

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, AUGUST 26, 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., Woody; Hammer.
Absent: Council Members: None.

Upon motion unanimously adopted, Council recessed at 9:35 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 Dennis v. City of San José, et al. and United States Environmental Protection Agency v. City of San José; and to confer with Labor Negotiator Pursuant to Government Code 54957.6: City Negotiator: City Manager Designee Lynn Boland; Employee Organizations: Municipal Employees Federation and Confidential Employees Organization.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:50 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

Jose and Raquel Plasencia, students at Seven Trees Elementary School, sang "America the Beautiful" in English and Spanish, with Jose accompanying on the guitar. Jose and Raquel were accompanied by their parents, Mr. and Mrs. Plasencia, Patricia L. Soles, Principal of Seven Trees, and Larry Aceves, Superintendent of the Franklin McKinley School District. (District 7)

PLEDGE OF ALLEGIANCE

Members of Boy Scout Troop No. 577 led the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

- 5a Presentation of a commendation to the South Bay Zoological Society & Happy Hollow Park and Zoo staff for the excellent production of the 1997 "Party on the Wild Side". (Pandori)**

(Rules Committee referral 8/20/97)

Documents Filed: None.

Discussion/Action: Council Member Pandori joined Mayor Hammer for presentation of a commendation to Barbara Coats, Family Park Manager for Happy Hollow Park and Zoo, and Zoo Director Dr. Anthony J. Smith, who accepted on behalf of the Staff and volunteers. Council Member Pandori thanked the Staff, Zoo Docents, and volunteers for their work on the successful 1997 “Party on the Wild Side”, and expressed appreciation for the work they do throughout the year. Barbara Coats introduced sponsors Karen Cabello, Marketing, and Community Relations Manager for Hobees and Arnold Carvahal, General Manager of Hobees at Town and Country Village, and Planning Committee Members Vanessa Rogier, Denielle Bone, Monica Rua, Elena Seto and Peggy Rudd. Dr. A. J. Smith introduced the following volunteers: Ann Aldrich, Alisa Ervin, Carolyn Morse, Leah Adams, Johanna Buts, Patty Halsey, Stanley Rosenbaum, Tom Brann, Rob Cotton, Emma Cotton, Darrel Jensen, Jean McNamara, Jim Ward, and the Mendizabal Family. Mayor Hammer expressed appreciation for the dedication of the Staff and volunteers at Happy Hollow Park and Zoo.

**5b Presentation of a commendation to the San José Rhinos for their outstanding 1997 season. (Mayor)
(Orders of the Day 4a)**

Documents Filed: None.

Discussion/Action: Mayor Hammer presented a commendation to Coach Guy Gadowsky and General Manager John Gustafson of the San José Rhinos, which she stated was the first and only team to bring a World Championship to San José by winning the Roller Hockey International Murphy Cup in 1995, and the team distinguished itself in 1997 by reaching the playoffs as the Western Division Champions. John Gustafson thanked the Mayor and City Council for the honor on behalf of the team.

City Manager Regina V. K. Williams introduced Christopher Peterson, who will serve as a Management Intern for one year in the City Manager’s Office.

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: 10-0-1-0. Absent: Shirakawa. Noes: Dando, on Item 6e(1)(a).

Minutes for Approval

6a(1) Regular Meeting of June 3, 1997

Documents Filed: Minutes of June 3, 1997

Discussion/Action: The minutes were approved. Vote: 10-0-1-0. Absent: Shirakawa.

6a(2) Joint City Council/Redevelopment Agency Meeting of June 5, 1997

Documents Filed: Minutes of June 5, 1997

Discussion/Action: The minutes were approved. Vote: 10-0-1-0. Absent: Shirakawa.

6a(3) Regular Meeting of June 10, 1997

Documents Filed: Minutes of June 10, 1997

Discussion/Action: The minutes were approved. Vote: 10-0-1-0. Absent: Shirakawa.

Ordinances for Final Adoption

6b(1) ORD. NO. 25410 - Amends Chapter 2.08 of Title 2 of the San José Municipal Code to renumber Section 2.08.470 as Section 2.08.1270.

Documents Filed: Proof of publication of title of Ordinance No. 25410, submitted by the City Clerk.

Discussion/Action: Ordinance No. 25410 was adopted. Vote: 10-0-1-0. Absent: Shirakawa.

Public Hearings Set by Council

6c(1) This item was removed from the Consent Calendar and heard with Item 11a.

Plans and Specifications

6d(1) Approval of the Parkland Agreement with New Cities Development Group, Tract No. 8656, for neighborhood park improvements to the Almaden Winery Park located on the southeasterly corner of Chambertin Drive and Treviso Avenue. CEQA: Resolution No. 62585. District 10. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 8, 1997, recommending approval of said agreement with New Cities Development Group.

Discussion/Action: The Parkland Agreement with New Cities Development Group, Tract No. 8656, was approved and its execution authorized. Vote: 10-0-1-0. Absent: Shirakawa.

6d(2) TRACT NO. 9006 - Northeast corner of Old Oakland Road and Wayne Avenue - Kaufman and Broad - South Bay, Inc., (Developer) - 92 detached residential lots.

Adoption of resolutions approving the plans, final map, contract, and approval of a parkland agreement for Tract No. 9006. CEQA: ND. District 4. (Public Works) (Rules Committee referral 8/20/97)

Documents Filed: None.

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

Contracts/Agreements

- 6e(1) (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Douglas Hollis to fabricate and install a public artwork at the Repertory Theatre for a total amount not to exceed \$102,000. CEQA: Resolution No. 64173. (Conventions, Arts and Entertainment)**
- (b) 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 \$203,145. (City Manager's Office)**

Documents Filed: (1) Memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated August 8, 1997, recommending adoption of said resolution authorizing the City Manager to negotiate and execute said agreement with Douglas Hollis. (2) Memorandum from Budget Director Larry D. Lisenbee, dated August 12, 1997, recommending approval of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Resolution No. 67594, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Douglas Hollis to Fabricate and Install a Work of Art", was adopted. Vote: 9-1-1-0. Noes: Dando. Absent: Shirakawa. Ordinance No. 25417, entitled: "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 \$203,145; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 67595, entitled: "A Resolution of the Council of the City of San José Amending Revenue 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: Shirakawa.

- 6e(2) Approval of Contract Change Order No. 3 for the San José/Santa Clara Water Pollution Control Plant, South Bay Water Recycling Transmission Pump Station in the amount of \$52,541, for a total contract amount of \$5,941,541. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated August 18, 1997, recommending approval of said Contract Change Order.

(2) Letter from the Treatment Plant Advisory Committee dated August 15, 1997, recommending approval of said Contract Change Order.

Discussion/Action: Contract Change Order No. 3 for the San José/Santa Clara Water Pollution Control Plant, South Bay Water Recycling Transmission Pump Station was approved and its execution authorized. Vote: 10-0-1-0. Absent: Shirakawa.

6e(3) Approval to reject bids and to resolicit bids for the project entitled “San José/Santa Clara Water Pollution Control Plant Old Laboratory Space Conversion in the Administration Building”. CEQA: Exempt. (Environmental Services)

Documents Filed: (!) Memorandum from Director of Environmental Services, Louis N. Garcia, dated August 8, 1997, recommending approval to reject all bids and re-solicit bids for said project. (2) Letter from the Treatment Plant Advisory Committee dated August 15, 1997, recommending rejection of all bids and re-solicitation of the project.

Discussion/Action: The rejection of all bids and re-solicitation of bids for the project was approved. Vote: 10-0-1-0. Absent: Shirakawa.

6e(4) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1997-98 #5, 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, recommending approval of said open purchase orders.

Discussion/Action: The award of open purchase orders List No. 5 was approved and execution of the purchase orders authorized. Vote: 10-0-1-0. Absent: Shirakawa.

6e(5) Adoption of a resolution authorizing the Director of General Services to execute an agreement with Radio Satellite Integrators, Inc. for the purchase of an automatic vehicle location system for the Streets and Traffic and Fire Departments at a total cost of \$143,213.97, including tax. (General Services)

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated August 8, 1997, recommending adoption of said resolution.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposed agreement. Resolution No. 67596, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement with Radio Satellite Integrators, Inc. for the Purchase of an Automatic Vehicle Location System for the Streets and Traffic and Fire Departments”, was adopted. Vote: 10-0-1-0. Absent: Shirakawa.

6e(6) Approval of an amendment to Trust Agreement Designated Pass-through Fund Los Amigos de la Biblioteca Latinoamericana Building Fund, adding the City of San José to the Trust Agreement. (Library)

Documents Filed: Memorandum from City Librarian Jane Light, dated August 8, 1997, recommending approval of the amendment to said Trust Agreement.

Discussion/Action: The amendment to the Trust Agreement Designated Pass-through Fund Los Amigos de la Biblioteca Latinoamericana Building Fund was approved and its execution authorized. Vote: 10-0-1-0. Absent: Shirakawa.

6e(7) Approval of a consultant agreement for consultant services with Fehr & Peers Associates, Inc. for the preparation of the San José Commuter Bikeway Corridor Study in the amount of \$170,000, and additional services in the amount of \$20,000, for a total agreement not to exceed \$190,000. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 8, 1997, recommending approval of said agreement with Fehr & Peers Associates, Inc.

Discussion/Action: The agreement with Fehr & Peers Associates, Inc. was approved and its execution authorized. Vote: 10-0-1-0. Absent: Shirakawa.

6e(8) Approval of an agreement with the Santa Clara Valley Water District to permit the continued public use of Viceroy Way until such time as the District removes the road pursuant to the Watershed Plan for Penitencia Creek. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 8, 1997, recommending approval of said agreement with the Santa Clara Valley Water District.

Discussion/Action: The agreement with the Santa Clara Valley Water District was approved and its execution authorized. Vote: 10-0-1-0. Absent: Shirakawa.

6e(9) Report on bids and award of contract for the South Bay Water Recycling Program (SBWRP) City Facilities - Recycled Water Retrofit Phase I Project to the low bidder, Lone Star Landscape, Inc., in the amount of \$116,198, and approval of a contingency in the amount of \$45,000, pending concurrence by the Treatment Plant Advisory Committee at its September 11, 1997 meeting. CEQA: Resolution No. 64667. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 8, 1997, recommending award of said contract to the low bidder, Lone Star Landscape, Inc., including said contingency, were approved pending concurrence by the Treatment Plant Advisory Committee at its September 11, 1997 meeting.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. The award of contract to the low bidder, Lone Star Landscape, Inc., including said contingency, were approved, pending concurrence by the Treatment Plant Advisory Committee at its September 11, 1997 meeting. Vote: 10-0-1-0. Absent: Shirakawa.

- 6e(10) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement consenting to the assignment of an existing license agreement from Imperio Enterprises, Inc., a California corporation, to Inner City Broadcasting Corporation of Berkeley, a California corporation, and approval of an amendment to the license agreement. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 8, 1997, recommending approval of said resolution.

Discussion/Action: Resolution No. 67597, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement Consenting to the Assignment of an Existing License Agreement with Imperio Enterprises, Inc. to Inner City Broadcasting Corporation of Berkeley and Amending the License Agreement", was adopted. Vote: 10-0-1-0. Absent: Shirakawa.

- 6e(11) Approval of a reuse/recycling reporting agreement with The Salvation Army, in the amount of \$95,000.**

[Deferred from 8/19/97 - Item 6e(2)(b)]

Documents Filed: See Item 6e(2)(b) filed in City Council Minutes of August 19, 1997.

Discussion/Action: The agreement with The Salvation Army was approved and its execution authorized. Vote: 10-0-1-0. Absent: Shirakawa.

- 6e(12) Approval of an agreement with Eclipse Systems for consultant services for project management and technical coordination of the COPS MORE 1996 Grant Project for the period September 1, 1997 to June, 1998, in an amount not to exceed \$75,000. (Police)**

[Deferred from 8/19/97 - Item 6e(7)]

Documents Filed: None.

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

Routine Legislation

- 6f(1) Approval of Civil Service Commissioner Bill Brill's travel to Minneapolis, Minnesota, on September 6-10, 1997 to attend the International Personnel Management Association's Training Conference on Public Personnel Administration. Funding: Citywide Board and Commission Travel Budget. (City Clerk)**

Documents Filed: Memorandum from City Clerk, Patricia L. O’Hearn, dated August 11, 1997, requesting approval of the request for Civil Service Commissioner Bill Brill’s travel to Minneapolis, Minnesota, on September 6-10, 1997, to attend the International Personnel Management Association’s Training Conference on Public Personnel Administration.

Discussion/Action: The request for Civil Service Commissioner Bill Brill to travel to Minneapolis, Minnesota, on September 6-10, 1997 to attend the International Personnel Management Association’s Training Conference on Public Personnel Administration , was approved. Vote: 10-0-1-0. Absent: Shirakawa.

- 6f(2) Adoption of a resolution ratifying submission of an application to the Corporation for National and Community Service for San José to be approved as an AmeriCorps designated site and to the U.S. Department of Justice for a grant to fund an AmeriCorps Weed and Seed JustServe Team for San José in an amount not to exceed \$81,000, for the period October 1, 1997 to September 30, 1998, to accept the grant if awarded, and to execute all related documents. (Parks, Recreation and Neighborhood Services/Police/Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, Chief of Police Louis A. Cobarruviaz, and James Derryberry, Director of Planning, Building and Code Enforcement, dated August 8, 1997, recommending adoption of said resolution.

Discussion/Action: Resolution No. 67598, entitled: “A Resolution of the Council of the City of San José Ratifying the Submission of Grant Applications for the AmeriCorps Weed and Seed JustServe Team Program and to Accept the Grant, if Awarded”, was adopted. Vote: 10-0-1-0. Absent: Shirakawa.

- 6f(3) Approval of Council Member Charlotte Powers’ travel to New York and Philadelphia on September 16-18, 1997, for small capitalization investment manager search. Funding: Police and Fire Retirement. (Powers)**

Documents Filed: None.

Discussion/Action: The request for Council Member Charlotte Powers’ travel to New York and Philadelphia on September 16-18, 1997, was approved. Vote: 10-0-1-0. Absent: Shirakawa.

- 6f(4) Approval of Council Member Charlotte Powers’ travel to Portland, Oregon on August 27, 1997 and Pasadena, California on September 25, 1997, for small capitalization investment manager search. Funding: Police and Fire Retirement. (Powers)**

Documents Filed: None.

Discussion/Action: The request for Council Member Charlotte Powers' travel to Portland, Oregon on August 27, 1997 and Pasadena, California on September 25, 1997, were approved. Vote: 10-0-1-0. Absent: Shirakawa.

- 6f(5) Acceptance of an easement from Solid State Optronics, Inc., the owner of real property located at 2 North First Street, for the placement of utility equipment in the building in conjunction with the Santa Clara Street Sidewalk Improvement Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 8, 1997, recommending approval of the acceptance of said easement from Solid State Optronics, Inc.

Discussion/Action: The acceptance of said easement from Solid State Optronics, Inc., was approved and its execution authorized. Vote: 10-0-1-0. Absent: Shirakawa.

- 6f(6) Acceptance of the Second Quarter 1997 San José Arena Authority Ticket Distribution Program Report. (San José Arena Authority)**

Documents Filed: Memorandum from Chris Morrissey, Executive Director, San José Arena Authority, dated August 11, 1997, submitting the Second Quarter 1997 San José Arena Authority Ticket Distribution Program Report.

Discussion/Action: The Second Quarter 1997 San José Arena Authority Ticket Distribution Program Report was accepted. Vote: 10-0-1-0. Absent: Shirakawa.

- 6f(7) Approval of Council Assistant Dave Garretson's travel to Las Vegas, Nevada, on September 26-28, 1997, to attend the regional conference on the findings of the U.S. Secretary of Labor's Task Force on Excellence in State and Local Government Through Labor Management Cooperation. Funding: District 7 office budget. (Shirakawa, Jr.)**

Documents Filed: None.

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

- 6f(8) Approval for City Manager Regina V.K. Williams to travel to the City of Quito, Ecuador, September 3-10, 1997, as a participant in the International City Manager's Association (ICMA) International Resource Cities Program - Partners with Quito Project. (City Manager's Office)
(Rules Committee referral 8/20/97)**

Documents Filed: Memorandum from City Manager Regina V.K. Williams, dated August 25, 1997, requesting approval for said travel to City of Quito, Ecuador, September 3-10, 1997.

Discussion/Action: The request for City Manager Regina V.K. Williams to travel to the City of Quito, Ecuador, September 3-10, 1997, was approved. Vote: 10-0-1-0. Absent: Shirakawa.

6f(9) Adoption of resolutions to modify and supersede:

- (a) **Resolution No. 67369 to add new rates for use of the Convention and Cultural Facilities by federal agencies.**
- (b) **Resolution No. 66993 to include the Conventions, Arts and Entertainment Director's authority to sign Facility Use Agreements with federal agencies with certain modifications.**

(Conventions, Arts and Entertainment)

(Rules Committee referral 8/20/97)

Documents Filed: Memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated August 20, 1997, recommending adoption of said resolutions.

Discussion/Action: Resolution No. 67599, entitled: "A Resolution of the Council of the City of San José to Revise the Rate Schedule for the Convention Center and Other Related Facilities Managed by the City's Department of Conventions, Arts and Entertainment"; and Resolution No. 67600, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Conventions, Arts and Entertainment to Negotiate and Execute Facility Use Agreements to Allow Use of Portions of the Convention and Cultural Facilities", were adopted. Vote: 10-0-1-0. Absent: Shirakawa.

6f(10) Adoption of a resolution:

- (a) **Approving the feasibility study for the Northside Senior Housing Project proposed for development on a 0.79 acre City-owned site (the Empire Corporation Yard) at the southwest corner of Seventh and Empire Streets.**
- (b) **Authorizing the Director of Housing to issue a Request for Qualifications (RFQ) to affordable housing developers for the subject senior housing project, including the possibility of transferring the property at less than full-market value.**

(Housing) (Rules Committee referral 8/20/97)

Documents Filed: None.

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

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - August 13, 1997

Documents Filed: Rules Committee report of August 13, 1997.

(1) Review of August 26 Council Agenda

The Committee approved the August 26, 1997 Council agenda with three additions.

(2) Add New Items to August 19 Amended Council Agenda

The Committee recommended seven additions to the August 19, 1997 amended Council agenda.

(3) The Public Record. Attachment: (1) Memorandum from City Clerk Patricia L. O'Hearn, dated August 7, 1997, listing the items transmitted to the Administration and those items filed for the Public Record for the period July 30 - August 5, 1997. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated August 5, 1997, summarizing actions taken on the items transmitted to the Administration and those items filed for the Public Record for the period July 30 - August 5, 1997.

The Committee noted and filed the Public Record.

(4) Report back on graffiti proof containers. Attachment: Memorandum from Mark Linder, Acting Director of Parks, Recreation and Neighborhood Services, dated August 5, 1997, reporting that graffiti proof containers are still in the development stage and anti-graffiti staff will continue to monitor the issue.

The Committee referred Mr. Linder's report to the Youth, Seniors and Neighborhood Services Committee.

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

There were none.

(6) City Council and Rules Committee meeting schedules

There were none.

(7) Oral communications

None presented.

(8) Adjournment

The meeting was adjourned at 2:40 p.m.

Discussion/Action: Upon motion by Vice Mayor Fernandes, seconded by Council Member Johnson, and unanimously carried, the Rules Committee report and actions of August 13, 1997, were accepted. Vote: 10-0-1-0. Absent: Shirakawa.

7c Report of the Finance/Agency Finance Committee - August 13, 1997

Documents Filed: Finance/Agency Finance Committee report of August 13, 1997.

- (1) Monthly Investment Report for May 1997. Attachment: Memorandum from Director of Finance, John Guthrie, dated June 24, 1997, submitting the May 1997 Investment Report.

The Committee noted and filed the report..

- (2) Monthly Investment Report for June 1997. Attachment: Memorandum from Director of Finance, John Guthrie, dated July 27, 1997, submitting the June 1997 Investment Report

The Committee noted and filed the report.

- (3) Fire Fleet Assessment Report Attachment: Memorandum from Director of General Services, Ellis M. Jones, Jr., dated August 1, 1997, submitting the Fire Fleet Assessment report for the 3rd and 4th quarters of FY 1996-97.

The Committee accepted the report with the provision that Staff reports continue on a semi-annual basis, and that the additional information requested by Member Johnson be included in the report.

- (4) Request for Business Tax Exemption Amendment under Special Circumstances. Attachment: Memorandum from Finance Director Guthrie, dated August 8, 1997, recommending the Council: (a) Direct the City Attorney to amend the City of San José business tax ordinance to delegate to the Director of Finance the authority to assess the business tax without imposing penalties and interest, when an error has occurred by staff regarding the jurisdiction in which the business is located, as specified therein, and (b) Approve the Staff recommendation to the Rules Committee of May 20, 1997, to not exempt from the business tax any business located within the City of San José boundaries that can provide documentation and evidence that City staff erroneously informed the business it was located in a jurisdiction other than the City of San José, as indicated.

Due to the lack of a majority vote, the item was referred back to the full Council.

See Item 9f for council action taken.

- (5) Adoption of Committee Workplan for August - December 1997. Attachment: Committee Workplan for August-December, 1997.

The Committee noted and filed the report.

- (6) Oral petitions

None presented.

- (7) Adjournment

The meeting was adjourned at 10:13 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Johnson, and unanimously carried, the Finance/Agency Finance Committee report and actions of August 13, 1997, were accepted. Vote: 10-0-1-0. Absent: Shirakawa.

7d Report of the Housing and Community Development Committee - August 11, 1997

Documents Filed: Housing and Community Development Committee report of August 11, 1997.

- (1) Consent Calendar

- (a) Quarterly Report on the Project Development Program. Attachment: Memorandum from Director of Housing, Alex Sanchez, dated July 21, 1997, submitting the Fourth Quarter FY 1996-97 Project Development Report.
- (b) Quarterly Report on the Housing Rehabilitation Program. Attachment: Memorandum from Director of Housing, Alex Sanchez, dated July 23, 1997, submitting the FY 1996-97 Housing Rehabilitation Program Report.
- (c) Quarterly Report on the Housing and Homeless Fund. Attachment: Memorandum from Director of Housing, Alex Sanchez, dated July 23, 1997, submitting the Fourth Quarter FY 1996-97 Housing and Homeless Fund Report.
- (d) Quarterly Report on Public Art. Attachment: Memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated July 31, 1997, submitting the Fourth Quarter FY 1997 Public Art Report.

The Committee accepted the reports.

- (2) Contractor Selection in the Paint Grant Program. Attachment: Memorandum from Director of Housing, Alex Sanchez, dated July 25, 1997, reporting changes to begin September 1997 in the Paint Grant Program to incorporate City Council suggestions for the contractor selection process.

The Committee accepted the report.

- (3) Discussion of Council Policy to Disperse Affordable Housing throughout the City. Attachment: Memorandum from Director of Housing, Alex Sanchez, dated July 28, 1997, reporting on revisions to the Proposed Dispersion Policy to clarify that Census Tracts surrounding the “impacted area” in the Downtown should be considered as if they were in this “impacted area.”

The Committee approved the Dispersion Policy.

See Item 9e for council action taken.

- (4) Analysis of Impediment to Fair Housing. Attachment: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated August 1, 1997, recommending approval of the 1997 Update of the City of San José Analysis of Impediments to Fair Housing Choice as part of the 1995-2000 Consolidated Plan.

The Committee approved the Staff report, and asked that more collaboration on fair housing issues take place between Parks, Recreation and Neighborhood Services and Housing Departments on goals and objectives, legislative issues, and to provide a status report on the Request for Proposal for education, outreach, and mediation services.

- (5) Approval of August - December 1997 Workplan. Attachment: Committee Workplan for August-December 1997.

The Committee approved the Workplan.

- (6) Adjournment

The meeting was adjourned at 10:54 p.m.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Diaz, and unanimously carried, the Housing and Community Development Committee report and actions of August 11, 1997, were accepted. Vote: 10-0-1-0. Absent: Shirakawa.

7e Report of the Transportation, Planning, and Environment Committee - August 14, 1997

Documents Filed: Transportation, Planning, and Environment Committee report of August 14, 1997.

- (1) Consent Calendar
 - (a) Hazardous Materials Program Semiannual Report. Attachment: Memorandum from Fire Chief Robert Dorman, dated August 14, 1997,

submitting the Hazardous Materials Program Report for the period January 1, 1997 through June 30, 1997.

The Committee noted and filed the report, directed Lacy Atkinson to work with City Attorney's Office to produce a new performance measure for review, and work the facility compliance issues into the administrative citations.

- (2) Report and Recommendation on Airport Security. Attachment: Memorandum from Aviation Director Ralph G. Tonseth, dated June 27, 1997, reporting on actions taken by the Airport Department in response to the Council's referral on April 8, 1997 of recommendations made by Vice Mayor Fernandes regarding airport security.

The Committee requested Staff return to the Committee in six months with a status report on the demonstration project at the San José International Airport and support pursuing the project by corresponding with the League of California Cities and the National Congress of Cities, and to work with delegations to support their lobbying for Silicon Valley on this issue.

- (3) Quarterly Status Report on the South Bay Water Recycling Program (SBWRP). Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated August 5, 1997, recommending approval of the 2nd Quarter 1997 South Bay Water Recycling Program Status Report.

The Committee accepted the report.

- (4) Annual Report for the Urban Runoff Management Program
 - (a) Report and Recommendation for the Urban Runoff Management Program. Attachment: Memorandum from Director of Environmental Services, Louis N. Garcia, dated August 5, 1997, recommending the Council authorize the City Manager to submit the Annual Report for the Urban Runoff Management Plan to the Regional Board in conformance with the City's Municipal Separate Storm Water National Pollutant Discharge Elimination System permit requirements, pursuant to the federal Clean Water Act.

The Committee approved the Staff recommendations.

- (5) Transportation, Planning, and Environment Committee Workplan. Attachment: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated August 14, 1997, submitting the workplan for August - December 1997.

The Committee added to the Workplan the Status Report on the Riparian Corridor and directed staff to include in this report how the policy is being implemented;

Planning, Building and Code Enforcement is the responsible department; Staff directed to consolidate small TPE meetings; the September 25 meeting has been canceled.

(6) Oral petitions

None presented.

(7) Adjournment

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

Discussion/Action: Upon motion by Council Member Johnson, seconded by Council Member Fernandes, and unanimously carried, the Transportation, Planning, and Environment Committee report and actions of August 14, 1997, were accepted. Vote: 10-0-1-0. Absent: Shirakawa.

GENERAL GOVERNMENT

- 9a (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 to defer consideration of standards regarding wages and benefits to future Council discussion of broader issues such as the impacts of welfare reform and prevailing wage.**

(Economic Development)

(Deferred from 6/24/97 - Item 9ii)

Documents Filed: None.

Discussion/Action: This item was deferred to September 23, 1997.

- 9b **Approval of an agreement with Black & Veatch for Capital Improvement Program consulting engineering services, for the period September 15, 1997 to October 31, 2001, in an amount not to exceed \$1,060,000, and for additional services in an amount not to exceed \$100,000, for a total amount not to exceed \$1,160,000. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated August 18, 1997, recommending approval of said agreement with Black & Veatch. (2) Letter from the Treatment Plant Advisory Committee dated August 15, 1997, recommending approval of said agreement.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Upon motion by Council Member Fiscalini, seconded by Council Member

Johnson and unanimously carried, the agreement with Black & Veatch was approved and its execution authorized. Vote: 11-0-0-0.

9c Adoption of resolutions authorizing the City Manager to negotiate and execute the following:

- (1) Customer Retrofit Grant agreements for recycled water with the following customers:**
 - (a) San José Municipal Golf Course in the amount of \$550,000.
(This item dropped from the Agenda)
 - (b) Oak Hill Funeral Home & Memorial Park in the amount of \$200,000.
 - (c) Silver Creek Valley Country Club in the amount of \$175,000.
- (1) Customer Retrofit Grant agreements for recycled water with the following customers:**
 - (d) Franklin-McKinley School District in the amount of \$110,000.
 - (e) San José/Evergreen Community College District in the amount of \$130,000.
 - (f) East Side Union High School District in the amount of \$105,000.
 - (g) San José Unified School District in the amount of \$35,000.
 - (h) Great Mall of the Bay Area in the amount of \$15,000.
 - (i) Ford Motor Land Development in the amount of \$41,000.
 - (j) County of Santa Clara/Elmwood Correctional Facility in the amount of \$90,000.
- (2) Customer Retrofit Grant and Loan Agreement with The Villages Golf and Country Club in the amount of \$314,000.**
- (3) Adoption of a resolution clarifying that grants can be provided under Resolution No. 66568, so long as the grant amount does not exceed \$500 per acre-foot of annual water use or \$150,000.**

CEQA: Resolution No. 64667. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated August 8, 1997, recommending adoption of said resolutions. (2) Letter from the Treatment Plant Advisory Committee dated August 15, 1997, recommending approval of said resolutions.

Discussion/Action: William J. Garbett addressed the Council in opposition to 9c(1)(b). Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the Customer Retrofit Grant agreements with San José Municipal Golf Course was dropped, and Resolution No. 67601, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Customer Retrofit Grant Agreements in a Total Amount Not to Exceed \$901,000"; Resolution No. 67602, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Villages Golf and Country Club to Provide a Grant in an Amount Not to Exceed \$200,000 and a Zero Percent Interest Loan in an Amount Not to Exceed \$114,000 for Recycled Water Retrofit Improvements", and Resolution No. 67603, entitled: "A Resolution of the Council of the City of San José Clarifying that Resolution No. 66568 Authorizes the City

Manager to Negotiate and Execute Grant Agreements for the South Bay Water Recycling Retrofit Program in Individual Amounts Not to Exceed \$150,000 so Long as the Grant Amount does not Exceed \$500 Per Acre Feet of Annual Water Use”, were adopted. Vote: 11-0-0-0.

- 9d Approval of award of a service order to Digital Equipment Corporation for computer hardware and software maintenance for the Information Technology and Environmental Services Departments for an amount not to exceed \$340,432.49, including tax, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents Filed: (1) Memorandum from Director of General Services, Ellis M. Jones, Jr., dated August 8, 1997, recommending award of said service orders to Digital Equipment Corporation.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, the award of a service order to Digital Equipment Corporation was approved and the Director of General Services authorized to execute the purchase order. Vote: 11-0-0-0.

- 9e Adoption of a resolution approving the revised Dispersion Policy for Affordable Housing Development.**
[Housing and Community Development Committee referral 8/11/97 - Item 7d(3)]

Documents Filed: (1) See Item 7d(3) for the Staff Report on this item. (2) Letter from the Affordable Housing Network, dated August 21, 1997, expressing support for the proposed policy.

Discussion/Action: Saul Wachter, Affordable Housing Network, reaffirmed the AHN’s support for the original Dispersion Policy presented by the Department of Housing in March, 1997 to the Housing and Community Development Committee and stated that subsequent revisions were unacceptable because all of them propose to limit access in parts of Districts 3 and 5 to the benefits of City-assisted affordable housing. Council Member Powers stated the Committee has been dealing with the proposed policy for over a year, attempting to make it as positive and inclusive as possible Citywide and quoted from the proposed Policy Statement: “No area of the City should be arbitrarily precluded from consideration as a site for affordable housing”. Council Member Diaz stated the proposed revision does not preclude more affordable housing in San José, especially in East San José, and expressed his desire for market rate, higher quality housing as well as affordable housing in East San José. He stated the proposed policy will facilitate more opportunity for affordable housing and not concentrate on certain areas while still permitting sensitivity to those areas that still have impact. Council Member Pandori concurred with previous Council comments and stated an important policy that is fundamental to the proposal before the Council is integration. He stated the policy would not reduce the amount of money available for affordable housing, but rather will enable the Council to choose to spend the money in a way that promotes the economic

integration of the City, which will simultaneously achieve ethnic integration. He stated the policy will not preclude low-income housing in either District 5 or District 3, and noted the next two SRO projects in the City will be built in District 3, making the highest concentration of SROs in the City in District 3. He stated policy is not discriminatory and, responding to speaker comments, stated for the record that the word “undesirable” is not in the proposed policy, and affirmed his support for a mixture of housing projects in the City. Upon motion by Council Member Diaz, seconded by Council Member Pandori and unanimously carried, Resolution No. 67604, entitled: “A Resolution of the Council of the City of San José Approving a Revised Dispersion Policy for Affordable Housing”, was adopted. Vote: 11-0-0-0.

**9f Discussion regarding Business Tax Exemption amendment under special circumstances.
[Finance/Agency Finance Committee referral 8/13/97 - Item 7c(4)]**

Documents Filed: See Item 7c(4) for the Staff report and the Finance Committee action.

Discussion/Action: The discussion of Business Tax Exemption amendment under special circumstances, as described, was deferred to September 9, 1997. Vote: 11-0-0-0.

9g Adoption of appropriation ordinance and funding sources resolution amendments in various funds to provide an additional \$15,000,000 for the Water Pollution Control Plant Bufferland Acquisition Project. (City Manager’s Office/Environmental Services) (Rules Committee referral 8/20/97)

Documents Filed: None.

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

9h Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the San José Convention & Visitors Bureau for promotion and marketing services for the period September 1, 1997 to August 31, 2000, in an amount not to exceed \$4,685,604 in the first year of the agreement. (Conventions, Arts and Entertainment) (Rules Committee referral 8/20/97)

Documents Filed: Memorandum from Nancy Johnson, Director of the Department of Conventions, Arts and Entertainment, dated August 21, 1997, recommending authorizing the City Manager to negotiate and execute said agreement.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 67605, 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 San José Convention and Visitors Bureau for 1997-2000”, was adopted. Vote: 11-0-0-0.

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)**
(Continued from 8/12/97 - Item 10a)

Documents Filed: None.

Discussion/Action: The public hearing was continued from August 12, 1997. William J. Garbett addressed the Council in opposition to the proposal, and the public hearing was continued to September 9, 1997.

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY ITEMS

The Council of the City of San José convened the Redevelopment Agency Board at 2:15 p.m. to consider Item 11a and Item 6c(1) in a joint session.

- 11a Approval by the City Council and Agency Board of a schedule for consideration of the Fairmont Hotel Annex project, including setting dates for public hearings to consider landmark status for the Montgomery Hotel.**
(Deferred from Redevelopment Agency Board 8/21/97 - Item 8a)
[This item heard with item 6c(1)]

Documents Filed: Memorandum from Redevelopment Agency Executive Director Frank M. Taylor, and City Manager Regina V.K. Williams, dated August 11, 1997, recommending the City Council and the Agency Board approve and direct the Redevelopment Agency and the Planning Staff to meet the following schedule for the Montgomery Hotel and the Fairmont Hotel Annex: (1) Release Draft Supplemental Environmental Impact Report - September 4, 1997; (2) Landmarks Commission Public Hearing on the building's Landmark Status - October 1, 1997; (3) City Council Public Hearing on Landmark Status - October 21, 1997; (4) Planning Commission Hearing on the Draft Supplemental Environmental Impact Report - November 19, 1997; (5) City Council Hearing on the Mitigation Plan and DSEIR Appeal (if an appeal is filed) - December 16, 1997; (6) City Council and Agenda Board Hearing on the Disposition and Development Agreement - December 18, 1997, and (7) Planning Commission Hearing on the Fairmont Annex Conditional Use Permit - January 14, 1998.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Upon motion by Council Member Fiscalini, seconded by Council Member Johnson, and unanimously carried, the Staff recommendation dated August 11, 1997, was approved. Vote: 11-0-0-0.

- 6c(1) (a) Setting a City Council public hearing on October 21, 1997 at 1:30 p.m. to consider the Montgomery Hotel as a landmark of special historic, architectural, cultural, aesthetic, or engineering interest or value of a historic nature.**

- (b) **Refer the proposed landmark designation back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.**

CEQA: Exempt. (Planning, Building and Code Enforcement)

[Deferred from 8/19/97 - Item 6c(1)]

[This item was heard with Item 11a)]

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated August 1, 1997, recommending Council initiate proceedings to consider the Montgomery Hotel as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature, refer the proposed landmark designation back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation, and set a City Council public hearing on October 21, 1997 at 1:30 p.m.

Discussion/Action: William J. Garbett addressed the Council in opposition to the proposal. Upon motion by Council Member Fiscalini, seconded by Council Member Johnson, and unanimously carried, the setting of a City Council public hearing on October 21, 1997 at 1:30 p.m. to consider the Montgomery Hotel as a landmark of special historic, architectural, cultural, aesthetic, or engineering interest or value of a historic nature was approved, and the proposed landmark designation was referred back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation. Vote: 11-0-0-0.

The Redevelopment Agency Board portion of the meeting adjourned at 2:17 p.m.

ORAL COMMUNICATIONS

Cathy Brandhorst addressed the Council on environmental and governance issues.

ADJOURNMENT

The Council of the City of San José adjourned at 2:19 p.m.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK