office)**

Documents filed: (1) Memorandum from City Manager Regina V.K. Williams, dated May 30, 1997, recommending approval of services recommended for the pilot project for Public-Private Competition. (2) Hard copies of transparencies used in the Staff presentation made by Telecommunications Administrator Pamela Stone Jacobs.

Discussion/Action: City Manager Regina V.K. Williams stated that pursuant to Council direction in March, 1997 the Administration has selected one operation that is currently provided by City Staff to undergo a review as to the possibility of contracting the service to outside vendors and one operation that is currently contracted out to review the possibility of providing the service in-house. Pamela Stone Jacobs made the Staff presentation and explained the process used by the Steering Team appointed by the City Manager to guide the effort, beginning with naming the program the Quest Partnership, which stands for Quality Using Effective Services and Technology and reflects the broad

goal in the public/private competition policy to deliver quality services in the most cost effective and efficient manner. She explained the Steering Team and Staff has undertaken simultaneously the tasks of issuing an RFP for consultant services to provide competition training to the employees going through the competition process and the evaluation of services suggested and development of the recommendations before the Council today. She stated Staff will conduct the competitive assessment and complete the managed competition process by June 30, 1998, and if needed, an employee and service transition plan. She described the process of soliciting and evaluating suggestions relative to two special pilot project criteria, the timing of the project, including the competition training and assessment and the RFP process, requiring the pilot project to be manageable in terms of size and complexity, with scope adequate to evaluate the process. She detailed the services currently provided in-house which were recommended for contracting out and the rationale for selection Roadway Marking in Streets and Traffic for recommendation to the Council, and explained the selection of Landscape Maintenance at the Water Pollution Control Plant as the recommended service currently contracted out which should be considered for providing in-house. Deborah Powell, President of Confidential Employees Organization, AFSCME, Local No. 101, member of the City Labor Alliance and the Labor and Management Committee, addressed the Council regarding the public/private competition process. Councilmember Fiscalini moved approval of the Staff recommendation dated May 30, 1997, as amended to include either an additional project or an existing project or a substitute project that would be broader in scope and report back to the Council in sixty days. Councilmember Diaz seconded the motion. Councilmember Pandori stated the landscaping project at the Water Pollution Control Plant was a low priority project with minimal benefits to the citizen and stated he preferred selecting the traffic signal project, which would be more beneficial. Councilmember Woody expressed support for the Staff recommendation and stated she does not support the amendment to the recommendation. On a call for the question, the motion carried, and Council approved the Staff recommendation dated May 30, 1997 for a pilot project for Public-Private Competition, with direction to Staff to either add an additional project, amend an existing project or substitute a different project that would be broader in scope and report back to the Council in sixty (60) days. Vote: 6-2-3-0. Noes: Pandori, Woody. Absent: Dando, Diquisto, Johnson.

**9c Report on bids and award of contract for the Alum Rock Avenue Streetscape Project to the low bidder, Golden Bay Construction, Inc., to include the Base Bid and Add Alternate Nos. 1, 2, and 3 in the amount of \$726,086, and approval of a contingency in the amount of \$109,000. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 22, 1997, recommending award of contract to the low bidder, Golden Bay Construction, Inc., and approval of a contingency in the amount of \$109,000.

Discussion/Action: Upon motion by Councilmember Diaz, seconded by Councilmember Powers, and unanimously carried, the proposed award of contract to the low bidder,

Golden Bay Construction, Inc., and said contingency, were approved and their execution authorized. Vote: 8-0-3-0. Absent: Dando, Diquisto, Johnson.

- 9d**
- (1) Report on bids and award of contract for the South Yard Parts Room Addition Project to the low bidder, Eddie Torrez Construction Company, Inc., to include the Base Bid and Add Alternate No. 1 in the amount of \$368,575. CEQA: Exempt. (Public Works)**
  - (2) Adoption of appropriation ordinance and funding sources resolution amendments in various Capital Funds. (City Manager's Office)**

Documents filed: None.

Discussion/Action: This item was deferred to June 17, 1997.

- 9e Approval of feasibility study on Singleton Softball Complex Project. (City Manager's Office)  
(Rules Committee referral 6/4/97)**

Documents filed: None.

Discussion/Action: This item was deferred to June 17, 1997.

The City Council convened the San José Financing Authority at 2:26 p.m. to consider Item 9f and SJFA Item 2 in a joint meeting.

Item 9f was heard with San José Financing Authority Item 2:

- 9f Adoption of a resolution:**
- (1) Authorizing the City Manager to negotiate two (2) promissory notes between the City and the City of San José Financing Authority in the amounts of \$2,500,000 and up to \$650,000.**
  - (2) Authorizing and directing the execution of a Project Lease and a Continuing Disclosure Agreement and directing certain related actions in connection with the Golf Course Project Financing.**
  - (3) Authorizing the City Manager to negotiate and execute an agreement with E. Wagner & Associates to serve as financial advisor in an amount not to exceed \$90,000.**
  - (4) Authorizing the City Attorney to negotiate and execute an agreement with Nossaman, Guthner, Knox & Elliot to serve as bond counsel in an amount not to exceed \$60,000.**
  - (5) Adoption of appropriation ordinance amendments in the General Fund to provide a loan of \$650,000 to the City of San José Financing Authority for the acquisition of a portion of the Thunderbird Golf Course Project.**
- (City Manager's Office/Finance)  
(Rules Committee referral 6/4/97)**

(Heard with SJFA Item 2 - continued on next page)

**SJFA 2**

**Adoption of a resolution:**

- (a) **Appointing the City Manager as the Executive Director of the City of San José Financing Authority.**
- (b) **Authorizing the Executive Director to negotiate and execute an agreement in an amount up to \$3,150,000 between the City of San José Financing Authority (the “Authority”) and Green Valley Corporation d.b.a. Barry Swenson Builder for acquisition of 31.41 acres to be developed as a 9-hole golf course and to execute an acceptance certificate for the property acquired for the 9-hole golf course.**
- (c) **Authorizing the Executive Director of the Authority to negotiate and execute a Construction Agreement in an amount up to \$4,250,000 between the Authority and Green Valley Corporation d.b.a. Barry Swenson Builder for the development of a 9-hole golf course and amenities on 31.41 acres.**
- (d) **Authorizing the Executive Director to negotiate and execute two (2) promissory notes between the City and the Authority in the amounts of \$2,500,000 and up to \$650,000.**
- (e) **Authorizing the issuance of lease revenue bonds in the aggregate initial principal amount of not to exceed \$8 million in connection with the financing of certain public capital improvements, authorizing and directing the Treasurer to execute the Trust Agreement and a Project Lease, authorizing the competitive sale of bonds with a total interest cost not to exceed 7.5%, approving the preliminary official statement, and authorizing the Treasurer to take other related actions and execute documents as necessary.**

**(City Manager’s Office/Finance)**

Documents filed: (1) Memorandum from Senior Deputy City Manager, Darrell Dearborn, and Finance Director John Guthrie, dated June 5, 1997, recommending the adoption of said resolutions. (2) Memorandum from Budget Director Larry D. Lisenbee, dated June 4, 1997, recommending approval of said appropriation ordinance and amendments.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Upon motion by Councilmember Diaz, seconded by Councilmember Powers, and unanimously carried, Resolution No. 67367, entitled: “A Resolution of the Council of the City of San José Approving, Authorizing and Directing the Execution of Two Promissory Notes, a Project Lease, an Official Statement and a Continuing Disclosure Agreement and Directing Certain Related Actions in Connection with the Thunderbird Golf Course Project Financing”; Ordinance No. 25370, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the General Fund in the Amount of \$650,000 to Establish an Appropriation for the Loan to the City of San José Financing Authority for the Acquisition of a Portion of the Thunderbird Golf Course Site; and Providing That This Ordinance Shall Become

Effective Immediately Upon Adoption”, was Resolution No. SJFA-23, “Resolution of the City of San José Formally Appointing an Executive Director, Authorizing the Negotiation and Execution of Agreements for the Acquisition and Construction of a Nine Hole Golf Course, Authorizing the Issuance of Lease Revenue Bonds in the Aggregate Initial Principal Amount in an Amount Not to Exceed \$7,500,000 in Connection with the Financing of the Golf Course, Authorizing and Directing the Execution of a Trust Agreement and a Project Lease, Authorizing the Competitive Sale of Bonds, Approving an Official Statement, and Authorizing Other Related Actions”, were adopted. Vote: 8-0-3-0. Absent: Dando, Diquisto, Johnson. The City of San José Financing Authority portion of the meeting was adjourned at 2:29 p.m.

## **FISCAL AFFAIRS**

### **10a First PUBLIC HEARING on the reauthorization of assessments for Maintenance Districts 1 (Los Paseos), 2 (Trade Zone Boulevard-Lundy), and 15 (Silver Creek), and the Engineer’s Report setting forth the amounts of the assessments (no Council action to be taken). (Public Works)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 6, 1997, recommending conducting said public hearings on the reauthorization of assessments for Maintenance Districts 1, 2 and 15. (2) Affidavit of Posting and Proof of Publication of Notice of Public Hearing, submitted by the City Clerk.

Discussion/Action: The public hearing was opened and testimony received from the following individuals. Rise Gail Witt addressed the Council in opposition to the proposed assessments, Arthur Grisham expressed concerns about lack of services in assessment districts, and Scott Prumak stated opposition to the proposal. By unanimous consent, the hearing was closed and no action taken by the Council. Vote: 9-0-2-0. Absent: Dando, Johnson.

### **10b PUBLIC HEARING and adoption of a resolution approving the levy of assessments for Fiscal Year 1997/98 for the Downtown Business Improvement District and the Downtown BID Budget Report for Fiscal Year 1997/98, as filed or as modified by Council. CEQA: Exempt. (Convention, Arts and Entertainment)**

Documents filed: (1) Memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated May 22, 1997, recommending approval of the Downtown Business Improvement District budget report for 1997-98 and adoption of a resolution levying the Downtown Business Improvement District assessments for 1997-98. (2) Proof of Publication and Affidavit of Posting of Notice of Public Hearing, submitted by the City Clerk.

Discussion/Action: Upon motion by Councilmember Pandori, seconded by Councilmember Fiscalini, and unanimously carried, Resolution No. 67368, entitled: “Resolution of the Council of the City of San José Approving the Budget Report of the

Downtown Business Improvement District for Fiscal Year 1997-98 and Levying Assessments in the District for Fiscal Year 1997-1998”, was adopted. Vote: 9-0-2-0. Absent: Dando, Johnson.

**10c Adoption of a resolution to:**

- (1) Establish facility use fees for the San José McEnery Convention Center and Civic Auditorium Complex for calendar year 2000.**
- (2) Establish facility use fees for the Center for the Performing Arts and Montgomery Theater for FY 1997-98.**
- (3) Supersede the previous rate Resolution No. 66667. (Conventions, Arts and Entertainment)**

Documents filed: Memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated May 22, 1997, recommending adoption of said resolution.

Discussion/Action: Upon motion by Councilmember Powers, seconded by Councilmember Fiscalini, and unanimously carried, Resolution No. 67369, entitled: “A Resolution of the Council of the City of San José to Revise the Rate Schedule for the Convention Center and Other Related Facilities Managed by the City’s Department of Conventions, Arts and Entertainment”, was adopted. Vote: 9-0-2-0. Absent: Dando, Johnson.

**10d Adoption of resolutions approving City of San José Annual Budget Reports for Maintenance District Numbers 4, 5, 6, and 8 through 14 for Fiscal Year 1997/98 and imposing the assessments therein. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 22, 1997, recommending adoption of said resolutions.

Discussion/Action: Upon motion by Councilmember Fiscalini, seconded by Councilmember Diaz, and unanimously carried, Resolution No. 67370, entitled: “Resolution of the Council of the City of San José Approving, Confirming and Adopting the Maintenance District Number 4 (Gateway Place and Airport Parkway) Annual Budget Report for Fiscal Year 1997-98”; Resolution No. 67371, entitled: “Resolution of the Council of the City of San José Approving, Confirming and Adopting the Maintenance District Number 5 (Orchard Parkway - Plumeria Drive) Annual Budget Report for Fiscal Year 1997-98”; Resolution No. 67372, entitled: “Resolution of the Council of the City of San José Approving, Confirming and Adopting the Maintenance District Number 6 (River Oaks Park) Annual Budget Report for Fiscal Year 1997-98”; Resolution No. 67373, entitled: “Resolution of the Council of the City of San José Approving, Confirming and Adopting the Maintenance District Number 8 (Zanker - Montague) Annual Budget Report for Fiscal Year 1997-98”; Resolution No. 67374, entitled: “Resolution of the Council of the City of San José Approving, Confirming and Adopting the Maintenance District Number 9 (Santa Teresa - Great Oaks) Annual Budget Report for Fiscal Year 1997-98”; Resolution No. 67375, entitled: “Resolution of the

Council of the City of San José Approving, Confirming and Adopting the Maintenance District Number 10 (North First - Tasman Storm Pump Station) Annual Budget Report for Fiscal Year 1997-98”; Resolution No. 67376, entitled: “Resolution of the Council of the City of San José Approving, Confirming and Adopting the Maintenance District Number 11 (Brokow Road from Junction Avenue to Old Oakland Road) Annual Budget Report for Fiscal Year 1997-98”; Resolution No. 67377, entitled: “Resolution of the Council of the City of San José Approving, Confirming and Adopting the Maintenance District Number 12 (North First - Tasman Landscaping) Annual Budget Report for Fiscal Year 1997-98”; Resolution No. 67378, entitled: “Resolution of the Council of the City of San José Approving, Confirming and Adopting the Maintenance District Number 13 (Karin - O’Neal) Annual Budget Report for Fiscal Year 1997-98”; and Resolution No. 67379, entitled: “Resolution of the Council of the City of San José Approving, Confirming and Adopting the Maintenance District Number 14 (Heller - Fontana’s) Annual Budget Report for Fiscal Year 1997-98”; were adopted. Vote: 9-0-2-0. Absent: Dando, Johnson.

**10e First PUBLIC HEARING on the report of the Director of Streets and Traffic on the cost of sidewalk repairs to be assessed and recorded as liens (no Council action to be taken). CEQA: Exempt. (Streets and Traffic)**

Documents filed: (1) Memorandum from Director of Streets and Traffic, Wayne K. Tanta, dated May 22, 1997, amending the Preliminary Report of the Director of Streets and Traffic on the Cost of Sidewalk Repairs. (2) Affidavit of Posting of Notice of Public Hearing, submitted by the City Clerk. (3) Certificate of Mailing of Notice of Public Hearing, submitted by the Department of Streets and Traffic.

Discussion/Action: The Public Hearing was opened, and testimony heard from Robert S. Layman, who spoke in opposition to the proposed action. By unanimous consent, the Public Hearing was closed and no action taken by the Council. Vote: 9-0-2-0. Absent: Dando, Johnson.

**ORAL COMMUNICATIONS**

- (1) Cathy Brandhorst addressed the Council on societal issues.
- (2) William Chew addressed the Council on telecommunication issues.

**RECESS/RECONVENE**

Following Oral Communications, Council recessed at 2:53 p.m. and reconvened at 7:10 p.m., in Council Chambers, City Hall.

Present: Council members: Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Jr., Woody; Hammer.  
Absent: Council members: Dando (excused).

## **PUBLIC HEARINGS**

- 15a PUBLIC HEARING ON MITIGATION PLAN for a Master Site Development Permit to allow up to 2.2 million square feet of office/R&D uses on property located at the south side of State Route 237, between Zanker Road and North First Street, on 72.16 gross acres (BNP Leasing Corporation, 3Com Corporation, and State of California, Owner; 3Com Corporation, Developer). CEQA: Resolution to be adopted.  
District 4**

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

Discussion/Action: This item was dropped and re-noticed for June 10, 1997 at 1:30 p.m. See Item 8c for Council action taken.

- 15b (1) Continuation of the public hearing consisting of Council discussion on appeal of the Planning Commission's decision to certify the Environmental Impact Report (EIR) for the proposed San José International Airport Master Plan Update project as adequate and complete under CEQA. Staff recommends upholding the Planning Commission's Certification of the Final EIR.**
- (2) Continuation of the public hearing consisting of Council discussion on the selection of a development alternative and adoption of a resolution approving the selected alternative as the Airport Master Plan, and adoption of a resolution approving an implementation plan for the Airport Master Plan. Planning Commission recommends adoption of Project Case Alternative A (4-3). Airport Commission recommends adoption of the Project Case (6-1). Staff recommends adoption of the Project Case. CEQA resolution to be adopted.**

**(Continued from 6/3/97 - Item 15b)**

Documents filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated May 22, 1997, recommending the Council uphold the certification by the Planning Commission of the San José International Airport Master Plan Update Environmental Impact Report, finding it adequate and complete under the California Environmental Quality Act. (2) Memorandum from the Planning Commission, dated May 22, 1997, recommending adoption of Project Case Alternative A as the San José International Airport Master Plan with the modifications to the Implementation Plan listed therein. (3) Memorandum from Airport Director Ralph G. Tonseth, dated May 23, 1997, recommending adoption of Project Case Development Alternative as the Airport Master Plan and approval of the proposed Implementation Plan, with Attachment Nos. 1 through 9. (4) Letter from Alaska Airlines, dated May 27, 1997, supporting the development of the San José International Airport, utilizing the Project Case Alternative. (5) Memorandum from Planning Commission, dated May 27, 1997, recommending adoption of the Project Case alternative as the Airport Master Plan and approval of the proposed Implementation Plan. (6) Memorandum from Aviation

Director Ralph G. Tonseth, dated May 28, 1997, responding to memorandum dated April 22, 1997 by Councilmember Pandori recommending limitations on the use of Runway 30R. (6) Aviation Director Ralph G. Tonseth, dated May 30, 1997, transmitting responses from David Powers and Associations to clarify questions concerning the ACT Program measurement procedures. (7) Memorandum from Aviation Director Ralph G. Tonseth, dated May 30, 1997, responding to concerns raised by Councilmember Pandori with regard to the reliability of the Master Plan Update's air carrier demand forecasts. (8) Memorandum from Councilmember Pandori, dated June 2, 1997, commenting on the Staff response to his recommendations regarding Runway 30R. (9) Memorandum from Aviation Director Ralph G. Tonseth, dated June 5, 1997, responding to Councilmember Pandori memorandum dated June 2, 1997, regarding runway issues. (10) Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, and Director of Aviation Ralph G. Tonseth, dated June 6, 1997, commenting on the CEQA/NEPA process and matters requiring additional review. (11) Memorandum from Mayor Hammer, dated June 9, 1997, making final recommendations for the Airport Master Plan, including adoption of Project Case, as conditioned therein. (12) Memorandum from Council members Powers and Woody, dated June 10, 1997, suggesting changes to the composition of the Monitoring Committee recommended in Mayor Hammer's memorandum of June 9, 1997. (13) Memorandum from Councilmember Fiscalini, dated June 10, 1997, recommending approval of the Mayor's Airport Master Plan recommendations. (15) Memorandum from Councilmember Pandori, dated June 10, 1997, commenting on Mayor Hammer's recommendations and making additional suggestions for consideration. Correspondence received by the Mayor and City Council members from members of Citizens Against Airport Pollution prior to the June 3, 1997 Public Hearing. (16) Correspondence received by the Mayor and City Council members prior to the final Public Hearing on June 10, 1997. (17) Proof of Publication of Notice of Public Hearing, dated May 27, 1997, submitted by the City Clerk. (18) Affidavit of Posting, dated May 13, 1997, submitted by the City Clerk.

Discussion/Action: Mayor Hammer stated the City Council has examined the issue of the future of the airport for approximately ten years, entertained significant discussion and heard the opinions of virtually every segment of the community. She stated it is the City Council's responsibility to put forward a prudent proposal that is balanced between neighborhood concerns, the business community, and the airport, which is so important to the City of San José and Silicon Valley. She stated her memorandum dated June 9, 1997 recommends a rational, balanced approach that meets the needs of the region's business community into the 21st Century and presents an unprecedented effort to respond to concerns raised by residents about the curfew, noise pollution, sound proofing and other related issues. Mayor Hammer opened the public hearing continued from June 3, 1997, stated testimonies would be received for one hour and requested those who spoke the previous week to not speak tonight to give others an opportunity to express their views. She stated Brian Grayson, Chair of the Planning Commission, will be allotted five minutes, Steve Tedesco, San José Metropolitan Chamber of Commerce, and Lenora Porcella, Citizens Against Airport Pollution (CAAP) three minutes each, and each person filling out a Request to Speak card will be given one minute to address the Council. Brian Grayson, Chair of the Planning Commission, stated the Planning

Commission conducted over ten hours of public hearings and received more than three hours of public testimony, preceded by a study session and site visit to the Airport, in addition to reviewing environmental documents, staff reports, and correspondence from individuals and groups, evidencing the seriousness of the Commission's approach to the EIR and the Master Plan Update. He stated the Airport Update dated May 23, 1997 by Aviation Director Tonseth does not accurately reflect some positions taken by the Commission, specifically citing Attachment 9--Staff Responses to the Planning Commission Recommendations on the Implementation Plan--noting that language differences in the two reports allow for broader interpretation than was the direction from the Commission. Referring to the Airport report, Item A, he stated the Commission did not recommend the Engine Runup Policy be "strengthened" but that the policy should be reaffirmed, and noted that clear direction from the Commission was that existing policy was not being adequately enforced and the Commission was dissatisfied with its current implementation. He stated the Airport's response in Item B to the Commission's recommendation to form an advisory committee to review curfew intrusions states the Commission was unaware of the Airport Noise Advisory Committee, whereas the Commission believes the ANAC has not provided the oversight necessary to ensure curfew compliance and provide the community with satisfactory responses and action to curfew violations. He suggested Council consider expanding the membership of the curfew monitoring committee recommended by Mayor Hammer along the lines suggested by the Commission. He stated the Commission disagrees with the Airport's response to Item G about curfew enforcement through impositions of fines and/or publicizing of violations, that the Commission disagrees with the response and interpretation of the "excellent history of curfew compliance", and noted that other areas in the Airport's response do not reflect the Commission actions as accurately as they should but these are the three major items that need to be brought to Council's attention. He stated the Planning Commission's recommendation for Project Case Alternative A passed on a 4-3 vote, and likely would have had full support if the Commission had had the option to modify the proposal, since members in opposition indicated the lack of two full runways made them unable to support Alternative A. He urged the Council to review the Planning Commission's recommendations for the Implementation Plan and the reasons for recommending Project Case Alternative A. Steve Tedesco, San José Metropolitan Chamber of Commerce, thanked the Mayor and Council and Staff for their work on this issue. He stated the Chamber supports Project Case with the Mayor's modifications and stated San José needs a first class facility to accommodate the demands, which will come whether or not the City is prepared. He stated there should be at least 12 gates in Terminal B and stressed the importance of allotting the square footage required for those gates, stated Terminal C needs to be renovated, and supported moving forward with the proposal and building of the second runway. Lenora Porcella, Citizens Against Airport Pollution (CAAP), stated she was cautiously optimistic about efforts to address the neighborhood issues, and expressed concerns that increased traffic, noise and air pollution may not be adequately addressed by the proposed Master Plan and stated CAAP mitigation recommendations include reducing noise at the source, differential landing fees, a hush house, fining curfew violations, as well as more installation for homes outside the 65 Community Noise Equivalent Level (CNEL) area, and providing low interest loans to residents for mitigation efforts to maintain their quality of life. The

following individuals addressed the Council concerning the proposed Airport Master Plan: Camilla Cochran, Shasta Hanchett Park Neighborhood; Wanda Buck, Todd Gilman, Carlos A. Ramirez, Luis Navarro, Reno Air; Enrique L. Fernandez, Hotel Employees, Restaurant Employees, Local Union 19; Lloyd Williams, Plumbers Union #393; Dr. Ryan Joseph, Jack Kilger, Avis Rent A Car; Korbey Hunt, SJC Air Carriers; Gary Bruins, Bob Mahowald, Russ McBrien, Harold Lowney, Jorj Tilson, Roland Beutell, John Weikle, Airborne Express; John Blair, Richard Faulkner, Bob Duffey, Rina Stacks, Lena Ramos, Marian Holt McLain, San José Convention & Visitors Bureau; Peter M. Cirolla, Valley Transportation Authority; Douglas DeMers, Susan Larson, Coalition for Responsible Airport Management & Policies (CRAMP); Holly Lewerenz, Patti Bossert, John Lin, Lafayette Community; Patti Massy, Yolanda Reymeda, Dianne Buckley, Laurel Renish, Ed Hodges, College Park Neighborhood; Felix Pacheco, GWNA; Terry Reilly, Theresia Binder, and Edward Hernandez. Mayor Hammer asked Aviation Director Tonseth to compare San José's ranking with other airports regarding Stage 3 aircraft and the number of people affected by the noise of those aircraft. Director Tonseth stated San José has for many years ranked second in the country, with between 90-95% of the fleet consisting of Stage 3 aircraft and stated that, according to the National Defense Resource Council's Report, San José is the 13th smallest airport in the country in terms of people affected. Responding to questions by Mayor Hammer regarding the proposed new fuel farm, Director Tonseth stated the existing fuel farm holds 200,000 gallons, less than half a day's supply, while the airport needs 3-5 days storage capacity. He stated the new farm will have aboveground tanks in a containment reservoir and the existing underground tanks, which are leaking, will be eliminated. Councilmember Pandori asked what potential there is for growth at the airport beyond the year 2010 and how big the airport could grow at its present location. Director Tonseth stated that question had not been studied. He stated the forecast demand for 2010 in his view exceeds the capacity of the airport to handle all segments of aviation that Staff had come to the Council and decisions were made about which segments of aviation had priority. He stated the projected 17.6 million passengers in year 2010, which is 100% of passenger forecast demand, and 100% of cargo demand can be met through Project Case at the present site, that beyond 2010 there would be severe deficiencies and it would not be feasible to build additional facilities on the site. Councilmember Pandori stated the extension of Runway 30R to 1100 feet does not allow for simultaneous operations and asked if there is room on the airfield for simultaneous operations in the future. Director Tonseth replied there is insufficient room for simultaneous operations, which require 2500 feet of separation, and stated he could not foresee a need for simultaneous operations. Councilmember Pandori commented that the capacity of Project Case, projected at 17.6 million passengers per year by 2010, assumes an average number of people per flight that was exceeded in the last two years in actual passengers per flight, and questioned whether the calculations used current data. Cary Green, Airport Planner, stated the Airport Master Plan should not be based on fluctuating growth levels and that passengers per operation was not a relevant factor in forecasting for a Master Plan. He stated the Master Plan was predicated on projecting passenger demand, determining the fleet mix expected to meet that demand and, considering growth factors likely to occur, projecting the number of aircraft operations that would be generated. Director Tonseth stated Staff has presented several alternatives to try to meet the forecast demand of 17.6

million passengers by 2010, that Alternatives A and B have restraints which indicated at the outset they were not designed to meet that demand and the question as to whether more people could be served is one that relates to level of service. Councilmember Pandori stated the airport serves ten million people and is extremely congested. He expressed concern about the adequacy of the Environmental Impact Report, stating that parking and traffic estimates are inherently based on the number of passengers on a departing airplane. Director Tonseth stated the EIR was not based on the number of people per flight, but on forecast demand and the facilities it takes to accommodate that level of traffic. Councilmember Pandori inquired about the accuracy of the noise models used to determine noise projections and Bob Brown of Brown and Buntin, consultants on the noise analysis, stated that integrated noise models have been validated by the FAA to be accurate within  $\pm 5$  decibels in the area of the 65 dB CNEL contour and San José's sophisticated noise monitoring and aircraft flight track monitoring systems achieve an accuracy of  $\pm 1.5$  dB, which was adequate for the purpose of preparing a relative comparison of noise impacts that occur with different project alternatives and which is the main focus of the EIR. Responding to questions from Councilmember Pandori about the aircraft noise prediction model, Bob Brown stated the model is calibrated quarterly for the quarterly noise reports prepared for the County and State, and stated the airport's noise monitoring system is not used to project what the noise exposure will be, rather, the aircraft noise prediction model is relied on for that data. Responding to questions by Councilmember Pandori as to why noise projections show the CNEL shrinking, Bob Brown attributed the change primarily to the phasing out of all Stage 2 aircraft by the year 2000, mandated by the Federal Airport Noise and Capacity Act of 1990, that EIR documentation attempts to show different ways of looking at aircraft noise exposure, even though ultimately the CNEL has to be considered the true indicator of long-term effects of noise exposure. He stated the frequency of over flights was considered for the different alternatives and the report indicates how many aircraft are assumed to occur between 10 p.m. and 7 a.m. Councilmember Pandori asked if data is available for the curfew hours of 11:30 p.m. to 6:30 a.m. Bob Brown replied that for purposes of the noise analysis, night time operations have to be defined as between the hours of 10 p.m. and 7 a.m., which would include the curfew hours, and stated that each nighttime operation during that time period is treated like ten operations have occurred. He stated that although the analysis did not specifically break out flights during the curfew period, he was confident any flights that occur during curfew hours, whether authorized or not, are fully accounted for in the noise analysis. In response to Councilmember Pandori's questions about the sound proofing component of the mitigation measures proposed by Staff, Bob Brown explained the methodology used to determine eligibility for homes outside the 65 dB CNEL contour involved testing the decibel range inside and outside of homes to determine the insulation value of the structure. Projected noise levels are then used to determine eligibility for the noise mitigation plan. Councilmember Pandori questioned whether homes in the 60 dB CNEL would meet the eligibility criteria for sound proofing and stated he thought noise mitigation language in the EIR and in the Implementation Plan misleading on this issue. Planning Director Derryberry stated the Supplemental Noise Attenuation is not a mitigation measure for the EIR, it is an additional measure proposed in the Implementation Plan. Responding to questions from Councilmember Powers regarding air quality, John Hesler, David J. Powers &

Associates, explained that having two full runways will benefit the neighborhood closest to the present runway, that a major component built into the calculations for all the Project Case alternatives is the conversion of the airport's ground service equipment to either electric or compressed natural gas facilities, which is why calculations show a substantial decrease in pollutants compared to existing conditions. He stated decreased emissions in both vehicles and aircraft are expected to continue, and stated if the airport does not expand, the demand will flow to Oakland and San Francisco, creating increased air pollution in the San José air basin because of substantially increased vehicle trips necessitated by driving from the South Bay to Oakland or San Francisco airports. Councilmember Fiscalini asked why Project Case projects lower emissions of carbon monoxide and hydrocarbons in the future. John Hesler responded that emission reductions are predicted on the conversion of existing ground equipment to cleaner burning fuel and to electric vehicles and the reduced emissions standards for new engines. Responding to Councilmember Fiscalini's question about how exterior noise levels around the airport compare with exterior levels in other parts of the City, Planning Director Derryberry explained noise levels around the airport are similar to levels in the downtown and along some of the City's major transportation corridors, including light rail, major streets and freeways. He stated the General Plan identifies these as the noisiest areas in the City and they are not expected capable of reduction to a level below 60 dB CNEL. Councilmember Shirakawa, Jr. inquired about hush houses and John Hesler briefed the Council on the hush house at Chicago's O'Hare Airport and stated a hush house study conducted several years ago set a criteria that if San José had either an airline maintenance base or the number of high power run-ups during the curfew exceeded four per month, then a hush house would be warranted. Director Tonseth questioned whether having a hush house could encourage more run-ups and noted San José is fortunate to have only one high powered run up per month. To questions by Councilmember Diquisto about issues relating to the curfew, Director Tonseth responded there is a misconception that the airport is closed during the curfew hours of 11:30 p.m. and 6:30 p.m., while in fact the airport operates 24 hours per day. He indicated the noise control program is an operating curfew for scheduled airlines and the three flights which took off the night before were permitted flights under the curfew policy as the noise program only covers transport category aircraft which are aircraft weighing more than 75,000 pounds. Councilmember Fiscalini stated support for the recommendation for a hush house study, noted that Councilmember Pandori's queries provided answers for him on the EIR, and moved to find the EIR is complete and conforms to the requirements of the California Environmental Quality Act and that therefore, the appeal be denied and the Commission's certification of the Final EIR be upheld. Councilmember Johnson seconded the motion. Councilmember Pandori stated he will not support the motion for the following reasons: (1) the EIR underestimated, based on actual trends, the number of passengers per operation that will occur in the future; as a result, in alternatives A and B, the amount of demand that can be accommodated has been underestimated and as a result of that, parking and traffic numbers have also been underestimated; (2) the noise projections in the EIR, based on actual trends compared to the quarterly noise reports are in conflict with what the computer model has projected, and there has been enough actual data since that projection was done to suggest the analysis is severely flawed; (3) the EIR is based on an engine run up policy that is inconsistent with policy adopted by the City

Council; (4) the curfew and number of flights that are occurring during the curfew are in his view not accurately modeled; and (5) the Supplemental Noise Program is mischaracterized from what Staff is actually proposing to do, and finally, there are a number of mitigation measures which should be part of the EIR but are not. On a call for the question, the motion carried, the appeal was denied, the Planning Commission's Certification of the Final EIR was upheld, and Resolution No. 67380, entitled: "A Resolution of the Council of the City of San José Making Certain Findings Concerning Mitigation Measures, Adopting a Mitigation Monitoring and Reporting Program, Making Findings Concerning Alternatives, and Adopting a Statement of Overriding Considerations in Accordance with the California Environmental Quality Act for the San José International Airport Master Plan Project Case Alternative for Which an Environmental Impact Report Has Been Prepared", was adopted. Vote: 9-1-1-0. Noes: Pandori. Absent: Dando.

Mayor Hammer opened Council discussion on the selection of a development alternative, adoption of resolutions approving the selected alternative as the Airport Master Plan, and an implementation plan for the Master Plan. Mayor Hammer recommended adopting the Project Case alternative with the following conditions and limitations: The runway should proceed immediately; with two full length runways and a larger fuel farm should be relocated to serve the airport better, and should be limits are placed on expansion below that called for at full build-out in the Project Case, i.e., gates should be limited to 40 not 49, with a commensurate reduction in parking to bring the airport near the size of Alternate A or Project Case Year 2005. She stated her memorandum dated June 9, 1997 recommends a new approach to curfew enforcement, that Staff verification has been adequate but the program should be monitored by a community committee with the ability to refer violations directly to the City Attorney, who will have the authority take legal action if violations occur. Mayor Hammer stated before any major facilities can move forward, the Airport must achieve 100% Stage 3 operations, sound proofing must be complete within the 65 CNEL and, as suggested by Councilmember Powers, Highway 87 should be "under construction" not "completed" as stated in her memorandum. She stated these are major commitments to noise and traffic mitigation, which must be attained before any growth occurs beyond the runways and fuel farms or, stated another way, there will be no building of any terminals, gates, or parking until these and other conditions listed in her memorandum are completed. She stated she believes her recommendations strike an appropriate balance between regional business interests and the quality of life for residents in nearby neighborhoods that will reasonably meet the foreseeable demands for service in and out of the airport and give adequate protection for neighborhoods surrounding the airport. She stated she hopes the Council will approve the recommendation and noted she looks forward to any comments or concerns of the Council as the City puts together a program that will serve the community into the next century. Councilmember Fiscalini read into the record statements from his memorandum June 10, 1997 beginning with the section entitled, *Background and Analysis*, and moved approval of Project Case, the Implementation Plan proposed in the Staff memorandum dated May 23, 1997 as amended by Mayor Hammer's memorandum dated June 9, 1997, with the requirement that Highway 87 be "completed" changed to "under construction", and stated the EIR for this project identified traffic, air quality and noise as significant

and unavoidable; the Master Plan would allow the Airport to meet passenger and air cargo demand forecast for year 2010 with an adequate level of customer service and includes the country's most comprehensive acoustical treatment program, an unprecedented supplemental noise attenuation program, conversion of ground service facilities to alternative fuels and the relocation of the fuel farm to an industrial area, away from an existing residential neighborhood. Additionally, the Airport is a great economic benefit to the region, providing local companies with a gateway to markets that support thousands of jobs for San José residents, providing thousands of needed non technical jobs for persons not part of the high-tech sector of this region, and providing passenger and cargo services locally, instead of at San Francisco or Oakland, saving both time and money, and providing an additional competitive edge to the local economy; these benefits outweigh the significant unavoidable impacts. Councilmember Johnson seconded the motion. Councilmember Powers stated Airport Staff and their consultants have produced a thorough and accurate document as they have analyzed the myriad elements for the EIR, noted the timeline was extended to ascertain the information presented was complete, and stressed that having two full runways and upgrading the fuel farm are critical to the safety of the airport. She expressed support for Project Case which allows for maximum flexibility, stated growth would occur only as the market demands it, and stated she preferred approving 49 gates, noting that the expansion will not be completed for thirteen years, but the demand for service is here now. She noted the City has spent millions of dollars building San José into a convention city and destination point, with convention centers, hotels and museums as focal points of the revitalization of the Downtown and encouraging industry that has brought millions of dollars to San José, created new jobs, and returned millions of dollars to taxes for use in supporting quality of life issues. She stated the Implementation Plan assures neighborhood concerns will be addressed, supported the issues recommended for further study, particularly development of an airport transit access master plan, recommended the conditioning of the construction of facilities on the initiation of construction on Highway 87 and suggested a member of the business community and an airline representative be added to the Monitoring Committee. Councilmember Fiscalini amended his motion to include the recommendation from Council members Powers and Woody that one member from the business community and one member from the airline industry be added to the Monitoring Committee. Councilmember Powers stated she would support the motion with a no vote on the number of gates. Councilmember Diaz expressed concerns about growth and environmental issues, suggested the need to work with other jurisdictions in a regional approach to aviation in the area and stated he did not support additional general aviation at Reid-Hillview, and suggested that costs for additional work required by the proposal, such as traffic mitigation, come from airport generated funds. Vice Mayor Fernandes stated Council has taken number actions to build an industrial base in the City of San José and this action is part of that effort, and expressed support for the Mayor's recommendations. She stated the Master Plan will allow the City to proceed with the expansion, the Implementation Plan will control how that is done, and the conditions will set limits to the airport's growth. She stated it is important the airport be well run, without congestion and inconvenience and made as safe as possible immediately, which means the two runways and the fuel farm are needed right away. She expressed concern about neighborhoods being impacted and stated Council must make the curfew work and

shield homes from the noise, and keep faith with the neighborhoods. She commented on the issue of pollution, stated ground traffic must be a priority, supported a regional plan as the Mayor proposed and study of a hush house. Councilmember Woody stated she appreciated the balance in the Mayor's recommendation, supports a regional approach and mass transit options. She expressed concern about maintaining a first class airport capable of providing quality service and adequate passenger processing, and stated that to avoid a congested terminal, the amount of square footage has to accommodate the forty gates proposed. She stated support for Project Case with the forty gates if the square footage is flexible enough to support the number of gates proposed. Mayor Hammer requested Aviation Director Tonseth to address the square footage included in her recommendation and the expected impact. Director Tonseth stated the Mayor's recommendation takes the square footage proposed for Alternative A, the 775,000 square feet proposed for 37 gates, and adds three gates, the net impact being that if the new Terminal B is built, insufficient square footage would be left to remodel Terminal C; that at 25,000 square feet per gate, three additional gates would require 75,000 added to the 775,000 to complete the second level loading conversion of Terminal C and achieve the level of customer service which has been described. Councilmember Shirakawa, Jr. stated the safeguards in the Mayor's recommendations represent a sincere and good faith effort to address the concerns of the neighborhoods and expressed support for the curfew monitoring committee and a regional aviation approach. He stressed the need to build trust with the neighborhood and maintain accountability to make the project work. Councilmember Johnson stated support for the motion with the change regarding construction of Highway 87, pointed out that coordinating a regional approach, which she supports, may be difficult and will require approval of the Federal Government, and stressed the need to address the issue of General Aviation and the Reid-Hillview Airport. She stated the monitoring and conditioning approach proposed by Staff and Mayor Hammer could reveal whether demand, noise, traffic and air quality were adequately projected, suggested monitoring of service quality in the terminals and parking lots as a means of gauging environmental impacts, and stated the plan deals with sound proofing better than in the past, inasmuch as the noise attenuation plan has not achieved the objective which Council expected. She stressed the importance of eliminating Stage 2 aircraft and supported working on a transit access plan. Councilmember Pandori stated support for Item 7f in the Mayor's memorandum, which indicates eligibility for the Supplemental Noise Program, would be determined on the worst case of the actual or the projected CNEL contours. He stated this issue is vital to the Washington neighborhood where actual data puts Washington School and homes inside the 65 CNEL whereas the EIR takes them out, and the direction in the Mayor's memorandum would allow that area to use actual noise contours that exist now, if his interpretation is correct. Regarding soundproofing, he indicated that having the mitigation measurements based on a home with windows closed is unreasonable and noted he will raise the issue for discussion at a later time. He stated the Mayor's recommendations represent a sincere and good faith effort to deal with neighborhood issues and the recommendation to proceed with sound proofing to the 60 CNEL is an important new step, which no major City has undertaken and, if approved by the FAA and implemented, will set a precedent nationwide. He expressed support for the phase-out language for Stage 2 aircraft, for the position that simultaneous operations may be feasible in the future, and for the regional aviation plan.

He stated his memorandum dated June 10, 1997 proposes additional mitigation measures, including a loan program for low and middle income residents outside the 60 CNEL and further study of Runway 30R, the extension of which will have significant impact on thousands of homes on the east side of the airport, particularly the Rosemary Gardens area. He supported building Runway 30R to back up Runway 30L in cases of emergency or repair, stated it is not practical to have departures on Runway 30R because of its proximity to neighborhoods on the east and the flight pattern over the Downtown and suggested the City request the FAA review the issue. He stated the City should be aggressive in pursuing a hush house and phase out the noisiest Stage 2 aircraft, such as DC 10-20s and DC 10-30s, which have take-off levels in excess of 100 dBs. He commented on transportation issues and pointed out that the two airport entrances have the worst congestion ranking in the City, Level of Service F, and recommended the City pursue engineering solutions to ease those situations. He stated that while in support of the mitigation in the Mayor's recommendation, he cannot support the motion because the mitigation does not strike the proper balance between airport growth and protecting neighborhoods. He stated the alternative will put an excessive amount of growth into a landlocked airport and cause significant noise impacts to the neighborhoods, that Alternatives of A and B have been underestimated in terms of their capacity to serve the projected demand and it is his belief the actual capacity of the alternative will be in excess of 17.6 million and traffic congestion and noise levels will be worse. He stated he favors an alternative with less emphasis on growth, which is better for the neighborhoods. Councilmember Woody clarified that she supports the motion with the exception of the forty gates because of the lack of flexibility in the square footage. Councilmember Powers stated she was voting no on the forty gates also. On a call for the question, the motion as amended carried, the Public Hearings were closed, and Council approved the Project Case and Implementation Plan proposed by the Staff memorandum dated May 23, 1997 as modified and augmented by Mayor Hammer's memorandum dated June 9, 1997, with Mayor Hammer's proposal amended to add one member of the business community and one airline representative to the composition of the Monitoring Committee (Item 5C) and with the conditions for award of a construction contract for any new terminal facility or parking garage amended to require Highway 87 to be "under construction" rather than "completed" (Item 6D), and Resolution No. 67381, entitled: "A Resolution of the Council of the City of San José Selecting the Project Case Alternative as the Airport Master Plan for San José International Airport", was adopted. Vote: 9-1-1-0. Noes: Pandori; and Councilmember Powers and Councilmember Woody on the provision for forty gates. Absent: Dando. Mayor Hammer reaffirmed the Council's committed to continuing to work to lessen the impacts on the neighborhoods.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 10:50 p.m. in memory of Paul Giardina, Director of Santa Clara Valley Permit Assistance Center; in memory of Malou Young, mother of Councilmember Trixie Johnson; and in memory of Chris Hotts, District 10 Council Assistant.

**SUSAN HAMMER, MAYOR**

**ATTEST:**

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