

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, NOVEMBER 18, 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, Woody; Hammer.

Absent: Council Members: Shirakawa, Jr. (excused).

Upon motion unanimously adopted, the City Council recessed to a Closed Session at 9:35 a.m. in Room 600 to (A) confer with Legal Counsel with respect to existing litigation pursuant to Government Code Section 54956.9 Subsection (a), to consider the case of Brown and Gray v. Santa Clara County Transit District, et al.; and (B) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator, City Manager designee Darrell Dearborn, pertaining to the San José Police Officers' Association and International Association of Firefighters' Employee Organizations.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:45 a.m. and reconvened at 1:40 p.m. in Council Chambers, City Hall.

Present: Council Members: Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Woody; Hammer.

Absent: Council Members: Shirakawa, Jr. (excused).

INVOCATION

From Parkview Elementary School, Oak Grove School District, Fifth Grade Students Bandish Shar, Kyle Takagwa, Tess Caliph, Helen Kim and Steven Gutowski shared their "Thoughts to Ponder". (District 10)

PLEDGE OF ALLEGIANCE

From Country Lane School of the Moreland School District, Second Grade Students Mack Hamano, Victoria Hinojosa, Nikhil Sheel, and Allison Alwan, led in the Pledge of Allegiance, accompanied by School Principal Bill Johnston, teacher Randy Martino, and parents of the students visiting City Hall.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

5a Presentation of a commendation to KPMG Peat Marwick for helping to improve the local community as part of KPMG's World of Spirit Day. (Pandori)

(Deferred from 11/4/97 - Item 5a)

Documents Filed: None.

Discussion/Action: Joined by Council Member Fiscalini, Cathy Mueller from the Guadalupe River Park & Gardens Corporation, and District Three Assistant Kelly Kline, Council Member Pandori presented to Harvey Armstrong and KPMG Peat Marwick staff a photo album of the Day's festivities, and presented the commendation in appreciation of the firm's involvement in community service projects—locally and nationwide.

5b Presentation of plaque to Toshimi Bill Kumagai for 2 years 10 months service on the MBE/WBE/DBE Committee. (Mayor)

Documents Filed: None.

Discussion/Action: Mayor Hammer presented the plaque to Mr. Kumagai in recognition of his service to the City of San José.

5c Presentation of a commendation to City Year for organizing a successful servathon on Saturday, October 25, 1997. (Mayor)
(Orders of the Day 4a)

Documents Filed: None.

Discussion/Action: Pam Gerber, Executive Director of City Year, Lannell Dike, Director of the Servathon Program, and Corps Members joined Mayor Hammer at the Podium and accepted the commendation in recognition of their successful community service efforts.

5d Presentation of a commendation to the Department of Convention, Arts and Entertainment, the Convention and Visitors Bureau, and Intel Corporation for their outstanding efforts in bringing America's Smithsonian to San José. (Mayor)
(Orders of the Day 4b)

Documents Filed: None.

Discussion/Action: Joined by Council Member Powers, Mayor Hammer invited to the Podium Nancy Johnson—Director of Conventions, Arts & Entertainment, Nadine Felix – Deputy Director, Marion Holt-McLain – President/CEO of Conventions & Visitors Bureau, Tracy Koon – Corporate Affairs Manager, Intel Corporation, and Michelle Mann - Santa Clara County Public Affairs Manager, and expressed the City's appreciation for the hard work and persistence of those instrumental in bringing the Smithsonian exhibit to the San José Convention Center, which attracted more than 300,000 visitors. Council Member Powers presented the commendations to each honoree.

5e Presentation of proclamation declaring November 15 as "America Recycles Day." (Mayor)

(Orders of the Day 4c)

Documents Filed: None.

Discussion/Action: Mayor Hammer presented the proclamation to Cynthia Palacio and Monica Yadagar, representing USA Waste/Western Waste Recyclers.

5f Presentation of commendation to San José companies who are members of Joint Venture Silicon Valley's "Fast 50 List." (Mayor)
(Orders of the Day 4d)

Documents Filed: None.

Discussion/Action: Mayor Hammer presented commendations to the following: ArrayComm, Inc., represented by Karl Martersteck, President and CEO; Pericom Semiconductor, represented by John Hui, CEO; Polycom, Inc., represented by Jill Warnock, Director of Marketing; Cisco Systems, represented by Larry Carter, CEO, and Nancy Bareilles, Vice President, Worldwide Real Estate; and acknowledged the member companies who were not represented at the Council Meeting: Calrify, Inc.; On Command Corp; Atmel Corp; Diamond Multimedia Systems, Inc.; ISD; OnTrak Systems, Inc.; Bell Microproducts, Inc.; Altera Corp.; and Alliance Semiconductor Corp.

GENERAL GOVERNMENT

9f Acceptance of the Convention and Cultural Facilities Annual Performance Report.
[Housing and Community Development Committee 11/3/97 - Item 7d(4)]

Documents Filed: See Housing and Community Development Committee Report of November 3, 1997, Item 7d(4).

Discussion/Action: Nancy Johnson, Director of Conventions, Arts and Entertainment, and Marian Holt-McLain, President/CEO of the Convention & Visitors Bureau, provided a comprehensive overview of the 1996-97 performance report. With the use of a slide presentation, they highlighted significant aspects of the sales responsibility, mission, economic performance, financial performance, and occupancy and attendance of the Convention Center, Civic Auditorium & Parkside Hall, and Theaters. They stated the 1996-97 achievements exceeded the average regional and national convention center occupancy for cities with less than 10,000 hotel rooms, resulting in \$562 million new dollars generated from out-of-town visitors, and \$84 million in tax benefits in the first eight years of operation. Marian Holt-McLain stated the unfunded needs at the Convention Center include ADA improvements, deferred maintenance, retail space development, and expansion of telephone and electrical revenue opportunities. She stated the unfunded needs at the Community and Cultural Facilities are ADA improvements, deferred building maintenance, and facility renovations of the Montgomery Theater, Civic Auditorium, Parkside Hall and the Center for Performing Arts. With regard to the challenges and opportunities, Nancy Johnson emphasized the importance for the City to address the policy issues in an aggressive manner and to move forward with the expansion of the Convention

Center and construction of additional hotel rooms, in order to take advantage of the economic opportunities available. The following individuals spoke in support of the Convention Center expansion: Rick Heim, Vice President, SEMI-Con West; Manou Mobedshahi, representing Hyatt San Jose; and Don Razan, President, Miller-Freeman. Upon motion by Council Member Fiscalini, seconded by Council Member Johnson and unanimously carried, the Annual Performance Report on the Convention and Cultural Facilities was accepted. Vote: 10-0-1-0. Absent: Shirakawa, Jr.

9a Vote and appoint one applicant to the San José Appeals Hearing Board for a term ending December 31, 2001. (Mayor)
(Continued from 11/4/97 - Item 9a)

Documents Filed: See Item 9a of the November 4, 1997 meeting of the City Council.

Discussion/Action: Mayor Hammer stated the City Council interviewed on November 4, 1997 six applicants to fill one of two designated terms on the San José Appeals Hearing Board, and appointed Anastasia Steinberg. Given the absence of three Council Members and because none of the remaining applicants received six or more votes, the appointment to the second vacancy was deferred to November 18, 1997. During today's meeting, City Clerk, Patricia L. O'Hearn, distributed the ballots to the City Council and read into the public record the results of the written ballot. On the first ballot cast, Antonio Dias was appointed to fill the remaining position on the Appeals Hearing Board.

9b Interview and appoint applicants to the Civil Service Commission for two terms ending December 1, 2003. (City Clerk)

Documents Filed: Memorandum from City Clerk, Patricia L. O'Hearn, dated November 4, 1997, submitting the names of applicants selected to be interviewed on Tuesday, November 18, 1997 for two Civil Service Commission vacancies.

Discussion/Action: Following interviews of four applicants, the City Council reappointed on the first ballot Incumbent Sharon Hightower and appointed Tanya Young to fill two terms on the Civil Service Commission.

9c Adoption of appropriation ordinance amendments in the HOME Investment Partnership Program Fund in the amount of \$600,000, for the NHS Program and the Housing and Homeless Projects. (City Manager's Office/Housing)

Documents Filed: Memorandum from Budget Director Larry D. Lisenbee, and Director of Housing Alex Sanchez, dated October 31, 1997, recommending Council adopt said appropriation ordinance amendments in the HOME Investment Partnership Program Fund and adopt a resolution authorizing the Director of Housing to negotiate and execute any necessary documents for the use of the funds under the San José Neighborhood and Housing Services Program and for housing and homeless projects.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Dando and unanimously carried, Ordinance No. 25463, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25390 Which Appropriates Moneys in the Home Investment Partnership Program Fund in the Amount of \$600,000 for the San José Neighborhood and Housing Services Program and Housing and Homeless Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. Vote: 10-0-1-0. Absent: Shirakawa, Jr.

9d PUBLIC HEARING and adoption of a resolution:

(1) Approving a Disposition and Development Agreement with First Community Housing (formerly First San José Housing), or its affiliate, for the conveyance of the City owned property located at 975 North King Road to First Community Housing for the King Road Inn SRO Housing Project.

(2) Approving business terms for a loan amount to First Community Housing of up to \$923,130 as a permanent loan to First Community Housing or its assignee.

(3) Authorizing the Director of Housing to negotiate and execute all necessary documents to implement the Disposition and Development Agreement.

(Housing)

Documents Filed: (1) Supplemental memorandum from Director of Housing, Alex Sanchez, dated November 12, 1997, recommending Council approve the Disposition and Development Agreement, as recommended, with a modification to exclude all references in the staff report to City predevelopment financing. (2) Memorandum from Director of Housing, Alex Sanchez, dated October 31, 1997, recommending Council adopt said resolution. (3) Notice of Public Hearing for the transfer of property for development of the King Road Inn SRO Housing Project.

Discussion/Action: William J. Garbett spoke against the proposed action. Upon motion by Vice Mayor Fernandes, seconded by Council Member Johnson and unanimously carried, Resolution No. 67742, entitled: “A Resolution of the Council of the City of San José 1) Authorizing the Director of Housing to Negotiate and Execute a Development and Disposition Agreement with First Community Housing or Its Affiliate for the Transfer of Certain Property at 975 North King Road for the Development of an SRO Housing Project on the Site, 2) Approving the Business Terms for a Construction and Permanent Loan of Up to \$923,130.00 to First Community Housing or Its Affiliate, and 3) Authorizing the Director of Housing to Negotiate and Execute the Agreement and All Necessary Documents”, was adopted. Vote: 10-0-1-0. Absent: Shirakawa, Jr.

9e Adoption of a resolution:

(1) Approving business terms for a construction and permanent loan of up to \$5,616,680, to Blossom River Associates, L.P., with the actual amount of the City’s loan to be determined at the bond sale and close of construction loans, for the development of an affordable 144-unit family rental housing project on a 5.75 acre site located on Blossom River Way at Blossom River Drive.

(2) Authorizing the Director of Housing to negotiate and execute all necessary documents evidencing such loans on behalf of the City.

(Housing)

Documents Filed: Memorandum from Director of Housing, Alex Sanchez, dated October 31, 1997, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke against the proposed action. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Fernandes and unanimously carried, Resolution No. 67743, entitled: "A Resolution of the Council of the City of San José (i) Approving Business Terms for a Construction and Permanent Loan of Up to \$5,616,800 to Blossom River Associates for the Development of a 144-Unit Rental Housing Project Affordable to Very Low and Low Income Persons and Families and (ii) Authorizing the Director of Housing to Negotiate and Execute All Necessary Documents Evidencing Such Loan on Behalf of the City", was adopted. Vote: 10-0-1-0. Absent: Shirakawa, Jr.

9g Adoption of a resolution authorizing the City Manager to execute an agreement subordinating a first deed of trust securing a \$1,643,000 CDBG grant to Sacred Heart Community Services to a deed of trust securing a \$1,000,000 line of credit from Lenders for Community Development.

(Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated November 14, 1997, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, Resolution No. 67744, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute an Agreement Subordinating a First Deed of Trust Securing a \$1,643,000 CDBG Grant to Sacred Heart Community Services to a Deed of Trust Securing a \$1,000,000 Line of Credit From Lenders for Community Development", was adopted. Vote: 10-0-1-0. Absent: Shirakawa, Jr.

9h Approval of Contract Change Order No. 1 with Granite Construction, Inc. for the 1995-96 Contractual Street Maintenance Project Unit 1, in the credit amount of \$747,386.50 for a contract total of \$558,045.50. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 31, 1997, recommending Council approve said contract change order.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Diaz and unanimously carried, Contract Change Order No. 1 with Granite Construction, Inc. was approved and its execution authorized. Vote: 10-0-1-0. Absent: Shirakawa, Jr.

9i Report on bids, approval for Collishaw Construction, Inc. to withdraw its bid without forfeiture of its bid bond due to clerical error and adoption of a resolution awarding the construction contract for Community Facilities District No. 1 (Capitol Expressway Auto Mall), Special Tax Bonds Series 1997, to the second low bidder, Pavex Construction Company, in the amount of \$2,559,642.40. CEQA: ND. (Public Works)

Documents Filed: (1) Supplemental memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 6, 1997, recommending Council accept the report on bids, approve the withdrawal of Collishaw's bid, and adopt said resolution. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 31, 1997, recommending Council accept the report on bids and adopt said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Johnson and unanimously carried, the report on bids was accepted, the withdrawal of Collishaw Construction, Inc.'s bid, without forfeiture of the bid bond, was approved, and Resolution No. 67745, entitled: "A Resolution of the Council of the City of San José Awarding the Construction Contract for Community Facilities District No. 1 (Capitol Expressway Auto Mall, to the Second Low Bidder, Pavex Construction Company, in the Amount of \$2,559,642.40", was adopted. Vote: 10-0-1-0. Absent: Shirakawa, Jr.

9j (1) Adoption of two (2) resolutions:

(a) Resolution confirming Special Election results for Community Facilities District No. 2 (Aborn-Murillo) and directing recording of notice of Special Tax Lien (recording of lien is contingent upon 2/3 voter approval).

(b) Resolution confirming Special Election results for Community Facilities District No. 3 (Silverland-Capriana) and directing recording of notice of Special Tax Lien (recording of lien is contingent upon 2/3 voter approval).

9j (2) If each special tax rate is approved by at least two-thirds of the voters, adoption of the following:

(a) Ordinance ordering the levy of Special Taxes for Community Facilities District No. 2 (Aborn-Murillo).

(b) Ordinance ordering the levy of Special Taxes for Community Facilities District No. 3 (Silverland-Capriana).

(c) Resolution dissolving Maintenance District 16 (Aborn-Murillo) and directing that Fund 932 (MD 16) be retitled CFD 2 and 3.

(Public Works)

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 31, 1997, recommending Council adopt said resolutions and approve related actions necessary to sustain Facilities Districts 2 and 3. (2) Memorandum from City Clerk, Patricia L. O'Hearn, dated November 10, 1997, submitting Affidavits of Mailing of Special Mailed Election Ballots for Community Facilities District Nos. 2 (Aborn-Murillo) and 3 (Silverland-Capriana).

Discussion/Action: This item was renumbered from Item 6f(6). Mayor Hammer introduced the item for Council discussion and pointed out Item 9j(2)(c) would be dropped. For the public record, City Clerk, Patricia L. O'Hearn, certified that on November 14, 1997, she canvassed the returns of the elections held on November 13, 1997 in Community Facilities District No. 2 (Aborn-Murillo) and Community Facilities District No. 3 (Silverland-Capriana) of the City of San José and that the total number of votes cast in those Districts and the total number of votes cast for and against the measure are as follows and the totals for and against the measure are full, true, and correct: For Community Facilities District No. 2 (Aborn-Murillo): Votes Cast: 307;

Yes Votes: 233; No Votes: 74; Percentage of Yes Votes: 76%. For Community Facilities District No. 3 (Silverland-Capriana): Votes Cast: 37; Yes Votes: 25; No Votes: 12; Percentage of Yes Votes: 68%. She stated a copy of the Canvass and Statement of Results of Election, including the text of the Ballot Measure, will be on file in the Office of the City Clerk. Upon motion by Council Member Woody, seconded by Council Member Johnson and unanimously carried, Resolution No. 67746, entitled: "A Resolution of the Council of the City of San José Declaring Results of Special Election and Directing Recording of Notice of Special Tax Lien - City of San José, Community Facilities District No. 2 (Aborn-Murillo)"; Resolution No. 67747, entitled: "A Resolution of the Council of the City of San José Declaring Results of Special Election and Directing Recording of Notice of Special Tax Lien - City of San José, Community Facilities District No. 3 (Silverland-Capriana)"; Ordinance No. 25464, entitled: "An Ordinance of the Council of the City of San José Levying Special Taxes Within Community Facilities District No. 2 (Aborn-Murillo)"; Ordinance No. 25465, "An Ordinance of the Council of the City of San José Levying Special Taxes Within Community Facilities District No. 3 (Silverland-Capriana)", were adopted and Item 9j(2)(c) dropped from the Agenda. Vote: 10-0-1-0. Absent: Shirakawa, Jr.

Vice Mayor Fernandes left Council Chambers at this point in the meeting.

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 actions were taken as indicated. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

Minutes for Approval

6a(1) Regular Meeting of September 30, 1997

Documents Filed: Minutes of the regular meeting of September 30, 1997.

Discussion/Action: The Minutes were approved. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6a(2) Regular Meeting of October 7, 1997

Documents Filed: Minutes of the regular meeting of October 7, 1997.

Discussion/Action: The Minutes were approved. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

Ordinances for Final Adoption

6b(1) ORD. NO. 25454 - Prezones certain real property situated on the west side of Lucretia Avenue opposite Taji Court.
PDC 96-12-074

Documents Filed: Proof of publication of the title of Ordinance No. 25454 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25454 was adopted. Vote: 9-0-2-0. Absent: Shirakawa, Jr.

6b(2) ORD. NO. 25455 - Rezones certain real property situated on the northwest corner of East San Fernando Street and South Third Street.
PDC 96-12-082

Documents Filed: (1) Proof of publication of the title of Ordinance No. 25455 submitted by the City Clerk. (2) Memorandum from Tom Simon, Preservation Action Council, dated November 18, 1997, transmitted by a response from Mayor Hammer, dated December 18, 1997, regarding the New Century Block Project.

Discussion/Action: John Olson spoke against the proposed rezoning and referenced a letter from Tom Simon, President, Preservation Action Council. Ordinance No. 25455 was adopted. Vote: 6-3-2-0. Noes: Dando, Diquisto, Johnson. Absent: Fernandes, Shirakawa, Jr.

6b(3) ORD. NO. 25458 - Amends Section 23.04.020 of Chapter 23.04 of Title 23 of the San José Municipal Code for commercial zones to increase the maximum size of allowable signage on and to increase the maximum number of attached signs under certain circumstances.

Documents Filed: Proof of publication of the title of Ordinance No. 25458 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25458 was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6b(4) ORD. NO. 25459 - Rezones certain real property situated on both sides of Technology Drive, between Sonora Avenue and Skyport Drive.
C 96-07-040

Documents Filed: Proof of publication of the title of Ordinance No. 25459 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25459 was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6b(5) ORD. NO. 25460 - Rezones certain real property situated on the northeast corner and southeast corner of Capitol Expressway and Nieman Boulevard.
PDC 97-06-037

Documents Filed: Proof of publication of the title of Ordinance No. 25460 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25460 was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6b(6) ORD. NO. 25461 - Rezones certain real property situated on the southeast corner of Chynoweth Avenue and Pearl Avenue.
PDCSH 96-11-072

Documents Filed: Proof of publication of the title of Ordinance No. 25461 submitted by the City Clerk.

Discussion/Action: William J. Garbett spoke against the proposed action. Ordinance No. 25461 was adopted. Vote: 6-3-2-0. Noes: Dando, Diquisto, Pandori. Absent: Fernandes, Shirakawa, Jr.

6b(7) ORD. NO. 25462 - Rezones certain real property situated on the westerly side of Bernal Road, between San Ignacio Avenue and Via Del Oro.
PDCSH 96-07-039

Documents Filed: Proof of publication of the title of Ordinance No. 25462 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25462 was adopted. Vote: 8-1-2-0. Noes: Pandori. Absent: Fernandes, Shirakawa, Jr.

Contracts/Agreements

6e(1) Approval of a first amendment to the agreement with CH2M Hill, Inc. for the Coleman Avenue Improvement Project increasing the compensation by \$20,000, from \$79,000 to \$99,000, and extending the term of the agreement by one (1) year, from December 1, 1997 to December 1, 1998. CEQA: ND. (Public Works)
[Deferred from 11/4/97 - Item 6e(5)]

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 17, 1997, recommending Council approve the first amendment to said agreement.

Discussion/Action: The first amendment to the agreement with CH2M Hill, Inc. was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(2) (a) Approval of a first amendment to a joint-use agreement with PG&E for the City's use of PG&E property located at Sierra Meadow Drive between Sierra Monte Way and Muirfield Drive for recreational purposes, in order to include property currently leased to Mayfair Nurseries, Inc. by PG&E.

(b) Approval of an agreement with Mayfair Nurseries, Inc. for Mayfair's release of its interest in the PG&E property in an amount not to exceed \$12,916.
CEQA: Exempt. (Public Works)
[Deferred from 10/28/97 - Item 6e(8) and 11/4/97 - Item 6e(6)]

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 9, 1997, recommending Council approve the first amendment to the joint-use agreement and said agreement with Mayfair Nurseries, Inc.

Discussion/Action: The first amendment to the joint-use agreement with PG&E and the agreement with Mayfair Nurseries, Inc., were approved and their execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(3) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1997-98 #12, 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 October 31, 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. 12 for FY 1997-98 was approved and execution of the purchase orders authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(4) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Montoya Productions to produce the 1998 Multicultural Performing Arts Series in the Montgomery Theater, in an amount not to exceed \$77,000. (Conventions, Arts and Entertainment)

Documents Filed: Memorandum from Director of Conventions, Arts and Entertainment, Nancy Johnson, dated October 31, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67748, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With Montoya Productions for Production of the 1998 Multicultural Performing Arts Series", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(5) Approval of an agreement with Mary Kathryn Vorreiter to provide export services for the City's Baytrade program in an amount not to exceed \$51,929, for the period October 1, 1997 to September 30, 1998. (Economic Development)

Documents Filed: Memorandum from Director of Economic Development, Leslie S. Parks, dated October 31, 1997, recommending Council approve said agreement.

Discussion/Action: The agreement with Mary Kathryn Vorreiter was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(6) Approval of an agreement with Foundation Health Psychcare Services SBA Occupational Health Services to develop and deliver a Human Relations Training Program, in an amount not to exceed \$134,700. (Fire)

Documents Filed: None.

Discussion/Action: This item was deferred to December 9, 1997.

6e(7) Approval of a third amendment to the agreement with Fortune² Design for graphic design services, increasing the agreement by \$80,000, for the period November 1, 1997 to June 30, 1998, for a total contract amount not to exceed \$155,000.
(Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated October 31, 1997, recommending Council approve the third amendment to said agreement. (2) Letter from Treatment Plant Advisory Committee, James F. Arno, Chairperson, dated November 14, 1997, recommending approval of the third amendment to said agreement.

Discussion/Action: The third amendment to the graphic design services agreement with Fortune 2 Design was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(8) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with East Side Union High School District (ESUHSD) related to the establishment of a Multi-Disciplinary Team (MDT) and Emergency Response Protocol. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated October 31, 1997, recommending Council approve said agreement with East Side Union High School District.

Discussion/Action: William J. Garbett spoke against the proposed action. Resolution No. 67749, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With East Side Union High School District to Establish a Multi-Disciplinary Team", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(9) (a) Approval of Contract Change Order No. 4 with Colich & Sons for the South Bay Water Recycling Program (SBWRP) Yerba Buena/Sylvandale Pipeline Reach SJ5 Project in the credit amount of \$98,000, for a total contract amount of \$5,712,725.

(b) Approval of the addition of Corpro Companies, Inc. and William P. Young Company, Inc. as subcontractors for the SBWRP Yerba Buena/ Sylvandale Pipeline Reach SJ5 Project at no additional cost to the City.

CEQA: Resolution No. 64667. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 31, 1997, recommending Council approve said contract change order and the addition of subcontractors for said SBWRP project.

Discussion/Action: Contract Change Order No. 4 with Colich & Sons was approved and its execution authorized, and the addition of subcontractors Corpro Companies, Inc. and William P. Young Company, Inc., was approved. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(10) Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the grant agreement with Santa Clara County for the Los Gatos Creek Trail Extension Project (Blackford School to Meridian Avenue) in order to extend the term of the agreement by 18 months, from January 1, 1998 to June 30, 1999. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 31, 1997, recommending Council approve the first amendment to the grant agreement with Santa Clara County.

Discussion/Action: Resolution No. 67750 , entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the First Amendment to the Grant Agreement With Santa Clara County for the Los Gatos Creek Trail Extension Project”, was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(11) Report on bids and approval to reject all bids for the Guadalupe Creek Park Improvements Project and authorization for the Director of Public Works to re-advertise and rebid the project. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 31, 1997, recommending Council accept the report, reject all bids for said project, and authorize the Director of Public Works to readvertise and rebid the project.

Discussion/Action: Approval to reject the bids for the Guadalupe Creek Park Improvements Project was granted and the Director of Public Works authorized to readvertise and rebid the project. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(12) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Pacific Gas & Electric Company for the replacement of aerial facilities with underground facilities within the Underground Utility District at San Felipe Road from Silver Estates to Thompson Creek, in the amount of \$129,995. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 31, 1997, recommending Council approve an agreement with Pacific Gas & Electric Company for said facilities.

Discussion/Action: Resolution No. 67751, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With Pacific Gas & Electric for Undergrounding of Overhead Utilities in an Amount not to Exceed \$129,995”, was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(13) Approval of a cooperation agreement with the County of Santa Clara, Town of Los Gatos, City of Campbell, City of Santa Clara, City of Milpitas, the California Department of Transportation, and the Santa Clara Valley Transportation Authority to implement the Silicon Valley Smart Corridor Project. CEQA: Exempt. (Streets and Traffic)

Documents Filed: Memorandum from Director of Streets and Traffic, Wayne K. Tanda, dated October 31, 1997, recommending Council approve said agreement.

Discussion/Action: The cooperation agreement between the City of San José and the contracting agencies was approved and its execution authorized. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6e(14) Adoption of a resolution authorizing the City Attorney to negotiate and execute a consultant agreement with Brown and Caldwell, Inc., for consulting services not to exceed \$80,000. (City Attorney's Office)
(Rules Committee referral 11/12/97)

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated November 13, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67752, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute an Agreement With Brown & Caldwell in an Amount Not to Exceed \$80,000", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

Routine Legislation

6f(1) Adoption of a resolution setting population limits for purposes of calculating the voluntary expenditure limits for the 1998 Municipal Election.
(City Attorney's Office/City Clerk)

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated November 17, 1997, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke against the proposed action. Resolution No. 67753, entitled: "A Resolution of the Council of the City of San José Setting Population Limits for Purposes of Calculating the Voluntary Expenditure Limits for the 1998 Municipal Election Cycle", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6f(2) Approval of an ordinance amending Section 3.48.173 of Chapter 3.48 of the San José Municipal Code to increase the dollar limit of accounts that may be voluntarily liquidated from the Deferred Compensation Plan.
(Human Resources)

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated October 31, 1997, recommending approval of said ordinance.

Discussion/Action: Ordinance No. 25466, entitled: "An Ordinance of the Council of the City of San José Amending Section 3.48.137 of Chapter 3.48 of Title 3 of the San José Municipal Code to Increase the Amount of Deferred Compensation Accounts That Can be Voluntarily Liquidated", was passed for publication. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6f(3) Adoption of a resolution authorizing the City Manager to submit a grant application for the Retired and Senior Volunteer Program (RSVP) to the Corporation for National Services, for the period April 1, 1998 to March 31, 2001, to accept the grant when awarded, and to execute the necessary documents.

(Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated October 31, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67754, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit a Grant Application to the Corporation for National Service for a Continuation Grant for the Retired Senior Volunteer Program, to Accept the Grant if Awarded, and to Execute All Necessary Documentation Related to Acceptance of the Grant", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6f(4) Adoption of a resolution determining that public interest and necessity require the acquisition of certain property owned by Richard T. Peery, Trustee, and John Arrillaga, Trustee, and directing the City Attorney to file an eminent domain action. CEQA: Resolution No. 66985. (Public Works)

Documents Filed: None.

Discussion/Action: This item was deferred to December 9, 1997.

6f(5) Adoption of a resolution approving City of San José participation in the annual Spare the Air City Campaign. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated October 31, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67755, entitled: "A Resolution of the Council of the City of San José to Participate in the 'Spare The Air City' Campaign", was adopted. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

6f(6) (a) Adoption of two (2) resolutions:

(1) Resolution confirming Special Election results for Community Facilities District No. 2 (Aborn-Murillo) and directing recording of notice of Special Tax Lien (recording of lien is contingent upon 2/3 voter approval).

(2) Resolution confirming Special Election results for Community Facilities District No. 3 (Silverland-Capriana) and directing recording of notice of Special Tax Lien (recording of lien is contingent upon 2/3 voter approval).

(b) If each special tax rate is approved by at least two-thirds of the voters, adoption of the following:

Ordinance ordering the levy of Special Taxes for Community Facilities District No. 2 (Aborn-Murillo).

- (1) Ordinance ordering the levy of Special Taxes for Community Facilities District No. 3 (Silverland-Capriana).
- (2) Resolution dissolving Maintenance District 16 (Aborn-Murillo) and directing that Fund 932 (MD 16) be retitled CFD 2 and 3. (Public Works)

Documents Filed: See Item 9j.

Discussion/Action: Item 6f(b)(3) was dropped, and the remaining items renumbered to Item 9j. See Item 9j for Council action.

6f(7) Approval of the San José Arena Management's Advertising Plan.
(San José Arena Authority)

Documents Filed: Memorandum from Executive Director of the San José Arena Authority, Chris Morrisey, dated October 31, 1997, recommending Council approve said advertising plan.

Discussion/Action: The San José Arena Management's Advertising Plan was approved. Vote: 9-0-2-0. Absent: Fernandes, Shirakawa, Jr.

END OF CONSENT CALENDAR

Vice Mayor Fernandes return to Council Chambers at this time.

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - Meeting of October 29, 1997

Documents Filed: Rules Committee Report of October 29, 1997.

(1) Review of November 11 Council Agenda

This item Dropped - Meeting Cancelled.

(2) Add New Items to November 4 Amended Council Agenda

The Committee recommended six additions and three changes to the November 4, 1997 Council Agenda.

(3) The Public Record. Attachment: Memorandum from City Clerk, Patricia L. O'Hearn, dated October 23, 1997, listing the items transmitted to the Administration for the period October 15-21, 1997. (2) Memorandum from Council Liaison, Norberto L. Duenas, dated October 29, 1997, summarizing the actions taken on items transmitted to the Administration and the items filed for the Public Record for the period October 15-21, 1997.

The Committee noted and filed the Public Record for the period October 15-21, 1997.

(4) Report back on Alzheimer's Safe Return Program. Attachment: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated October 21, 1997, providing an assessment of the time and resources necessary to complete Vice Mayor Fernandes' request regarding the Alzheimer's Safe Return Program.

The Committee accepted Police Chief Cobarruviaz' report and directed the Administration to determine the feasibility of establishing and promoting the Safe Return Program or similar program for Alzheimer's and dementia sufferers in San José and to research the availability of technology that could be integrated with and supported by existing Police Department technology to assist in locating persons participating in a voluntary tracking program for Alzheimer's and dementia sufferers.

(5) Report back on Youth Crime Gun Interdiction Initiative

The Committee deferred this item to the November 5, 1997 Rules Committee meeting.

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

None presented.

(7) City Council and Rules Committee meeting schedules. Attachment: Memorandum from Mayor Hammer, dated October 29, 1997, recommended Rules Committee reschedule consideration of the New Group Homes Ordinance to one of the first evening meetings in 1998.

The Committee rescheduled the public hearing on the Group Homes Ordinance from November 18, 1997 to one of the first evening meetings in 1998.

(8) Oral communications

None presented.

(9) Adjournment

The meeting was adjourned at 2:5 p.m.

Discussion/Action: Upon motion by Vice Mayor Fernandes, seconded by Council Member Woody and unanimously carried, the Rules Committee Report and actions of October 29, 1997 were accepted. Vote: 10-0-1-0. Absent: Shirakawa, Jr.

7b Report of the Rules Committee - Meeting of November 5, 1997

Documents Filed: Rules Committee Report of November 5, 1997.

(1) Review of November 18 Council Agenda

The Committee approved the November 18, 1997 Council Agenda with two changes.

- (2) Add New Items to November 11 Amended Council Agenda

This item dropped - Meeting Cancelled.

- (3) The Public Record. Attachment: Memorandum from City Clerk, Patricia L. O'Hearn, dated October 30, 1997, listing the items transmitted to the Administration for the period October 22-28, 1997. (2) Memorandum from Council Liaison, Norberto L. Duenas, dated November 5, 1997, summarizing the actions taken on items transmitted to the Administration and the items filed for the Public Record for the period October 22-28, 1997.

The Committee noted and filed the Public Record for the period October 22-28, 1997.

- (4) Airport Commission recommendations concerning Reid-Hillview Airport. Attachment: Memorandum from Director of Aviation, Ralph G. Tonseth, dated September 18, 1997, transmitting a report on Reid-Hillview Airport which was unanimously approved by the Airport Commission at its regular meeting of September 8, 1997.

The Committee referred the Airport Commission recommendations concerning Reid-Hillview Airport to the Administration for an analysis of the issues described in the memorandum; and directed that the staff report on the Airport Commission recommendations to be included as part of the Airport Master Plan implementation package presented to be brought back to Council during the first quarter of 1998. Noes: Woody.

- (5) Report back on Youth Crime Gun Interdiction Initiative

The Committee deferred this item to November 12, 1997 Rules Committee meeting.

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

None presented.

- (7) City Council and Rules Committee meeting schedules

The Committee noted the draft agenda for the November 13, 1997 Annual Review of the General Plan.

- (8) Oral communications

None presented.

- (9) Adjournment

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

Discussion/Action: Clarifying for the record her opposition to Item 7b(4), the recommendations concerning the operation and management of Reid-Hillview Airport, Council Member Woody stated the discussion of the Airport Commission's proposal is premature. She stated the disposition of Reid-Hillview Airport, a County-owned and operated facility, must be considered as a regional effort involving the City of San José working with the County and the Federal Aviation Authority to effectively address the impacts, e.g., the positive/negative affect on general aviation aircraft, noise mitigation implemented for schools and residences surrounding Reid-Hillview Airport, and the benefits of the transportation system for Santa Clara County, City of San José, and the surrounding region. In his opposition to the Airport Commission's recommendation, Council Member Diaz stated Council Members for Districts 8 and 5 must be participants in the decision-making process and that consideration must be given to other under-utilized areas of South County and Palo Alto. Upon motion by Vice Mayor Fernandes, seconded by Council Member Johnson and unanimously carried, the Rules Committee Report and actions of November 5, 1997 were accepted with Council Member Woody's explanation of her opposing position on Item 7b(4). Vote: 10-0-1-0. Absent: Shirakawa, Jr.

7d Report of the Housing and Community Development Committee - November 3, 1997

Documents Filed: Housing and Community Development Committee Report of November 3, 1997.

(1) Consent Calendar. Attachments: (1) Memorandum from Director of Housing, Alex Sanchez, dated October 24, 1997, transmitting the Project Development Quarterly Report for the first quarter of the 1997-98 Fiscal Year. (2) Memorandum from Director of Housing, Alex Sanchez, dated October 24, 1997, submitting the report on activity during the first quarter of the 1997-98 Fiscal Year in the Housing Rehabilitation program. (3) Memorandum from Director of Housing, Alex Sanchez, dated October 24, 1997, submitting a report showing new applications for the housing and homeless fund resources received during the reporting period, the status of pending applications received in prior reporting periods, and an update on the progress of previously funded applications. (4) Memorandum from Director of Housing, Alex Sanchez, dated October 24, 1997, submitting a report as an informational item to be noted and filed by the Housing and Community Development Committee. (5) Memorandum from Director of Housing, Alex Sanchez, dated October 27, 1997, providing the Committee with an update on the status of project-based Section 98 contracts in San Jose and the disposition of HR2158. (6) Memorandum from Chair of the Library Commission, Jerry Gandara, dated October 16, 1997, transmitting the report of the review of FY 1996-97 expenditures.

- (a) Quarterly Report on the Project Development Program
- (b) Quarterly Report on the Housing Rehabilitation Program
- (c) Quarterly Report on the Housing and Homeless Fund
- (d) Development of a Picture Policy - Audit Follow-Up
- (e) Section 8 Update, Part II
- (f) Measure E Review Committee Report

The Committee accepted the staff reports and approved the Consent Calendar.

(2) Festival, Parade and Celebration Grants and Arts Grants Guidelines. Attachment: Memorandum from Director of Conventions, Arts and Entertainment, Nancy Johnson, dated October 24, 1997, recommending approval of the Arts Commission recommendations for changes in Arts Grants guidelines for 1998-99 affecting minimum and maximum grant ranges, peer review site visit, and eligible Arts Express programs.

The Committee accepted the staff report.

(3) Public Art Workplan. Attachment: Memorandum from Director of Conventions, Arts and Entertainment, Nancy Johnson, dated October 24, 1997, recommending approval of the 1998 Public Art Workplan.

The Committee accepted the staff report.

(4) Convention & Cultural Facilities Annual Performance Report. Attachment: Memorandum from Director of Conventions, Arts and Entertainment, Nancy Johnson, dated October 24, 1997, recommending acceptance of the 1996-97 Convention & Cultural Facilities performance report.

The Committee approved the report and recommended that a joint meeting be held with the Agency Finance Committee and the H&CDC in November, 1997, or through H&CDC alone in December, 1997 on the release of the feasibility study on the Convention Center expansion, including the necessity of Hotel East and hotel amenities.

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

(5) Oral petitions

None presented.

(6) Adjournment

The meeting was adjourned at 2:46 p.m.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Johnson and unanimously carried, the Housing and Community Development Committee Report and actions of November 3, 1997 were accepted with Item 7d(4) acted upon at Item 9f. Vote: 10-0-1-0. Absent: Shirakawa, Jr.

ORAL COMMUNICATIONS

Cathy S. Brandhorst commented on the insufficiency of the services available to the homeless in San José.

RECESS/RECONVENE

Following Oral Communications, Council recessed at 3:30 p.m. and reconvened at 7:03 p.m., Council Chambers, City Hall.

Present: Council Members: Dando, Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Woody.

Absent: Council Members: Shirakawa, Jr.; Hammer (excused).

City Clerk, Patricia L. O'Hearn, read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Powers, seconded by Council Member Diaz and unanimously carried, the below noted continuances and other actions were granted. Vote: 9-0-2-0. Absent: Shirakawa, Jr.; Hammer.

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 10/7/97 - Item 15a)

Documents Filed: None.

Discussion/Action: This item was continued to February 3, 1998.

15c PUBLIC HEARING ON THE CONFORMING REZONING of the area generally within the boundaries of the south side of Coleman Avenue and Julian Avenue, east of Highway 87, west of Fourth Street, and north of Highway 280, from C-3 Commercial, M-1 and M-4 Manufacturing, R-2, R-3, and R-4 Residence District to D-C Downtown Primary Commercial District No change is recommended for the existing R-I Residence District and PD Planned Development Districts. (Planning, Building and Code Enforcement)

CC 97-08-057 -District 3

Documents Filed: None.

Discussion/Action: This item was continued to February 17, 1998.

15b Public Hearing and adoption of a resolution:

(1) Overruling any and all objections to the 1998 Report of Seasonal and Recurrent Weeds and Refuse.

(2) Directing the Office of the Santa Clara County Fire Marshal to abate the seasonal and/or recurrent nuisances on identified properties pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement with the County of Santa Clara.
(Planning, Building and Code Enforcement)

Documents Filed: See Item 13a of November 25, 1997 City Council meeting.

Discussion/Action: Mayor Hammer opened the public hearing; following the Staff presentation, Council accepted public testimony from several individuals opposing the assessments and requesting their names and properties to be removed from the City's Weed Abatement List. Given the number of complaints from property owners and irregularities in the mailing list, Council directed Staff to meet with the individuals regarding their concerns, to report the results of those meetings to Council on November 25, 1997, and to improve upon the overall process prior to renewing the contract with the County. Upon motion by Council Member Johnson, seconded by Council Member Diaz and unanimously carried, the public hearing was continued to November 25, 1997, 1:30 p.m. Vote: 9-0-2-0. Absent: Shirakawa, Jr.; Hammer.

15d PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the southeasterly side of Berryessa Road between Junesong Way and Dionne Way, from A-Agricultural to A(PD) Planned Development, to allow 29 single-family detached residences on 4.7 gross acres. (Lee Jai Buey, Owner; Braddock & Logan, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (5-0-2).

PDC 97-06-034 - District 4

Documents Filed: (1) Memorandum from the Planning Commission, dated October 31, 1997, recommending Council adopt an ordinance approving the subject rezoning. (2) Public Hearing Notice to consider a change in Zoning for PDC 97-06-034, dated October 1, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the planned development rezoning of the subject property. There was no discussion from the Floor. Upon motion by Council Member Powers, seconded by Council Member Diquisto and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 25467, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeasterly Side of Berryessa Road Between Junesong Way and Dionne Way", was passed for publication. Vote: 9-0-2-0. Absent: Shirakawa, Jr.; Hammer.

15e PUBLIC HEARING ON CONFORMING REZONING of the property located on the southeast corner of 16th Street and East Santa Clara Street, from C-3 and C Commercial to C-2 Commercial, on a 1.24 gross acre site (Hunter/Storm/16th and Santa Clara St., LLC, Owner/Developer). CEQA: Exempt. Director of Planning recommends approval. No Planning Commission action required.

C 97-09-066 - District 3

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report, executed October 30, 1997 for approval, recommending Council approve the subject rezoning. (2) Public Hearing Notice to consider a change in Zoning for C 97-09-066, dated October 28, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the conforming rezoning of the subject property. There was no discussion from the Floor. Upon motion by Council Member Pandori, seconded by Council Member Diaz and unanimously carried, the public hearing was closed and Ordinance No. 25468, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of 16th Street and East Santa Clara Street", was passed for publication. Vote: 9-0-2-0. Absent: Shirakawa, Jr.; Hammer.

ORAL COMMUNICATIONS

Cathy S. Brandhorst spoke on the lack of services available to the homeless in San José.

ADJOURNMENT

The Council of the City of San José adjourned at 7:40 in memory of pianist Marina Gusak-Grin, wife of San José Symphony music director, Leonid Grin, and in memory of Eugene Sanchez, brother of Board of Supervisor Blanca Alvarado and former Council Member of the City of San José.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK