

## **MINUTES OF THE CITY COUNCIL**

**SAN JOSE, CALIFORNIA**

**TUESDAY, JUNE 24, 1997**

The Council of the City of San Jose convened in regular session at 8:00 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 8:05 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 Newman v. City of San José, and City of San José v. Huelsenkamp; to discuss anticipated litigation pursuant to Subsection (b) of Government Code Section 54956.9, in six matters involving the initiation of litigation; to conduct public employee evaluation pursuant to Government Code Section 54957 for the Title of City Manager; and to confer with Labor Negotiator Pursuant to Government Code 54957.6 as follows: (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 10:40 a.m., and reconvened at 1:40 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**

Reverend Carol Lunde, Unity Church, delivered the Invocation.  
(District 6)

### **PLEDGE OF ALLEGIANCE**

Mayor Hammer led the Pledge of Allegiance.

### **ORDERS OF THE DAY**

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

## CEREMONIAL ITEMS

- 5a Presentation of commendation and award honoring the Outstanding Employee for June 1997 to Peggy Conaway, Supervising Librarian, Library Department. (City Manager's Office)**

Documents filed: None.

Discussion/Action: Mayor Hammer was joined at the podium by City Manager Regina V.K. Williams, who made the presentation to Peggy Conaway as the Outstanding Employee for June 1997. City Librarian Jane Light commended Ms. Conaway, who thanked Librarian Light, Mayor Hammer, and the City Council for the commendation.

- 5b Presentation of proclamation recognizing Alum Rock Park's 125th anniversary of providing recreational needs services to San José. (Fernandes)**

Documents filed: None.

Discussion/Action: Vice Mayor Fernandes joined Mayor Hammer for presentation of a proclamation recognizing Alum Rock Park's 125th anniversary to Todd Capurso, Park Facilities Supervisor, who called to the podium Ranger Rob Reynolds for presentation of mementos commemorating the history of the park to the Mayor and Council Members.

- 5c Presentation of proclamation designating the month of July as "Parks and Recreation Month". (Parks, Recreation and Neighborhood Services)**

Documents filed: None.

Discussion/Action: Mayor Hammer presented to Rudy Nasol, Vice Chair of the Parks and Recreation Commission a proclamation designating the month of July as "Parks and Recreation Month" and thanked the Commission for their service to the City. Mr. Nasol expressed appreciation on behalf of the Commission for the recognition of their work.

- 5d Presentation of proclamation recognizing the Office of Therapeutic Services for 25 years of commitment and excellence in service. (Parks, Recreation and Neighborhood Services)**

Documents filed: None.

Discussion/Action: Mayor Hammer presented a proclamation to Terry Eberhardt, Deputy Director of Recreation and Community Services, in recognition of 25 years of providing services to people with disabilities. Deputy Director Eberhardt accepted on behalf of the Office of Therapeutic Services staff, which he asked to stand and be recognized.

- 5e Presentation of a commendation to Cirque de Soleil on their fourth visit to San José. (Mayor) (Rules Committee referral 6/18/97)**

**(This item was heard in conjunction with 11b)**

Documents filed: None.

Discussion/Action: Mayor Hammer presented a commendation to representatives of Cirque de Soleil, whom she welcomed to San José for their fourth visit, for the performance of “Quidam” which opens on Thursday, July 31, 1997.

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

The Council of the City of San José convened the Redevelopment Agency Board at 2:05 p.m. to consider Items 11a and 11b in a joint session.

### **11a Discussion of salary increases for Council Appointees and Executive Director of the Redevelopment Agency and adoption of City and Agency salary resolutions. (Mayor)**

Documents filed: None.

Discussion/Action: This item was deferred to August 12, 1997.

### **11b Adoption of resolutions by the City Council and Agency Board accepting an invitation from Cirque de Soleil to send City/Agency staff and officials to attend the opening night performance of “Quidam” on Thursday, July 31, 1997. (Conventions, Arts and Entertainment) (Rules Committee referral 6/18/97) (This item was heard in conjunction with Item 5e)**

Documents filed: Memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated June 13, 1997, recommending adoption of said resolutions accepting the invitation from Cirque de Soleil.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 67423, entitled: “A Resolution of the Council of the City of San José Accepting Invitations from Cirque de Soleil to its opening Performance and Approving the Distribution of Invitations to Officials and Staff of the City of San José in their Official Capacity as Representatives of the City of San José, and Redevelopment Agency Resolution No. 4299, entitled: “A Resolution of the Board of the Redevelopment Agency of the City of San José Accepting Invitations from Cirque de Soleil to its opening Performance and Approving the Distribution of Invitations to Officials and Staff of the Redevelopment Agency of the City of San José in their Official Capacity as Representatives of the Redevelopment Agency of the City of San José, were adopted. Vote: 10-1-0-0. Noes: Pandori.

The Council of the City of San José adjourned the Redevelopment Agency Board portion of the meeting at 2:07 p.m.

Items 10d, 10e, 10f and 10g were heard prior to the Consent Calendar.

**10d Adoption of the Annual Appropriation Ordinance, including transfers and loans for Fiscal Year 1997-98. (City Manager's Office)**

Documents filed: None.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Diquisto, and unanimously carried, Ordinance No. 25390, entitled: "Annual Appropriation Ordinance of the City of San José for City's Fiscal Year Beginning July 1, 1997 and Ending June 30, 1998, Appropriating and Authorizing the Expenditure of Moneys for the Operation of Each of the Offices, Departments, and Agencies of the City During Said Fiscal Year, and for Various Other Purposes and Objects for Said Fiscal Year; and Providing for transfers from Various City Funds to Other City Funds as may be Necessary During Said Fiscal Year", was adopted. Vote: 11-0-0-0.

**10e Adoption of Annual Funding Sources Resolution for Fiscal Year 1997-98. (City Manager's Office)**

Documents filed: None.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Diquisto, and unanimously carried, Resolution No. 67424, entitled: "A Resolution of the Council of the City of San José Adopting the Estimated Sources of Funds for Fiscal Year 1997-98", was adopted. Vote: 11-0-0-0.

**10f (1) Adoption of a resolution establishing the Schedule of Fees and Charges for Fiscal Year 1997-98.  
(2) Adoption of a resolution establishing fees and charges for recreational and park activities.  
(City Manager's Office)**

Documents filed: None.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Diquisto, and unanimously carried, Resolution No. 67425, entitled: "A Resolution of the Council of the City of San José Setting Forth the Schedule of Fees and Charges for Fiscal Year 1997-98", and Resolution No. 67426, entitled: "A Resolution of the Council of the City of San José Setting the Schedule of Fees for the Use of Parks and Recreational Facilities and Repealing Resolution No. 66719", were adopted. Vote: 11-0-0-0.

**10g Adoption of a resolution in compliance with Article XIII B of the Constitution of the State of California and as modified by Proposition 111 and SB 99 electing the**

**population and inflation factors and establishing the Fiscal Year 1997-98 Appropriation Limit. (City Manager's Office)**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated June 6, 1997, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Diquisto, and unanimously carried, Resolution No. 67427, entitled: "A Resolution of the Council of the City of San José Electing the Population and Inflation Adjustment Factors and Establishing the 1997-98 Appropriations Limit of the City of San José Pursuant to California Constitution Article XIII B, and Section 7900 Et Seq. of the California Government Code", was adopted. Vote: 11-0-0-0.

**6e(87) Adoption of a resolution authorizing the City Clerk to negotiate and execute an agreement with Karl Dolk to perform an audit of the City Auditor's Office. (Mayor) (Orders of the Day 4a)**

Documents filed: None.

Discussion/Action: This item was pulled from the Consent Calendar by Council Member Woody and discussed separately. Council Member Woody expressed concern about repeatedly using the same contractor and recommended an RFP is issued, to include Mr. Dolk. Director Bob Brownstein stated Mr. Dolk had been used for the last four performance audits of the City Auditor, which are conducted every two years, and use of an RFP was not considered because the contract was small and no dissatisfaction had been registered. Upon motion by Council Member Woody, seconded by Council Member Shirakawa, Jr. and carried, issuance of an RFP for auditing of the City Auditor was approved. Vote: 10-1-0-0. Noes. Fiscalini.

**CONSENT CALENDAR**

Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the Consent Calendar was approved and the below listed items taken as indicated. Vote: 11-0-0-0.

**Minutes for Approval**

**6a(1) Regular Meeting of April 29, 1997**

Documents filed: Minutes of April 29, 1997.

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

**6a(2) Joint City Council/Redevelopment Agency Meeting of May 1, 1997**

Documents filed: Minutes of May 1, 1997.

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

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

- 6b(1) ORD. NO. 25368 - Amends 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.**

Documents filed: Proof of publication of title of Ordinance No. 25368 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25368 was adopted. Vote: 11-0-0-0.

- 6b(2) ORD. NO. 25371 - Amends various sections of Chapter 15.04 of Title 15 of the San José Municipal Code to add to and revise certain definitions, to clarify the authority of the Director of Aviation, to modify the appeals process for permits and licenses and to clarify that certain specific violations by ground transportation providers are violations of the San José Municipal Code.**

Documents filed: Proof of publication of title of Ordinance No. 25371 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25371 was adopted. Vote: 11-0-0-0.

- 6b(3) ORD. NO. 25372 - Amends Section 2.08.610 of Chapter 2.08 of Title 2 of the San José Municipal Code to increase the membership of the Appeals Hearing Board from five to seven, to add a new Section 2.08.615 to designate an attorney as one of the seven members, and to add a new Section 2.08.630 to provide a stipend of \$100 per meeting with a maximum of \$200 per month for attendance at meetings.**

Documents filed: Proof of publication of title of Ordinance No. 25372 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25372 was adopted. Vote: 11-0-0-0.

- 6b(4) ORD. NO. 25373 - Amends Part 36 of Chapter 2.08 of Title 2 of the San José Municipal Code to establish a new Downtown Parking Board in place of the current Parking Advisory Commission.**

Documents filed: Proof of publication of title of Ordinance No. 25373 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25373 was adopted. Vote: 11-0-0-0.

- 6b(5) **ORD. NO. 25374 - Amends Chapter 9.10 of Title 9 of the San José Municipal Code by amending Section 9.10.1435 and adding provisions to exempt certain non-profit reusers from payment of the Commercial Source Reduction and Recycling Fee.**

Documents filed: Proof of publication of title of Ordinance No. 25374 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25374 was adopted. Vote: 11-0-0-0.

- 6b(6) **ORD. NO. 25376 - Amends Title 14 of the San José Municipal Code to add Chapter 14.27 to establish a procedure for the financing of certain public capital facilities and services through the establishment of community facilities districts, the levy of special taxes, and the issuance of bonds secured by such special taxes.**

Documents filed: Proof of publication of title of Ordinance No. 25376 submitted by the City Clerk.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Ordinance No. 25376 was adopted. Vote: 11-0-0-0.

- 6b(7) **ORD. NO. 25378 - Adds a new Part 8 to Chapter 20.08 of Title 20 to establish regulations and criteria for medical marijuana dispensaries and amending Section 20.08.1230 of Title 20 to prohibit a medical marijuana dispensary as a home occupation.**

Documents filed: Proof of publication of title of Ordinance No. 25378 submitted by the City Clerk.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Ordinance No. 25378 was adopted. Vote: 11-0-0-0.

- 6b(8) **ORD. NO. 25379 - Rezones certain real property situated on the northeast corner of Lucretia Avenue and Owsley Avenue.  
PDC 96-10-060**

Documents filed: Proof of publication of title of Ordinance No. 25379 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25379 was adopted. Vote: 11-0-0-0.

- 6b(9) **ORD. NO. 25380 - Rezones certain real property situated on the northwest corner of Capitol Expressway and Copperfield Drive. PDC 96-09-055**

Documents filed: Proof of publication of title of Ordinance No. 25380 submitted by the City Clerk.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Ordinance No. 25380 was adopted. Vote: 11-0-0-0.

**6b(10) ORD. NO. 25381 - Rezones certain real property situated on the north side of Foxworthy Avenue, 300 feet easterly of Meridian Avenue. PDC 97-03-019**

Documents filed: Proof of publication of title of Ordinance No. 25381 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25381 was adopted. Vote: 11-0-0-0.

**6b(11) ORD. NO. 25382 - Rezones certain real property situated on the northeast corner of Old Oakland Road and Wayne Avenue. PDC 96-12-076**

Documents filed: Proof of publication of title of Ordinance No. 25382 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25382 was adopted. Vote: 11-0-0-0.

**6b(12) ORD. NO. 25383 - Rezones certain real property situated on the northeast corner of Old Oakland Road and Wayne Avenue. PDC 96-12-076**

Documents filed: Proof of publication of title of Ordinance No. 25383 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25383 was adopted. Vote: 11-0-0-0.

**6b(13) ORD. NO. 25384 - Rezones certain real property situated on the southwest corner of Delta Road and Ruby Avenue. C 97-01-003**

Documents filed: Proof of publication of title of Ordinance No. 25384 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25384 was adopted. Vote: 11-0-0-0.

**6b(14) ORD. NO. 25385 - Rezones certain real property situated on both sides of South Sixteenth Street, north of East San Fernando Street. PDC 97-02-011**

Documents filed: Proof of publication of title of Ordinance No. 25385 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25385 was adopted. Vote: 11-0-0-0.

**6b(15) ORD. NO. 25386 - Rezones certain real property situated on the southeast corner of Senter Road and Sylvandale Avenue. PDC 97-03-016**

Documents filed: Proof of publication of title of Ordinance No. 25386 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25386 was adopted. Vote: 11-0-0-0.

**6b(16) ORD. NO. 25387 - Rezones certain real property situated on the northwest corner of Capitol Expressway and Copperfield Drive. PDC 97-03-021**

Documents filed: Proof of publication of title of Ordinance No. 25387 submitted by the City Clerk.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Ordinance No. 25387 was adopted. Vote: 11-0-0-0.

**6b(17) ORD. NO. 25388 - Rezones certain real property situated on the west side of North Fourth Street, 300 feet northerly of Burton Avenue. PDC 97-03-022**

Documents filed: Proof of publication of title of Ordinance No. 25388 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25388 was adopted. Vote: 11-0-0-0.

**6b(18) ORD. NO. 25389 - Rezones certain real property situated on the southeast corner of South Autumn Street and West Santa Clara Street. C 97-03-024**

Documents filed: Proof of publication of title of Ordinance No. 25389 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25389 was adopted. Vote: 11-0-0-0.

**Public Hearings Set by Council**

**6c(1) Adoption of a resolution to consider the establishment of an Underground Utility District at Story Road, from King Road to Galahad Avenue, 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 June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67428, entitled: "A Resolution of the Council of the City of San José Setting the Time and Place for a Public Hearing to Consider the Establishment of an Underground Utility District on Story Road Between King Road and Galahad Avenue on August 5, 1997 at 7:00 p.m.", was adopted. Vote: 11-0-0-0.

**6c(2) Adoption of a resolution initiating proceedings to amend Title 20 of the San José Municipal Code by adding Section 20.04.489 to set forth a new definition of**

**“Residential District,” by amending Section 20.04.490 to remove the current definition of “Residential District,” and by making technical conforming changes to other provisions of Title 20, and setting September 2, 1997, at 7:00 p.m. for a public hearing on the proposed amendments. (City Attorney’s Office) (Rules Committee referral 6/18/97)**

**[This item was renumbered from 6f(16)]**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 19, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67429, entitled: “A Resolution of the Council of the City of San José Initiating Proceedings on Its Own Motion to Amend Title 20 of the San José Municipal Code by Adding Section 20.04.489 to Set Forth a New Definition of “Residential District”, by Amending Section 20.04.490 to Remove the Current Definition of “Residential District”, and by Making Conforming Changes to Other Provisions of Title 20, and Setting September 2, 1997, at 7:00 p.m. for a Public Hearing on the Proposed Amendments”, was adopted. Vote: 11-0-0-0.

### **Plans and Specifications**

- 6d(1) TRACT NO. 8613 - North side of Hillsdale Avenue between State Route 87 and Snell Avenue - Western Pacific Housing - Communications Hill, LLC, a Delaware Limited Liability Company (Developer) - 93 attached residential units on 15 common lots. Adoption of resolutions approving the plans, final map, contract, and parkland agreement for Tract No. 8613. CEQA: ND. District 7. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 9, 1997, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 67430, 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. 8613”; Resolution No. 67431, entitled: “A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8613”, and Resolution No. 67432, 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. 8613”, were adopted. Vote: 11-0-0-0.

- 6d(2) TRACT NO. 8767- South side of E. William Street between South 19th and South 22nd Streets - Brookwood Partners, L.P., a California Limited Partnership (Developer) - 23 detached residential lots. Adoption of resolutions approving the plans, final maps, and contract for Tract No. 8767. CEQA: ND. District 3. (Public Works) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 9, 1997, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 67433, 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. 8767”; Resolution No. 67434, entitled: “A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8767”, and Resolution No. 67435, 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. 8767”, were adopted. Vote: 11-0-0-0.

- 6d(3) TRACT NO. 8827- Within the Evergreen Specific Plan Area (ESP) and is more particularly located on the south side of Fowler Road 1500 feet east of Littleworth Way - Larwin Company, a California Limited Corporation, (Developer) - 15 detached residential lots. Adoption of resolutions approving the plans, final map, contract, water main extension agreement, and approval of a parkland agreement for Tract No. 8827. CEQA: Resolution No. 63179. District 8. (Public Works) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 9, 1997, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 67436, 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. 8827”; Resolution No. 67437, entitled: “A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8827”; Resolution No. 67438, 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. 8827”, and Resolution No. 67439, entitled: “A Resolution of the Council of the City of San Jose Approving and Authorizing the Execution of Agreement for the Water Main Extension, Tract No. 8827”, were adopted. Vote: 11-0-0-0.

- 6d(4) TRACT NO. 8892 - Within the Evergreen Specific Plan Area (ESP) and is more particularly located on the south side of Fowler Road opposite Littleworth Way - Standard Pacific of Northern California, (Developer) - 100 detached residential lots. Adoption of resolutions approving the plans, final map, contract, water main extension agreement, and approval of a parkland agreement for Tract No. 8892. CEQA: Resolution No. 63179. District 8. (Public Works) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 13, 1997, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 67440, 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. 8892”; Resolution No. 67441, entitled: “A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8892”; Resolution No. 67442, 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. 8892”, and Resolution No. 67443, entitled: “A Resolution of the Council of the City of San Jose Approving and Authorizing the Execution of Agreement for the Water Main Extension, Tract No. 8892”, were adopted. Vote: 11-0-0-0.

- 6d(5) TRACT NO. 8908 - Within the Evergreen Specific Plan Area (ESP) and is more particularly located on the Quimby Road and Rue Mirassou - Chanteclair Evergreen 82 Partners, L.P., a California Limited Partnership (Developer) - 17 detached residential lots. Adoption of resolutions approving the plans, final map, contract, and water main extension for Tract No. 8908. CEQA: Resolution No. 63179. District 8. (Public Works) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 12, 1997, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 67444, 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. 8908”; Resolution No. 67445, entitled: “A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8908”; Resolution No. 67446, 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. 8908”, and Resolution No. 67447, entitled: “A Resolution of the Council of the City of San Jose Approving and Authorizing the Execution of Agreement for the Water Main extension, Tract No. 8908”, were adopted. Vote: 11-0-0-0.

- 6d(6) TRACT NO. 8939 - Southwest corner Sierra Road and Amaryl Drive - Braddock and Logan Group, L.P., (Developer) - seven single family attached units. Adoption of resolutions approving the plans, final map, contract, and approval of the parkland agreement for Tract No. 8939. CEQA: ND. District 4. (Public Works) ( Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 12, 1997, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 67448, 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. 8939”; Resolution No. 67449, entitled: “A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8939”, and Resolution No. 67450, 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. 8939”, were adopted. Vote: 11-0-0-0.

- 6d(7) TRACT NO. 8951 - West side of Cottle Road, opposite Hospital Parkway - Brookfield Palmia, Inc., (Developer) - 70 detached residential lots. Adoption of resolutions approving the plans, final maps, and contract for Tract No. 8951. CEQA: ND. District 2. (Public Works) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 12, 1997, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 67451, 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. 8951"; Resolution No. 67452, entitled: "A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8951", and Resolution No. 67453, 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. 8951", were adopted. Vote: 10-1-0-0. Noes: Pandori.

- 6d(8) TRACT NO. 8982 - East side of Four Oaks Road, 120 feet south of Emerald Hills Circle - Braddock & Logan Group, L.P., (Developer) - 40 detached residential lots. Adoption of resolutions approving the plans, final map, contract, and approval of the parkland agreement for Tract No. 8982. CEQA: ND. District 4. (Public Works) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 12, 1997, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 67454, 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. 8982"; Resolution No. 67455, entitled: "A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8982", and Resolution No. 67456, 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. 8982", were adopted. Vote: 11-0-0-0.

- 6d(9) TRACT NO. 8984 - West side of Bentley Ridge Drive at Concord Ridge Court - Greenbriar Bel Aire Company, (Developer) - 13 detached residential lots. Adoption of resolutions approving the plans, final map, contract, water main extension agreement, and the parkland agreement for Tract No. 8984. CEQA: ND. District 8. (Public Works) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 13, 1997, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 67457, 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. 8984"; Resolution No. 67458, entitled: "A Resolution of the Council of the City of San Jose Approving and Accepting Final Map of Tract No. 8984"; Resolution No. 67459, entitled: "A Resolution of the Council of the City of San José Approving and Authorizing the Execution of Contract and Approving Bonds for the Improvement of Tract No. 8984", and Resolution No. 67460, entitled: "A Resolution of the Council of the

City of San José Approving and Authorizing the Execution of Agreement for the Water Main Extension, Tract No. 8984”, were adopted. Vote: 11-0-0-0.

### **Contracts/Agreements**

- 6e(1) 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 6/10/97 - Item 6e(13)]**

Documents filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated May 15, 1997, recommending authorization of the City Manager to negotiate and execute said agreements.

Discussion/Action: Resolution No. 67461, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Grant Agreements with One or More Eligible Service Providers for the Placement of Youth in Unsubsidized Employment”, was adopted. Vote: 11-0-0-0.

- 6e(2) Adoption of a resolution authorizing the Director of Aviation to negotiate and execute a first amendment to the agreement with Associated Consultants in Transportation for consultant services for the analysis of solid waste management and recycling at the San Jose International Airport, extending the term of the agreement by eighteen (18) months, from July 1, 1997 to December 31, 1998, and increasing the compensation by \$36,000, for a total amount not to exceed \$67,000. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Aviation Director Ralph G. Tonseth, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67462, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Aviation to Negotiate and Execute a First Amendment to Consultant Agreement with Associated Consultants in Transportation”, was adopted. Vote: 11-0-0-0.

- 6e(3) Approval of a sixth amendment to the remediation agreement with Chevron U.S.A. Inc., for the remediation of contaminated groundwater at the Airport fuel farm, extending the term of the agreement by one (1) year, from July 1, 1997 to June 30, 1998 and increasing the compensation by \$50,000, from \$1,156,455 to \$1,206,455. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Aviation Director Ralph G. Tonseth, dated June 5, 1997, recommending approval of a sixth amendment to said agreement with Chevron U.S.A. Inc.

Discussion/Action: The sixth amendment to said remediation agreement with Chevron U.S.A. Inc., was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(4) Adoption of a resolution authorizing the Director of Aviation to execute an operating agreement and permit with United Parcel Service, on a month-to-month basis, not to extend beyond five (5) years, July 31, 2002, with annual estimated revenue to the City of \$100,000. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Aviation Director Ralph G. Tonseth, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67463, entitled: “A Resolution of the Council of the City of San José to Authorize the Director of Aviation to Execute a Commercial Air Cargo Operating Agreement and Permit with United Parcel Services Company”, was adopted. Vote: 11-0-0-0.

- 6e(5) Approval of the eleventh amendment to the agreement for legal services with Hoge, Fenton, Jones & Appel, extending the term through June 30, 1998. (City Attorney’s Office)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 5, 1997, recommending approval of an eleventh amendment to said agreement with Hoge, Fenton, Jones & Appel.

Discussion/Action: The eleventh amendment to said agreement with Hoge, Fenton, Jones & Appel, was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(6) Approval of the first amendment to the agreement for legal services with Jones, Day, Reavis & Pogue, increasing the compensation by \$40,000, for a total not to exceed \$75,000. (City Attorney’s Office)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 19, 1997, recommending approval of a first amendment to said agreement with Jones, Day, Reavis & Pogue.

Discussion/Action: The first amendment to said agreement with Jones, Day, Reavis & Pogue was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(7) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with City Year, Inc. on behalf of City Year San José in the amount of \$150,000. (City Manager’s Office)**

Documents filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67464, entitled: “A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute a Grant Agreement with City Year, Inc. on behalf of City Year San José in the amount of \$150,000 for Fiscal Year 1997-98”, was adopted. Vote: 11-0-0-0.

- 6e(8) Approval of a second amendment to the loan agreement with the Santa Clara County Open Space Authority, extending the term of the agreement by two (2) years, from July 1, 1997 to June 30, 1999. (City Manager’s Office)**

Documents filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated June 5, 1997, recommending approval of a second amendment to said agreement with the Santa Clara County Open Space Authority.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. The second amendment to said agreement with the Santa Clara County Open Space Authority was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(9) Approval of an employment agreement with Anthony J. Smith, DVM, to serve as Zoo Director at Happy Hollow Zoo, for the period July 1, 1997 to June 30, 1998, in an amount not to exceed \$63,000. (Conventions, Arts and Entertainment)**

Documents filed: Memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated June 5, 1997, recommending approval of said an employment agreement with Anthony J. Smith, DVM.

Discussion/Action: The employment agreement with Anthony J. Smith, DVM, to serve as Zoo Director at Happy Hollow Zoo, was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(10) Approval of Contract Change Order No. 1 for Miscellaneous and Emergency Repairs to Various Municipal Water System Facilities with R. W. French Construction, Inc. in the amount of \$73,000, for a total contract amount of \$322,857.50. CEQA: Exempt. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 5, 1997, recommending approval of said contract change order with R. W. French Construction, Inc.

Discussion/Action: Contract Change Order No. 1 with R. W. French Construction, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(11) Approval of an agreement with the County of Santa Clara for the County-Wide Household Hazardous Waste Collection Program, for the period July 1, 1997 to June 30, 1998, in an amount not to exceed \$294,000. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 5, 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(12) Report on bids and award of contract for the construction project entitled “San José/Santa Clara Water Pollution Control Plant, P&E Building HVAC Modifications & Noise Abatement and ESB Office Space Upgrade” to the low bidder, Jim Duffy Construction, in the amount of \$108,701. CEQA: Exempt. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 5, 1997, recommending award of said contract to the low bidder, Jim Duffy Construction. (2) Supplemental Letter from the Treatment Plant Advisory Committee, dated June 13, 1997, recommending award of said contract to the low bidder, Jim Duffy Construction.

Discussion/Action: The award of said contract to the low bidder, Jim Duffy Construction, was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(13) Approval of a first amendment to the consultant agreement with Laura MacEachen to provide economic analyses on water issues, revising the scope of services, extending the term of the agreement by one (1) year, from July 1, 1997 to June 30, 1998, and increasing the compensation by \$55,324, from \$48,000 to \$103,624. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 5, 1997, recommending approval of a first amendment to said consultant agreement with Laura MacEachen. (2) Letter from the Treatment Plant Advisory Committee dated June 5, 1997, recommending approval of said amendment.

Discussion/Action: The first amendment to said consultant agreement with Laura MacEachen was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(14) Approval of a first amendment to the agreement with the City of Milpitas for engineering, and construction services for implementation of portions of the South Bay Water Recycling Program, increasing the compensation by \$200,000, from \$320,000 to \$520,000. CEQA: Resolution No. 64667. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 5, 1997, recommending approval of a first amendment to said agreement with the City of Milpitas. (2) Letter from the Treatment Plant Advisory Committee, dated June 13, 1997, recommending approval of the amendment to said agreement.

Discussion/Action: The first amendment to said agreement with the City of Milpitas was approved and its execution authorized. Vote: 11-0-0-0.

**6e(15) Approval of an employment agreement with Solomon Tetelbaum to provide technical and research assistance for the Water Pollution Control Plant's Copper Removal Reduction Program for the period July 1, 1997 to June 30, 1998, in an amount not to exceed \$66,000. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 5, 1997, recommending approval of said employment agreement with Solomon Tetelbaum. (2) Letter from the Treatment Plant Advisory Committee, dated June 13, 1997, recommending approval of said employment agreement with Solomon Tetelbaum.

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

**6e(16) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Regents of the University of California on behalf of the University of California Cooperative Extension for technical services for yard trimmings market development for the period June 24, 1997 to August 1, 2000, in an amount not to exceed \$61,000. (Environmental Services)**

Documents filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67465, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Consultant Agreement with the Regents of the University of California for Yard Trimmings Market Development Research in an Amount Not to Exceed \$61,000", was adopted. Vote: 11-0-0-0.

**6e(17) Adoption of a resolution authorizing the City Manager to execute a first amendment to the agreement with Public Resources Advisory Group to serve as the City's general financial advisor amending the scope of services, extending the term of the agreement by one (1) year, from July 1, 1997 to June 30, 1998, and increasing the compensation by \$160,000, from \$30,000 to \$190,000. (Finance)**

Documents filed: (1) Memorandum from Director of Finance, John V. Guthrie, dated June 5, 1997, recommending adoption of said resolution. (2) Letter from the Treatment Plant Advisory Committee, dated June 13, 1997, recommending approval of said amendment to the agreement with Public Resources Advisory Group.

Discussion/Action: Resolution No. 67466, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment

to the Agreement with Public Resources Advisory Group Extending the Term, Adding to the Scope of Services and Increasing Compensation for a Total Contract Amount Not to Exceed \$190,000”, was adopted. Vote: 11-0-0-0.

**6e(18) Adoption of a resolution authorizing the City Manager to execute continuation agreements to the City of San José Master Repurchase Agreements with BA Securities, Inc., Dean Witter Reynolds, Inc., First Tennessee Bank, CS First Boston Corporation, Nesbitt Burns Securities, Inc., Merrill Lynch Government Securities, Union Bank, and Zions First National Bank, extending the terms of the agreements by three (3) years, from July 1, 1997 to June 30, 2000, at no additional cost to the City. (Finance)**

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67467, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Continuation Agreements to the City of San José Master Repurchase Agreements for BA Securities, Inc., Dean Witter Reynolds, Inc., First Tennessee Bank, CS First Boston Corporation, Nesbitt Burns Securities, Inc., Merrill Lynch Government Securities, Union Bank, and Zions First National Bank”, was adopted. Vote: 11-0-0-0.

**6e(19) Approval of a City of San José Master Repurchase agreement with Paine Webber, Incorporated. (Finance)**

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated June 5, 1997, recommending approval of a City of San José Master Repurchase agreement with Paine Webber, Incorporated.

Discussion/Action: The City of San José Master Repurchase agreement with Paine Webber, Incorporated, was approved and its execution authorized. Vote: 11-0-0-0.

**6e(20) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1997-98 #1, 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 June 5, 1997, recommending approval of said open purchase orders. (2) Letter from the Treatment Plant Advisory Committee, dated June 13, 1997, recommending approval of said Open Purchase Order List.

Discussion/Action: The award of Open Purchase Orders List No. 1 was approved and execution of the purchase orders authorized. Vote: 11-0-0-0.

**6e(21) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1997-98 #2, 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 June 5, 1997, recommending approval of said open purchase orders. (2) Letter from the Treatment Plant Advisory Committee, dated June 13, 1997, recommending approval of said Open Purchase Order List.

Discussion/Action: The award of Open Purchase Orders List No. 2 was approved and execution of the purchase orders authorized. Vote: 11-0-0-0.

**6e(22) Report on bids and award of purchase of one (1) high pressure sewer cleaner truck for the Department of Streets and Traffic to the lowest responsive bidder, Municipal Maintenance Equipment, Inc., at a total cost of \$101,920.70, 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 M. Jones, Jr., dated June 5, 1997, recommending award of said purchase to the lowest responsive bidder, Municipal Maintenance Equipment, Inc.

Discussion/Action: The award of said purchase to the lowest responsive bidder, Municipal Maintenance Equipment, Inc., was approved and the Director of General Services authorized to execute the purchase order. Vote: 11-0-0-0.

**6e(23) Report on bids and award of purchase of Knoll seating components for the San José International Airport to the low bidder, MG West, at a total cost of \$93,436.75, including tax and freight, and authorization for the Director of General Services to issue the purchase order. (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated June 5, 1997, recommending award of said purchase to the low bidder, MG West.

Discussion/Action: The award of said purchase to the low bidder, MG West, was approved and the Director of General Services authorized to execute the purchase order. Vote: 11-0-0-0.

**6e(24) Approval to reject all bids for Power Street Sweeping for the 1997-98 Chip Seal Program, and authorization to re-solicit bids. (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated June 5, 1997, recommending approval to reject all bids and reauthorization to re-solicit bids.

Discussion/Action: The rejection of all bids for said project was approved and re-solicitation of bids authorized. Vote: 11-0-0-0.

**6e(25) Approval to reject all proposals for the Parking Citation Processing/Collection System/Customer Service Center, and authorization to re-solicit bids. (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated June 5, 1997, recommending approval to reject all bids and authorization to re-solicit bids.

Discussion/Action: The rejection of all bids for said project was approved and re-solicitation of bids authorized. Vote: 11-0-0-0.

**6e(26) Report on bids and award of purchase of windows and doors for the San José International Airport's Acoustical Treatment Program (ACT) to the low bidder, Graham Architectural Products, for a total cost of \$97,959.20, 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 June 5, 1997, recommending award of said purchase to the low bidder, Graham Architectural Products and authorization for the Director of General Services to execute the purchase order.

Discussion/Action: The award of said purchase to the low bidder, Graham Architectural Products was approved and the Director of General Services authorized to execute the purchase order. Vote: 11-0-0-0.

**6e(27) Report on bids and award of purchase of one (1) breathing air compressor for the Fire Department to the lowest responsive bidder, Quality Air, at a total cost of \$47,481.58, including tax, and authorization for the Director of General Services to execute the purchase order for this purchase. (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated June 5, 1997, recommending award of said purchase to the lowest responsive bidder, Quality Air and authorization for the Director of General Services to execute the purchase order.

Discussion/Action: The award of said purchase to the lowest responsive bidder, Quality Air was approved and the Director of General Services authorized to execute the purchase order. Vote: 11-0-0-0.

**6e(28) Report on bids and award of purchase of three (3) truck mounted air compressors for the Department of Streets and Traffic to the lowest responsive bidder, George M. Philpott Co., at a total cost of \$37,952.40, including tax, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents filed: None.

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

- 6e(29) Report on bids and award of purchase of Motorola radio parts for the Information Technology Department to the low bidder, Motorola, at a total cost of \$136,591.32, including tax and freight, and authorization for the Director of General Services to issue the purchase order. (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated June 5, 1997, recommending award of said purchase to the low bidder, Motorola, and authorization for the Director of General Services to execute the purchase order.

Discussion/Action: The award of said purchase to the low bidder, Motorola, was approved and the Director of General Services authorized to execute the purchase order. Vote: 11-0-0-0.

- 6e(30) Adoption of a resolution authorizing the Director of General Services to execute an agreement with Columbia Ultimate Business Systems, Inc. for an automated collections system software program at a total cost of \$184,907.88 including tax, installation, and training. (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67468, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement with Columbia Ultimate Business Systems, Inc. for an automated collections system software program", was adopted. Vote: 11-0-0-0.

- 6e(31) Approval of an agreement with De La Cruz Occupational Health Care for physician and occupational medical consultant services, for the period July 1, 1997 to June 30, 1998, in an amount not to exceed \$165,000. (Human Resources)**

Documents filed: Memorandum from Director of Human Resources, Nona Tobin, dated June 5, 1997, recommending approval of said agreement with De La Cruz Occupational Health Care.

Discussion/Action: The agreement with De La Cruz Occupational Health Care was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(32) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with the San José Conservation Corps/Youth Corps Program for the operation of the Youth Corps Program at Andrew Hill High School, for the**

**period July 1, 1997 to June 30, 1998, in an amount not to exceed \$100,000. (Parks, Recreation and Neighborhood Services)**

Documents filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67469, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Grant Agreement with the San José Conservation Corps for a Youth Corps Program at Andrew Hill High School During Fiscal Year 1997-98”, was adopted. Vote: 11-0-0-0.

**6e(33) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with the East Side Union High School District for the operation of the District’s swimming pools during the summer of 1997, in the amount of \$97,000. (Parks, Recreation and Neighborhood Services)**

Documents filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67470, entitled: “A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute a Grant Agreement with the East Side Union High School District for the Operation of Swimming Pools During the Summer of 1997, in an Amount Not to Exceed \$97,000”, was adopted. Vote: 11-0-0-0.

**6e(34) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Community Foundation of Santa Clara County to disburse Community Action and Pride Grants for the period July 1, 1997 to June 30, 1999, in an amount not to exceed \$16,000 per year. (Parks, Recreation and Neighborhood Services)**

Documents filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67471, entitled: “A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute a Two Year Agreement with the Community Foundation of Santa Clara County to Disburse the Community Action and Pride Grant Program for a Fee in an Amount Not to Exceed \$16,000 Per Each Year of the Term”, was adopted. Vote: 11-0-0-0.

**6e(35) Adoption of a resolution:**

**(a) Approving the Eligible Service Providers for Cycle VII of the San José B.E.S.T. Program and for the 1997-98 Youth Employment Program.**

- (b) **Authorizing the City Manager to negotiate and execute grant agreements with San José B.E.S.T. Eligible Service Providers consistent with the approved San José B.E.S.T. Allocation Plan for 1997-98.**
- (c) **Authorizing the City Manager to negotiate and execute grant agreements with Eligible Youth Employment Service Providers in an amount not to exceed \$287,000.**

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

Documents filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67472, entitled: “A Resolution of the Council of the City of San José Approving the San José B.E.S.T. Cycle VII Allocation Plan and Authorizing the City Manager to Negotiate and Execute San José B.E.S.T. Grant Agreements and Youth Employment Grant Agreements with Qualified Providers”, was adopted. Vote: 11-0-0-0.

- 6e(36) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Skyhawks Sports Academy, Inc., for summer camp programs at Camden Lifetime Activities Center, Berryessa Community Center, DeAnza Park, Rainbow Park, and Roosevelt Roller Hockey Rink, for the period June 1, 1997 to August 31, 1997, at no net cost to the City. (Parks, Recreation and Neighborhood Services)**

Documents filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67473, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Skyhawks Sports Academy, Inc. for Soccer, Baseball, Basketball and Roller Hockey Summer Camp Programs”, was adopted. Vote: 11-0-0-0.

- 6e(37) Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the continuation agreement with Breakout Ministries for gang intervention services, increasing the compensation by \$10,000, from \$150,000 to \$160,000. (Parks, Recreation and Neighborhood Services)**

Documents filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67474, entitled: “A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute an Amendment to the Continuation Agreement with Breakout Ministries for Gang

Intervention Services to Increase Total Compensation by \$10,000, for a Total Amount Not to Exceed 160,000”, was adopted. Vote: 11-0-0-0.

**6e(38) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with Breakout Ministries for gang intervention/diversion services, for the period July 1, 1997 to June 30, 1998, in an amount not to exceed \$125,000. (Parks, Recreation and Neighborhood Services)**

Documents filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67475, entitled: “A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute a Grant Agreement with Breakout Ministries for Gang Intervention and Diversion Services for the Term of July 1, 1997 through June 30, 1998, in a Total Amount Not to Exceed \$125,000”, was adopted. Vote: 11-0-0-0.

**6e(39) Approval of a second amendment to the agreement with David J. Powers & Associates, Inc. for technical analyses regarding the Environmental Impact Report (EIR) for the Alviso Specific Plan, extending the term by one (1) year, from June 30, 1997 to June 30, 1998, at no additional cost to the City. (Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated June 5, 1997, recommending approval of a second amendment to said agreement with David J. Powers & Associates, Inc.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Vice Mayor Fernandes stated this item extends the contract for completion of the EIR for the Alviso Master Plan to June 30, 1998 and she would like the work completed earlier. She noted the Task Force has worked several years on this project, which is on hold for several reasons, and she would prefer the work be finished as soon as possible, preferably in the Fall of 1997. With that direction to Staff to expedite the project, the second amendment to said agreement with David J. Powers & Associates, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

**6e(40) Approval of an agreement with Harman & Shaheen Polygraph Services, Inc., to provide polygraph examination services for the Police Department, for the period July 1, 1997 to June 30, 1998, in an amount not to exceed \$60,000. (Police)**

Documents filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated June 5, 1997, recommending approval of said agreement with Harman & Shaheen Polygraph Services, Inc.

Discussion/Action: The agreement with Harman & Shaheen Polygraph Services, Inc. was approved and its execution authorized. Vote: 11-0-0-0.

**6e(41) Approval of a ninth amendment to the agreement to provide local law enforcement agency access to the California Identification (CAL-ID) System, extending the term of the agreement by one (1) year, from July 1, 1997 to June 30, 1998, at no additional cost to the City. (Police)**

Documents filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated June 5, 1997, recommending approval of a ninth amendment to said agreement to provide local law enforcement agency access to the California Identification (CAL-ID) System.

Discussion/Action: The ninth amendment to said agreement to provide local law enforcement agency access to the California Identification (CAL-ID) System was approved and its execution authorized. Vote: 11-0-0-0.

**6e(42) Adoption of related amendments to the General Fund appropriation ordinance and funding sources resolution in the amount of \$21,000 for Police Department sworn overtime and supplies for Operation Safe Home. (City Manager's Office/Police)**

Documents filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated June 5, 1997, recommending adoption of General Fund appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 25391, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the Amount of \$21,000, for Police Department Sworn Overtime and Supplies for Operation Safe Home; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 67476, 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 General Fund", were Adopted. Vote: 11-0-0-0.

**6e(43) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Santa Clara County for the purchase of real property rights for property located on the southeast corner of Abel Street for the South Bay Water Recycling Program in an amount not to exceed \$263,250 and escrow and closing costs, and authorization for the Director of Public Works to execute all necessary documents, pending concurrence by the Treatment Plant Advisory Committee at its July 10, 1997 meeting. CEQA: Resolution No. 64667. (Public Works/Environmental Services)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., and Director of Environmental Services Louis N. Garcia, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67477, entitled: “A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute an Agreement with the County of Santa Clara for the Purchase of a Public Utility and Service Easement Over a Parcel of Land Located on Abel Street in the City of Milpitas for the South Bay Water Recycling Project; and Authorizing the Director of Public Works, or Designee, to Execute the Necessary Documents to Effect the Transfer”, was adopted. Vote: 11-0-0-0.

**6e(44) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement, amending the terms of the lease of City-owned land to Pampered Farms, and approving the assignment of the lease to Joe Gonzales, pending concurrence of the Treatment Plant Advisory Committee at its July 10, 1997 meeting. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67478, entitled: “A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute an Agreement Amending the Terms of the Lease of City-owned Land to Pampered Farms, and Approving the Assignment of the Lease to Joe F. Gonzales, Pending Concurrence of the San José/Santa Clara Water Pollution Control Treatment Plant Advisory Committee”, was adopted. Vote: 11-0-0-0.

**6e(45) Approval of a cooperation agreement with the City of Cupertino for the construction of median island landscaping improvements on DeAnza Boulevard, between Route 85 and Prospect Road, in an amount not to exceed \$200,000. CEQA: ND. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending approval of said agreement with the City of Cupertino.

Discussion/Action: The cooperation agreement with the City of Cupertino was approved and its execution authorized. Vote: 11-0-0-0.

**6e(46) Report on bids and award of contract for the Kottenberg Avenue Sanitary Sewer Replacement Project to the lowest responsive bidder, McNamara and Smallman, Inc., in the amount of \$224,199, and approval of a contingency in the amount of \$22,500. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending award of said contract to the lowest responsive bidder, McNamara and Smallman, Inc.

Discussion/Action: The award of said contract to the lowest responsive bidder, McNamara and Smallman, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

**6e(47) Report on bids and award of contract for the Installation of Traffic Signal Unit 95F Project to the lowest responsive bidder, Pacific Electric, Inc. in the amount of \$210,652.50. CEQA: Exempt. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 5 and 16, 1997, recommending award of said contract to the lowest responsive bidder, Pacific Electric, Inc.

Discussion/Action: The award of said contract to the lowest responsive bidder, Pacific Electric, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

**6e(48) Report on bids and award of contract for the Tropicana and CAP Grant Streetlights Project to the low bidder, Rosendin Electric, Inc., in the amount of \$120,773.85, and approval of a contingency in the amount of \$12,000. CEQA: Exempt. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 5 and 20, 1997, recommending award of said contract to the low bidder, Rosendin Electric, Inc.

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

**6e(49) Report on bids and award of contract for the Police Administration Building Annex Reroof Project to the low bidder, Pacific Coast Building Products, Inc., dba Alcal Roofing, in the amount of \$104,600, and approval of a contingency in the amount of \$15,000. CEQA: Exempt. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 5 and 17, 1997, recommending award of said contract to the low bidder, Pacific Coast Building Products, Inc., dba Alcal Roofing,

Discussion/Action: The award of said contract to the low bidder, Pacific Coast Building Products, Inc., dba Alcal Roofing, was approved and its execution authorized. Vote: 11-0-0-0.

**6e(50) Report on bids and award of contract for the San José International Airport Vehicle Gate Pads and Gate Operator Retrofits Project to the sole bidder, Frank Surian & Sons, Inc., in the amount of \$199,888, and approval of a contingency in the amount of \$20,000. CEQA: Exempt. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 5 and 18, 1997, recommending award of said contract to the sole bidder, Frank Surian & Sons, Inc., and approval of said contingency.

Discussion/Action: The award of said contract to the sole bidder, Frank Surian & Sons, Inc., and said contingency, were approved. Vote: 11-0-0-0.

- 6e(51) Approval of a ten-year sublease with American Radio Systems Corporation, a Delaware Corporation (ARS), for the use by the City of portions of the communications facility and radio tower on Coyote Peak within the Santa Teresa County Park at a rental rate of \$1,790 per month, \$21,480 for the first year, with annual increases based on changes to the Consumer Price Index for the San Francisco, Oakland, and San José Metropolitan Area. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 6, 1997, recommending approval of said ten-year sublease with American Radio Systems Corporation, a Delaware Corporation.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. The ten-year sublease with American Radio Systems Corporation, a Delaware Corporation (ARS) was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(52) Approval of a 36-month sublease with Barry Swenson and Molly Swenson, dba 777 Associates, for the Code Enforcement Division for 1,721 usable square feet of office space on the 2nd floor of 777 North First Street for a rental amount of \$3,562.47 per month during the first year of the lease, then increasing to \$3,648.52 per month in the second year, and ending at \$3,734.57 in the third year of the lease, for a total of \$131,346.72 over the three-year lease term. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending approval of said sublease with Barry Swenson and Molly Swenson, dba 777 Associates.

Discussion/Action: The sublease with Barry Swenson and Molly Swenson, dba 777 Associates was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(53) Adoption of a resolution authorizing the Director of Public Works to negotiate and execute an agreement for the purchase of .19 acre of real property on the north side of Aborn Road from Gary William Costa and Donna K. Costa in an amount not to exceed \$215,500, plus closing costs, for the Evergreen Specific Plan Water Tank and to execute all related documents, including a Certificate of Acceptance. CEQA: Resolution No. 63179. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67479, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to 1) Negotiate and Execute an Agreement to Purchase Real Property from Gary William Costa and Donna K. Costa for an Amount Not to Exceed \$215,000 Plus Closing Costs for the Evergreen Specific Site Plan Water Tank and 2) Execute All Related Documents Including an Acceptance Certificate”, was adopted. Vote: 11-0-0-0.

- 6e(54) Approval of a ten-year lease with Pacific Bell Company of City-owned property located adjacent to 5285 Doyle Road, commencing November 15, 1996, with annual revenue generated by the lease during the first year of \$31,500. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending approval of said lease with Pacific Bell Company.

Discussion/Action: The ten-year lease with Pacific Bell Company was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(55) Adoption of a resolution authorizing the Director of Public Works to negotiate and execute a cooperative agreement and all rights-of-way certification, rights-of-entry, and deeds of conveyance documents relating to the transfer of City-owned properties to Caltrans for the implementation of the Route 87 Freeway Project between Julian Street and Route 101. CEQA: Resolution No. 65071. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67480, entitled: “A Resolution of the Council of the City of San José Delegating to the Director of Public Works the Authority to Negotiate and Execute a Cooperative Agreement and All Rights-Of-Way Certification, Rights-Of-Entry, and Deeds Of Conveyance Documents and Related Documents for Implementation of the Route 87 Freeway Project Between Julian Street and Route 101”, was adopted. Vote: 11-0-0-0.

- 6e(56) Adoption of a resolution authorizing the Director of Public Works to negotiate and execute all necessary documents for the purchase of parcels of land necessary for the widening of Aborn Road between White Road and Lyter Way as required for the Evergreen Specific Plan Project, pay City closing costs, and sign the Certificates of Acceptances from:**

- (a) Mercury Marketing Corporation, in the amount of \$42,400.
- (b) Martiniano J. Que, in the amount of \$40,800.
- (c) Kazuko Kawamoto, Mieko Takagi, Noboru Kawamoto, Sachiye Violet Figura, Louis Eiji Kawamoto, and Kevin Kawamoto, in the amount of \$36,000.

**CEQA: Resolution No. 65629. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67481, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Public Works to (1) Negotiate and Execute Agreements to Purchase Real Property From Mercury Marketing Corporation in an Amount Not to Exceed \$42,400; Martiniano J. Que in an Amount Not to Exceed \$40,800; Kazuko Kawamoto, et al., in an Amount Not to Exceed \$36,000 for the Evergreen Specific Site Plan and, (2) Execute all Related Documents Including an Acceptance Certificate”, was adopted. Vote: 11-0-0-0.

**6e(57) Approval to reject all bids and to re-solicit bids for the Renovation of Gardner Biebrach Park Project. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending approval to reject all bids and to re-solicit bids for said project.

Discussion/Action: The rejection of all bids and authorization to re-solicit bids for said project was approved. Vote: 11-0-0-0.

- 6e(58) (a) Report on bids and award of contract for the Alma Teen Center Renovation Project to the low bidder, Eddie Torrez Construction, to include the Base Bid and Add Alternate No. 1, in the amount of \$106,177, and approval of a contingency in the amount of \$10,000. CEQA: Exempt. (Public Works)**
- (b) Adoption of appropriation ordinance amendments in the Council District 7 Construction and Conveyance Tax Fund to provide an additional \$37,000 for the Alma Center Expansion Project. (City Manager’s Office)**

**[Deferred from 6/17/97 - Item 6e(12)]**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 5 and 18, 1997, recommending award of said contract to the low bidder, Eddie Torrez Construction, approval of said contingency, and adoption of related appropriation ordinance amendments.

Discussion/Action: The award of said contract to the low bidder, Eddie Torrez Construction, and said contingency, were approved and Ordinance No. 25392, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the Construction and Conveyance Tax Fund in the Amount of \$37,000, for the Alma Center Expansion Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. Vote: 11-0-0-0.

**6e(59) Approval to reject all bids for the construction project entitled “San Jose/Santa Clara Water Pollution Control Plant, Secondary Treatment Area Guardrails Replacement Project”, and authorization to re-bid the project. CEQA: Exempt. (Environmental Services)**

**[Deferred from 6/17/97 - Item 6e(13)]**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 5, 1997, recommending approval to reject all bids and re-solicit bids for said project. (2) Letter from the Treatment Plant Advisory Committee, dated June 13, 1997, recommending approval of rejection of bids and re-solicitation of bids for said project.

Discussion/Action: The rejection of all bids and re-solicitation of bids for the project were approved and its execution authorized. Vote: 11-0-0-0.

**6e(60) Approval of an amendment to the agreement with KPMG Peat Marwick LLP for audit services to perform the Annual Financial Statement Audit for a fee not to exceed \$393,477 for Fiscal Year 1996-97. (City Auditor)  
(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from City Auditor Gerald A. Silva, dated June 16, 1997, recommending approval of said amendment to the agreement with KPMG Peat Marwick LLP.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. The amendment to said agreement with KPMG Peat Marwick LLP was approved and its execution authorized. Vote: 11-0-0-0.

**6e(61) Approval of an agreement with KPMG Peat Marwick LLP for audit services to perform the Annual Parking Authority Audit for a fee not to exceed \$8,138 for Fiscal Year 1996-97. (City Auditor)  
(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from City Auditor Gerald A. Silva, dated June 16, 1997, recommending approval of an amendment to said agreement with KPMG Peat Marwick LLP.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. The amendment to said agreement with KPMG Peat Marwick LLP was approved and its execution authorized. Vote: 11-0-0-0.

**6e(62) Approval of an amendment to the agreement with KPMG Peat Marwick LLP for audit services to perform the Annual Clean Water Financing Authority Audit for a fee not to exceed \$13,176 for Fiscal Year 1996-97. (City Auditor)  
(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from City Auditor Gerald A. Silva, dated June 16, 1997, recommending approval of an amendment to said agreement with KPMG Peat Marwick LLP.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. The amendment to said agreement with KPMG Peat Marwick LLP was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(63) Approval of an amendment to the agreement with KPMG Peat Marwick LLP for audit services to perform the Annual South Bay Dischargers Audit for a fee not to exceed \$1,978 for Fiscal Year 1996-97. (City Auditor)  
(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from City Auditor Gerald A. Silva, dated June 16, 1997, recommending approval of an amendment to said agreement with KPMG Peat Marwick LLP.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. The amendment to said agreement with KPMG Peat Marwick LLP was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(64) Adoption of a resolution authorizing the City Attorney to negotiate and execute amendments to Municipal Health Services Program provider and grant agreements with Family Health Foundation, Inc., and Gardner Health Center, Inc., to substitute the successor organization following consolidation of the agencies. (City Attorney's Office)  
(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 20, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67482, entitled: "A Resolution of the Council of the City of San José Delegating to the City Attorney the Authority to Negotiate and Execute Amendments to the Provider Agreements and Grant Agreements with Family Health Foundation, Inc. and Gardner Health Center, Inc. to Substitute the Successor Organization Following Consolidation of the Agencies", was adopted. Vote: 11-0-0-0.

- 6e(65) Adoption of a resolution authorizing the Director of Aviation to negotiate and execute a first amendment to the operating agreement and terminal building lease with Northwest Airlines, Inc., to lease additional terminal space extending the term of the agreement for an additional three (3) years, from June 1, 1999 to May 30, 2002, with annual revenue to the City in the amount of \$11,196. CEQA: Exempt. (Airport)  
(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Aviation Director Ralph G. Tonseth, dated June 17, 1997, recommending adoption of said resolution.

Discussion/Action: Council Member Pandori stated when Council approved the Airport Master Plan, one of the recommendations approved was to ensure that new lease

agreements contain provisions requiring users to abide by the curfew and other provisions of the noise control program and asked if the recommendation under consideration was intended to be more stringent than what is currently being done. City Attorney Gallo advised the agreements fully require absolute compliance with the program. On being advised by City Attorney Gallo that penalties cannot be charged for curfew violations under the current agreement, Council Member Pandori stated it is unlikely airline leases would be terminated for failure to comply and suggested putting provisions in the leases to ensure compliance and asked about the possibility of renegotiating existing leases to include those conditions. He stated there is a referral to City Administration on this overall issue because there are larger issues than the curfew to consider, stated that financial issues which have constrained the use of funds to other important projects need to be addressed, and suggested structuring the leases on a month-to-month basis to provide flexibility which would enable the Council to make those kinds of policy decisions in the future. On advice of the City Attorney, this item was tabled temporarily to enable the Administration to provide information on cancellation clauses. Returning to this item, City Attorney Gallo stated there is a 30-day cancellation clause in the Northwest agreement and advised approving the agreement and referring the issue of curfew violation penalties to the Administration for review. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 67537, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Aviation to Negotiate and Execute, on behalf of City, an Amendment to the Operating Agreement and Terminal Building Lease with Northwest Airlines, Inc.", was adopted, and the Administration directed to report back on the feasibility of including penalty clauses for curfew violations in lease agreements with the airlines. Vote: 11-0-0-0.

**6e(66) Approval of an agreement with John Montgomery for the provision of services as the City's legislative representative in Washington, D. C., for the period July 1, 1997 to June 30, 1998, in an amount not to exceed \$105,169.68. (City Manager's Office) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Georgiana Flaherty, Director, Intergovernmental Relations, dated June 16, 1997, recommending approval of said agreement with John Montgomery.

Discussion/Action: The agreement with John Montgomery for the provision of services as the City's legislative representative in Washington, D. C. for said period was approved and its execution authorized. Vote: 11-0-0-0.

**6e(67) Approval and acknowledgment of the Modification of Trust Agreement regarding the Trust established by Chris J. Panopulos. (City Manager's Office) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated June 23, 1997, recommending approval and acknowledgment of the Modification of Trust Agreement regarding the Trust established by Chris J. Panopulos.

Discussion/Action: The Modification of Trust Agreement regarding the Trust established by Chris J. Panopulos, was approved. Vote: 11-0-0-0.

- 6e(68) Approval of an Interim Operating Agreement with the History Museums of San José (HMSJ) for a ninety-day period commencing July 1, 1997 to September 30, 1997, with a disbursement of \$22,624 per month to fulfill the scope of services. (City Manager's Office) (Rules Committee referral 6/18/97)**

**Documents filed: See Item 9rr.**

**Discussion/Action: This item was renumbered to Item 9rr.**

- 6e(69) (a) Approval of a first amendment to the agreement with the History Museums of San José for the operation and management of the Fallon-Peralta Complex, extending the term by six (6) months, from July 1, 1997 to December 31, 1997.**
- (b) Adoption of amendments to the Annual Appropriation Ordinance to provide \$18,000 from the General Fund Contingency Reserve to fund the first amendment.**

**(Conventions, Arts and Entertainment/City Manager's Office)  
(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Conventions, Arts and Entertainment Director Nancy Johnson and Budget Director Larry Lisenbee, dated June 13, 1997, recommending approval of a first amendment to said agreement with the History Museums of San José and adoption of related appropriation ordinance amendments.

Discussion/Action: The amendment to said agreement with the History Museums of San José was approved and Ordinance No. 25393, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the General Fund in the Amount of \$18,000, for the Operation and Management of the Fallon-Peralta Complex; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 11-0-0-0.

- 6e(70) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Community Foundation of Santa Clara County on behalf of the San José Veterans Memorial Committee to permit the construction of a Veterans Memorial on City property. CEQA: Resolution No. 64273. (Convention, Arts and Entertainment) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated June 16, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67483, entitled: “A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute an Agreement with the Community Foundation of Santa Clara County on Behalf of the San José Veterans Memorial Committee to Permit the Construction of a Veterans Memorial on City Property”, was adopted. Vote: 11-0-0-0.

- 6e(71) Approval of an agreement with Mary A. Rubin to provide services to the Public Art Program for the period July 1, 1997 to June 30, 1998, in an amount not to exceed \$61,000. (Conventions, Arts and Entertainment)  
(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated June 16, 1997, recommending approval of said agreement with Mary A. Rubin.

Discussion/Action: The agreement with Mary A. Rubin was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(72) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Smithsonian Institution for use of portions of the Convention Center in an amount not to exceed \$275,000, for the period July 22, 1997 to September 4, 1997. (Conventions, Arts and Entertainment)  
(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated June 19, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67484, entitled: “A Resolution of the Council of the City of San José to Authorize the City Manager to Negotiate and Execute an Agreement with the Smithsonian Institution to Occupy Portions of the Convention Center”, was adopted. Vote: 11-0-0-0.

- 6e(73) Approval of amended and restated agreements with the following:**
- (a) Willow Glen Business & Professional Association for the operation and administration of the Willow Glen Business Improvement District.**
  - (b) Japantown Business Association for the operation and administration of the Japantown Business Improvement District.**
  - (c) San José Downtown Association for the operation and administration of the San José Downtown Business Improvement District.**
- CEQA: Exempt.**  
**(Economic Development/Conventions, Arts and Entertainment)  
(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from the Director of Economic Development, Leslie S. Parks, dated June 18, 1997, recommending approval of said amended and restated

agreements with the Willow Glen Business & Professional Association, the Japantown Business Association, and the San José Downtown Association.

Discussion/Action: The amended agreements with the Willow Glen Business & Professional Association, Japantown Business Association, and San José Downtown Association, were approved and its execution authorized. Vote: 11-0-0-0.

**6e(74) Report on bids and award of contract for the construction project entitled “San Jose/Santa Clara Water Pollution Control Plant, No. 3 Water Fish Screen Replacement” to the lowest responsive bidder, Progressive Pacific, in the amount of \$94,960. (Environmental Services) (Rules Committee referral 6/18/97)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 12, 1997, recommending award of said contract to the lowest responsive bidder, Progressive Pacific. (2) Supplemental Letter from the Treatment Plant Advisory Committee, dated June 13, 1997, recommending award of contract to the lowest responsive bidder, Progressive Pacific.

Discussion/Action: The award of said contract to the lowest responsive bidder, Progressive Pacific was approved and its execution authorized. Vote: 11-0-0-0.

**6e(75) Adoption of a resolution authorizing the City Manager to negotiate and execute the purchase of an Airport liability insurance policy from Associated Aviation Underwriters (AAU) for the period July 1, 1997 to July 1, 1998, in an amount not to exceed \$116,250, where the Policy will provide for a \$100,000 aggregate deductible, including all loss adjusting and litigation defense costs. (Finance) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated June 16, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67485, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Purchase of Airport Liability Insurance from Associated Aviation Underwriters from July 1, 1997 through June 30, 1998 in an Amount Not to Exceed \$116,250, with a \$100,000 Aggregate Deductible”, was adopted. Vote: 11-0-0-0.

**6e(76) Adoption of a resolution authorizing the Director of Finance to execute a continuation agreement with Bank of America for banking services for the period January 1, 1997 to December 31, 1998. (Finance) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated June 20, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67486, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute a Continuation Agreement with Bank of America for Banking Services”, was adopted. Vote: 11-0-0-0.

**6e(77) Approval of an agreement with Howard E. Michaels, MD, to serve as the San José Fire Department’s medical director for the period July 1, 1997 to June 30, 1998, in the amount of \$51,875. (Fire) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Fire Chief Robert Dorman, dated June 23, 1997, recommending approval of said agreement with Howard E. Michaels, MD.

Discussion/Action: The agreement with Howard E. Michaels, MD, was approved and its execution authorized. Vote: 11-0-0-0.

**6e(78) Adoption of a resolution authorizing the City Manager to negotiate and execute a Certified Unified Program Agency (CUPA)/Participating Agency (PA) Agreement with the County of Santa Clara, to provide for consolidation, coordination, and consistency in City and County implementation of State hazardous waste and hazardous materials programs within San José. (Fire/City Manager’s Office) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 20, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67487, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the County of Santa Clara, Designating the County as the Certified Unified Program Agency and the City as a Participating Agency, for the Management of Certain State Hazardous Materials and Hazardous Waste Programs in San José; and Authorizing the Submission of the Agreement to the Secretary of the California Environmental Protection Agency for Approval”, was adopted. Vote: 11-0-0-0.

**6e(79) Adoption of a resolution authorizing the Director of General Services to negotiate and execute an agreement for the purchase of Computer Aided Dispatch (CAD) hardware and software equipment from PRC, Inc., as a sole source purchase in the amount of \$213,543 including tax and installation. (General Services) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated June 16, 1997, recommending adoption of said resolution.

Discussion/Action: In accordance with Section 1217 of the City Charter, the award of said sole source purchase was approved and Resolution No. 67488, entitled: “A

Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement with PRC, Inc.”, was adopted. Vote: 11-0-0-0.

**6e(80) Adoption of resolutions authorizing the City Manager to negotiate and execute:**

**(a) Employment agreements with:**

- (1) Dennis J. Cashman, Activity Specialist II, in the amount of \$53,933.
- (2) James H. Githens, Activity Specialist III, in the amount of \$69,898.

**(b) A lease of space at Grace Baptist Church in the amount of \$80,000 for the operation of a therapeutic recreation program for the mentally ill, for the period July 1, 1997 to June 30, 1998.**

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

**(Rules Committee referral 6/18/97)**

Documents filed: Memoranda from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 16 and 19, 1997, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 67489, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Two Employment Agreements with Contract Employees to Perform Services for the Grace Baptist Adult Day Care Program”, and Resolution No. 67490, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement for the Use of Specified Premises Owned by the Grace Baptist Church for the Grace Baptist Adult Day Care Program”, were adopted. Vote: 11-0-0-0.

**6e(81) Approval of a Memorandum of Understanding with Santa Clara County for the acquisition and operation of an Automated Fingerprint Identification System. (Police)**

**(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated June 17, 1997, recommending approval of said Memorandum of Understanding

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

**6e(82) Approval of Contract Change Order No. 3 with Frank Surian & Sons, Inc., for the Kirk Community Center Wall Renovation Project in the amount of \$16,973, for a total contract amount of \$59,569, and a 72-calendar day time extension, for a total contract time of 142 calendar days. (Public Works)**

**(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 12, 1997, recommending approval of Contract Change Order No. 3 with Frank Surian & Sons, Inc., for said project.

Discussion/Action: Contract Change Order No. 3 was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(83) Approval of an agreement with San José Water Company for utility relocation services for the San José International Airport Skyport Drive Bridge Project in an amount not to exceed \$83,080. CEQA: Resolution No. 65071. (Public Works)  
(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 16, 1997, recommending approval of said agreement with San José Water Company.

Discussion/Action: The agreement with San José Water Company was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(84) Approval of Contract Change Order No. 3 with Bayview Environmental Services for the Central Service Yard Asbestos Abatement Project in an amount not to exceed \$16,940, for a total contract amount of \$141,383. CEQA: Exempt. (Public Works)  
(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 17, 1997, recommending approval of Contract Change Order No. 3 with Bayview Environmental Services.

Discussion/Action: Contract Change Order No. 3 with Bayview Environmental Services was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(85) Report on bids and award of contract for Landscape Improvements to Edenvale Garden Park Phase III to the lowest responsive bidder, Lone Star Landscape, Inc., in the amount of \$61,600. CEQA: ND. (Public Works)  
(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 18, 1997, recommending award of said contract to the lowest responsive bidder, Lone Star Landscape, Inc.

Discussion/Action: The award of said contract to the lowest responsive bidder, Lone Star Landscape, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(86) Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement with Robinson, Mills and Williams Associates, Inc., for the design of Fire Station No. 1, in an amount not to exceed \$80,000, for a total agreement amount not to exceed \$410,000. (Public Works)  
(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 23, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67491, entitled: “A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute an Amendment to the Agreement with Robinson, Mills and Williams Associates, Inc., for the Design of the Fire Station No. 1 Reconstruction Project, in an Additional Amount Not to Exceed \$80,000, for a Total Amount Not to Exceed \$410,000”, was adopted. Vote: 11-0-0.

**6e(87) This item was removed from the Consent Calendar by Council Member Woody and heard separately.**

**6e(88) Approval of a second continuation agreement with Milliman & Robertson, Inc., for actuary services, extending the term of the original agreement by fifteen (15) months, from July 1, 1996 to September 30, 1997, and increasing the compensation by \$52,500, from \$7,500 to \$60,000. (City Manager’s Office)  
(Orders of the Day 4d)**

Documents filed: Memorandum from Senior Deputy City Manager, Darrell Dearborn, dated June 20, 1997, recommending approval of said second continuation agreement with Milliman & Robertson, Inc.

Discussion/Action: The second continuation agreement with Milliman & Robertson, Inc. was approved and its execution authorized. Vote: 11-0-0-0.

#### Routine Legislation

**6f(1) Adoption of appropriation ordinance and funding sources resolution amendments in various Capital funds in the amount of \$3,732,990. (City Manager’s Office)**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated June 12, 1997, recommending approval of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 25394, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in Various Capital Funds to Consolidate Appropriations in the Services for Redevelopment Capital Projects Fund, to Provide Additional Funding for the Route 87 Project and for City Expenses Related to Redevelopment Agency Project Awards for the Alameda Streetscape Phase III and the South Second Streetscape Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 67492, 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 Routes 85 and 87 Project Area Fund, The Rincon De Los Esteros Redevelopment Project Area Fund, The Services for Redevelopment Capital Projects

Fund and the Building and Structure Construction Tax Fund”, were adopted. Vote: 11-0-0-0.

**6f(2) Adoption of appropriation ordinance and funding sources resolution amendments in various Capital Funds and the General Fund to reflect increased tax revenue estimates for the Construction Excise Tax, Building and Structure Construction Tax, and Construction and Conveyance Tax. (City Manager’s Office)**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated June 18, 1997, recommending approval of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 25395, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in Various Capital Funds and the General Fund in Certain Amounts to Reflect Increased Tax Revenue Estimates in the Construction Excise Tax Fund, Building and Structure Construction Tax Fund, and Construction and Conveyance Tax Fund; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, and Resolution No. 67493, 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 Various Capital Funds and the General Fund”, were adopted. Vote: 11-0-0-0.

**6f(3) Adoption of a resolution:**

- (a) **Finding that the basic cable service rates established by TCI Cablevision of San Jose (TCI) for the period beginning June 1, 1997 as reported on Form 1240 are unreasonable.**
- (b) **Finding that certain rates established by TCI for cable television installations and equipment for the period beginning June 1, 1997 as reported on Form 1205 are unreasonable.**
- (c) **Ordering TCI to implement maximum permitted rates as specified effective June 1, 1997.**
- (d) **Ordering TCI either to implement maximum permitted rates as specified for installations and equipment rates reported on Form 1205 or to adjust within a reasonable period of time its Form 1205 rates and then re-extrapolating to compute the maximum permitted rates, subject to review by the City.**
- (e) **Ordering TCI to refund to subscribers any excessive basic cable service rates and installation and/or equipment charges paid from June 1, 1997 forward.**
- (f) **Directing the Director of Finance to promptly return and related franchise fee overcharges to TCI in a manner consistent with applicable Federal Communications Commission (FCC) regulations.**
- (g) **Authorizing the City Manager to submit complaints made by subscribers regarding rates and charges associated with the expanded basic service tier to the FCC in a manner consistent with applicable FCC regulations.**

**(City Manager’s Office)**

Documents filed: Memorandum from Pamela Stone Jacobs, Telecommunications Director, dated June 9, 1997, recommending the adoption of said resolution.

Discussion/Action: Resolution No. 67494, entitled: “A Resolution of the Council of the City of San José Finding that the Basic Cable Service Rates Established by TCI Cablevision of San Jose (“TCI”) for the Period Beginning June 1, 1997 through May 31, 1998 and as Reported on TCI’s FCC Form 1240 are unreasonable; Finding that Certain Rates for Cable Television Installations and Equipment Established by TCI for the Period Beginning June 1, 1997 through May 31, 1998 and as reported on TCI’s FCC Form 1205 are unreasonable; Ordering TCI to Implement Maximum Permitted Rates for Basic Cable Service and Certain Maximum Permitted Rates for Associated Cable Television Installations and Equipment and to Refund to Subscribers Any Excessive Rates or Charges Paid; Directing the Director of Finance to Return to TCI Related Overpayments of Franchise Fees, and Authorizing the City Manager to Submit Complaints Related to Cable Programming Service Rates to the Federal Communications Commission”, was adopted. Vote: 11-0-0-0.

**6f(4) Recommendation on retirement program for Mayor and Council. (City Manager’s Office)**

Documents filed: See Item 9pp.

**Discussion/Action: This item was renumbered to 9pp.**

**6f(5) Adoption of a resolution approving a penalty assessment for violations of subcontractor requirements by Nibbi Brothers, Inc., the General Contractor, for the construction project entitled “San Jose/Santa Clara Water Pollution Control Plant, Technical Services Building, Phase II” in accordance with Section 2-1.15G, “Violations of Subcontractor Requirements,” of the City’s Public Works Standard Specifications in the amount of \$1,179. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 5, 1997, recommending adoption of said resolution. (2) Letter from the Treatment Plant Advisory Committee, dated June 13, 1997, recommending approval of said penalty assessment.

Discussion/Action: Resolution No. 67495, entitled: “A Resolution of the Council of the City of San José Approving the Assessment of a Penalty for Subcontractor Listing Violations by Nibbi Brothers, Inc. for the San José/Santa Clara Water Pollution Control Plant, Technical Services Building, Phase III”, was adopted. Vote: 11-0-0-0.

**6f(6) Adoption of resolutions to amend:**

- (a) **Resolution 51872, Exhibit 16, to create the classes of:**
  - (1) **Temporary Employee (U) (PT) Level 1 (9992).**
  - (2) **Temporary Employee (U) (PT) Level 2 (9993).**
  - (3) **Temporary Employee (U) (PT) Level 3 (9994).**

- (4) **Temporary Employee (U) (PT) Level 4 (9995).**
- (5) **Temporary Employee (U) (PT) Level 5 (9996).**
- (6) **Temporary Employee (U) (PT) Level 6 (9997).**
- (7) **Council Aide (U) (PT) (7662).**
- (8) **Senior Council Aide (U) (PT) (7663).**
- (b) **Resolution 51872, Exhibit 99, to create the classes of:**
  - (1) **Research Attorney (PT) (U) (2116).**
  - (2) **Research Attorney (FT) (U) (2117).**
  - (3) **Chief Deputy City Attorney (U), (2138).**
  - (4) **Deputy City Attorney (U) Level I (2150).**
  - (5) **Deputy City Attorney (U) Level II (2151).**
  - (6) **Sr. Deputy City Attorney (U) Level I (2152).**
  - (7) **Sr. Deputy City Attorney (U) Level II (2153).**
  - (8) **Assistant City Attorney (U) (2154).**
  - (9) **Chief Trial Attorney (U) (2155).**
  - (10) **Legal Support Supervisor (U) (8012).**
  - (11) **Legal Services Supervisor (U) (8013).**
  - (12) **Mayor's Executive Officer (U) (8049).**
  - (13) **Council Assistant I (U) (7647).**
  - (14) **Council Assistant II (U) (7648).**
  - (15) **Senior Council Assistant (U) (7649).**
  - (16) **Independent Police Auditor (U) (8023).**
  - (17) **Temporary Employee (U) (FT) Level 3 (9988).**
  - (18) **Temporary Employee (U) (FT) Level 4 (9989).**
  - (19) **Assistant Director (U) (8048).**
  - (20) **Assistant Police Chief (U) (2225).**
  - (21) **Assistant Fire Chief (U) (2333).**
  - (22) **Deputy Fire Chief (U) (2335).**
  - (23) **Deputy Director (U) (1640).**
- (c) **Resolution 51872, Exhibit 99, to delete the classes of:**
  - (1) **Assistant Director of Public Works (U) (3864).**
  - (2) **Assistant Director of Streets & Traffic (U) (3198).**
  - (3) **Assistant Director of Information Systems (U) (1374).**
  - (4) **Assistant Director of Aviation (U) (3545).**
  - (5) **Assistant Director of Finance (U) (1259).**
  - (6) **Assistant City Librarian (U) (6244).**
  - (7) **Assistant Director of Housing (U) (3991).**
- (d) **Resolution 51872, Exhibit 99, to re-title the class of Director of Employee Relations (U) (1430) to Employee Relations Manager (U) (1430).**
- (e) **Resolution 51870, Section 4 C, salary range B to reflect the current titles:**
  - (1) **Director of Planning and Building to Director of Planning, Building and Code Enforcement.**
  - (2) **Director of Streets and Parks to Director of Streets and Traffic.**
  - (3) **Director of Neighborhood Services to Director of Parks, Recreation and Neighborhood Services.**

- (4) **Director of Convention, Cultural and Visitor Services to Director of Conventions, Arts and Entertainment.**
  - (f) **Resolution 51870:**
    - (1) **To include additional salary ranges for the newly added classifications and to adjust the previous ranges based on market and internal equity analysis, effective July 1, 1996.**
    - (2) **To delete obsolete classes as incumbents are transferred into the newly created classes.**
  - (g) **Create a new representation unit within bargaining unit 08 to be added as Exhibit 19 to Resolution No. 51872:**
    - (1) **Temporary Employee (U) (FT) Level 1 (9986).**
    - (2) **Temporary Employee (U) (FT) Level 2 (9987).**
    - (3) **Police Data Analyst I (U) (7664).**
    - (4) **Police Data Analyst II (U) (7665).**
    - (5) **Staff Assistant (U) (FT) (7643).**
    - (6) **Staff Assistant (U) (PT) (7644).**
    - (7) **Senior Staff Assistant (U) (FT) (7645).**
    - (8) **Senior Staff Assistant (U) (PT) (7646).**
- (Human Resources)**

Documents filed: (1) Memorandum from Director of Human Resources, Nona Tobin, dated June 20, 1997, recommending adoption of said resolutions. (2) Memorandum from Council Member Fiscalini, dated June 24, 1997, recommending revision to the Staff recommendations.

Discussion/Action: Council Member Fiscalini stated he agrees with the Staff recommendation but wanted to make changes to give Council Members control over the salary, vacation, leave and salary adjustments of their assistants. He stated loss of control of those elements was not his intention in pursuing this issue to put it before the voters in November, 1996. He recommended approving the Staff recommendations with the changes in his memorandum dated June 24, 1997. City Attorney Gallo requested additional time to review Council Member Fiscalini's recommendations. Responding to Council comments regarding employees affected by the creation of classes described in memorandum from Human Resources Director Tobin dated June 20, 1997, entitled: *Implementation of Measure F - Council Assistants*, City Attorney Gallo advised the class will apply to employees who will be hired into unclassified positions and with the exception of Council Assistants, does not affect anyone who is not already unclassified. Deborah Powell, President, Confidential Employees Organization, Municipal Employees Federation, Local 101, Unit 5, stated all employees should be treated the same in regard to issues such as salary continuation insurance premiums and retroactivity in the retirement system. Director Tobin clarified for the record that Council Assistants are the only ones in the City to have their salary insurance premiums paid by the City. When the Council Assistants move to Unit 99, they, too, will pay their own salary continuation premiums. Mayor Hammer stated there is confusion between the Staff recommendation and Council Member Fiscalini's memorandum, which the Staff has not had opportunity to review. City Attorney Gallo suggested adopting the Staff recommendation to create the

classifications now and referring the recommendations in Council Member Fiscalini's memorandum to Staff for review and report to the Council in August, 1997. Brad Imamura, President, AFSCME, Local 101, Unit 5, expressed concerns about costs associated with retroactivity in the retirement system and stated he needed more time to review Council Member Fiscalini's recommendations. Richard Sharp, Business Agent, AFSCME, Municipal Employees Federation, Local 101, concurred with comments made by other union representatives and expressed concern about the timing of this item coming to the Council while bargaining units are in negotiations with the City, specifically referencing the matter of retirement retroactivity which was an issue in those negotiations. Mayor Hammer stated that Council Assistants should be treated like every other City employee and should be entitled to the same benefits as other employees, which they have not had over the years, and stated some Council employees have worked for the City as long as 8-10 years without retirement or other benefits, and called the issue one of fairness. Patricia Ramos, Vice President, Municipal Employees Federation (AFSCME) Local 101, Unit 5, stated for purposes of comparison that contract employees have some benefits which civil service employees do not have. Mayor Hammer stated Council Assistants are not overcompensated and all the Council wants is for them to be treated equally with other City employees concerning retirement and benefits. For purposes of clarification, Council Member Pandori stated the retroactivity called for in Council Member Fiscalini's recommendation would implement the changes from the date of voter approval, and compared that to when new bargaining contracts are implemented retroactively to the date of approval. City Attorney Gallo clarified that approving the Staff recommendation will only create the voter-approved unclassified classes, into which people can be appointed, and recommended adopting the Staff recommendation and referring Council Member Fiscalini's memorandum to Staff for review and report back in August, 1997. Council Member Dando stated she does not support approving the Staff recommendation because the timing is wrong and both recommendations should be brought back in August. As part of the Consent Calendar action, Council Member Fiscalini's memorandum dated June 24, 1997 was referred to Staff for review and recommendation to the Council in August, 1997, and Resolution No. 67496, entitled: "A Resolution of the Council of the City of San José amending Resolution 51872 to Amend Exhibit 16 to create the classes of Temporary Employee (U) (PT) Level 1 (9992), Temporary Employee (U) (PT) Level 2 (9993), Temporary Employee (U) (PT) Level 3 (9994), Temporary Employee (U) (PT) Level 4 (9995), Temporary Employee (U) (PT) Level 5 (9996), Temporary Employee (U) (PT) Level 6 (9997), Council Aide (U) (PT) (7662), Senior Council Aide (U) (PT) (7663), Effective June 29, 1997"; Resolution No. 67497, entitled: "A Resolution of the Council of the City of San José Amending Resolution 51872, Exhibit 99, to create the classes of Deputy City Attorney (U) Level II (2151), Deputy City Attorney (U) Level I (2150), Sr. Deputy City Attorney (U) Level II (2153), Sr. Deputy City Attorney (U) Level I (2152), Legal Support Supervisor (U) (8012), Legal Services Supervisor (U) (8013), Chief Deputy City Attorney (U) (2138), Assistant City Attorney (U) (2154), Chief Trial Attorney (U) (2155), Research Attorney (PT) (U) (2116), Research Attorney (FT) (U) (2117), Mayor's Executive Officer (U) (8049), Council Assistant I (U) (7647), Council Assistant II (U) (7648), Senior Council Assistant (U) (7649), Independent Police Auditor (U) (8023), Temporary Employee (U) (FT) Level 3 (9988), Temporary Employee (U) (FT) Level 4 (9989), Assistant Director

(U) (8048), Assistant Police Chief (U) (2225), Assistant Fire Chief (U) (2333), Deputy Fire Chief (U) (2335), Deputy Director (U) (1640), Effective June 29, 1997”; Resolution No. 67498, entitled: “A Resolution of the Council of the City of San José Amending Resolution 51872 to Amend Exhibit 99, to delete the classes of Assistant Director of Public Works (U) (3864), Assistant Director of Streets & Traffic (U) (3198), Assistant Director of Information Systems (U) (1374), Assistant Director of Aviation (U) (3545), Assistant Director of Finance (U) (1259), Assistant City Librarian (U) (6244), Assistant Director of Housing (U) (3991), Effective June 29, 1997”; Resolution No. 67499, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 51872 to Amend Exhibit 99 to Re-title the Class of Director of Employee Relations (U) (1430) to Employee Relations Manager (U) (1430), Effective June 29, 1997”; Resolution No. 67500, entitled: “A Resolution of the Council of the City of San José Amending Section 4 C of Resolution No. 51870 to Revise the List of Senior Staff Classifications and to Include Additional Salary Ranges for Newly Added Classifications and to Adjust Previous Ranges, Effective July 1, 1997”, and Resolution No. 67501, entitled: “A Resolution of the Council of the City of San José Approving the Creation of a New Representation Unit Within Bargaining Unit 08 to be Added as Exhibit 19 to Resolution No. 51872 and Which will Include the Following New Classifications of Temporary Employee (U) (FT), Level 1 (9986), Temporary Employee (U) (FT), Level 2 (9987), Police Data Analyst I (U) (7664), Police Data Analyst II (U) (7665), Staff Assistant (U) (FT) (7643), Staff Assistant (U) (PT) (7644), Senior Staff Assistant (U) (FT) (7645), Senior Staff Assistant (U) (PT) (7646)”, were adopted. Vote: 10-1-0-0. Noes: Dando.

- 6f(7) Approval of travel for Mayor Susan Hammer to United Kingdom, June 27-July 2, 1997, and to Portugal, July 3-15, 1997, to promote trade, and commercial and cultural relationships. Funding: Expenses paid by British Government and the Luso-American Development Foundation. (Mayor)**

Documents filed: Memorandum from Mayor Hammer, dated June 19, 1997, recommending approval of said travel to United Kingdom, June 27-July 2, 1997, and to Portugal, July 3-15, 1997.

Discussion/Action: The travel for Mayor Susan Hammer was approved. Vote: 11-0-0-0.

- 6f(8) Adoption of a resolution authorizing the City Manager to submit a grant application to the U. S. Justice Department/Office of Community Oriented Policing Services in the amount of \$250,000 for leadership training, implementing strategic planning mechanisms, and enhancing community policing efforts, accept the grant if awarded, and execute all related documents. (Police)**

Documents filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67502, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Submit an Application to the U.S. Department of Justice for a Leadership and Management Grant for the Police Department

in an Amount Not to Exceed \$250,000, to Accept the Grant if Awarded and to Execute all Related Documents”, was adopted. Vote: 11-0-0-0.

- 6f(9) (a) Adoption of resolutions relating to the formation of the Community Facilities District (CFD) No. 1 for the Capitol Expressway Auto Mall:**
- (1) Resolution of intention to establish a Community Facilities District and to authorize the levy of special taxes.**
  - (2) Resolution to incur bonded indebtedness in an amount not to exceed \$4,100,000.**
  - (3) Resolution authorizing the City Manager to negotiate and execute agreements with MacKay & Somsps to serve as engineering consultant in an amount not to exceed \$495,000.**
- (Finance/Public Works)**
- (b) Adoption of resolutions with regard to Evergreen Specific Plan Area:**
- (1) Resolution of intention to form Community Facilities District No. 2 (Aborn-Murillo), and authorizing the levy of special taxes within the proposed District.**
  - (2) Resolution of intention to form Community Facilities District No. 3 (Silverland-Capriana), and authorizing the levy of special taxes within the proposed District.**
  - (3) Resolution authorizing the City Manager to negotiate and execute an amendment to the cooperation agreement between the City and the Evergreen Specific Plan Developers regarding an interim mechanism for securing payments under the agreement.**
- (Public Works)**

Documents filed: See Item 900.

Discussion/Action: This item was renumbered to Item 900.

- 6f(10) Adoption of a resolution exempting the County of Santa Clara Penitencia Creek Park Restroom Project from the City Sanitary Sewer Connection Fee. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67503, entitled: “A Resolution of the Council of the City of San José Granting an Exception from the Sanitary Sewer Connection Fee to the County of Santa Clara for the Penitencia Creek Park Restroom Project”, was adopted. Vote: 11-0-0-0.

- 6f(11) Adoption of a resolution summarily vacating the surface drainage release easement at the terminus of Rosemar Court. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67504, entitled: "Resolution of the Council of the City of San José Summarily Vacating the Surface Drainage Release Easement at the Terminus of Rosemar Court", was adopted. Vote: 11-0-0-0.

**6f(12) Approval of the San José Arena Management's Supplement to the Normal Capital Repairs and Replacements Budget Submittals (Ice Chiller) for Fiscal Year 1996-97. (San José Arena Authority)**

Documents filed: Memorandum from the San José Arena Authority, dated June 2, 1997, recommending approval of said San José Arena Management's Supplement to the Normal Capital Repairs and Replacements Budget Submittals (Ice Chiller) for Fiscal Year 1996-97.

Discussion/Action: The supplement to the Normal Capital Repairs and Replacements Budget Submittals (Ice Chiller) for Fiscal Year 1996-97 was approved. Vote: 11-0-0-0.

**6f(13) Adoption of a resolution approving the continuation of the Downtown Retail Validation Program for one (1) year, from July 1, 1997 to June 30, 1998. (Streets & Traffic)**

Documents filed: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67505, entitled: "A Resolution of the Council of the City of San José Approving the Continuation of the Downtown Retail Validation Program to June 30, 1998", was adopted. Vote: 11-0-0-0.

**6f(14) Adoption of amendments to the annual appropriation ordinance and funding sources resolution for various funds to reflect estimated 1996-97 revenue receipts, expenses, and encumbrances. (City Manager's Office)  
[Deferred from 6/17/97 - Item 6f(4)]**

Documents filed: Memoranda from Budget Director Larry D. Lisenbee, dated June 18 and 23, 1997, recommending approval of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 25396, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in Various Funds and the General Fund in Certain Amounts to Reflect Estimated 1996-97 Revenue Receipts, Expenses and Encumbrances; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 67506, 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 Various Funds”, were adopted. Vote: 11-0-0-0.

**6f(15) Approval of the appointment of the Downtown Parking Board. (Mayor)  
[Deferred from 6/17/97 - Item 6f(8)]**

Documents filed: Memorandum from Mayor Hammer, dated June 19, 1997, recommending approval of six individuals to the Downtown Parking Board, with the seventh member, a Parking lot owner, to be appointed in August.

Discussion/Action: The following individuals recommended by Mayor Hammer were appointed to the Downtown Parking Board: Alexandra Urbanowski, San José Repertory Theatre; Mike Elzey, At Large; Rick Abeyta, San José State University; Judith Huntington, Downtown Resident; Bill Moore, Downtown Association; and Yvonne Montes de Oca, At Large.

**6f(16) Adoption of a resolution initiating proceedings to amend Title 20 of the San José Municipal Code by adding Section 20.04.489 to set forth a new definition of “Residential District,” by amending Section 20.04.490 to remove the current definition of “Residential District,” and by making technical conforming changes to other provisions of Title 20, and setting September 2, 1997, at 7:00 p.m. for a public hearing on the proposed amendments. (City Attorney’s Office)  
(Rules Committee referral 6/18/97)**

Documents filed: See Item 6c(2).

Discussion/Action: This item was renumbered to Item 6c(2).

**6f(17) Adoption of an urgency ordinance amending Chapter 10.28 of Title 10 of the San José Municipal Code, the Youth Protection Curfew Ordinance, so as to clarify its intent and stating the reasons for the urgency. (City Attorney’s Office)  
(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 19, 1997, recommending adoption of said urgency ordinance.

Discussion/Action: Ordinance No. 25397, entitled: “An Urgency Ordinance of the City of San José Amending the Youth Protection Curfew Ordinance, Chapter 10.28 of Title 10 of the San José Municipal Code, to Clarify its Intent and Stating the Reasons for the Urgency”, was adopted. Vote: 11-0-0-0.

**6f(18) Adoption of a resolution appointing Teresa Guerrero-Daley as Independent Police Auditor for a four year term beginning July 1, 1997. (Mayor)  
(Rules Committee referral 6/18/97)**

Documents filed: None.

Discussion/Action: Resolution No. 67507, entitled: “A Resolution of the Council of the City of San José Appointing Teresa Guerrero-Daley as Independent Police Auditor for a Four Year Term Beginning July 1, 1997”, was adopted. Vote: 11-0-0-0.

- 6f(19) Approval of Vice Mayor Margie Fernandes’ travel to Portugal, July 1-15, 1997, to represent the City of San José at certain official functions at no cost to the City. (Fernandes)  
(Rules Committee referral 6/18/97)**

Documents filed: None.

Discussion/Action: The travel request for Vice Mayor Fernandes’ travel to Portugal July 1-15, 1997, was approved. Vote: 11-0-0-0.

- 6f(20) Approval of Council Member Charlotte Powers’ travel to Ireland, June 26-July 6, 1997, to represent the City of San José at certain official functions at no cost to the City. (Powers) (Rules Committee referral 6/18/97)**

Documents filed: None.

Discussion/Action: The request for Council Member Powers to travel to Ireland from June 26-July 6, 1997, was approved. Vote: 11-0-0-0.

- 6f(21) Adoption of a resolution accepting a progress report demonstrating achievement of the June 30, 1997 New Realities Suspension Triggers and Goals. (City Manager’s Office) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from City Manager Regina V.K. Williams, dated June 19, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67508, entitled: “A Resolution of the Council of the City of San José Accepting a Progress Report Demonstrating Achievement of the June 30, 1997, New Realities Suspension Triggers and Goals”, was adopted. Vote: 11-0-0-0.

- 6f(22) Adoption of a resolution fixing and determining rates, fares, and tariffs for the operation of taxi cabs, and repealing Resolution No. 66666. (City Attorney’s Office) (Orders of the Day 4b)**

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated June 20, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67509, entitled: “A Resolution of the Council of the City of San José Fixing and Determining Rates, Fares, and Tariffs for the Operation of Taxicabs Pursuant to San José Municipal Code Chapter 6.64 Subject to Certain Conditions; and Repealing Resolution No. 66666”, was adopted. Vote: 11-0-0-0.

**6f(23) Approval for City Manager Regina V.K. Williams to travel to the Large Cities Executive Forum July 17-19, 1997, in Long Beach, California. (City Manager's Office) (Orders of the Day 4c)**

Documents filed: Memorandum from City Manager Regina V.K. Williams, dated June 23, 1997, requesting said travel authorization.

Discussion/Action: The request for travel authorization for City Manager Williams was approved. Vote: 11-0-0-0.

**END OF CONSENT CALENDAR**

**COMMISSION, COMMITTEE, AND STANDING REPORTS**

**7b Report of the Rules Committee - Meeting of June 11, 1997**

Documents filed: Rules Committee report of June 11, 1997.

(1) Review June 24 Council Agenda

The Committee approved the June 24 Council Agenda with seven additions.

(2) Add New Items to June 17 Amended Council Agenda.

The Committee approved seven additions and two changes to the June 17 Amended Council Agenda.

(3) The Public Record. Attachment: (1) Memorandum from City Clerk Patricia L. O'Hearn, dated June 5, 1997, listing the items transmitted to the Administration and those items filed for the Public Record for the period May 28-June 3, 1997. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated June 10, 1997, summarizing actions taken on the items transmitted to the Administration and those items filed for the Public Record for the period May 28-June 3, 1997.

The Committee noted and filed the Public Record.

(4) Legislative Report 97-05

AB 80 (Ducheny) Local Government: Substandard Housing

AB 376 (Baca) Public Contracts

AB 915 (Baugh) Liability: Recreational Activities

AB 1151 (Goldsmith) Minors: Infraction

AB 1296 (Morrow) Liability

AB 1491 (Cunneen) Hazardous Substances: Petroleum Underground Storage Tanks

SB 67 (Kopp) Product Liability Actions: Tobacco

SB 340 (Sher) Product Liability: Tobacco  
SB 619 (Peace) Fire Protection: Roofing Materials  
SB 1156 (Costa) Multifamily Rental Housing

This item was heard by Council on June 17, 1997.

- (5) Approve Legislative Priority on Airport Security. Attachment: Memorandum from, Intergovernmental Relations Director Georgiana Flaherty, dated May 30, 1997, recommending the 1997 Legislative Priority on Airport Security.

The Committee directed the Administration to explore areas of airport security where the City could exercise local control and approved the following recommended 1997 legislative priority on airport security: "Establish and maintain a highly qualified, trained and stable work force of aviation security screening personnel, and provide additional funds for security operations and equipment upgrades for the San José International Airport."

- (6) Discussion of whether or not to adopt a legislative policy with regard to firearms. Attachment: Memorandum from City Attorney Joan R. Gallo, dated June 6, 1997, reporting on legislative policy with regard to firearms.

The Committee directed the issue of adopting legislative policy guidelines with regard to firearms to be placed on a City Council agenda for full substantive discussion of which policies to adopt and directed the Administration to provide City Council with recommendations and analyses of various policy alternatives.

- (7) Request to use Council General Funds to attend League of California Cities' Housing, Community and Economic Development Subcommittee meeting in Ontario, CA, June 19, 1997. Attachment: (1) Memorandum from Council Member Powers, dated May 30, 1997, requesting approval of said travel on June 19, 1997. (2) Memorandum from Patricia L. O'Hearn, dated June 6, 1997, providing data on Council General Funds.

The Committee approved the use of Council General funds by Council Member Powers to attend the League of California Cities' Housing, Community and Economic Development Subcommittee meeting in Ontario, California on June 19, 1997.

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

There were none.

- (9) City Council and Rules Committee meeting schedules  
(a) Approve City Council meeting schedule for August 1997-January 1998



AB 1031 (Frusetta)	Criminal Street Gangs: Registration	SUPPORT
SB 609 (Karnette)	Alcoholic Beverages: Retail License	SUPPORT
SB 655 (Johnston)	Employment: Job Training	DEFER
SB 1113 (Solis)	Environmental Quality: Minority and Low-Income Populations	OPPOSE
SB 1330 (Lockyer)	Solid Waste: Farm and Ranch Cleanup and Abatement: Grant Program	OPPOSE

The Committee recommended approval of Legislative Report 97-06 and the recommended City positions of each of the bills listed, with Vice Mayor Fernandes registering a Support position for SB 1113.

- (5) Approve City sponsored National League of Cities and League of California Cities policy resolutions. Attachment: (1) Memorandum from Georgiana Flaherty, Director, Intergovernmental Relations, dated June 16, 1997, recommending approval of City-sponsored National League of Cities policy Resolutions, City-sponsored League of California Cities policy resolutions as indicated therein. (2) Supplemental memorandum from Georgiana Flaherty, Director, Intergovernmental Relations, dated June 23, 1997, modifying the recommendations included in the June 16, 1997, Staff recommendations to the Council.

Member Johnson gave direction to the Administration to work with her on language changes for the Electric Utility Restructuring resolution. Direction was given to the Administration by Members Johnson and Powers to review the *Housing "In Context" and Municipal Liability under CERCLA* resolutions to determine whether or not the issues raised in the two resolutions are already covered by existing policy. After discussion, Vice Mayor Fernandes directed a change in paragraph four of Attachment A, proposed NLC resolution on Aviation Safety and Security, to read, "Whereas, the most important aspect of controlling passenger flow and suspect baggage is staff continuity and, at present, no such continuity exists with security screening companies; and ..." The Committee recommended approval of five National League of Cities and three League of California Cities policy resolutions with direction as stated above.

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

There were none.

- (7) City Council and Rules Committee meeting schedules

The Committee noted there will be an adjourned regular Council meeting on Thursday, June 19, 1997 to report out ballot tallies and adopt a resolution adopting the Engineer's Reports for Maintenance District 15 (Silver Creek) for

Fiscal Year 1997/98 and setting the respective assessments therefore; and canceled the June 25, 1997 Rules Committee meeting.

(8) Oral communications

None presented.

Discussion/Action: Upon motion by Vice Mayor Fernandes, seconded by Council Member Fiscalini, and unanimously carried, the Rules Committee report and actions of June 18, 1997, were accepted. Vote: 11-0-0-0.

**7c Report of the Finance/Agency Finance Committee - June 11, 1997**

Documents filed: Finance/Agency Finance Committee report of June 11, 1997.

- (1) Monthly Investment Report for April 1997. Attachment: April 1997 Investment Report.
- (2) Investment Committee Minutes for May. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated June 2, 1997, submitting the May 1997 Investment Committee Minutes
- (3) Annual Report on City Investment Policy. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated June 4, 1997, recommending the Committee approve the proposed revisions to the Investment Policy for the City of San José.
- (4) Monthly Financial Report for April 1997. Attachment: April 1997 Financial Report.

The Committee accepted reports (1) through (4).

- (5) Report on Business Tax Liability Applicable to Independent Contractors (New Realities Task Force Recommendation #3.05). Attachment: Memorandum from City Manager Regina V.K. Williams, dated May 8, 1997, making recommendations relative to standardizing business tax administrative procedures and implementing the procedures in conjunction with an amnesty program, as described therein.

The Committee noted and filed the report.

- (6) Proposed Committee Workplan for August-December 1997. Attachment: Memorandum from Assistant City Manager Debra J. Figone, dated June 5, 1997, submitting the proposed Workplan for August-December 1997.

The Committee noted and filed the proposed Workplan.

- (7) Oral petitions

There were none.

(8) Adjournment

The meeting was adjourned at 9:47 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Fiscalini, and unanimously carried, the Finance/Agency Finance Committee report and actions of June 11, 1997, were accepted. Vote: 11-0-0.

**7d Report of the Housing and Community Development Committee - June 20, 1997**

Documents filed: Housing and Community Development Committee report of June 20, 1997.

- (1) Traffic and Parking Plan (TPP) for Simultaneous Events at Arena Green. Attachment: (1) Memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated May 19, 1997, responding to a Committee referral for Staff to evaluate the TPP and report back to the Committee. (2) Supplemental memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated June 17, 1997, informing the Committee of a recent request to permit use of Arena Green and recommending the Committee forward the Traffic and Parking Plan for Simultaneous Events at Arena Green to the City Council for approval so permitting of Arena Green may begin.

The Committee recommended acceptance of the Staff's revised TPP recommendations for the period ending September 30, 1997, that established coordination be included in the guidelines, and that staff return at the October meeting with a debriefing on the Crusade event.

See Item 9qq for council action taken.

(2) Oral petitions

There were none.

(3) Adjournment

The meeting was adjourned at 2:10 p.m.

Discussion/Action: The Housing and Community Development Committee report and actions of June 20, 1997, were heard by Council under Item 9qq.

**7e Report of the Transportation, Planning, and Environment Committee - June 12, 1997**

Documents filed: See City Council Minutes of June 17, 1997.

- (1) Consent Calendar
- (2) Report on Status of Proposals for the Lease or Purchase of Automatic Public Toilets
- (3) Report on the Proposed Automobile Dismantler Ordinance
- (4) Report and Recommendation on Request from Non-Profit Reusers Regarding Franchise Fees and Disposal Facility Tax
- (5) Oral petitions
- (6) Adjournment

Discussion/Action: This item was heard by Council on June 17, 1997.

## **LAND USE AND DEVELOPMENT**

Items 8a and 8d were heard together.

- 8d PUBLIC HEARING ON APPEAL OF AN ENVIRONMENTAL IMPACT REPORT for a Site Development Master Permit, City File No. HSH 96-12-089, for the 3Com Corporation to allow 2.2 million square feet of Office/Research and Development use on 75 acres south of Highway 237 between North First Street and Zanker Road. District 4**  
(This item heard before Item 8a)

Documents filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated June 13, 1997, recommending Council uphold the certification by the Planning Commission of the Environmental Impact Report (EIR) for the 3Com Corporation Site X Project, finding it adequate and complete under the California Environmental Quality Act (CEQA). (2) Report entitled: *Revenue Analysis 3Com Corporation Proposed Corporate Campus, San Jose, California, dated June, 1997, prepared by Law and Associates.*

Discussion/Action: The public hearing was opened. Deputy Planning Director Kent Edens stated Staff prepared a detailed response to the points raised in the appeal of the EIR and, as stated in the Staff report, these are the same issues raised in response to the Draft EIR, to which Staff had provided a point-by-point response. He stated the Planning Commission was satisfied with the response and felt the EIR does adequately address all of the impacts of the project and Staff recommends Council reach the same conclusion as the Planning Commission. Vernon Granneman, Partner in the Genesis Law Group, which filed the protest and appeal on behalf of McCarthy Ranch, stated two letters from the Genesis Law Group dated April 28 and June 9, 1997 lay out their objections together with other public comments that are part of the First Amendment to the Draft EIR. He addressed comments by the Planning Department in response to the protest and appeal with respect to consistency of the project with stated policies of the General Plan, the traffic agreement between the Cities of San José and Milpitas, and impacts of traffic on

the City of Milpitas from the project. He stated the EIR should discuss any inconsistencies between the proposed project and the applicable General Plan and any regional plans relative to the proposed floor area ratio. He stated the EIR is inadequate with regard to compliance with the North San José Development Policy, it should discuss whether the inconsistency needs to be cured before the proposed project can be approved and whether the inconsistency is evidence in and of itself of a significant environmental effect, and requested that issue be addressed and discussed more thoroughly in the context of the EIR. He commented on the Planning Department's response to the appellant's comment concerning the unmitigated traffic impacts and the City's traffic impact agreement with the City of Milpitas, and for the reasons stated that are in the record, he requested on behalf of McCarthy Ranch that Council decline to uphold the Planning Commission's certification of the EIR for the 3Com project. Craig K. Breau, Santa Clara Audubon Society, addressed Council regarding the burrowing owl habitats and the need for permanent relocation of the owls. William J. Garbett addressed the Council in opposition to the proposal. Doug Sugimoto, Director of Worldwide Corporate Real Estate for 3Com Corporation, expressed the critical nature of the project to the growth of 3Com, a company with over \$6 billion in annual revenue and over 13,000 employees and a recognized leader worldwide. Deputy Director Edens responded to comments by representatives of the Genesis Law Group regarding the issue raised by the speaker as to whether or not the project was consistent with the General Plan as regards its intensity as measured by a floor area ratio. He stated the intensity of the project per se is not an environmental issue and is relevant only in terms of the differential impacts of more or less intensity of development, and that the ultimate determination of whether or not there is General Plan consistency rests with the City Council and would be reflected by Council's action on the proposed mitigation plan, if Council upholds the decision of the Planning Commission as to the adequacy of the EIR. Regarding the issue of the intensity of the project under the North San José Area Development Policy, he stated development permits are issued under the authority of the Director and that there is a "pool of unallocated square footage". He stated that decision has been made by the Director and, therefore, the issue of General Plan consistency is a moot point. He stated the EIR thoroughly addresses impacts on intersections in Milpitas and noted the City of Milpitas chose the intersections to be addressed and San Jose used their methodology and standard of significance in terms of impact, and that the project does address mitigation for impacts on the City of Milpitas. He noted the only issue about the agreement between San Jose and Milpitas is that rather than requiring money be paid directly to the City of Milpitas toward mitigation, that it be paid to the City to be held in trust until the City is satisfied that Milpitas is living up to their side of the agreement. He stated the issue is one related to the Mitigation Plan rather than an environmental issue. Vice Mayor Fernandes stated she would be pleased to have 3Com join the City of San José, that it will be a great benefit to San José to have a company with 3Com's health and level of prestige, expressed the hope that the differences with Milpitas can be resolved, and moved to find the EIR complete and conforming to the requirements of CEQA, that the appeal be denied and the Commission's certification of the Final EIR upheld. Council Member Powers seconded the motion. On a call for the question, the motion carried unanimously, the public hearing was closed, the appeal denied, and the Planning Commission's certification that the EIR is complete and conforms to the requirements of

CEQA was upheld. Vote: 11-0-0-0. Deputy Director Edens clarified, for the record regarding the issue of intensity and floor area ratio that the City is maintaining its policy and the project would not result in exceeding any established cap.

**8a 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**

**(Deferred from 6/10/97 - Item 8c)**

**(This Item heard after Item 8d)**

Documents filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated June 5, 1997, recommending approval of the Mitigation Plan attached thereto and adoption of said resolution. (2) Proof of Publication of Renotice of Public Hearing, dated May 20, 1997. (3) Fax transmittal from Guadalupe - Coyote Resource Conversation District, dated June 24, 1997, urging protection of the Burrowing Owl habitat as applicable to the 3Com site.

Discussion/Action: Vice Mayor Fernandes moved that Council adopt the Mitigation Plan, direct staff to incorporate the Mitigation Plan into all appropriate project approvals, and make findings that the EIR for this project identified project and cumulative noise, traffic and air quality, and loss of burrowing owl habitat impacts as significant and unavoidable; the project will generate substantial employment and revenues for the City in support of the Economic Development Strategy of the General Plan, will place employee-intensive uses near transit facilities, will contribute to regional infrastructure improvements, increase the City's share of Countywide industrial development and improve the City's job/housing balance; and these benefits outweigh the significant and unavoidable environmental impacts. Council Member Powers seconded the motion. Commenting on the floor area ratio issue, Council Member Pandori stated the development of that policy was to serve as an average and never intended by Council or regional cities to be an absolute for all sites. He stated the project is important to the region in that 3Com is a major employer, and commented on projected goals for public transit service to the site. He suggested using property tax funds to improve traffic conditions in the area beyond that required by the EIR and recommended considering this issue in context with the Redevelopment Agency budget discussions. He stated the plans for the burrowing owls are a priority and suggested developing a long term strategy as opposed to interim solutions and temporary moves, and requested Staff provide a six-month status report. Council Member Johnson concurred with Council Member Pandori's comments regarding traffic and the burrowing owl, issues which will be applicable to virtually every site in North San José. She encouraged 3Com to continue working on potential mitigation measures, which have not been adopted, such as designing the facility to encourage bicycle use to deal with limiting parking availability, and suggested moving rapidly on a regional solution for the burrowing owls. On a call for the question,

Resolution No. 67510, entitled: "A Resolution of the Council of the City of San José Making Certain Findings Concerning Mitigation Measures, Adopting a Mitigating 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 3Com Corporation Site X North San José Development Project for Which an Environmental Impact Report has been Prepared", was adopted, and Staff was directed to report back within 6 months on the status of the plan for relocating the burrowing owls and to review with the Redevelopment Agency the feasibility of using property tax revenue from the project to improve traffic conditions in the area beyond that required by the EIR. Vote: 10-0-1-0. Absent: Shirakawa.

**8b PUBLIC HEARING and approval of an ordinance establishing the Saratoga/Moorpark Underground Utility District at Saratoga Avenue, from State Route 280 to Blackford Avenue, and on Moorpark Avenue, from Saratoga Avenue to 200 feet east. CEQA: Exempt. (Public Works)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 18, 1997, recommending Council conduct the public hearing and approve said ordinance. (2) Certificate of Mailing of Notice of Public Hearing, dated June 6, 1997, submitted by the Department of Public Works.

Discussion/Action: The public hearing was opened and there was no discussion from the floor. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the public hearing was closed and Ordinance No. 25398, entitled: "An Ordinance of the City of San José Establishing an Underground Utility District at Saratoga Avenue from State Route 280 to Blackford Avenue and Moorpark Avenue from Saratoga Avenue to 200 Feet East", was passed for publication. Vote: 10-0-1-0. Absent: Shirakawa.

**8c PUBLIC HEARING and adoption of a resolution conditionally vacating that portion of Hedding Street northerly of the Hedding Street Overpass between the westerly boundary of the lands of the Southern Pacific Railroad and a point four hundred feet east of Elm Street, reserving a public service easement over the entire area and directing the City Manager and/or the Director of Public Works to initiate negotiations for the future use or conveyance of the property. CEQA: ND. (Public Works)**

Documents filed: (1) Memorandum from Director of Public Works Qualls, dated June 20, 1997, recommending Council conduct a Public Hearing and adopt the resolution. (2) Proof of Publication of Notice of Hearing dated June 10, 1997, submitted by the City Clerk. (3) Affidavit of Posting of Notice of Hearing, submitted by the City Clerk.

Discussion/Action: The Public Hearing was opened and there was no discussion from the floor. Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, the Public Hearing was closed, and Resolution No. 67511, entitled: "A Resolution of the Council of the City of San José Conditionally Vacating All

of that Portion of Hedding Street Northerly of the Hedding Street Overpass Between the Lands of the Hedding Street Railroad and a Point Approximately Four Hundred Feet Easterly of Elm Street, Reserving a Public Service Easement Over the Entire Area, Directing the Director of Public Works and/or City Manager to Negotiate an Agreement for the Use or Conveyance of the Vacated Right-of-Way to Bellarmine College Preparatory, Inc.”, was adopted. Vote: 11-0-0-0.

**8e Referral to the 1997 Annual Review of the General Plan a review of the area bounded by Lincoln Avenue, Interstate 280, and Los Gatos Creek. (Fiscalini)**

Documents filed: Memorandum from Council Member Fiscalini, dated June 11, 1997, recommending referral of the described area to the 1997 General Plan Review.

Discussion/Action: The referral of the specified area to the 1997 Annual Review of the General Plan was approved. Vote: 11-0-0-0.

## **GENERAL GOVERNMENT**

**9a Adoption of a resolution declaring City land located at 2995 Lafayette Street surplus to the City, and authorization for the Director of Aviation to enter into an agreement with Donald Atlas, Mark Atlas, and Miriam Atlas to sell the former Santa Clara Mobile Home site for a price of \$1,410,000, and to execute all necessary documents. CEQA: Exempt. (Airport)**

Documents filed: Memorandum from Aviation Director Ralph G. Tonseth, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 67512, entitled: “A Resolution of the Council of the City of San José Declaring Certain City-Owned Property Surplus and Authorizing the Director of Aviation to Execute an Agreement for Sale of Real Property and All Necessary Documents for the Sale of Such Property”, was adopted. Vote: 11-0-0-0.

**9b Approval of a first amendment to the agreement with the San José Convention & Visitors Bureau for the promotion of conventions, conferences, trade shows, and filming on location, extending the term of the agreement by two (2) months, from July 1, 1997 to August 31, 1997, at a cost of \$500,000 plus expenses, not to exceed \$1,500,000. (Conventions, Arts and Entertainment)**

Documents filed: Memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated June 5, 1997, recommending approval of an amendment to said agreement with the San José Convention & Visitors Bureau.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Johnson, and unanimously carried, the first amendment to said agreement with

the San José Convention & Visitors Bureau was approved and its execution authorized. Vote: 11-0-0-0.

**9c Approval of the 1997 Proposed Revision to the South Bay Action Plan related to waste water flow issues at the San José/Santa Clara Water Pollution Control Plant. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 5, 1997, recommending approval of the proposed revision to the South Bay Action Plan. (2) Report entitled: *Proposed Revision - June 1997, South Bay Action Plan*.

Discussion/Action: Council Member Pandori stated the environmental enhancement pilot project in the proposal will have multiple benefits, one of which would discharge water back into creeks to augment summer flows in a substantial cost effective approach relative to other measures proposed to divert water from the bay, and another concerning the wetlands concept, a pilot idea that needs further study and is consistent with the plan developed for the Guadalupe Gardens. When this plan is approved by the State, he recommended those projects be scheduled for priority implementation. Upon motion by Council Member Johnson, seconded by Council Member Fiscalini, and unanimously carried, the 1997 Proposed Revision to the South Bay Action Plan was approved and Staff was directed to assign a high priority for implementation of the Environmental Enhancement Pilot Projects as specified. Vote: 11-0-0-0.

**9d Approval of an agreement with Weaver Industries, Inc., for the processing of approximately 40,000 tons of residential yard trimmings per year, contingent on the procurement of a transfer location, for the period July 1, 1997 to June 30, 2002, in an amount not to exceed \$1,000,000 per year. (Environmental Services)**

Documents filed: None.

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

**9e Adoption of a resolution:**

- (1) (a) **Authorizing the City Manager to negotiate and execute loan agreements with the State Water Resources Control Board (SWRCB) for eligible Phase I South Bay Water Recycling Projects, and to execute all loan documents necessary to accept up to \$45,833,150 in loan funds from the State Revolving Fund, to be repaid at an effective interest rate of 1.875%, in twenty (20) equal annual installments of up to \$2,750,000 each.**
- (b) **Agreeing that the City will fund at least 16.667 percent of the eligible project costs (\$55,000,000) in an estimated amount of \$9,166,850; that the City will pay an administrative fee to the State of up to 0.575% of the eligible project costs, if requested by the SWRCB; that the City**

**will maintain an account for the project with sufficient funds, as necessary, to make the City's share of eligible project cost payments to contractor(s); and that the City will provide the SWRCB with certifications and canceled checks showing payment of the City's share of eligible project costs to contractor(s).**

- (2) Amendments to the master agreements and/or supplemental financing agreements with Santa Clara and the Water Pollution Control Plant tributary agencies to allocate loan funds to WPCP capital projects; and to allocate debt service on the loan to San José, Santa Clara, and the tributary agencies in the same ratio that SBWR Phase I costs have been allocated.**

**(Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated June 5, 1997, recommending adoption of said resolution and approval of amendments to the master agreements and/or supplemental financing agreements with Santa Clara and the Water Pollution Control Plant tributary agencies. (2) Letter from the Treatment Plant Advisory Committee, dated June 13, 1997, recommending adoption of said resolutions.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Upon motion by Council Member Fiscalini, seconded by Council Member Diaz, and unanimously carried, Resolution No. 67513, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute Loan Agreements with the State Water Resources Control Board for Eligible Phase I South Bay Water Recycling Projects, to Accept an Amount Up to \$45,833,150, and to Execute all Necessary Documents; and Agreeing that the City will Fund at Least 16.667 Percent of the Eligible Project Costs in an Estimated Amount of \$9,166,850", Resolution No. 67514, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Amendments to Agreements Between the Cities of San José and Santa Clara and the Tributary Agencies to the San José/Santa Clara Water Pollution Control Plant to Allocate State Revolving Fund Loan Proceeds to WPCP Capital Projects and to Allocate Debt Service on the Loan in the Same Ratio that South Bay Water Recycling Phase I Costs Have Been Allocated", were adopted. Vote: 11-0-0-0.

**9f Adoption of resolutions authorizing the Director of General Services to execute agreements with the following vendors for street sweeping services:**

- (1) (a) Browning-Ferris Industries of California, Inc., for the North District for the period August 1, 1997 to June 30, 2002, for a total first year cost of \$548,000.**
- (b) One (1) year option for renewal contingent upon appropriation of funds.**
- (2) (a) Green Waste/Universal for the South District for the period August 1, 1997 to June 30, 2002, for a total first year cost of \$852,000, and Citywide advertising services for a total first year cost of \$60,000.**

- (b) **One (1) year option for renewal contingent upon appropriation of funds.**

**(General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated June 5, 1997, recommending adoption of said resolutions.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 67515, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Negotiate and Execute an Agreement with Browning-Ferris Industries of California, Inc. Initial Term from August 1, 1997 to June 30, 2002; and to Execute a One Year Option for Renewal", and Resolution No. 67516, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Negotiate and Execute an Agreement with Green Waste/Universal Initial Term from August 1, 1997 to June 30, 2002; and to Execute a One Year Option for Renewal", were adopted. Vote: 11-0-0-0.

**9g Adoption of a resolution authorizing the Director of General Services to:**

- (1) **Award the purchase of eight (8) rough service bodies for the Fire and General Services Departments to the low bidder, Westates Truck Equipment, Inc., at a total of \$403,304.86 including tax.**
- (2) **Execute all necessary documents to add six (6) rough service bodies to the Master Equipment Lease with Access Public Funding, Inc.**

**(General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 67517, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement with Westates Truck Equipment, Inc. to Purchase Eight (8) Rough Service Bodies for Fire and General Services Departments" was adopted. Vote: 11-0-0-0.

**9h Adoption of a resolution authorizing the Director of General Services to negotiate and execute an agreement for document conversion services for the Planning, Building and Code Enforcement Department/Building Division with West Coast Information Systems, Inc., in an amount not to exceed \$578,000. (General Services)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, Resolution No. 67518, entitled: "A Resolution

of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement with West Coast Information Systems, Inc. for Document Conversion Services for Planning, Building and Code Enforcement Department/Building Division”, was adopted. Vote: 11-0-0-0.

- 9i Adoption of a resolution authorizing the Director of General Services to negotiate and execute an agreement for the installation of a Parking Administration and Revenue Control System (PARCS) with Electronic Innovations, Inc., for a cost of \$1,153,246 including tax, and additional services as required at a cost of \$100,000, for a total cost of \$1,253,246. (General Services/Streets and Traffic)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., and Director of Streets and Traffic Wayne Tanda, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: James Reilly, Argotelli & Reilly/Intertechnomics, one of the proposers, requested Council postpone action until proposers have been notified of the City’s selection and have had an opportunity to review the selection. General Services Director Jones stated Argotelli and Reilly/Intertechnomics was the high proposer and did not receive the minimum scoring points required for consideration. The Council was informed by Staff that all three proposers were judged to meet the specifications and the reason this particular proposal did not go to the next stage, which was to analyze costs, was due to poor ratings from their references, particularly in customer service, and the proposer with the low bid also had the highest technical rating. Mayor Hammer stated that pursuant to that information, advance notification of the scoring results would not have benefited Mr. Reilly’s company and that unless Council disagreed, the item should not be postponed. Upon motion by Council Member Woody, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 67519, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement with Electronic Innovations, Inc. for Installation of a Parking Administration and Revenue Control System (PARCS)”, was adopted. Vote: 11-0-0-0.

- 9j Adoption of a resolution:**

- (1) Approving business terms for an acquisition and construction loan of up to \$5,007,000 to Midtown Senior Associates L.P. for a 141-unit senior rental housing project, affordable to very-low income households, on 1.85 acres located on the west side of Race Street, between San Carlos Street and Auzerais Avenue.**
  - (2) Authorizing the Director of Housing to negotiate and execute all necessary documents evidencing such loan on behalf of the City.**
- (Housing)**

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Diaz, and unanimously carried, Resolution No. 67520, entitled: “A Resolution of the Council of the City of San José (I) Approving Business Terms for an Acquisition and Construction Loan of Up to \$5,007,000 to Midtown Senior Associates L.P. for a 141-Unit Senior Rental Housing Project, Affordable to Very-Low Income Households, on 1.85 Acres Located on the West Side of Race Street, Between San Carlos Street and Auzerais Avenue, and (II) Authorizing the Director of Housing to Execute All Necessary Documents Evidencing Such Loan on Behalf of the City”, was adopted. Vote: 11-0-0-0.

**9k Adoption of a resolution:**

- (1) Approving business terms for an acquisition and predevelopment loan of up to \$1,514,000 to Charities Housing Development Corp., or its assignee, for the land acquisition and predevelopment costs for a 110-unit Single Room Occupancy housing project, affordable to very low-income households, on a .93-acre site located on the southeast corner of Bird Avenue and Columbia.**
- (2) Authorizing the Director of Housing to negotiate and execute all necessary documents evidencing such loan on behalf of the City.**

**(Housing)**

Documents filed: Memorandum from Director of Housing, Alex Sanchez, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Johnson, seconded by Council Member Powers, and unanimously carried, Resolution No. 67521, entitled: “A Resolution of the Council of the City of San José (I) Approving Business Terms for an Acquisition and Predevelopment Loan of Up to \$1,514,000 to Charities Housing Development Corp., or its Assignee, for the Land Acquisition and Predevelopment Costs for a 110-Unit Single Room Occupancy Housing Project, Affordable to Very-Low Income Households, on a .93 Acre Site Located on the Southeast Corner of Bird Avenue and Columbia Avenue in San José, and (II) Authorizing the Director of Housing to Execute All Necessary Documents Evidencing Such Loan on Behalf of the City”, was adopted. Vote: 11-0-0-0.

**9l Adoption of a resolution authorizing the Director of General Services to execute the necessary agreements and payment schedules for a City-Wide Site License Agreement with Oracle Corporation in the amount of \$1,730,920. (Information Technology)**

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated June 9, 1997, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Diaz, and unanimously carried, Resolution No. 67522, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement with Oracle Corporation for a City-Wide Site License Agreement”, was adopted. Vote: 11-0-0-0.

**9m Approval of a:**

- (1) First amendment to the Main Animal Services agreement with the Humane Society of Santa Clara Valley and the Cities of Milpitas and Santa Clara, extending the term of the agreement by one (1) year, from July 1, 1997 to June 30, 1998, and revising response time performance standards, and making other modifications to the provisions with San José's share not to exceed \$1,970,945.**
- (2) Animal Services Coordination and Cost Sharing agreement with the Cities of Milpitas and Santa Clara for the period of July 1, 1997 to June 30, 1998, setting forth each City's pro-rata share of animal services costs under the Main Animal Services Agreement based upon the amount of certain animal control services.**
- (3) Agreement with the Humane Society of Santa Clara Valley for code enforcement services for the period July 1, 1997 to June 30, 1998, in an amount not to exceed \$192,584.**

**(Planning, Building and Code Enforcement)**

Documents filed: Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated June 5, 1997, recommending approval of an amendment to said Main Animal Services Agreement among the Humane Society of Santa Clara Valley and the cities of Milpitas, San José, and Santa Clara, approval of said Animal Services Cost Coordination and Cost Sharing Agreement among said cities, and approval of said agreement with the Humane Society of Santa Clara Valley.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the first amendment to said Main Animal Services agreement with the Humane Society of Santa Clara Valley and the Cities of Milpitas and Santa Clara, said Animal Services Coordination and Cost Sharing agreement with the Cities of Milpitas and Santa Clara, and said agreement with the Humane Society of Santa Clara Valley for code enforcement services, were approved and their execution authorized. Vote: 11-0-0-0.

**9n Report on bids and award of contract for the Street Lights Crackdown 97 Project to the low bidder, San José Signal Electric Construction, Inc., in the amount of \$598,774. CEQA: Exempt. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 5 and 16, 1997, recommending award of said contract to the low bidder, San José Signal Electric Construction, Inc.

Discussion/Action: William J. Garbett spoke in opposition to the proposal. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the award of said contract to the low bidder, San José Signal Electric Construction, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

- 9o Report on bids and award of contract for the Street Lights Citywide 96-97 Project to the lowest responsive bidder, G.A.B. Construction, Inc., in the amount of \$409,222, and approval of a contingency in the amount of \$40,000. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending award of said contract to the lowest responsive bidder, G.A.B. Construction, Inc.

Discussion/Action: Upon motion by Council Member Diaz, seconded by Council Member Powers, and unanimously carried, the award of said contract to the lowest responsive bidder, G.A.B. Construction, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

- 9p Report on bids and award of contract for the Installation of Traffic Signal Unit 96A Project to the lowest responsive bidder, G.A.B. Construction, Inc., in the amount of \$479,700. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending award of said contract to the lowest responsive bidder, G.A.B. Construction, Inc.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the award of said contract to the lowest responsive bidder, G.A.B. Construction, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

- 9q Report on bids and award of contract for the 1996-97 Contractual Street Maintenance Project Unit 1 to the low bidder, O'Grady Paving, Inc., to include the Base Bid and Add Alternate Nos. 1 and 2 in the amount of \$2,433,500.50. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending award of said contract to the low bidder, O'Grady Paving, Inc.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, the award of said contract to the low bidder, O'Grady Paving, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

- 9r Report on bids and award of contract for the San Salvador Street Sidewalk Improvements Project to the low bidder, Blossom Valley Construction, Inc., in the amount of \$759,520, and approval of a contingency in the amount of \$76,000. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending award of said contract to the low bidder, Blossom Valley Construction, Inc., and approval of said contingency.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the award of said contract to the low bidder, Blossom Valley Construction, Inc., and said contingency, were approved and their execution authorized. Vote: 11-0-0-0.

- 9s Report on bids and award of contract for the CDBG Minor Street Reconstruction Phase II Project to the low bidder, Wattis Construction Company, Inc., in the amount of \$835,435, and approval of a contingency in the amount of \$83,500. CEQA: Exempt. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 5 and 16, 1997, recommending award of said contract to the low bidder, Wattis Construction Company, Inc., and approval of said contingency.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the award of said contract to the low bidder, Wattis Construction Company, Inc., and said contingency, were approved and their execution authorized. Vote: 11-0-0-0.

- 9t Report on bids and award of contract for the Forest-Rosa Sanitary Sewer Supplement Rehabilitation Phase I Project to the low bidder, J.W. Ebert Corp., in the amount of \$1,375,515, and approval of a contingency in the amount of \$138,000. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending award of said contract to the low bidder, J.W. Ebert Corporation, and approval of said contingency.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Diaz, and unanimously carried, the award of said contract to the low bidder, J.W. Ebert Corp., and said contingency, were approved and their execution authorized. Vote: 11-0-0-0.

- 9v Report on bids, waive an informality related to the omission of notary acknowledgments of the bidders' signatures on the Bidder's Bond, award of contract for the South Bay Water Recycling Program (SBWRP) Twelfth Street Project to the low bidder, Westcon/Dillingham Microtunneling, a joint venture, in the amount of \$13,032,230, and approval of a contingency in the amount of \$1,300,000, pending concurrence from the Treatment Plant Advisory Committee at its July 10, 1997 meeting. CEQA: Resolution No. 64667. (Public Works)**

Documents filed: (1) Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 5 and 20, 1997, recommending waiver of an informality related to the omission of notary acknowledgments of the bidders' signatures on the Bidder's Bond, award of said contract to the low bidder, Westcon/Dillingham Microtunneling, a joint venture, and approval of said contingency, pending concurrence from the Treatment Plant Advisory Committee at its July 10, 1997 meeting. (2) Letter from the Treatment Plant Advisory Committee, dated June 13, 1997, recommending approval of award of said contract to the low bidder and approval of a ten percent contingency, pending concurrence by the Treatment Plant Advisory Committee at its July 10, 1997 meeting. (3) Memorandum from Council Member Pandori, dated June 23, 1997, recommending direction to Staff to evaluate the costs associated with providing public improvements to enhance the Twelfth Street Neighborhoods, as described therein.

Discussion/Action: Council Member Pandori commented on impacts of the year-long project on Twelfth Street--which is a narrow residential street--between Hedding and Keyes Streets, and asked the Council to support the recommendations in his memorandum dated June 23, 1997 for cost analysis of providing infrastructure improvements to bring the neighborhood up to par with other neighborhoods. Mayor Hammer stated that while she has no problem with doing an analysis, what is done in one area would have to be done in all areas to be consistent and that would be very expensive for such an extensive project. She expressed concerns that whenever streets are torn up any place in the City, that repaving be first class work and the area left better than before the work was done. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Council approved said waiver of informality and the award of said contract to the low bidder, Westcon/Dillingham Microtunneling, a joint venture, and approval of the specified contingency, pending concurrence from the Treatment Plant Advisory Committee at its July 10, 1997 meeting, were approved and Staff was directed to evaluate for future Council discussion potential scope and costs of providing the neighborhood improvements described in Council Member Pandori's June 23, 1997 memorandum. Vote: 11-0-0-0.

**9u Report and bids and award of contract for the South Bay Water Recycling Program Golden Triangle Pipeline Project, Northern Segment to the low bidder, Ranger Pipelines Inc., in the amount of \$3,506,285, and approval of a contingency in the amount of \$350,000, pending concurrence by the Treatment Plant Advisory Committee at its July 10, 1997 meeting. CEQA: Resolution No. 64667. (Public Works)**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5 and 16, 1997, recommending award of said contract to the low bidder, Ranger Pipelines Inc., and approval of a contingency in the amount of \$350,000, pending concurrence by the Treatment Plant Advisory Committee at its July 10, 1997 meeting. (2) Letter from the Treatment Plant Advisory Committee dated June 13, 1997, recommending approval of said contract to the low bidder and approval of said contingency pending concurrence by the Treatment Plant Advisory Committee at its July 10, 1997 meeting.

Discussion/Action: Vice Mayor Fernandes requested the same infrastructure analysis for this area as was approved under Item 9v. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the award of said contract to the low bidder, Ranger Pipelines Inc., and approval of the stated contingency, pending concurrence by the Treatment Plant Advisory Committee at its July 10, 1997 meeting, were approved; and Staff was directed to report back with an infrastructure improvement analysis comparable to that authorized for Item 9v. Vote: 11-0-0-0.

**9w Report on bids and award of contract for the Installation of Traffic Signal Unit 96B Project to the lowest responsive bidder, Rosendin Electric, Inc., in the amount of \$374,477. CEQA: Exempt. (Public Works)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending award of said contract to the lowest responsive bidder, Rosendin Electric, Inc.

Discussion/Action: Ross Signorino suggested use of cameras for speed control. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the award of said contract to the lowest responsive bidder, Rosendin Electric, Inc., was approved and its execution authorized. Vote: 11-0-0-0.

Mayor Hammer left the Chambers and Vice Chair Fernandes assumed the Chair.

**9x Report on bids and award of contract for the Santa Clara Street Sidewalk Improvements Project to the low bidder, B&B Concrete Construction, Inc., in the amount of \$1,178,000, and approval of a contingency in the amount of \$120,000. CEQA: Exempt. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 5 and 20, 1997, recommending award of said contract to the low bidder, B&B Concrete Construction, Inc., and approval of said contingency.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the award of said contract to the low bidder, B&B Concrete Construction, Inc., and approval of said contingency, was approved and their execution authorized. Vote: 10-0-1-0. Absent: Mayor Hammer.

**9y Report on bids and award of contract for the San José International Airport West General Aviation Parking Reconstruction Project to include the Base Bid and Add Alternate No. 1 to the lowest responsive bidder, Pavex Construction Company, in the amount of \$481,443.12, and approval of a contingency in the amount of \$24,000. CEQA: Exempt. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 5 and 20, 1997, recommending award of said contract to the lowest responsive bidder, Pavex Construction Company, and approval of said contingency.

Discussion/Action: Upon motion by Council Member Fiscalini, Council Member Dando, and unanimously carried, the award of said contract to the lowest responsive bidder, Pavex Construction Company, and approval of said contingency, were approved and their execution authorized. Vote: 10-0-1-0. Absent: Mayor Hammer.

- 9z Report on bids and award of contract for the Nortech Booster Pump Station Revised Project to the sole bidder, GSE Construction, Inc., in the amount of \$938,700, and approval of a contingency in the amount of \$47,000. CEQA: ND. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 5 and 20, 1997, recommending award of said contract to the sole bidder, GSE Construction, Inc., and approval of said contingency.

Discussion/Action: Upon motion by Council Member Fiscalini, Council Member Dando, and unanimously carried, the award of said contract to the sole bidder, GSE Construction, Inc., and approval of said contingency, were approved and their execution authorized. Vote: 10-0-1-0. Absent: Mayor Hammer.

- 9aa Report on bids and award of contract for the Tasman Drive Bridges over Coyote Creek Project to the low bidder, MCM Construction, Inc., in the amount of \$8,467,940, and approval of a contingency in the amount of \$585,000. CEQA: Resolution No. 66985. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 5 and 17, 1997, recommending award of said contract to the low bidder, MCM Construction, Inc., and approval of said contingency.

Discussion/Action: Upon motion by Council Member Fiscalini, Council Member Dando, and unanimously carried, the award of said contract to the low bidder, MCM Construction, Inc., and approval of said contingency, were approved and their execution authorized. Vote: 10-0-1-0. Absent: Mayor Hammer.

Mayor Hammer returned to the Chambers and reassumed the Chair.

- 9bb Report on bids and award of contract for the Roosevelt Park Play Apparatus Project to the low bidder, Perma-Green Hydroseeding, Inc., to include the base Bid and Add Alternate No. 1, in the amount of \$386,500, and approval of a contingency in the amount of \$39,000. CEQA: ND. (Public Works)**

Documents filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 5 and 18, 1997, recommending award of said contract to the low bidder, Perma-Green Hydroseeding, Inc., and approval of said contingency.

Discussion/Action: Council Member Pandori asked if recourses exist to address the \$9,000 mathematical error made by the low bidder, Perma-Green Hydroseeding, Inc. City Attorney Gallo advised the bidder did not correct the bid within the five days allowed by City specifications and the error cannot now be corrected. She stated the bidder is obligated to proceed and should he not, the City would take action on the bidder's bond and then could award to the second highest bidder, which authority could be exercised by the City Manager if necessary during the Council's recess. Since the second lowest bid is \$71,000 higher, Council Member Pandori questioned whether discretion could be given to Staff to allow correction to mathematical errors in future bids. City Attorney Gallo stressed the need to adhere to basic bidding principles and noted that City specifications reflect the legal perimeters as determined by court interpretations, but stated Staff could review this issue in conjunction with other specification issues being reviewed for report to the Council. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the award of contract to the low bidder, Perma-Green Hydroseeding, Inc., and approval of said contingency, were approved and their execution authorized, and Staff was directed to review possible options for authorizing Staff to address mathematical errors in bid submittals. Vote: 11-0-0-0.

- 9cc
- (1) **Report on bids and award of contract for the Central Service Yard, Phase 1 Project to the low bidder, S.J. Amoroso Construction, in the amount of \$8,017,000, to include Add Alternate Nos. 1 and 2, and a contingency in the amount of \$450,000. CEQA: ND. (Public Works)**
  - (2) **Adoption of appropriation ordinance amendments in the Central Service Yard Acquisition and Development Fund to provide an additional \$901,000 for the Central Service Yard First Phase Construction Project. (City Manager's Office)**

Documents filed: (1) Memoranda from Director of Public Works, Ralph A. Qualls, Jr., dated June 5 and 23, 1997, recommending award of said contract to the low bidder, S.J. Amoroso Construction, and approval of said contingency. (2) Memorandum from Budget Director Larry D. Lisenbee, dated June 23, 1997, recommending approval of said appropriation ordinance amendments.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the award of said contract to the low bidder, S.J. Amoroso Construction, and approval of said contingency, were approved and their execution authorized, and Ordinance No. 25399, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the Central Service Yard Acquisition and Development Fund in the Amount of \$901,000, for the Central Service Yard First Phase Construction Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 11-0-0-0.

- 9dd (1) Report on bids and award of contract for the McLaughlin Park Project to the low bidder, Lone Star Landscape, Inc., to include the Base Bid and Add Alternates Nos. 1 through 8, in the amount of \$432,561. CEQA: ND. (Public Works)**

**(Deferred from 6/17/97 - Item 9d)**

- (2) Adoption of appropriation ordinance amendments in the Council District 7 Construction and Conveyance Tax Fund to provide an additional \$61,000 for the McLaughlin Park Development Project. (City Manager's Office)**

Documents filed: (1) Memoranda from Director of Public Works, Ralph Qualls, Jr., dated June 5 and 13, 1997, recommending award of said contract to the low bidder, Lone Star Landscape, Inc. (2) Memorandum from Budget Director Lisenbee, dated June 18, 1997, recommending approval of said appropriation ordinance amendments.

Discussion/Action: Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Fiscalini, and unanimously carried, the award of said contract to the low bidder, Lone Star Landscape, Inc., was approved and Ordinance No. 25400, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25131 which Appropriates Moneys in the Council District 7 Construction and Conveyance Tax Fund in the Amount of \$61,000, to Provide Additional Funding for the McLaughlin Park Development Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 11-0-0-0.

- 9ee Report on bids and award of contract for The Alameda Streetscape Phase 3 Project to the low bidder, G.A.B. Construction, Inc. in the amount of \$685,000 and approval of a contingency in the amount of \$68,000. CEQA: Resolution No. 62613. (Public Works)**

**(Deferred from 6/17/96 - Item 9g)**

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated May 29, 1997, recommending award of said contract to the low bidder, G.A.B. Construction, Inc., and approval of said contingency.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, the award of said contract to the low bidder, G.A.B. Construction, Inc. in the amount of \$685,000 and approval of said contingency, were approved and their execution authorized. Vote: 11-0-0-0.

- 9ff Approval of feasibility study on Singleton Softball Complex Project. (City Manager's Office)**

**(Deferred from 6/10/97 - Item 9e and 6/17/97 - Item 9i)**

Documents filed: (1) Memorandum from Senior Deputy City Manager, Darrell Dearborn, dated June 12, 1997, recommending no further planning efforts be undertaken to develop a softball complex on the Singleton Landfill site in the absence of significant General Fund assistance for the project. (2) Final Report entitled: Feasibility and Operating

Strategy of the Singleton Softball Complex in San José, CA, dated May, 1997, prepared by Economics Research Associates, in association with Sasaki Associates, Inc., Woodward Clyde Consultants.

Discussion/Action: Senior Deputy City Manager Darrell Dearborn stated a comprehensive study of the costs of developing and operating a softball complex on the existing Singleton Landfill site found there is a clear market for tournament level play by a variety of adult leagues on 8+ quality softball fields and revenues are projected to cover the operating cost of the complex, but would not be sufficient to cover the total cost of the facility, including the debt service on tax exempt bonds that would be issued to construct the facility. He stated the report provides a framework of the alternative combinations of additional City cash and the resulting operating subsidy that would be required for that facility and indicates that, absent a significant infusion of cash from other sources--primarily the City's General Fund--the economics of constructing and operating the facility are such that it would not be self-supporting and until alternative sources of cash are made available. He stated Staff recommends no further planning be undertaken for the facility. Responding to questions from Mayor Hammer about the feasibility of involving private operators, Deputy Manager Dearborn stated the report considered two models, one based on City operation of the facility, including continued management of adult league play with a private firm operating the concessions; the other scenario based on a private operator both operating the facility and concessions, as well as managing the league activities. He stated net income to the City in the form of a lease payment from scenario two would be less than the net income if the City continued to operate the facility but contracted out the concession activities. In terms of capital costs, he noted construction of the facility is based on tax exempt financing, which would not be available if a private operator were to finance the facility, making it unlikely that private capital could construct the facility as envisioned less expensively than is estimated in the report. Rodrigo-Roy Hernandez, Santa Clara Valley Athletic Association, addressed the Council regarding the need for a multi-sports complex in this area. Jeff Wesolowski, Quantum Sports Parks, Inc., stated his company submitted a comprehensive proposal to management of the Santa Clara County Fairgrounds for development of a softball complex, which was referenced in the City Staff's report. He stated the complex he proposed is broader based than the Singleton complex in that it is a year around operation and includes not only softball, but soccer, rugby, hockey, basketball, indoor and outdoor volley ball, badminton, inline hockey, little league, baseball, a golf driving range, and numerous special events, all on a development of less than sixty acres, and would provide extensive access to youth through youth leagues, summer sports camps and numerous after school athletic programs. He stated an independent feasibility study determined the site would work, could run profitably and support an adequate level of public financing, and that corporate sponsorship will be sought. Council Member Shirakawa, Jr. stressed the benefits of a City-wide region-wide sports facility and recommended reviewing the feasibility of tying a softball facility into the Coyote Creek Golf Course's bonding capacity and revenue generation potential based on its proximity to the site, possibly in a private-public combination. Council Member Fiscalini stated it is critical the City have a first rate complex, suggested continuing to explore various feasibilities relative to public-private development possibilities. Mayor

Hammer supported continuing to explore the issue, including coordination with the Coyote Creek Golf Course if that project proceeds. Council Member Powers suggested the possibility of a recreational complex, which would include both the softball fields and the Coyote Creek Golf Course. Council Member Diaz stated a softball complex can be done, if not now, then in the future, and suggested an exploratory team approach comprised of sports entities as well as Council Member Shirakawa, Jr., and suggested the potential of phasing the project over a period of time. Council Member Dando stated the site would be ideal for a youth complex and suggested as a follow-up on the Staff recommendation that the issue be referred to the Sports Authority for review of possible options. Council Member Shirakawa, Jr. stated the original direction on this issue included coordination with the Sports Authority. Council Member Pandori suggested adopting a policy statement that the Council wants to see a softball complex developed in the City within fifteen years or sooner. Upon motion by Council Member Shirakawa, Jr., seconded by Council Member Woody, and unanimously carried, Council accepted the Staff report and directed Staff to work with the committee working on the Coyote Creek Golf Course on the feasibility of tying a softball complex in with the bonding capability of the golf course project and explore potential public-private partnerships. Vote: 11-0-0-0.

**9gg Adoption of a resolution authorizing the Director of Conventions, Arts and Entertainment to negotiate and execute:**

- (1) Fiscal Year 1997-98 Festival, Parade and Celebration grant agreements with twenty-nine (29) organizations for thirty-five (35) special events in a total amount not to exceed \$228,530.**
- (2) Fiscal Year 1997-98 Arts and Technical Assistance grant agreements with fifty-eight (58) organizations in a total amount of \$2,678,910.**
- (3) Fiscal Year 1997-98 Arts Program grant agreements with the following organizations:**
  - (a) Arts Council of Santa Clara County in the amount of \$52,500.**
  - (b) ARTPATH in the amount of \$40,000.**
  - (c) Children's Discovery Museum of San José in the amount of \$65,000.**
  - (d) San José Stage Company in the amount of \$63,000.**

**[Housing and Community Development Committee referral 6/2/97 - Item 7d(5)]  
(Deferred from 6/17/97 - Item 9k)**

Documents filed: See Housing and Community Development Committee report of June 2, 1997, Item 7d(5), filed in City Council Minutes of June 17, 1997.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 67523, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Conventions, Arts and Entertainment to Negotiate and Execute the 1997-98 Festival, Parade and Celebration Grant Agreements, the 1997-98 Arts and Technical Assistance Grant Agreements, and Arts Program Grant Agreements with the Arts Council of Santa Clara County, Artpath, Children's Discovery Museum of San José, and San José Stage Company", was adopted. Vote: 11-0-0-0.

- 9hh Adoption of a resolution authorizing the Director of Aviation to negotiate and execute an agreement with Airport Group International (AGI) for continued maintenance services in support of equipment installed in Terminal A, in an amount not to exceed \$529,420, for the period July 1, 1997 to June 30, 1998. (Airport) (Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Aviation Director Ralph G. Tonseth, dated June 17, 1997, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 67524, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement with Airport Group International (AGI) Initial Term from July 1, 1997 to June 30, 1998", was adopted. Vote: 11-0-0-0

- 9ii (1) Approval to amend the Performance Based Incentive Development Policy to exclude subsidies for "big box" retail uses larger than 100,000 square feet (a definition of "subsidy" is provided in the staff report).**  
**(2) Approval not to adopt the Community Employment Standards as previously proposed by staff; recommendation that consideration of standards regarding wages and benefits be deferred to future Council discussion of broader issues such as the impacts of welfare reform and prevailing wage.**  
**(Economic Development)**  
**(Rules Committee referral 6/18/97)**

Documents filed: None.

Discussion/Action: This item was deferred to August 26, 1997.

- 9jj Approval of an agreement with San José Water Company to provide bill printing and remittance processing for Utility Billing Services in an amount not to exceed \$714,700. (Finance)**  
**(Rules Committee referral 6/18/97)**

Documents filed: Memorandum from Director of Finance, John V. Guthrie, dated June 16, 1997, recommending approval of said agreement with San José Water Company.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Shirakawa, Jr., and unanimously carried, said agreement with San José Water Company was approved and its execution authorized. Vote: 11-0-0-0.

- 9kk (1) Adoption of a resolution authorizing the Governing Board of the San José - Santa Clara Clean Water Financing Authority to issue Sewer Revenue Bonds in the maximum principal amount of \$40,000,000, authorizing the execution and delivery of a first amendment to the improvement agreement, providing**

**for the repayment thereof and approving a preliminary official statement and an official statement and authorizing the execution and delivery of a continuing disclosure agreement related to this financing and authorizing the Mayor, the City Clerk, and the Director of Finance, the Deputy Director, Treasury, or the Debt Administrator of San José to execute the necessary documents.**

- (2) Adoption of a resolution authorizing the City Attorney to negotiate and execute an agreement with the Law Office of Leslie M. Lava to serve as bond counsel in an amount not to exceed \$53,000.**

**(Finance)**

**(Rules Committee referral 6/18/97)**

Documents filed: (1) Memorandum from Director of Finance, John V. Guthrie, dated June 11, 1997, recommending adoption of said resolutions. (2) Letter from the Treatment Plant Advisory Committee, dated June 13, 1997, recommending adoption of said resolutions.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Upon motion by Council Member Johnson, seconded by Council Member Powers, and unanimously carried, Resolution No. 67525, entitled: "Resolution of the Council of the City of San José, California Authorizing the Governing Board of the San José-Santa Clara Clean Water Financing Authority to Issue Sewer Revenue Bonds in the Maximum Principal Amount of \$40,000,000, Authorizing the Execution and Delivery of a First Amendment to Improvement Agreement Providing for the Repayment. Thereof and Approving a Preliminary Official Statement and an Official Statement and Authorizing the Execution and Delivery of a Continuing Disclosure Agreement Relating Thereto", and Resolution No. 67525.1, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute an Agreement with the Law Offices of Leslie M. Lava to Serve as Bond Counsel for the Clean Water Financing Authority 1997 Series A Refinancing in an Amount Not to Exceed \$53,000", adopted. Vote: 10-0-1-0. Absent: Fiscalini.

**9II Adoption of a resolution approving items related to the implementation of a commercial paper program for San José International Airport:**

- (1) The form of the Issuing and Paying Agent Agreement with First Trust of New York, and authorization for the Director of Finance to execute and deliver the agreement in substantially the form presented to the City Council.**
- (2) The form of the Letter of Credit and Reimbursement Agreement with Morgan Guaranty Trust Company of New York, and authorization for the Director of Finance to execute and deliver the agreement in substantially the form presented to the City Council.**
- (3) The form of the Dealer Agreement with Morgan Stanley & Co., Incorporated, and authorization for the Director of Finance to execute and deliver the agreement in substantially the form presented to the City Council. The Director of Finance shall also be authorized, in the event that**

the agreement with Morgan Stanley & Co. is terminated in the future for any reason, to appoint a new commercial dealer at an annual fee not to exceed 7.5 basis points of the principal amount of commercial paper outstanding and on terms substantially similar to those contained in the Dealer Agreement presented to the City Council.

- (4) Authorization for the City Manager to negotiate and execute an Agreement with Fullerton & Friar, Inc., in an amount not to exceed \$55,000.
- (5) Authorization for the City Manager to negotiate and execute amendments to the Airline Operating and Lease Agreements at the Airport to authorize the City to proceed with certain capital Improvements at the Airport and to provide for the issuance of debt to finance such improvements.

(Finance/Airport) (Rules Committee referral 6/18/97)

Documents filed: None.

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

**9mm Adoption of a resolution authorizing the Director of General Services to:**

- (1) Increase the dollar amount for purchase of IBM compatible microcomputer hardware, software, and peripherals with ComputerBiz, Inc. and Computerland of Almaden, in an amount not to exceed \$1,000,000, from \$3,000,000 to \$4,000,000, for the remainder of Fiscal Year 1996-97 and the beginning of Fiscal Year 1997-98.
- (2) Amend either agreement to purchase more or less from either vendor within the \$4,000,000 total annual cost.

(General Services)

(Rules Committee referral 6/18/97)

Documents filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated June 12, 1997, recommending adoption of said resolution.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Upon motion by Council Member Powers, seconded by Council Member Diaz, and unanimously carried, Resolution No. 67526, entitled: "A Resolution of the Council of the City of San José Increasing the Authority of the Director of General Services to Make Purchases from ComputerBiz, Inc. and Computerland of Almaden to Four Million Dollars (\$4,000,000) for the Remainder of Fiscal Year 1996-97 and the Beginning of Fiscal Year 1997-98", was adopted. Vote: 10-0-1-0. Absent: Fiscalini.

The Council of the City of San José convened the San José Financing Authority at 4:35 p.m. to hear Items 9nn and SJFA Item 2 in a joint meeting.

**9nn Public Hearing pursuant to Section 147(f) of the Internal Revenue Service Code (TEFRA Hearing) to permit members of the public to speak on the issue of financing child care modulars (the TEFRA does not relate to any other component of the financing), and adoption of resolutions:**

- (1) Approving the issuance by the City of San José Financing Authority of lease revenue bonds in the aggregate initial principal amount not to exceed \$10,000,000, in connection with financing the acquisition of various pieces of fire apparatus; the installation of modular buildings to be used by the school districts to ensure the provision of child care services; and to refinance the acquisition of land to be used as a branch library site; authorizing the Director of Finance or his designee to execute the City Site and Facility Lease, the City Lease Agreement, and the Continuing Disclosure Agreement, and authorizing the Director of Finance or his designee to take other related actions and execute documents as necessary.**
- (2) Authorizing the City Attorney to negotiate and execute an agreement with Quint & Thimmig, LLP to serve as bond counsel in an amount not to exceed \$50,000 (including expenses).**
- (3) Authorizing the Director of General Services to issue a purchase order for eleven (11) additional 1,500 gallon per minute fire engines to Hi-Tech Emergency Vehicle Service, Inc., at a total cost not to exceed \$3,591,123.39 including tax, after the City's receipt of bond proceeds.**
- (4) Authorizing the Director of General Services to issue a purchase order for one 90 foot Aerial Fire Apparatus to Simon LTI at a total cost not to exceed \$495,671.34 including tax, after the City's receipt of bond proceeds.**
- (5) Authorizing the City Manager to negotiate and execute an agreement with the Santa Clara County Office of Education for the purchase of four (4) child care modulares for the Berryessa Union Elementary and Cambrian School Districts, in an amount not to exceed \$225,000, contingent on the sale of bonds.**

**(Parks, Recreation and Neighborhood Services/Finance/General Services)  
(Rules Committee referral 6/18/97)**

**SJFA 2 Authorizing the issuance of lease revenue bonds in the aggregate initial principal amount not to exceed \$10,000,000 in connection with the financing the acquisition of various pieces of fire apparatus; the installation of modular buildings to be used by the school districts to ensure the provision of child care services; and to refinance the acquisition of land to be used as a branch library site, authorizing and directing the Treasurer or his designee to execute the Indenture of Trust, City Site and Facility Lease, City Lease Agreement, District Site and Facility Lease Agreements; 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 or his designee to take other related actions and execute documents as necessary. (Parks, Recreation and Neighborhood Services/Finance/General Services)**

**(Rules Committee referral 6/18/97)**

Documents filed: (1) Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, Finance Director John Guthrie and General Services Director Ellis Jones, dated June 17, 1997, recommending holding the Public

hearing pursuant to Section 147(f) of the Internal Revenue Service Code (TEFRA Hearing) and adoption of said resolutions. (2) Supplemental memorandum from Finance Director John V. Guthrie, dated June 23, 1997, replacing Page 13 of the previously released Preliminary Official Statement.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Council Member Dando stated that one of the financing areas involves land by Almaden Winery that was set aside for a library and if still in the long term plan, suggested the possibility of a combined usage with a library and a fire station since Station 17 is inadequate to serve the area. Upon motion by Council Member Fiscalini, Council Member Dando, and unanimously carried, Resolution Nos. 67527, entitled: “A Resolution of the Council of the City of San José Approving Financing Proceedings to Finance Capital Improvements Within the Geographic Boundaries of the City, Approving Issuance of Lease Revenue Bonds by the City of San José Financing Authority for Such Purpose, and Approving Related Documents and Official Actions”; Resolution No. 67528, entitled: “A Resolution of the Council of the City of San José Approving Issuance by the City of San José Financing Authority of Lease Revenue Bonds”, and Resolution No. SJFA-24, entitled: “Resolution of the Board of Directors of the City of San José Financing Authority Authorizing the Issuance and Sale of Lease Revenue Bonds in the Maximum Aggregate Principal Amount of Not to Exceed \$10,000,000 to Finance Capital Improvements, and Approving Related Documents and Official Actions”, were adopted. Vote: 11-0-0-0.

The San José Financing Authority portion of the meeting was adjourned at 4:37 p.m.

- 900 (1) Adoption of resolutions relating to the formation of the Community Facilities District (CFD) No. 1 for the Capitol Expressway Auto Mall:**
- (a) Resolution of intention to establish a Community Facilities District and to authorize the levy of special taxes.**
  - (b) Resolution to incur bonded indebtedness in an amount not to exceed \$4,100,000.**
  - (c) Resolution authorizing the City Manager to negotiate and execute agreements with MacKay & Soms to serve as engineering consultant in an amount not to exceed \$495,000.**
- (Finance/Public Works)**
- (2) Adoption of resolutions with regard to Evergreen Specific Plan Area:**
- (a) Resolution of intention to form Community Facilities District No. 2 (Aborn-Murillo), and authorizing the levy of special taxes within the proposed District.**
  - (b) Resolution of intention to form Community Facilities District No. 3 (Silverland-Capriana), and authorizing the levy of special taxes within the proposed District.**
  - (c) Resolution authorizing the City Manager to negotiate and execute an amendment to the cooperation agreement between the City and the Evergreen Specific Plan Developers regarding an interim mechanism for securing payments under the agreement.**

**(Public Works)**  
**[Renumbered From 6f(9)]**

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated June 5, 1997, recommending adoption of said resolutions of intention to form Community Facilities Districts No. 2, No. 3, and authorizing the levy of special taxes within the proposed districts. (2) Memorandum from Director of Finance, John V. Guthrie, dated June 17, 1997, recommending adoption of said resolution relating to the formation of the Communities Facilities District No. 1 for the Capital Expressway Auto Mall. (3) Memoranda from City Attorney Joan R. Gallo, dated June 24, 1997, recommending adoption of a resolution authorizing the City Manager to negotiate and execute said amendment to the cooperation agreement between the City and the ESP Partnership and Developers.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposed action. Upon motion by Council Member Fiscalini, Council Member Dando, and unanimously carried, Resolution No. 67529, entitled: "A Resolution of the Council of the City of San José of Intention to Establish Community Facilities District No. 1 (Capitol Expressway Auto Mall) and to Authorize the Levy of Special Taxes"; Resolution No. 67530, entitled: "A Resolution of the Council of the City of San José of Intention to Incur Bonded Indebtedness of Proposed Community Facilities District No. 1 (Capitol Expressway Auto Mall)"; Resolution No. 67531, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute and Agreement with McKay and Somps to Serve as Engineering Consultant for Design of Certain Public Improvements to be Financed by Community Facilities District No. 1 (Capitol Expressway Auto Mall) in an Amount Not to Exceed \$495,000"; Resolution No. 67532, entitled: "A Resolution of the Council of the City of San José of Intention to Establish Community Facilities District No. 2 (Aborn-Murillo) and to Authorize the Levy of Special Taxes"; Resolution No. 67533, entitled: "A Resolution of the Council of the City of San José of Intention to Establish Community Facilities District No. 3 (Silverland-Capriana) and to Authorize the Levy of Special Taxes"; Resolution No. 67534, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Cooperation Agreement Between the City and Evergreen Specific Plan Developers", were adopted. Vote: 11-0-0-0.

**9pp Recommendation on retirement program for Mayor and Council. (City Manager's Office)**  
**[Renumbered from 6f(4)]**

Documents filed: Memorandum from City Manager Regina V.K. Williams, dated June 20, 1997, recommending authorization for the City Manager to pursue an agreement with California Public Employees Retirement System (PERS) for the administration of an elected officials' retirement program retroactive to July 1, 1995.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposed action. Vice Mayor Fernandes stated she could not support the retroactivity provision, a benefit City employees have been requesting and which is currently under consideration as part of the City's negotiations with employee bargaining groups. Mayor Hammer stated Council is not being asked to decide whether they want to be in a retirement system or want retroactivity, but whether the majority of the City Council want Staff to do more work on this issue, which would involve negotiating a package with PERS and evaluating what the cost would be to provide retroactivity to other employees. City Manager Regina V.K. Williams explained there are two separate retroactivity issues: one involving the plan itself, for which Staff is recommending retroactivity to 1995 when the Salary Setting Commission first recommended a retirement plan for the Council, and stated Staff recommends the second issue dealing with provisions to permit the buying of service credit be studied and if Council chooses to proceed, the provision be made available to all City employees. Council Member Fiscalini stated PERS is the only legitimate option available to the Council since the Federated System is not applicable to Council Members. Pointing out that Mayor Hammer will have spent 14 years in service to the City without any retirement benefits, he stated the benefit would be a small gesture to those who make the kind of commitment that is represented on the dais, and one that is long overdue. He noted that County Supervisors are in the PERS system and stated he supports the recommendation to instruct the Administration to proceed with work on this issue and with making the benefit available to the Council. Mayor Hammer stated she will have spent 16.5 years on the City Council at the end of her tenure, but the important issue is that people employed by the City, whether regular employees, Council Assistants or Council Members, should all be treated equitably. Council Member Pandori stated he agrees philosophically with an entitlement to retirement benefits, but because the Council has not approved the recommendation the Salary Setting Commission made in 1995, he does not support retroactivity to 1995, does not think rules should be applied to Council which do not apply to other employees and does not support the Staff recommendation. City Manager Regina V.K. Williams stated Staff recommended the plan be retroactive to 1995 because if Staff had been able to bring the issue to the Council sooner, Council Members could have been in the plan since 1995 based on the Salary Setting Commission's recommendation. She explained the provision to buy service credits--which would permit Council Members serving prior to 1995 to purchase additional credits--is included in the recommendation not for implementation but for study of Citywide applicability. Council Member Fiscalini pointed out that both City employee bargaining groups now have reciprocity provisions with PERS. Council Member Dando concurred with the concerns expressed by Vice Mayor Fernandes and Council Member Pandori on retroactivity and timing of the report and stated she does not support the recommendation. Mayor Hammer stated the plan with PERS will come back to the Council for another vote and following a longer study, the issue of making a buy-back provision available to City employees will come back to the Council. Council Members Woody and Diaz expressed support for the Staff recommendation. Upon motion by Council Member Fiscalini, seconded by Council Member Woody, and unanimously carried, the Staff recommendation dated June 20, 1997, authorizing the City Manager to pursue an agreement with California Public Employees Retirement System for the administration of an elected officials' retirement

program retroactive to July 1, 1995, was approved. Vote: 8-3-0-0. Noes: Dando, Fernandes, Pandori.

**9qq Discussion on Traffic and Parking (TPP) Plan for simultaneous events at Arena Green.**  
**[Housing and Community Development Committee referral 6/20/97 - Item 7d(1)]**

Documents filed: See Housing and Community Development Committee Report of June 20, 1997, Item 7d(1), filed in City Council Minutes of June 24, 1997.

Discussion/Action: Council Member Powers stated the Committee had deferred recommendations on venue guidelines and traffic plans pending outstanding questions, particularly regarding costs; however, the Billy Graham Crusade came forward with a need to use both the Arena and the Arena Green area, and the Committee brought the item forward to have guidelines in place before any event uses the Arena Green area. Council Member Pandori moved approval of the report and actions of the June 20, 1997 Housing and Community Development Committee meeting. Council Member Diaz seconded the motion. In response to Council Member Pandori, Conventions, Arts and Entertainment Director Johnson stated changes were made in the Staff recommendation which would have allowed attendance of 8,000 subsequent to discussions with the Arena Management and the Housing and Community Development Committee, to allow the Graham Crusade to use the entire Arena Green at a maximum capacity of 16,000 at their request. She stated Staff plans to review the appropriateness of the traffic plan to the Crusade event to be held in late September and report back to the Housing and Community Development Committee in October 1997 and to review the Traffic and Parking Plan for any further changes before doing further permitting. She explained that the original venue use guidelines indicated a maximum capacity of 16,000 and Staff believes 15,000 to 16,000 people can be seated comfortably within the Arena Green, given the other infrastructure and amenities needed to support the Crusade event, especially since Crusade attendees in the Arena Green area will be seated on the ground rather than on chairs, and stated parking and traffic control has been planned for the event. On a call for the question, the motion carried unanimously, and Council accepted the report and action of the June 20, 1997 Housing and Community Development Committee report, which tentatively accepted the Staff's revised Traffic and Parking Plan recommendations for the period ending September 30, 1997, and directing that established coordination be included in the guidelines and Staff return to the October Housing and Community Development Committee meeting for a debriefing of the Crusade event. Vote: 11-0-0-0.

**9rr Approval of an Interim Operating Agreement with the History Museums of San José (HMSJ) for a ninety-day period commencing July 1, 1997 to September 30, 1997, with a disbursement of \$22,624 per month to fulfill the scope of services. (City Manager's Office)**  
**(Rules Committee referral 6/18/97)**  
**[Renumbered from 6e(68)]**

Documents filed: Memorandum from Deputy City Manager Kay Winer, dated June 17, 1997, recommending approval of said agreement with the History Museums of San José.

Discussion/Action: Vice Mayor Fernandes moved approval of the Staff recommendation and introduced Keith Cakebread, Interim Director of the History Museums of San José. Council Member Powers seconded the motion. On a call for the question, the motion carried unanimously, the Interim Operating Agreement was approved, and its execution authorized. Vote: 11-0-0-0.

## **FISCAL AFFAIRS**

### **10a Adoption of a resolution approving the rates for Fiscal Year 1997-98 Sewer Service and Use Charge/Storm Drainage Services Use Charge. (City Manager's Office)**

Documents filed: Memorandum from Budget Director Larry D. Lisenbee, dated June 20, 1997, recommending adoption of said resolutions.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, Resolution No. 67535, entitled: "A Resolution of the Council of the City of San José Setting a Schedule of Sewer Service and Use Charges for Fiscal Year 1997-98 and Setting a Schedule of Storm Drainage Service Charges for Fiscal Year 1997-98", was adopted. Vote: 11-0-0-0.

### **10b PUBLIC HEARING and adoption of a resolution confirming the Report of the Director of Planning, Building and Code Enforcement, as may be modified by Council, regarding the recovery of abatement costs for vacant and unsecured properties for Blight and Housing Code Violations, and ordering that notices of lien for the unpaid abatement costs be recorded as an assessed charge against the properties involved. CEQA: Exempt. (Planning, Building and Code Enforcement)**

Documents filed: None.

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

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

- (1) Authorizing the Human Services Administrator to execute the Community Development Block Grant (CDBG) Agreement and to take any other actions necessary to implement the 1997-98 Program, including executing and amending agreements with Community Based Organizations funded through CDBG and the General Fund.**
- (2) Designating the Director of Planning, Building and Code Enforcement, as the certifying officer for purposes of complying with the National Environmental Policy Act (NEPA) requirements of the Community Development Block Grant Program.**  
**(Parks, Recreation and Neighborhood Services)**

Documents filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated June 5, 1997, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Diaz, and unanimously carried, Resolution No. 67536, entitled: "A Resolution of the Council of the City of San José (1) Authorizing the Human Services Administrator to execute the CDBG Grant Agreement with the Department of Housing and Urban Development (HUD), and to take any Other Actions Necessary to Implement the 1997-98 Program, Including Executing and Amending Agreements with Community Based Organizations Funded Through CDBG and the General Fund, a (2) Designating the Director of City Planning, Building and Code Enforcement as the Certifying Officer for Purposes of Complying with the National Environmental Policy Act (NEPA) Requirements of the Community Development Block Grant", was adopted. Vote: 11-0-0.

## **CLOSED SESSION REPORT**

City Attorney Joan Gallo disclosed the following Closed Session actions of June 24, 1997:

A. Authority to Enter a Litigation Case as Amicus Curiae:

1. Case Name: Robert Coleman, et al. v. County of Santa Clara

Adverse party or parties: Robert Coleman

Substance of litigation: This is an action challenging County Measures A and B.

Council Vote: Ayes: Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Woody; Hammer.

Noes: None.

Absent: None.

Abstain: None.

2. Case Name: Landgate, Inc. v. California Coastal Commission

Adverse party or parties: Landgate, Inc.

Substance of litigation: Damages sought for an alleged temporary taking when an administrative error delayed the issuance of a permit.

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

3. Case Name: Sacramento County Fire Protection District v. Assessment Appeals Board II

Adverse party or parties: Assessment Appeals Board II

Substance of litigation: A taxing agency claimed standing to secure a writ of mandate requiring the county assessment appeals board to conduct its proceedings as required by law.

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

4. Case Name: Rider v. City of San Diego

Adverse party or parties: Rider

Substance of litigation: This action challenges the power of a joint powers authority to issue bonds in excess of the power of a charter city-member and also questions whether constitutional requirements relating to debt and voter approval apply to long-term leases.

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

## **ORAL COMMUNICATIONS**

- (1) Regina Mayor addressed the Council regarding legislative issues.
- (2) Cathy Brandhorst spoke about societal issues.

**ADJOURNMENT**

The Council of the City of San José adjourned at 5:00 p.m. in memory of James Kawamoto, Accounting Technician for General Ledger in Finance Accounting; and in memory of Alexandria Tapia, daughter of San José Firefighter Mike Tapia and Bridgette Tapia.

**SUSAN HAMMER, MAYOR**

**ATTEST:**

**PATRICIA L. O’HEARN, CITY CLERK**