

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, AUGUST 12, 1997

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

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

Upon motion unanimously adopted, the City Council recessed to a Closed Session at 9:35 a.m. in Room 600 to (A) confer with Legal Counsel pertaining to existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider the following cases: Beck, et al. v. Mazda Motor Corporation, et al.; City of San José v. City of Milpitas; McCarthy, et al. v. City of San Jose; (B) to confer with Legal Counsel - Anticipated Litigation - concerning one (1) matter pertaining to significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code; and (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6 with respect to the following: City Negotiator–City Manager designee Lynn Boland: Employee Organization: Municipal Employees Federation.

By unanimous consent, Council reconvened from the Closed Session, recessed at 11:30 a.m., and reconvened at 1:38 p.m. in Council Chambers, City Hall.

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

INVOCATION

Ms. Joyce Randall, teacher and entrepreneur, sang the National Anthem. (District 7)

PLEDGE OF ALLEGIANCE

Vice Mayor Fernandes led in the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

5a Presentation of plaques to Linda Christensen for 2 years service on the Library Commission; to Sue Ferdig for 4 1/2 years service, to Dennis Hickey for 4 years service, to Judith Huntington for 2 years 11 months service, to Janis Karp for 1 year service, to Kully Mandon for 1 year service, to Ronald Shaw for 1 year service, and

to Dennis Ward for 2 years service on the Parking Advisory Commission; to Karl Kato for 4 years service, and to Johnnie McGuire for 5 years service on the Child Care Commission; to RaeLene San Miguel for 4 years service on the Disability Advisory Commission; to Ramon Laconico, Jr. for 3 years 7 months service, to Nathaniel Newman for 6 years 11 months service, and to Moses Taylor for 4 years service on the Traffic Appeals Commission. (Mayor)

Documents Filed: None.

Discussion/Action: Vice Mayor Fernandes presented plaques to Sue Ferdig, Karl Kato, Nathaniel Newman, and Dennis Ward and thanked them for their service to the City of San José. The plaques will be mailed to the honorees that were unable to attend the ceremony.

ORAL COMMUNICATIONS

Representing Municipal Employees Federation, AFSCME Business Agent Richard Sharp submitted into the public record 600 letters informing the City Council of the employees' dissatisfaction with the offer of a 2.5% salary increase. Patricia Ramos—Vice President of MEF and Louis Johnson—Chief Steward, MEF, addressed Council on the current contract negotiations between the City of San José and MEF.

CONSENT CALENDAR

Upon motion by Council Member Fiscalini, seconded by Council Member Diaz and unanimously carried, the Consent Calendar was approved and the below listed actions were taken as indicated. Vote: 10-0-1-0. Absent: Hammer.

Minutes for Approval

6a(1) Regular Meeting of May 20, 1997

Documents Filed: Minutes of the regular meeting of May 20, 1997.

Discussion/Action: The Minutes were approved. Vote: 10-0-1-0. Absent: Hammer.

6a(2) San José Financing Authority Meeting of May 20, 1997

Documents Filed: Minutes of San José Financing Authority of May 20, 1997.

Discussion/Action: The Minutes were approved. Vote: 10-0-1-0. Absent: Hammer.

6a(3) Regular Meeting of May 27, 1997

Documents Filed: Minutes of the regular meeting of May 27, 1997.

Discussion/Action: The Minutes were approved. Vote: 10-0-1-0. Absent: Hammer.

6a(4) Adjourned Regular Meeting of May 29, 1997

Documents Filed: Minutes of adjourned regular meeting of May 29, 1997.

Discussion/Action: The Minutes were approved. Vote: 10-0-1-0. Absent: Hammer.

Plans and Specifications

- 6d(1) TRACT NO. 8453 - Easterly terminus on Story Lane, 900 feet east of Clayton Road - Greystone Homes, Inc. (Developer) - 51 detached residential lots. Adoption of resolutions approving the final map, contract, and approval of a parkland agreement for Tract No. 8453. CEQA: ND. District 8.**

(Public Works)

(Rules Committee referral 8/6/97)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 1, 1997, recommending Council adopt said resolutions.

Discussion/Action: Resolution No. 67548, 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. 8453"; Resolution No. 67549, entitled: "A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8453", Resolution No. 67550, 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. 8453", were adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6d(2) TRACT NO. 8931 - Northeasterly terminus of Ashridge Lane north of Yerba Buena Road - Lion Estates, a California Limited Partnership (Developer) - 38 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. 8931. CEQA: ND. District 8. (Public Works)**

(Rules Committee referral 8/6/97)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 1, 1997, recommending Council adopt said resolutions.

Discussion/Action: Resolution No. 67551, 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. 8931"; Resolution No. 67552, entitled: "A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8931", Resolution No. 67553, 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. 8931"; and Resolution No. 67554, 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. 8931", were adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6d(3) TRACT NO. 8983 - West side of Capitol Avenue northerly of Fallingtree Drive and opposite Via Cinco de Mayo - Braddock and Logan L.P. (Developer) - 40 single family detached residential lots. Adoption of a resolution approving the final map for Tract No. 8983. CEQA: ND. District 4. (Public Works)
(Rules Committee referral 8/6/97)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 1, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67555, entitled: "A Resolution of the Council of the City of San José Approving and Accepting the Final Map of Tract 8983", was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6d(4) TRACT NO. 8988 - Easterly side of Basking Ridge Avenue, north of Veranda Way - Shea Homes Limited, (Developer) - 159 multi-family residential lots. Adoption of a resolution approving the final map for Tract No. 8988. CEQA: Resolution No. 65660. District 2. (Public Works)
(Rules Committee referral 8/6/97)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 1, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67556, entitled: "A Resolution of the Council of the City of San José Approving and Accepting the Final Map of Tract No. 8988", was adopted. Vote: 10-0-1-0. Absent: Hammer.

Contracts/Agreements

- 6e(1) Adoption of a resolution authorizing the Director of Aviation to apply for, accept, and execute upon receipt, a grant agreement with the Federal Aviation Administration (FAA) for the Airport Improvement Program (AIP) 39 in the amount of \$322,755, for a portion of one (1) parcel of land acquired under the Land Approach Protection Program, and a mobile (Robot) bomb unit and transport vehicle security equipment. CEQA: Resolution No. 45493. (Airport)**

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated July 25, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67557, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Aviation to Execute and Submit an Application to the Federal Aviation Administration for a Grant Under Airport Improvement Program 39 in an Amount Not to Exceed \$322,755, to Accept the Grant if Awarded, and to Execute All Related Documents", was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6e(2) Adoption of a resolution authorizing the City Manager to negotiate and execute agreements with the following Chambers of Commerce for business services for the period July 1, 1997 to June 30, 1998:**
- (a) Black Chamber of Commerce in the amount of \$60,000.**
 - (b) Filipino-American Chamber of Commerce in the amount of \$60,000.**
 - (c) Hispanic Chamber of Commerce in the amount of \$150,000.**
 - (d) Portuguese Chamber of Commerce in the amount of \$60,000.**
 - (e) Vietnamese Chamber of Commerce in the amount of \$60,000.**
- (Economic Development)**

Documents Filed: (1) Memorandum from Director of Economic Development, Leslie S. Parks, dated July 25, 1997, recommending Council approve agreements with the Black, Filipino-American, Portuguese, and Vietnamese Chambers of Commerce for FY 1997-98. (2) Memorandum from Director of Economic Development, Leslie S. Parks, dated July 25, 1997, recommending Council approve an agreement with the Hispanic Chamber of Commerce to provide business services for a term of July 1, 1997 through June 30, 1998.

Discussion/Action: Council Member Pandori stated the Japanese-American Chamber of Commerce has expressed concern regarding the City's program to fund various ethnic Chambers of Commerce. He stated the JACC's proposed contracts and agreements are consistent with those of other Chambers, however, funds were not appropriated for the JACC. He asked that Staff meet with the officials of the organization regarding their concern and report back to Council. Resolution No. 67558, entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute Agreements With Ethnic Chambers of Commerce to Promote Small Business Development Within the City", was adopted, and Staff directed to meet with officials of the Japanese-American Chamber of Commerce and report back at the Mid-year Budget Review regarding funding consideration by the Council. Vote: 10-0-1-0. Absent: Hammer.

- 6e(3) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1997-98 #4, and authorization for the Director of General Services to execute the purchase orders.**
- (General Services)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated July 25, 1997, recommending Council award said open purchase orders list, and authorize the Director of General Services to execute the purchase orders.

Discussion/Action: The award of open purchase orders List No. 4 for FY 1997-98 was approved and execution of the purchase orders authorized. Vote: 10-0-1-0. Absent: Hammer.

- 6e(4) (a) Report on quotes and award of a maintenance contract for District #15 in the amount of \$60,960, to L & L Landscape Services, Inc., for the period**

September 1, 1997 to January 31, 1998, and authorization for the Director of General Services to issue the purchase order.

- (b) Adoption of a resolution authorizing the Director of General Services to exercise two (2) 1-year options for the maintenance contract for District #15 with L & L Landscape Services, Inc. , for a total cost for the first complete year of \$146,280, and the cost for the second option year based on a CPI adjustment not to exceed 7%, contingent upon Council approval of funding.
(General Services)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated July 25, 1997, recommending Council award said maintenance contract for District #15 and adopt said resolution.

Discussion/Action: The report on quotes and award of contract to L & L Landscape Services, Inc., were approved and the authorization for the issuance of the purchase order granted; and Resolution No. 67559, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Exercise Two (2) One-Year Options for the Maintenance Contract for District #15 With L&L Landscape Services, Inc., for a Total for the First complete Year of \$146,280 and the Cost for the Second Option Year Based on a CPI Adjustment Not to Exceed 7% Contingent Upon Council Approval of Funding", was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6e(5) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with East Side Union High School District on behalf of Piedmont Hills High School for costs associated with the purchase and installation of bleachers and light standards in the amount of \$100,000.**

CEQA: Exempt.

[Deferred from 8/5/97 - Item 6e(3)(b)]

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated July 18, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67560, "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 East Side Union High School District for the Purchase and Installation of Bleachers and Light Standards in an Amount Not to Exceed \$100,000", was adopted. Vote: 10-0-1-0. Absent: Hammer.

Routine Legislation

- 6f(1) Adoption of appropriation ordinance and funding sources resolution amendments to various capital projects in the City-side Redevelopment Capital Fund with a net total impact on the fund of \$191,963. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated July 28, 1997, recommending Council adopt said appropriation ordinance and funding sources resolution.

Discussion/Action: Ordinance No. 25408, “An Ordinance of the City of San José Amending Ordinance No. 25390 Which Appropriates Moneys in the Services for Redevelopment Capital Projects Fund for Various Capital Projects, With a Net Impact on the Fund of \$191,963; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 67561, entitled: “A Resolution of the Council of the City of San Jose Amending Resolution No. 67424 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1997-98 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund”, were adopted. Vote: 10-0-1-0. Absent: Hammer.

6f(2) Adoption of appropriation ordinance and funding sources resolution amendments in the General Fund increasing the Library grants appropriation in the Library Department by \$10,000 for the 1997-98 Building Community Support for California Public Libraries Grant. (City Manager’s Office)

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated July 25, 1997, recommending Council approve said appropriation ordinance amendments in the General Fund.

Discussion/Action: Ordinance No. 25409, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25390 Which Appropriates Moneys in the General Fund in the Amount of \$10,000 to Increase the Library Grants Appropriation for the 1997-98 Building Community Support for California Public Libraries Grant; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 67562, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 67424 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1997-98 to Adjust Revenues in the General Fund”, were adopted. Vote: 10-0-1-0. Absent: Hammer.

6f(3) Adoption of resolutions to amend:

(a) Resolution No. 51872, Exhibit 99, to:

(1) Create the classes of:

[a] Fund Development Specialist (U) (FT) (8014) at a salary range of 58E.

[b] Fund Development Specialist (U) (PT) (8016)) at a salary range of 58E.

[c] Manager of Continuous Improvement (8046)) at a salary range 63I.

(2) Revise and re-title the class of Principal Civil Engineer (3816) to Principal Division Manager (3816) at the same salary range.

- (3) **Revise the salary range of Assistant to the Director of Finance for Debt Administration (1286) at a salary range of 63I.**
- (b) **Resolution No. 66092, Exhibit 07, to create the class of Senior Process and Systems Specialist (1367) at a salary range of 61I.**
- (c) **Resolution No. 66961, Exhibit 21, to revise the salary range of Assistant to the Director of Finance for Debt Administration (1286) at a salary range of 63I.**

(Human Resources)

Documents Filed: (1) Supplemental memorandum from Director of Human Resources, Nona Tobin, dated August 7, 1997, correcting the resolution number referenced in the Amendment to Salary Resolution memorandum of July 25, 1997. (2) Memorandum from Director of Human Resources, Nona Tobin, dated July 25, 1997, recommending Council adopt said resolutions.

Discussion/Action: Resolution No. 67563, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 51872 to Amend Exhibit 99 to (1) Create the Classes of Fund Development Specialist (U) (FT) (8014), Fund Development Specialist (U) (PT) (8016), Manager of Continuous Improvement (8046), and (2) Revise and Re-title the Class of Principal Civil Engineer (3816) to Principal Division Manager (3816), Effective August 24, 1997”, was adopted; Item 6f(3)(a)[3], to revise and re-title the class of Principal Civil Engineer to Principal Division Manager at the same salary range, was dropped; Resolution No. 67564, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 66092 Amending Exhibit I of the Memorandum of Agreement Between the City of San José and Municipal Employees Federation (AFSCME) Local 101, Unit 7 (General Supervisory Employees) to Create the Class of Senior Process and Systems Specialist (1367), Effective August 24, 1997”; and Resolution No. 67565, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 66961 Amending Exhibit I of the 6f(3) Memorandum of Agreement Between the City of San José and Association of Management Personnel (CAMP), Unit 21, to Revise the Salary Range of Assistant to the Director of Finance for Debt Administration (1286), Effective August 24, 1997”, were adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6f(4) Adoption of a resolution to amend Resolution No. 67500 to correct the following:**
 - (a) **Salary range, A which currently is at 75A to 86F, be changed to 78A to 86F: \$4,513.60 to \$6,842.40 bi-weekly.**
 - (b) **Create salary range B1 from 74G to 83B: \$3,827.20 to \$5,791.20 bi-weekly and remove the Deputy City Manager from this salary range.**
 - (c) **Create salary range B2 from 73G to 82B: \$3,644.80 to \$5,516.00 bi-weekly and include the Deputy City Manager in this salary range.**
 - (d) **Include the Director of Parks, Recreation, and Neighborhood Services and the Director of Information Technology in salary range B1; remove the Director of Information Technology from salary range C.**
 - (e) **The current title “Manager of Employee Relations” should be revised to Employee Relations Manager, and the title “Community Education and**

Public Information Manager” revised to Manager of Public Education and Community Information.

- (f) Include the Assistant to the City Manager for Intergovernmental Relations in salary range D.**
- (g) Salary range E that currently is at 55A to 63F should be changed to 57A to 65F: \$1,620.80 to \$2,455.20 bi-weekly.**
- (h) Salary range H that currently is at 68I to 77I should be changed to 68I to 77D: \$2,884.00 to \$4,365.60 bi-weekly.**
- (i) Include Deputy Fire Chief in salary range H.
(Human Resources)**

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated July 25, 1997, recommending Council adopt said resolution.

Discussion/Action: This item was dropped.

- 6f(5) Adoption of a resolution authorizing the City Attorney to execute a commitment letter to the Department of Housing and Urban Development (HUD) as part of a grant application by Monte Alban Apartments for a Safe Neighborhood Grant in the amount of \$250,000, to accept the grant on behalf of the City if awarded, and to execute related documents. (City Attorney’s Office)
(Rules Committee referral 8/6/97)**

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated August 5, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67566, entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Execute a Commitment Letter to the Federal Department of Housing and Urban Development as Part of a Grant Application of Monte Alban Apartments for a Safe Neighborhood Grant in the Amount of \$250,000, to Accept the Grant, if Awarded, and to Execute Related Documents on Behalf of the City to Apply for, Accept, or Implement This Grant”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6f(6) Approval of an ordinance amending Chapter 2.08 of the San José Municipal Code to renumber Section 2.08.470 as Section 2.08.1270.
(City Attorney’s Office)
(Rules Committee referral 8/6/97)**

Documents Filed: None.

Discussion/Action: Ordinance No. 25410, entitled: “Ordinance of the City of San Jose Amending Chapter 2.08 of Title 2 of the San José Municipal Code to Renumber Section 2.08.470 as Section 2.08.1270”, was passed for publication. Vote: 10-0-1-0. Absent: Hammer.

- 6f(7) Approval of a city-sponsored League of California Cities resolution calling upon the State to return local revenues, including local property taxes lost through the Educational Revenue Augmentation Fund (ERAF). (Mayor)
(Rules Committee referral 8/6/97)**

Documents Filed: None.

Discussion/Action: This item was dropped.

- 6f(8) Approval of Council Member Charlotte Powers' travel to Houston, Texas, on August 2-4, 1997, to meet with the investment managers for the Police and Fire Retirement Fund. Funding: Police and Fire Retirement Fund. (Powers)
(Rules Committee referral 8/6/97)**

Documents Filed: None.

Discussion/Action: The travel to Houston, TX, for Council Member Powers to meet with the investment managers for the Police and Fire Retirement Fund was approved. Vote: 10-0-1-0. Absent: Hammer.

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7a Report of the Committee of the Whole - Meeting of June 2, 1997

Documents Filed: Committee of the Whole Report of June 2, 1997.

- (1) FY 1997-98 Capital Improvement Program, 1998-2002 CIP and Proposed Fees and Charges

The Committee accepted Staff presentations on the Proposed 1997-98 Capital Budget, the 1998-2002 Capital Improvement Program, and the 1997-98 Fees & Charges Report.

Report of the Committee of the Whole - Meeting of June 9, 1997

Documents Filed: Committee of the Whole Report of June 9, 1997.

- (1) New Realities Task Force Recommendation: 1.01 - Zero Based Budgeting - Pilot Program. Attachments: (1) *The New Realities Task Force Recommendation: 1.01 - Zero Based Budgeting Pilot Program* report, dated May 1997, submitted by the City Manager's Office. (2) Hard copies of transparencies used in Staff presentation of the *Program and Performance Base Budgeting* report.

The Committee accepted program reviews on the Zero Based Budgeting Pilot Program involving the Department of Streets & Traffic and the Water Pollution

Control Division of the Environmental Services Department, and directed Staff to schedule a meeting in August, 1997, for a comprehensive presentation and discussion of performance measurements.

(2) Discussion on Manager's Budget Addenda

The Committee discussed various issues contained in the budget documents and directed Staff to implement additional recommendations to MBA #15, #18, #25, #28, #30, #31 and #33.

Report of the Committee of the Whole - Meeting of June 16, 1997

Documents Filed: Committee of the Whole Report of June 16, 1997.

- (1) Mayor Hammer's Proposed FY 1997-98 Budget Modifications. Attachments: (1) Memorandum from Mayor Hammer, dated June 11, 1997, proposing Budget Modifications for FY 1997-98. (2) Memorandum from Council Member Shirakawa, Jr., dated June 13, 1997, pointing out a previously accepted change, which needs to be reflected in the Mayor's Proposed Budget Modifications Memorandum. The Committee accepted recommendations contained in the Mayor's Budget Modifications Memorandum and the recommendations proposed by Council Members Woody and Shirakawa, Jr.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Johnson and unanimously carried, the Committee of the Whole reports and actions of June 2, 1997, June 9, 1997, and June 16, 1997 were accepted. Vote: 10-0-1-0. Absent: Hammer.

7b Report of the Rules Committee - August 6, 1997

Documents Filed: Rules Committee Report of August 6, 1997.

- (4) Legislative Report 97-07. Attachment: Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated July 31, 1997, submitting the Legislative Report 97-07, the recommended City positions for each bill, and individual bill analyses and coordination information.

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

AB 940 (Miller)
Public Works Contracts: Retention
Recommended City Position: OPPOSE

AB 1070 (Campbell)
Design Professionals: Indemnification

Recommended City Position: OPPOSE

SB 885 (Watson)

AIDS: Clean Needle Exchange Pilot Programs

Recommended City Position: SUPPORT IF AMENDED

- (5) Approve modifications to City sponsored League of California Cities policy resolutions. Attachments: (1) Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated July 31, 1997, recommending approval of the modifications to the City-sponsored League of California Cities (LCC) policy resolutions, and a one-week turnaround requested for full Council consideration to meet LCC deadline for submission. (2) Memorandum from Director of Intergovernmental Relations, Georgiana Flaherty, dated August 11, 1997, recommending approval of the recommendations in the Rules Committee memorandum of July 31, 1997 on City-sponsored League of California Cities (LCC) and National League of Cities (NLC) policy resolutions with specific modifications.

The Committee forwarded the Electric Utility Restructuring resolution to the Council without recommendation pending working to conform with the LCC position and recommended dropping the proposed LCC resolution relating to Municipal Liability under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Woody and unanimously carried, the Rules Committee Report and actions of August 6, 1997 were accepted. Vote: 10-0-1-0. Absent: Hammer.

LAND USE AND DEVELOPMENT

- 8a PUBLIC HEARING ON APPEAL OF THE CERTIFICATION by the Planning Commission of the Environmental Impact Report for a Site Development Permit (File No. HSH 96-08-064) for approximately 48 acres of office/research and development uses totaling up to 859,000 square feet, located on both sides of O'Nel Drive, between Guadalupe Parkway and Karina Court.
District 4**
- 8b PUBLIC HEARING ON MITIGATION PLAN of the property located on both sides of O'Nel Drive, between the Guadalupe Parkway and Karina Court, for a development project to allow up to 865,000 square feet of office/research and development uses on 48 gross acres (Novell, Inc., Owner/Developer). CEQA: EIR Resolution to be adopted. Director of Planning recommends approval. No Planning Commission action required.
District 4
(Continued from 8/5/97 - Item 15f)**

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated August 6, 1997, recommending Council uphold the certification by the Planning Commission of the Environmental Impact Report for the *Novell Inc. North San José Campus*, finding it adequate and complete under CEQA. (2) Declaration of Mailing of the Notice of Public Hearing on the appeal of the Planning Commission decision, dated August 1, 1997. (3) Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated July 18, 1997, recommending Council approve the Mitigation Plan and adopt a resolution making the appropriate statement of overriding considerations for impacts as recommended in the Plan. (4) Notice of Public Hearing on the Mitigation Plan of the subject property, dated July 11, 1997.

Discussion/Action: Vice Mayor Fernandes opened the public hearings on the appeal of the Planning Commission's certification of the subject EIR and on the Mitigation Plan for the subject property. She stated public testimony and Council discussion on each item could occur simultaneously, but that each item requires separate action. Director of Planning, Building and Code Enforcement, James R. Derryberry, assured Council that Planning Staff has reviewed the appeal and provided a report responding to each point in the appeal, and that the Planning Commission has certified the Final EIR as complete and in conformance with CEQA. He stated the Mitigation Plan report identifies (a) impacts for which mitigations are included in the project and/or for which there are feasible mitigations recommended as conditions of approval and, therefore, no statement of overriding considerations is required; (b) impacts for which there are no feasible mitigations and/or identified mitigations do not completely reduce the significant impact, and therefore, a statement of overriding considerations is required; and (c) impacts for which the implementation of the feasible mitigation measures requires the approval of another jurisdiction, in this case Milpitas, and, therefore, a statement of overriding considerations is required. He stated the written or oral comments submitted on the EIR do not raise any new environmental impacts not already adequately addressed in the EIR certified by the Planning Commission, and that Staff recommends adoption of a resolution making the appropriate statement of overriding considerations for impacts as recommended. Randall Knox, Vice President of California Site Operations, Novell, Inc., spoke in support of the North San José Campus project development proposed by Novell, Inc. Vern Granneman, attorney for the appellant, McCarthy Ranch located in Milpitas, CA, asked Council to grant the appeal and return the EIR to Planning for revisions consistent with the comments made. Michael P. Evanhoe, Director of Congestion Management Program, Valley Transportation Authority, asked Council to condition the Project to construct or contribute to the construction of the Northbound Light Rail Station Improvements, the appropriate Bus Stop Improvements, and Improvements to the Regional Transportation System. He requested Staff use the same threshold of significance for traffic impact analysis in North San José as in the rest of the City for environmental documents. Planning Director Derryberry responded to speakers' comments regarding the Project's consistency with the San José 2020 General Plan, and the impacts of the Project on traffic and air quality. In response to Council Member Johnson's question regarding the addition of the bus stop and the light rail shelter, Staff stated the Mitigation Plan includes that "The applicant shall pay the Deficiency Plan fee

of \$362 per peak hour trip and shall coordinate with the City in its efforts to construct the Transit Shelter at the Karina LRT Station, and that the applicant shall improve the existing bus stop(s) located along the project's North First Street frontage to provide shelters, signage, lighting, trash bins and/or benches to the satisfaction of the Director of Public Works and the Valley Transportation Agency". Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, the public hearing on the appeal of the certification was closed; Council found that the Environmental Impact Report for the *Novell, Inc. North San José Campus* is complete and conforms to the requirements of CEQA, denied the appeal, and upheld the Planning Commission Certification of the Final Environmental Impact Report. Vote: 10-0-1-0. Absent: Hammer. Regarding the Mitigation Plan, Item 8b, Council Member Powers stated the EIR identified project and cumulative noise, traffic, air quality and loss of burrowing owl habitat impacts as significant and unavoidable. She stated 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, will increase the City's share of Countywide industrial development, and improve the City's jobs/ housing balance; and that these benefits outweigh the significant unavoidable environmental impacts. Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, the public hearing on the Mitigation Plan was closed; the Mitigation Plan was approved with direction to Staff to incorporate the Mitigation Plan into all appropriate project approvals, and Resolution No. 67567, entitled: "A Resolution of the City Council of the City of San José Making Certain Findings Concerning Mitigation Measures, Adopting a Mitigation Monitoring and Reporting Program, Making Findings Concerning Alternatives and, Adopting a Statement of Overriding Considerations in Accordance With the California Environmental Quality Act for the Novell, Inc. North San José Development Project for Which an Environmental Impact Report Has Been Prepared", was adopted. Vote: 10-0-1-0. Absent: Hammer.

GENERAL GOVERNMENT

- 9a Adoption of a resolution authorizing the Director of Aviation to submit an application for, and execute upon receipt, a grant agreement with the Federal Aviation Administration (FAA) for the Airport's Acoustical Treatment Program (ACT) in the amount of \$2,654,901. CEQA: Exempt. (Airport)**

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated July 25, 1997, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Diaz and unanimously carried, Resolution No. 67568, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Aviation to Execute and Submit an Application to the Federal Aviation Administration for a Grant for the Airport Acoustical Treatment Program in an Amount Not to Exceed \$2,654,901, to Accept the Grant if Awarded, and to Execute All Related Documents", was adopted. Vote: 10-0-1-0. Absent: Hammer.

9b PUBLIC HEARING regarding the formation of Community Facilities District No. 2 (Aborn-Murillo) (“CFD No. 2”) and adoption of resolutions:

- (1) Forming CFD No. 2, authorizing the levy of a special tax within CFD No. 2, preliminarily establishing an appropriations limit for CFD No. 2 and submitting levy of the special tax and the establishment of the appropriations limit to the qualified electors in CFD No. 2; and**
- (2) Calling special mailed ballot election in CFD No. 2. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 1, 1997, recommending Council conduct the public hearings and adopt said resolutions. (2) Notice of Public Hearing Regarding Establishment of City of San José Community Facilities District No. 2 (Aborn-Murillo) and Proof of Publication submitted by the City Clerk. (3) Affidavit of Posting of the Notices of Public Hearing Regarding Establishment of Community Facilities District No. 02 (Aborn-Murillo) & Regarding Establishment of Community Facilities District No. 03 (Silverland-Capriana).

Discussion/Action: Vice Mayor Fernandes opened the public hearing regarding the formation of Community Facilities District No. 2. Director of Public Works, Ralph A. Qualls, Jr., stated Items 9b, 9c, and 9d are inter-related and should be considered together with final action on each item recorded separately. He presented background information on the formation of the CFDs, and with the use of transparencies, described four components of the followup post-Proposition 218 of the formation of Community Facilities District in the Evergreen area. He stated CFD2 consists primarily of undeveloped areas and CFD3 of predominantly developed properties with excess of 12 registered voters in each; however, the parcels within the Evergreen Specific Plan (ESP) boundary have no ESP allocations but were included in the CFD 2 Boundary Map which has been recorded. He stated they should be removed from CFD and an amended map recorded at the County within ten days. For the record, he read the following statement: “Three parcels, Assessor’s Parcel Numbers 659-08-017, 659-22-005, and 659-022-015 were included within the boundaries of Community Facilities District 2 (Aborn - Murillo), previously recorded. However, they were not in the Evergreen Specific Plan Benefit Assessment District, which provides for construction of the facilities to be maintained. Therefore, it is recommended that the parcels also be excluded from Community Facilities District 2. The resolution now before the Council which will establish Community Facilities District 2 also will exclude these parcels by approval of a map amending the ‘Boundary Map for Community Facilities District 2 (Aborn - Murillo)’, previously filed at the County Recorder’s Office on July 28, 1997, in Book 31 of Maps of Assessment and Community Facilities Districts at pages 77 and 78”. He recommended Council approve the formation of CFDs 2 & 3 with special elections, the annexations and actions related to the special tax and appropriation limits. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the public hearing was closed and Resolution No. 67569, entitled: “A Resolution of the Council of the City of San José Forming Community Facilities District No. 2 (Aborn-Murillo), Authorizing the Level of a Special Tax Therein, Preliminarily

Establishing an Appropriations Limit Therefor and Submitting Levy of the Special Tax and the Establishment of the Appropriations Limit to the Qualified Electors Thereof”; and Resolution No. 67570, entitled: “A Resolution of the Council of the City of San José Calling a Special Election Regarding the Levy of Special Taxes and the Establishment of An Appropriations Limit”, were adopted with the amendment recommended by Staff. Vote: 10-0-1-0. Absent: Hammer.

9c PUBLIC HEARING regarding the formation of Community Facilities District No. 3 (Silverland-Capriana) (“CFD No. 3”) and adoption of resolutions:

- (1) Forming CFD No. 3, authorizing the levy of a special tax within CFD No. 3, preliminarily establishing an appropriations limit for CFD No. 3 and submitting levy of the special tax and the establishment of the appropriations limit to the qualified electors in CFD No. 3; and**
 - (2) Calling special mailed ballot election in CFD No. 3.**
- (Public Works)**
(Continued from 8/5/97 - Item 15n)

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 1, 1997, recommending Council conduct the public hearing and adopt said resolutions. (2) Notice of Public Hearing Regarding Establishment of City of San José Community Facilities District No. 3 (Silverland-Capriana) and Proof of Publication submitted by the City Clerk.

Discussion/Action: Vice Mayor Fernandes opened the public hearing regarding the formation of Community Facilities District No. 3. Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed and Resolution No. 67571, entitled: “A Resolution of the Council of the City of San José Forming Community Facilities District No. 3 (Silverland-Capriana), Authorizing the Levy of a Special Tax Therein, Preliminarily Establishing an Appropriations Limit Therefor and Submitting Levy of the Special Tax and the Establishment of the Appropriations Limit to the Qualified Electors Thereof”; and Resolution No. 67572, entitled: “A Resolution of the Council of the City of San José Calling a Special Election Regarding the Levy of Special Taxes and the Establishment of an Appropriations Limit”, were adopted. Vote: 10-0-1-0. Absent: Hammer.

9d Adoption of resolutions of intention to annex territory designated as Annexation Areas Nos. 1, 2, and 3 into Community Facilities District No. 2 (Aborn-Murillo), authorizing the levy of special taxes within the Annexation Areas, and setting public hearings regarding the annexation of those Annexation Areas on September 9, 1997 at 1:30 p.m. (Public Works)
(Deferred from 8/5/97 - Item 9b)

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 1, 1997, recommending Council conduct the public hearing and adopt said resolutions. (2) Community Facilities District No. 2 (Aborn-Murillo), and District No. 3 (Silverland-Capriana), CFD Reports prepared by David Taussig & Associates, Inc., dated

July 25, 1997 and August 1, 1997, respectively, submitted into the public record by Darwin Kinghorn, Deputy City Attorney. (3) Certification of Number of Registered Voters for Community Facilities District No. 2 (Aborn-Murillo), executed August 4, 1997.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, Resolution No. 67573, entitled: "A Resolution of the Intention of the Council of the City of San José to Annex Territory Into Community Facilities District No. 2 (Aborn-Murillo) (Annexation Area No. 1), and to Authorize the Levy of Special Taxes", Resolution No. 67574, entitled: "A Resolution of the Intention of the Council of the City of San José to Annex Territory Into Community Facilities District No. 2 (Aborn-Murillo) (Annexation Area No. 2), and to Authorize the Levy of Special Taxes"; and Resolution No. 67575, entitled: "A Resolution of the Intention of the Council of the City of San José to Annex Territory Into Community Facilities District No. 2 (Aborn-Murillo) (Annexation Area No. 3), and to Authorize the Levy of Special Taxes", were adopted with the setting of the public hearing regarding the annexation of those Annexation Areas changed from September 9, 1997 to September 16, 1997 at 1:30 p.m. Vote: 10-0-1-0. Absent: Hammer.

FISCAL AFFAIRS

10a PUBLIC HEARING regarding the formation of Community Facilities District No. 1 (Capitol Expressway Auto Mall) and the levy of a special tax therein. (Public Works/Finance)

Documents Filed: None.

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

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY ITEMS

CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEM 11a 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) (Deferred from 6/24/97 - Item 11a)

Documents Filed: None.

Discussion/Action: This item was deferred to September 2, 1997.

ADJOURN REDEVELOPMENT AGENCY BOARD PORTION OF THE MEETING ORAL COMMUNICATIONS

Cathy S. Brandhorst commented on societal issues in the City of San José.

ADJOURNMENT

The Council of the City of San José was adjourned at 2:55 p.m. in memory of Charlotte (Cindy) Damey, wife of Stewart Damey, General Service employee.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK