

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, OCTOBER 7, 1997

The scheduled 9:30 a.m. Closed Session and the 1:30 p.m. Regular Session of the Council of the City of San Jose were cancelled, and the City Council convened in the Evening Session at 7:06 p.m., Council Chambers, City Hall.

Present: Council Members: Dando, Diaz, Diquisto, Fiscalini, Johnson, Pandori (entered at 7:25 p.m.), Powers, Shirakawa, Jr., Woody; Fernandes.

Absent: Council Members: Hammer (excused).

INVOCATION

Council Member Diquisto delivered the Invocation, as The Reverend Paul Wrightsman, Peace in the Valley Community Church, was unable to attend the meeting. (District 9)

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, rescinding deferral of Item 9a, were approved. Vote: 9-0-2-0. Absent: Pandori; Hammer.

CEREMONIAL ITEMS

- 5a Presentation and recognition of the San José Central Valley Mercury Under 18 Girls Soccer Team who won its second national title and will be honored on the back of a Team Cheerios box. (Dando)**

Documents Filed: None.

Discussion/Action: Joining Vice Mayor Fernandes at the Podium, Council Member Dando presented the commendation to Team Captains Danielle Slayton, Ali Wagner, and Team Coach Wagner in recognition of the Team's accomplishments: Best Girls Soccer Team in the Country; Winner of Six State Championships, Four Regional Championships, and Two National Championships.

- 5b Presentation of a proclamation declaring October as "KICU Television - Channel 36 month." (Mayor)
(Rules Committee referral 10/1/97)**

Documents Filed: None.

Discussion/Action: On behalf of KICU Television, Channel 36, President and General Manager Jim Evers, and Vice President and Comptroller of Operations Bill Beeman

accepted the proclamation which was presented by Vice Mayor Fernandes.

Council Member Pandori entered the meeting during discussion of Item 9b.

GENERAL GOVERNMENT

9b Public Hearing on the Status of New Realities Implementation Effort. (City Manager's Office)

Documents Filed: (1) Memorandum from City Manager, Regina V.K. Williams, dated October 3, 1997, recommending Council accept the report and direct the Administration to continue its effort to fully implement the Workplan. (2) Letter from City Auditor, Gerald A. Silva, dated October 7, 1997, submitting the status of the Management Audit of the San José Police Department.

Discussion/Action: City Manager Williams stated the status report, consisting of three main sections, complies with the provision approved by the Council resolution which was adopted on October 29, 1996. With the presentation of the report, she stated the Administration has successfully completed each of the project milestones required and remains on tract to successfully complete the remaining milestones. She stated 10 of the 34 recommendations have been completed and 7 will be considered by Council by the end of November, 1997. She expressed appreciation to all program participants for their support and cooperation throughout the process which has enabled the City to fundamentally change the manner in which business is conducted. City Auditor, Gerald A. Silva, stated the preliminary survey phase of the Management Audit of the Police Department Management has been completed; however, the progress on the Audit was temporarily delayed because of Council direction to Staff to perform an immediate study on additional police radio channel staffing requirements for six channels versus eight channels. He stated the Radio Dispatch evaluation was completed and the results are scheduled for presentation at the October 22, 1997 Finance Committee meeting with recommendation to the full Council. He stated the Staff has resumed work on the Management Audit with anticipated completion date in March of 1998. Ron McPherson spoke in support of the efforts of the New Realities Task Force. Upon motion by Council Member Johnson, seconded by Council Member Powers and unanimously carried, the status reports on the New Realities Implementation Effort and the Management Audit of the San José Police Department, were accepted with direction to the Administration to continue its effort toward full implementation of the Workplan. Vote: 10-0-1-0. Absent: Hammer

CONSENT CALENDAR

Upon motion by Council Member Johnson, seconded by Council Member Powers 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 August 19, 1997

Documents Filed: Minutes of the regular meeting of August 19, 1997.

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

6a(2) Joint City Council/Redevelopment Agency Meeting of August 21, 1997

Documents Filed: Minutes of the joint meeting of August 21, 1997.

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

6a(3) Regular Meeting of August 26, 1997

Documents Filed: Minutes of the regular meeting of August 26, 1997.

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

Public Hearings Set by Council

6c(1) Adoption of a resolution setting a public hearing on October 28, 1997 at 1:30 p.m. to consider the sale and loan of \$136,350 to the St. Joseph Cathedral Foundation of City-owned properties at 133-135 Fox Avenue and 367 North 14th Street for use as housing for very low-income families. (Housing)

Documents Filed: (1) Memorandum from Director of Housing, Alex Sanchez, dated September 19, 1997, recommending Council adopt said resolution. (2) Notice of Public Hearing canceling the Public Hearing on the transfer of said properties to St. Joseph Cathedral Foundation, dated October 2, 1997, and Proof of Publication submitted by the City Clerk. (3) Notice of Public Hearing to consider the conveyance of said City-owned properties, dated October 2, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: This item was dropped.

Plans and Specifications

6d(1) TRACT NO. 9007 - South west corner of Senter Road and Sylvandale Avenue - Braddock & Logan Group, L.P. (Developer) - 29 detached residential units. Adoption of resolutions approving the plans, final map, contract, and approval of the Parkland Agreement for Tract No. 9007. CEQA: ND. District 7. (Public Works) (Rules Committee referral 10/1/97)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 26, 1997, recommending Council adopt said resolutions.

Discussion/Action: Resolution No. 67671, 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. 9007”; Resolution No. 67672, entitled: “A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 9007”, Resolution No. 67673, 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. 9007”, were adopted. Vote: 10-0-1-0. Absent: Hammer.

Contracts/Agreements

- 6e(1) Approval of a first amendment to the consultant agreement with Coakley Heagerty Companies Ltd. for the “Mug Shots” waste prevention program, increasing the compensation by \$25,425, from \$35,575 to \$61,000, and extending the term of the agreement by three (3) months, from October 31, 1997 to January 31, 1998. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated September 19, 1997, recommending Council approve the first amendment to said agreement.

Discussion/Action: The first amendment to the consultant agreement with Coakley Heagerty Companies Ltd., was approved and execution of the amendment authorized. Vote: 10-0-1-0. Absent: Hammer.

- 6e(2) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1997-98 #8, 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 September 19, 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. 8 for FY 1997-98 was approved and execution of the purchase orders authorized. Vote: 10-0-1-0. Absent: Hammer.

- 6e(3) Approval of the removal of a subcontractor, A&B Engineers & Builders, Inc., and substitution of the contractors own forces for the South Bay Water Recycling Program (SBWRP) Pump Stations and Reservoir Project, pending approval by the Treatment Plant Advisory Committee at its October 9, 1997 meeting. CEQA: Resolution No. 64667. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 19, 1997, recommending Council approve said removal and substitution of the contractors, pending the Treatment Plant Advisory Committee approval.

Discussion/Action: The removal of A&B Engineers & Builders, Inc., subcontractor, was approved and substitution of the contractor’s own forces granted. Vote: 10-0-1-0.

Absent: Hammer.

- 6e(4) Report on bids and award of contract for the Foothill and Boggini Park Improvements Project to the low bidder, Golden Bay Construction, Inc., for the Base Bid only in the amount of \$149,395. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 19, 1997, recommending Council award said contract to the low bidder.

Discussion/Action: The award of contract to Golden Bay Construction, Inc., the low bidder, was approved and execution of the contract authorized. Vote: 10-0-1-0. Absent: Hammer.

- 6e(5) Approval of a first amendment to the agreement with Callander Associates for landscape architectural consultant services for the Silver Creek Linear Park Phase II Project, increasing the compensation by \$13,100, from \$105,400 to \$118,500. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 19, 1997, recommending Council approve an amendment to the agreement with Callander Associates.

Discussion/Action: The first amendment to the agreement with Callander Associates was approved and execution of the amendment authorized. Vote: 10-0-1-0. Absent: Hammer.

- 6e(6) Adoption of a resolution approving an agreement with George L. Grubb and Laura Grubb for the purchase of real property rights for the Riverside-Los Gatos Storm Drain Project in the amount of \$4,500, including escrow and closing costs, and authorization for the Director of Public Works to execute the necessary documents. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 19, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67674, entitled "A Resolution of the Council of the City of San José Approving an Agreement to Purchase a Storm Drain Easement and a Temporary Construction Easement Over Real Property Located Between Riverside Drive and Los Gatos Creek From George L. Grubb and Laura Grubb, and Authorizing the Director of Public Works or Designee to Accept the Easements and Execute Other Necessary Documents", was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6e(7) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with TJKM Transportation Consultants for the study of student walking routes for elementary and middle schools in an amount not to exceed \$70,000. (Streets and Traffic)**

Documents Filed: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated September 19, 1997, recommending approval of said agreement.

Discussion/Action: Resolution No. 67675, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute An Agreement With TJKM Transportation Consultants to Develop Proposed Student Walking Routes to School in an Amount Not to Exceed \$70,000.00", was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6e(8) Approval of a first amendment to the agreement with Brian Kangas Foulk for consultant services for the South Bay Water Recycling Project (SBWRP) Golden Triangle Project, increasing the compensation for additional services by \$20,000, from \$49,000 to \$69,000, and expanding the scope of services to include inspection and project administration services in the amount of \$125,000, from \$727,000 to \$852,000, pending concurrence by the Treatment Plant Advisory Committee at its October 9, 1997 meeting. CEQA: Resolution No. 64667. (Public Works)
[Deferred from 9/30/97 - Item 6e(9)]**

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated September 12, 1997, recommending Council approve said amendment to the consultant services agreement with Brian Kangas Foulk, pending concurrence by the Treatment Plant Advisory Committee. (2) Letter from Treatment Plant Advisory Committee, dated November 7, 1997, recommending approval of the first amendment to the consultant services agreement with Brian Kangas Foulk.

Discussion/Action: The first amendment to the consultant services agreement with Brian Kangas Foulk was approved, and execution of the amendment authorized. Vote: 10-0-1-0. Absent: Hammer.

- 6e(9) (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Morgan Guaranty Trust Company of New York for the payment of an Inducement Fee in an amount not to exceed \$43,550.68 and to pay for legal fees and expenses of their counsel for the Airport Commercial Paper Program, in an amount not to exceed \$30,000 for a total payment not to exceed \$73,550.68.**
- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Fullerton & Friar, Inc. for financial advisor services for the Airport Commercial Paper Program, in an amount not to exceed \$55,000.**

(Finance/Airport)

(Rules Committee referral 10/1/97)

Documents Filed: Memorandum from Director of Finance John V. Guthrie, and Director of Aviation Ralph G. Tonseth, dated September 30, 1997, recommending Council adopt said resolutions.

Discussion/Action: William J. Garbett spoke against the proposed action. Resolution No. 67676, entitled: “A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute an Inducement Agreement With Morgan Guaranty Trust Company in an Amount Not to Exceed \$73,550.68 in Connection With the Proposed Commercial Paper Program for Airport Master Plan Projects”; and Resolution No. 67677, entitled: “A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute an Agreement With Fullerton & Friar, Inc., in an Amount Not to Exceed \$55,000 for Financial Advisory Services in Connection With the Proposed Commercial Paper Program for Airport Master Plan Projects”; were adopted. Vote: 10-0-1-0. Absent: Hammer.

Routine Legislation

- 6f(1) Approval of the transfer of ownership of City Tow, Inc., the company holding the zone tow contract for Zone 2, from Eugene A. Carvalho and Marie T. Carvalho, husband and wife, to Kenneth M. Carvalho, their son. (General Services)**
[Deferred from 9/23/97 - Item 6f(1)]

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated September 5, 1997, recommending approval of said transfer.

Discussion/Action: The transfer of ownership of City Tow, Inc. to Kenneth M. Carvalho was approved and execution of related documents authorized. Vote: 10-0-1-0. Absent: Hammer.

- 6f(2) Approval of an ordinance amending Section 9.10.1210 of Chapter 9.10 of Title 9 of the San José Municipal Code to authorize the Director of Finance to waive late charges on delinquent payments for residential solid waste services under certain circumstances.**
(City Attorney’s Office)

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated October 1, 1997, recommending Council approve said ordinance.

Discussion/Action: Ordinance No. 25436, entitled: “An Ordinance of the City of San José Amending Section 9.10.1210 of Chapter 9.10 of Title 9 of the San José Municipal Code to Authorize the Director of Finance to Waive Late Charges on Delinquent Payments for Residential Solid Waste Services Under Certain Specified Conditions and Ratifying Previous Late Charge Waivers”, was passed for publication. Vote: 10-0-1-0. Absent: Hammer.

- 6f(3) Adoption of a resolution amending the Administrative Citation Schedule of Fines with regard to violations of various ordinances, permits, and regulations administered by the Police Department. (Police Department)**

Documents Filed: None.

Discussion/Action: This item was deferred to October 21, 1997.

- 6f(4) Approval of the following appointments to the San Jose Beautiful Steering Committee to two (2) year terms effective October 1997:**
- (a) Darline Arduini**
 - (b) Laurel Galli**
 - (c) Cathy Keil**
 - (d) Monica Yadegar**
- (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated September 19, 1997, recommending Council approve said appointments.

Discussion/Action: The appointments of Darline Arduini, Laurel Galli, Cathy Keil, and Monica Yadegar to serve on the San José Beautiful Steering Committee were approved and the conscientious efforts of outgoing Steering Committee members Julie Duncan, Linda Kincaid, Sara Langton, Bob Llewellyn, Diana Nichols, and Jane K. Starbird, acknowledged by the City Council. Vote: 10-0-1-0. Absent: Hammer.

- 6f(5) Adoption of a resolution finding that the use of Community Development Block Grant funds for proactive code enforcement efforts in the residential neighborhood bordered by San Carlos Street, Bird Avenue, Park Avenue, and Highway 87 is appropriate and necessary.**
- (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated September 19, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67678, entitled: “A Resolution of the Council of the City of San José Determining That the Use of CDBG Funds for Proactive Code Enforcement Efforts in the Residential Neighborhood of San Carlos/Bird/Park Area, Bordered by San Carlos Street, Bird Avenue, Park Avenue, and Highway 87, is Appropriate and Necessary”, was adopted. Vote: 10-0-1-0. Absent: Hammer.

- 6f(6) Adoption of a resolution accepting an easement for real property rights from The Villages Golf and Country Club for the South Bay Water Recycling Project and authorization for the Director of Public Works to execute the Certificate of Acceptance pending approval by the Treatment Plant Advisory Committee at its October 9, 1997 meeting. CEQA: Resolution No. 64667.**
- (Public Works/Environmental Services)**

Documents Filed: Memorandum from Director of Public Works Ralph A. Qualls, Jr., and Director of Environmental Services Louis N. Garcia, dated September 19, 1997,

recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67679, entitled: "A Resolution of the Council of the City of San José Approving the Acceptance of An Easement for the South Bay Water Recycling Project From the Villages Golf and Country Club and Authorizing the Director of Public Works to Execute the Certificate of Acceptance and Any Other Documents Necessary to Accept the Easement", was adopted. Vote: 10-0-1-0. Absent: Hammer.

6f(7) Acceptance of the Third Quarter 1997 San José Arena Authority Ticket Distribution Program Report. (San José Arena Authority)

Documents Filed: None.

Discussion/Action: This item was deferred to October 28, 1997.

**6f(8) Adoption of a resolution accepting a donation from the Hook and Ladder Foundation of one (1) Cairns Iris Thermal Imaging System for the Fire Department at a total value of \$25,000. (Fire)
(Rules Committee referral 10/1/97)**

Documents Filed: Memorandum from Fire Chief, Robert L. Dorman, dated October 2, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67680, entitled: "A Resolution of the Council of the City of San José Accepting a Gift of a Cairnsiris Thermal Imaging System from the Hook and Ladder Foundation Valued at \$25,000 for Use by the Fire Department", was adopted. Vote: 10-0-1-0. Absent: Hammer

END OF CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - Meeting of September 24, 1997

Documents Filed: Rules Committee Report of September 24, 1997.

(1) Review of October 7 Council Agenda

The Committee approved the October 7, 1997 Council Agenda with one addition and five changes.

Discussion/Action: The Committee recommendation was approved with the notation re Item 1a, Public Hearing on Group Homes, that the continuance date has been changed from 12/02/97 to 11/18/97.

(2) Add New Items to September 30 Amended Council Agenda

The Committee recommended eight additions and one deletion to the September 30, 1997 Amended Council Agenda.

- (3) The Public Record. Attachments: (1) Memorandum from City Clerk, Patricia L. O'Hearn, dated September 18, 1997, listing the items transmitted to the Administration for the period September 10-16, 1997. (2) Memorandum from Council Liaison, Norberto L. Duenas, dated 1997, summarizing the actions taken on items transmitted to the Administration and the items filed for the Public Record for the period September 10-16, 1997.

The Committee noted and filed the Public Record for the period September 10-16, 1997.

Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee. Attachments: (1) Memorandum from Vice Mayor Fernandes, dated September 16, 1997, recommending the City establish a one-time grant program with the \$1.5 million in settlement money awarded from the lawsuit against the R.J. Reynolds Tobacco Company. (2) Memorandum from Council Member Pandori, dated September 16, 1997, requesting the Administration prepare a report for the Transportation, Planning, and Environment Committee on the issue of the work plan for the rehabilitation of the Guadalupe River Park between Coleman Avenue and Highway 880. (3) Memorandum from Council Member Johnson, dated September 23, 1997, recommending Rules Committee refer to the Administration, the City Attorney and the Redevelopment Agency the determination of new procedures on landmark designations and demolition, refer the funding for the (4) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee procedures to the Mid-Year Budget, and to refer a determination of the adequacy of current City/Agency ordinances and practices for protection of contributing structures and historic resources other than structures. (4) Memorandum from Council Member Johnson, dated September 24, 1997, recommending modifications to Item 1b in the September 23, 1997 memorandum regarding Historic Buildings.

- (a) Recommendation for use of \$1,500,000 Joe Camel settlement

The Committee recommended the Administration develop a one-time grant program to distribute the \$1.5 million Joe Camel Settlement to San José school and youth groups and to existing youth-based City programs and directed that the settlement money not be absorbed into the City budget.

- (b) Request for report regarding Guadalupe River Park - rehabilitation of Contracts 1 and 2

The Committee directed the Administration to prepare a report for the

Transportation, Development and Environment Committee on the issue of the work plan for the rehabilitation of the Guadalupe River Park between Coleman Avenue and Highway 880.

(c) Referral of a new process for historic landmarks

The Committee referred to the Administration, the City Attorney, and the Redevelopment Agency the following recommendations from Council Member Johnson:

- 1) Establish a procedure to identify and prioritize those structures which have the potential of being City landmarks and/or which are eligible for the State or National Register of Historic Places;
- 2) Establish a procedure for a public process to determine whether a designated structure can be demolished or substantially altered;
- 3) Refer to Mid-Year Budget the funding for #1) above;
- 4) Determine the adequacy of current City/Agency ordinances and practices for protection of established historic districts; and
- 5) Incorporate the clarifications that “negotiation” and “process” refer to any contact which has the potential to result in a real project; and the public process should involve the Historic Landmarks and Planning Commissions.

(5) City Council and Rules Committee meeting schedules

None presented.

(6) Oral communications

None presented.

(7) Adjournment

The meeting was adjourned at 2:55 p.m.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Woody and unanimously carried, the Rules Committee Report and actions of the Meeting of September 24, 1997 were accepted with notation to Item 7b(1). Vote: 10-0-1-0. Absent: Hammer

7b Report of the Rules Committee - Meeting of October 1, 1997

Documents Filed: Rules Committee Report (Partial) of October 1, 1997.

- (4) Boards and Commissions. Attachments: (1) Memorandum from City Clerk, Patricia L. O’Hearn, dated September 25, 1997, submitting to Rules Committee the names of qualified applicants for appointment to the unexpired terms. (2)

Memorandum from Council Member Diaz, dated September 29, 1997, submitting the names of two applicants to be considered for the M/W/D Business Development Commission.

- (a) Minority, Women and Disadvantaged Business Development Commission Appointments to fill 2 positions

The Committee recommended appointment of Heidi Pham and Ignacio Roman to the Minority, Women and Disadvantaged Business Development Commission for unexpired terms ending December 31, 1997 and the following four-year terms ending December 31, 2001.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Woody and unanimously carried, the Rules Committee Report (Partial) and actions of the Meeting of October 1, 1997 were accepted. Vote: 10-0-1-0. Absent: Hammer.

7c Report of the Finance/Agency Finance Committee - September 24, 1997

Documents Filed: Finance/Agency Finance Committee Report of September 24, 1997.

- (1) Monthly Financial Statements - August 1997
- (2) Capital Cost Report - August 1997
- (3) Cash Flow Projection

Items 1-3 referred to the Redevelopment Agency Board meeting of October 16, 1997.

- (4) Report on UBS/Customer Service Pilot. Attachment: Memorandum from Director of Finance John V. Guthrie, and Director of Environmental Services Louis N. Garcia, dated September 10, 1997, submitting a status report on the progress of the UBS Customer Service project.

The Committee noted and filed the report.

- (5) Approval of Hardware and Software Upgrade for FMS Year 2000. Attachment: Memorandum from Acting Director of Information Technology, Ellis M. Jones Jr., dated September 23, 1997, recommending the Finance Committee recommend that Council (a) approve an appropriation ordinance amendment appropriating \$250,000 reserved in the Budget Process for Year 2000 Computer System Projects to the Information Technology Department; (b) authorize expenditure of \$196,000 for immediate FMS Year 2000 project implementation; (c) approve addition of the computer equipment and software for the FMS Year 2000 project to the Pitney Bowes Master Lease at a total cost of \$300,000; (d) award the purchase of an IBM RS6000 Server to the lowest responsive bidder; (e) approve expenditure of \$54,000 for Year 2000 consulting; and (f) approve the addition of an Information Systems Analyst and a Senior Systems Applications Programmer

effective mid-January 1998 funding to be included in ITD's mid-year proposals.

The Committee accepted the report with Member Johnson disqualifying herself from discussion and decision on the issue, due to a potential conflict.

Discussion/Action: See Item 9d for Council action taken.

(6) Oral petitions

Bill Chew discussed the use of fiber optics for distribution of technology.

(7) Adjournment

The meeting was adjourned at 9:56 p.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Diaz and unanimously carried, the Finance/Agency Finance Committee Report and actions of the Meeting of September 24, 1997 were accepted with Items 7c(1)-(3) referred to the Redevelopment Agency Board meeting of October 16, 1997, and Item 7c(5) acted upon at Item 9d. Vote: 10-0-1-0. Absent: Hammer

GENERAL GOVERNMENT

**9a Adoption of a resolution to oppose the issuance of new liquor licenses in twenty-four (24) Census Tracts in San José.
[Rules Committee referral 9/10/97 - Item 7b(4)]
(Deferred from 9/23/97 - Item 9d)**

Documents Filed: See Item 7b(4) of the Rules Committee Report of September 10, 1997, filed in the September 23, 1997 minutes of the City Council meeting.

Discussion/Action: Council Member Pandori stated the Rules Committee, at the September 10, 1997 meeting, recommended Council approval of the Staff report on retail alcoholic beverage licenses, with direction to the City Attorney to prepare the resolution opposing the issuance of new liquor licenses in 24 census tracts in San José. He stated the Council Amended Agenda reflects the deferral of this item to a date to be determined; this action is unacceptable. He recommended Council debate the issue during tonight's meeting and render a decision. The following individuals spoke in support of the proposed resolution: Yvonne Vasquez and Florencio Rodzarte, representing ACORN; Felix Alvarez, representing Association For Responsible Alcohol Control (ARAC); and Fernando R. Zazueto, representing Mexican Heritage Corporation. Referencing the memoranda co-authored by Council Members Woody and Shirakawa, Jr., Council Member Diaz pointed out the reality of undue-concentration of liquor outlets in the City, particularly in East San José and the 24 census tract areas identified in the May 8, 1997 memorandum, and stressed the importance of more local control over the issuance of new liquor licenses in over-concentrated areas. He recommended Council approve the

proposed resolution in support of limiting new alcoholic beverage licenses in the City of San José, with direction to the Administration to identify other possible candidates for such a resolution. Council Member Pandori stated enforcement efforts should apply to liquor outlets Citywide; and since the census tracts include portions of District 3, the boundaries should be extended to include North Thirteenth Street. Council Member Diaz stated alcoholic beverage licenses are controlled by the State Alcoholic Beverage Control Board (ABC) and formal referrals sent to the Police Department; in identifying the census tracts, Council Districts also should be identified and Council Members informed of the retail license applications received for those areas. Upon motion by Council Member Diaz, seconded by Council Member Johnson and unanimously carried, the recommended deferral of this item was denied; Resolution No. 67681, entitled: "A Resolution of the Council of the City of San José With Regard to Special Concerns About Alcoholic Beverage Licenses in Twenty-Four (24) Census Tracts in the City of San José", was adopted; and the Administration directed to identify other areas in the City with an over-concentration of liquor licenses and to consider the feasibility of implementing the resolution for the additional areas, with appropriate Council Members informed of such determinations. Vote: 10-0-1-0. Absent: Hammer.

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

- (a) Increase the dollar amount for the purchase of IBM compatible microcomputer hardware, software, and peripherals with ComputerBiz, Inc. and Computerland of Almaden in an amount not to exceed \$1,000,000, from \$4,000,000 to \$5,000,000, for the contract term ending November 30, 1997.**
- (b) Amend either agreement as required to purchase more or less from either vendor within the \$5,000,000 total annual cost.**

(General Services)

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated September 19, 1997, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke against the proposed action. Upon motion by Council Member Johnson, seconded by Council Member Dando and unanimously carried, Resolution No. 67682, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services (1) to Increase the Dollar Amount for the Citywide Open Purchase Orders for IBM Compatible Computer Equipment With ComputerBiz, Inc., and Computerland of Almaden in an Amount Not to Exceed \$1,000,000 for the Contract Term Ending November 30, 1997 and (2) to Amend Either Agreement as Required to Purchase More or Less Within the \$5,000,000 Total Annual Cost", was adopted. Vote: 10-0-1-0. Absent: Hammer.

Council Member Diaz left the meeting at 7:55 p.m.

**9d Adoption of appropriation ordinance amendments in the General Fund for \$250,000 for the Year 2000 Computer System Projects. (City Manager's Office)
[Finance/Agency Finance Committee referral 9/24/97 - Item 7c(5)]**

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated September 23, 1997, recommending Council approve the appropriation ordinance amendments in the General Fund.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, Ordinance No. 25437, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25390 Which Appropriates Moneys in the General Fund in the Amount of \$250,000, for the Year 2000 Computer System Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 9-0-2-0. Absent: Diaz; Hammer.

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

(1) Award the purchase of one (1) IBM UNIX PowerPC server and hardware to upgrade the existing IBM Powerstation Model 580 for the Information Technology Department to the low bidder, Jeskell Inc., at a total cost of \$246,426.92, including tax.

(2) Execute all necessary documents to add the purchase for the IBM UNIX PowerPC server and hardware to upgrade the existing IBM Powerstation Model 580 to the Master Equipment Lease Agreement with Pitney Bowes Credit Corporation.

(General Services)

(Order of the Day 4a)

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated October 7, 1997, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke against the proposed action. Council Member Johnson disqualified herself from discussion and decision on this item, as her husband is employed by IBM Corporation. Upon motion by Council Member Dando, seconded by Council Member Diquisto and carried, Resolution No. 67683, entitled: "A Resolution of the Council of the City of San Jose Authorizing the Director or General Services to Award the Purchase of One IBM UNIX Power PC Server and Hardware at a Total Cost Not to Exceed \$246,426.92; and to Execute All Documents Necessary to Add the Purchase to the Master Equipment Lease Agreement With Pitney Bowes Credit Corporation", was adopted. Vote: 8-0-2-1. Absent: Diaz; Hammer. Disqualified: Johnson, family member employed by IBM Corporation.

Council Member Diaz returned to Council Chambers at this point in the meeting.

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY ITEMS

The Redevelopment Agency Board of Directors convened at 8:00 p.m. to consider the following item in a joint session with the City Council.

11a Report on automatic public toilets in the Downtown and direction to Agency staff to

proceed with negotiations for the lease of up to six (6) toilets.

[Transportation, Planning and Environment Committee referral 6/12/97 - Item 7e(2)]

(Deferred from 6/17/97 - Item 9n et al., and 9/30/97 - Item 11a)

Documents Filed: (1) Memorandum from City Attorney, Joan R. Gallo, dated October 1, 1997, summarizing the review of the costs related to the automatic public toilets. (2) Memorandum from Executive Director, Frank M. Taylor, dated October 1, 1997, recommending Council select the JCDecaux proposal for automatic public toilets and authorize the Agency to commence negotiations to lease, which lease to be funded by the Agency. (3) Memorandum from Executive Director, Frank M. Taylor, dated July 18, 1997, recommending Council select the JCDecaux proposal with maintenance costs to be paid by the City and capital costs paid by the Agency. (4) Letter from Collishaw Construction, Inc., Ed Ramans of Site Development, dated October 7, 1997, requesting Council direct the Agency staff to commence negotiations with two firms—Collishaw Construction and JCDecaux.

Discussion/Action: Nancy Lytle, Program Coordinator for the Redevelopment Agency, summarized the proposal, commented on the design and materials of the units, and identified proposed locations for the APTs in the Downtown Core. She reviewed the advantages of leasing with JCDeCaux versus that of purchasing the APTs and commented on the proposal submitted by Collishaw Construction, Inc. She stated the action before the Council/Board requests direction to Staff to initiate negotiations, not to approve a contract at this time, as the contract will be presented to Council/Board for approval after Staff has finalized the terms of the contract with the preferred vendor. She emphasized for the public record that Agency and City Staff jointly collaborated in the selection process, will cooperate in the negotiations process, and do agree on the current recommendation for approval. She requested that Council/Board approve the recommendation as contained in the Agency Staff memorandum of October 1, 1997 for the reasons stipulated therein. Representing JCDecaux in San Francisco, Mr. Francois Nion summarized the proposal for the lease of up to six (6) APTs in the Downtown. Ed Ramans, representing Collishaw Construction, Inc., and Ken Miller of Energy Compliance Systems, representing San José Downtown Association, spoke in support of the proposed lease. William J. Garbett spoke against the proposed action. Council Member Fiscalini opposed the recommended selection of the JCDecaux proposal, predicated on the annual cost and the lack of established national experience in installation and maintenance of the equipment, and recommended that Staff commence negotiations with both bidders—Collishaw and JCDecaux; Council Member Dando concurred. Upon motion by Council Member Fiscalini, seconded by Council Member Dando, and failed, the City Council considered negotiating with Collishaw Construction, Inc. and JCDecaux, simultaneously. Vote: 5-5-1-0. Noes: Johnson, Pandori, Powers, Shirakawa, Jr., Woody. Absent: Hammer. Council Member Pandori opposed further postponement of Council decision on this issue, given the time element, the issues raised and concerns expressed by the Downtown merchants. He stated the Agency proposal will avoid impacts on the General Fund—albeit, Collishaw’s cost estimate is lower, it lacks the track record to substantiate the estimate—and Staff has completed a thorough analysis

of the proposals and provided justification for the recommendation to select JCDecaux. Upon motion by Council Member Pandori, seconded by Council Member Johnson and carried, the Report on automatic public toilets in the Downtown was accepted; the Staff recommendation to select JCDecaux proposal for automatic public toilets (APTs), was approved; and the Agency directed to commence negotiations to lease, with such lease funded by the Redevelopment Agency. Vote: 6-4-1-0. Noes: Dando, Diquisto, Fernandes, Fiscalini. Absent: Hammer.

The Redevelopment Agency Board of Directors portion of the meeting was adjourned at 8:40 p.m.

City Clerk, Patricia L. O'Hearn, read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member, seconded by Council Member and unanimously carried, the below noted continuances and other actions were granted

PUBLIC HEARINGS

- 15a PUBLIC HEARING and approval of an ordinance amending Title 20 of the San José Municipal Code to (1) allow group residences which are operated as single housekeeping units as permitted uses in all residential zoning districts; (2) regulate the location and require a conditional use permit for residential facilities which are not operated as a single housekeeping unit; (3) regulate residential correctional facilities; (4) and provide a process for requesting a reasonable accommodation in the application of City land use regulations for persons with disabilities. (Planning, Building and Code Enforcement)**
(Continued from 1/12/96 - Item 8a et al., and 8/5/97 - Item 15a)

Documents Filed: None.

Discussion/Action: This item was continued to November 18, 1997.

- 15b PUBLIC HEARING ON APPEAL OF THE PLANNING COMMISSION'S DECISION to approve (4-0-3) a Conditional Use Permit for a project located at the north side of Barnard Avenue, 150 feet east of Stone Avenue, on a 1.25 gross acre site in the M-4 Manufacturing Zoning District for a concrete/asphalt recycling heavy processing facility including a concrete crusher (Galante Bros., Owner/Developer). CEQA: ND. Staff recommends upholding the appeal and denying the project.**
CP 96-05-042 - District 7
(Continued from 4/15/97 - Item 15i)

Documents Filed: None.

Discussion/Action: This item was continued to November 4, 1997.

- 15c PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the west side of Bernal Road, between San Ignacio Avenue and Via Del Oro, from I-Industrial to A(PD) Planned Development, to allow up to approximately 200,000 square feet of commercial uses on 22 gross acres (SRDC, Inc., Owner/Developer). CEQA: Pending.
PDCSH 96-07-039 - District 2
(Continued from 9/16/97 - Item 15g)**

Documents Filed: None.

Discussion/Action: This item was continued to November 4, 1997.

- 15d PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at both sides of Gold Street northerly of Route 237, from M-4 Manufacturing to A(PD) Planned Development, to allow up to 348,732 square feet of office/R&D and commercial development on a 28.1 gross acre site (Lincoln Property Co., Owner/Developer). CEQA: EIR Resolution to be adopted. Director of Planning recommends approval. Planning Commission recommends approval (5-1-1).
PDC 97-01-002 - District 4
(Continued from 9/30/97 - Item 8a)**

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated October 3, 1997, responding to Council request for additional analyses. (2) For the Public Hearing Notice and Proof of Publication, see Item 8a of September 30, 1997 meeting of the City Council. (3) Letter from Joan Robinson, North American Title Company, dated October 6, 1997, supporting the Lincoln Properties development at Gold Street.

Discussion/Action: Vice Mayor Fernandes opened the public hearing on the planned development rezoning of the subject property. Director of Planning, Building and Code Enforcement, James R. Derryberry, stated the Staff has provided additional analyses regarding the reduced project alternative, conformity with the North San José Area Development Policy, the burrowing owl mitigation, and the nonpoint source controls for the project parking areas, and recommends Council approval of the rezoning with specified conditions. Bob Gross, PhD, Alviso Master Plan Task Force, spoke in support of the project. William J. Garbett spoke against the proposed action. Council Member Powers spoke in support of the proposed project and read into the public record the following statement: "The EIR identifies transportation and noise/vibration impacts and cumulative impacts to traffic and loss of burrowing owl habitat as significant and unavoidable. This zoning will provide a benefit to San José resulting from the substantial investment in an illegal landfill and resulting site cleanup will create an attractive gateway to Alviso and will provide local and regional infrastructure improvements. The project is consistent with the City's General Plan Balanced Community Goal, reduces the City's jobs/housing imbalance, encourages job opportunities, provides a strong municipal tax base, and is in close proximity to existing and planned high technology industries.

These benefits outweigh the significant impacts of the project”. Council Member Pandori expressed support for the development in conjunction with his concerns related to the intensity of the project. He stated the alternatives in the EIR avoid the traffic impacts on Highway 101 and Great America Parkway and Mission Boulevard by reducing the scale of the development; however, that alternative was rejected. He stated the North San José Area Development Policy addresses the Floor Area Ratio (FAR) percentages for projects similar to the proposed development, and that the City should not take the approach in North San José to approve maximum development for all projects and expect it to be mitigated by other alternatives, e.g., developer fees or contributions. He stated the traffic impacts can be avoided and a project can be developed. Upon motion by Council Member Powers, seconded by Council Member Shirakawa, Jr., and carried, the public hearing was closed, the Planning Commission recommendation approved, Resolution No. 67684, entitled: “A Resolution of the City Council of the City of San José Making Certain Findings Concerning the Gold Street Development Project for Which an Environmental Impact Report Has Been Prepared, 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”, was adopted; and Ordinance No. 25438, entitled: “Ordinance of the City of San José Rezoning Certain Real Property Situated on Both Sides of Gold Street Northerly of Highway 217”, was passed for publication. Vote: 9-1-1-0. Noes: Pandori. Absent: Hammer.

ADJOURNMENT

The Council of the City of San José adjourned at 8:55 p.m.

SUSAN HAMMER, MAYOR

By _____
Margie Fernandes
Vice Mayor

ATTEST:
PATRICIA L. O’HEARN, CITY CLERK