

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, DECEMBER 16, 1997

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

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

Absent: Council Members: None

Upon motion unanimously adopted, 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 cases of Realtec Properties I, L.P. v. City of San José, et al.; McCarthy, et al. v. City of San José, et al.; City of San José v. Peery & Arrillaga; San José Parking v. City of San José et al.; Basati v. City of San José, et al.; and Jane Doe v. City of San José, et al.; and (B) to confer with Legal Counsel - Anticipated Litigation - regarding the initiation of litigation: To discuss a matter with respect to significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code; and (2) to discuss two matters in the initiation of litigation pursuant to subdivision (c) of Section 54956.9 of the Government Code.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:15 a.m. and reconvened at 1:42 p.m. in Council Chambers, City Hall.

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

Absent: Council Members: None

INVOCATION

Pastor Ken Kenuly, Jubilee Christian Center, was unable to attend the meeting. (Mayor)

PLEDGE OF ALLEGIANCE

Mayor Hammer led in the Pledge of Allegiance.

ORDERS OF THE DAY

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

CEREMONIAL ITEMS

- 5a Presentation of a commendation to the San José Sports Authority, San José State University, and San José CLASH in recognition of their achievement in bringing the 1999 Women's World Cup in Soccer to San José. (Fiscalini)**

Documents Filed: None.

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

- 5e Presentation of a commendation to Cedar Grove Elementary School for their commitment to the community by raising \$2,800.57 from their Penny Drive for the Evergreen Valley Service Organization's Toys for Tots Drive. (Woody) (Orders of the Day 4a)**

Documents Filed: None.

Discussion/Action: Joined by Mayor Hammer at the Podium, Council Member Woody introduced Catherine Jeu—student, Mr. Tom Vlahas—teacher, Mrs. Debbie Hopper—PTA President, Mrs. Annette Froelich—PTA Vice President, and Mrs. Jozie Autry—Cedar Grove Elementary School Principal, and presented the commendation in recognition of the community's efforts. During a five-week period the students conducted a "penny drive" and collected \$2,800.57 for the purpose of contributing to the Toys for Tots Drive.

Council Member Johnson announced the resignation of Julie Ann Fink-White, and expressed appreciation for the Assistant's support during nine years of dedicated service to District One and the City of San José; the City Council joined Council Member Johnson in extending best wishes to Julie Ann, and in welcoming Mike Yaghamai, newly appointed Assistant to the District One Office, who was asked him to stand and be recognized.

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: 11-0-0-0.

Ordinances for Final Adoption

- 6b(1) ORD. NO. 25471 - Amends Ordinance No. 25361, which granted a Commercial Solid Waste Collection Franchise to GreenTeam of San José, to allow GreenTeam to conduct commercial solid waste business under the dba GT Waste Systems.**

Documents Filed: Proof of publication of the title of Ordinance No. 25471 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25471 was adopted. Vote: 11-0-0-0.

- 6b(2) ORD. NO. 25473 - Amends Chapter 4.76 of Title 4 of the San José Municipal Code to add a new section to implement a two-year pilot program to refund a timely business tax payment to any sole proprietorship with gross receipts not exceeding**

the federal poverty level during the immediately preceding income tax year and amending Section 4.76.345 to correct a reference to the federal agency which sets the federal poverty level and to make other technical changes.

Documents Filed: Proof of publication of the title of Ordinance No. 25473 submitted by the City Clerk.

Discussion/Action: Ordinance No. 25473 was adopted. Vote: 11-0-0-0.

Public Hearings Set by Council

- 6c(1) Adoption of a resolution initiating the conforming rezoning of 0.44-acre site located on the north side of Harmon Avenue, approximately 282 feet easterly of Meridian Avenue, from County to I-Industrial Zoning District, and setting a public hearing on February 3, 1998 at 7:00 p.m. CC 97-11-082. District 6. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated November 25, 1997, recommending the placement of the captioned item on the Consent Calendar for the December 16, 1997 Council Agenda and the adoption of said resolution.

Discussion/Action: Resolution No. 67808, entitled: "Resolution of the Council of the City of San José Initiating Proceedings On Its Own Motion to Prezone Certain Real Property Situated on the North Side of Harmon Avenue, Approximately 282 Feet Easterly of Meridian Avenue", was adopted. Vote: 11-0-0-0.

- 6c(2) Adoption of a resolution to consider the establishment of an Underground Utility District at Story Road, from Galahad Avenue to White Road, and setting a public hearing on January 27, 1998 at 1:30 p.m. CEQA: Exempt. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 25, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67809, entitled:, "A Resolution of the Council of the City of San José Setting the Time and Place for a Public Hearing to Consider the Establishment of an Underground Utility District on Story Road Between Galahad Avenue and White Road on January 27, 1998 at 1:30 p.m.", was adopted. Vote: 11-0-0-0.

- 6c(3) Adoption of a resolution to consider the establishment of an Underground Utility District at Julian Street, from Market Street to First Street, and setting a public hearing on January 27, 1998 at 1:30 p.m. CEQA: Resolution No. 64273. (Public Works)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr.,

dated November 25, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67810, entitled: “A Resolution of the Council of the City of San José Setting the Time and Place for a Public Hearing to Consider the Establishment of an Underground Utility District at Julian Street From Market Street to First Street on January 27, 1998 at 1:30 p.m.”, was adopted. Vote: 11-0-0-0.

Plans and Specifications

- 6d(1) TRACT NO. 8997 - North side of East San Antonio Street, west of Tract 7198 - The San José Grail Development Corporation (Developer) - 39 detached residential units. Adoption of a resolution approving the final map and approval of the Parkland Agreement for Tract No. 8997. CEQA: ND. District 5.
(Public Works)
(Rules in Lieu 12/10/97)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 9, 1997, recommending Council adopt said resolution for Tract 8997.

Discussion/Action: Resolution No. 67811, entitled: “A Resolution of the Council of the City of San José Approving and Accepting Final Map of Tract No. 8997”, was adopted. Vote: 11-0-0-0.

Contracts/Agreements

- 6e(1) Approval of a sixth amendment to the agreement with Scotsman Group for the City’s lease of the temporary Federal Inspection Services (FIS) at the San José International Airport, extending the term of the agreement by twenty-four (24) months, from February 1, 1998 to January 31, 2000, at no additional cost to the City. CEQA: Exempt. (Airport)**

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated November 25, 1997, recommending Council approve the amendment to said agreement.

Discussion/Action: The sixth amendment to the agreement with Scotsman Group was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(2) Approval of a seventh amendment to the consultant agreement with TRA Architecture Engineering Planning Interiors Ltd. for the San José International Airport/Master Plan Update Project, increasing the compensation by \$57,800, from \$1,250,000 to \$1,307,800, and extending the term of the agreement by one (1) year, from December 31, 1997 to December 1, 1998. (Airport)**

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated November 25, 1997, recommending Council approve said amendment to the consultant services agreement.

Discussion/Action: The seventh amendment to the consultant agreement with TRA Architecture Engineering Planning Interiors Ltd. was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(3)(a) Approval of an eighth amendment to terminal building lease with American Airlines to provide for the relinquishment of approximately 2,392 square feet of operations space in Terminal A.**
- (b) Approval of a second amendment to the operating agreement and terminal building lease with Southwest Airlines to provide for the occupancy of approximately 2,392 square feet of space effective December 16, 1997, and to extend the term of the lease through April 30, 2003.**

CEQA: Exempt. (Airport)

Documents Filed: None.

Discussion/Action: This item was dropped.

- 6e(4) Approval of an agreement with Shaw, Pittman, Potts & Trowbridge for legal services in connection with air service routes at the San José International Airport, for the period December 17, 1997 to June 30, 1999, in an amount not to exceed \$150,000. (Airport/City Attorney's Office)**

Documents Filed: Memorandum from Director of Aviation Ralph G. Tonseth, and City Attorney Joan R. Gallo, dated December 1, 1997, recommending Council approve said agreement.

Discussion/Action: The legal services agreement with Shaw, Pittman, Potts & Trowbridge was approved and its execution authorized. Vote: 11-0-0-0.

- 6e(5)(a) Adoption of a resolution authorizing the City Attorney to negotiate and execute a provider agreement with Family Health Foundation, Inc., and the third amendment to the provider agreement with the County of Santa Clara for participation in the San José Municipal Health Services Program for the period of January 1, 1998 through December 31, 1998.**

- 6e(5)(b)(1) Adoption of appropriation ordinance and funding sources resolution amendments for the Municipal Health Services Program, to extend the Program from January 1, 1998 to June 30, 1998.**

- (2) Authorization of the addition of 1.0 MHSP Project Assistant.
(City Attorney's Office)**

This item renumbered from Item 6f(1).

Documents Filed: (1) Memorandum from City Attorney, Joan R. Gallo, dated December 11, 1997, recommending Council approve the agreement with Family Health Foundation, Inc., and the third amendment to the provider agreement with the County of Santa Clara. (2) Memorandum from City Attorney Joan R. Gallo, and Budget Director Larry D.

Lisenbee, dated December 2, 1997, recommending Council approve the appropriation ordinance and funding sources resolution amendments in the MHSP Special Fund and authorize the addition of said position.

Discussion/Action: Resolution No. 67812, entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute an Agreement With Family Health Foundation and an Amendment to the Agreement With the County of Santa Clara for Provider Services in Connection With the Municipal Health Services Program”; Ordinance No. 25476, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25390 to Appropriate Moneys in the Municipal Health Services Program Fund in the Amount of \$6,661,600 to Extend the MHSP Program From January 1, 1998 to June 30, 1998; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 67813, entitled” “A Resolution of the Council of the City of San José Amending Resolution No. 67424 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1997-98 to Adjust Revenues in the Municipal Health Services Program Fund”, were adopted; and the addition of 1.0 MHSP Project Assistant authorized. Vote: 11-0-0-0.

6e(6) Approval of an agreement for legal services with Sonnenschein, Nath & Rosenthal in an amount not to exceed \$125,000. (City Attorney’s Office)

Documents Filed: Memorandum from City Attorney, Joan R. Gallo, dated December 4, 1997, recommending Council approve said agreement.

Discussion/Action: The legal services agreement with Sonnenschein, Nath & Rosenthal was approved and execution of the agreement authorized. Vote: 11-0-0-0.

6e(7) Approval of an agreement with Planning and Management Consultants Ltd. for the development of a Water Use and Conservation Baseline Study, in an amount not to exceed \$185,378. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 25, 1997, recommending Council adopt a resolution authorizing the City Manager to execute said agreement.

Discussion/Action: Council Member Fiscalini suggested Staff review bid specifications and do whatever is necessary to encourage greater response to proposals. The agreement with Planning and Management Consultants, Ltd. was approved and its execution authorized. Vote: 11-0-0-0.

6e(8) Approval of a first amendment to the agreement with the San José State University Foundation for technical and customer service assistance for the Water Efficiency Program, in an amount not to exceed \$58,583. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services, Louis N.

Garcia, dated November 25, 1997, recommending Council adopt a resolution authorizing the City Manager to execute said amendment.

Discussion/Action: The first amendment to the agreement with San José State University Foundation was approved and execution of the amendment authorized. Vote: 11-0-0-0.

- 6e(9) Adoption of a resolution authorizing the Director of General Services to execute a repair contract with Anderson Pacific Engineering Construction, Inc. for the repair of the return sludge (RS) pipe in the Nitrification tunnel at the SJ/SC Water Pollution Control Plant, in an amount not to exceed \$99,000, and a contingency in the amount of \$4,700 for unforeseen additional repairs.
(General Services)**

Documents Filed: (1) Memorandum from Director of General Services, Ellis M. Jones Jr., dated November 25, 1997, recommending Council award said repair contract, and authorize the Director of General Services to execute same. (2) Letter from Treatment Plant Advisory Committee, James F. Arno, Chairperson, dated December 12, 1997, recommending approval of said contract.

Discussion/Action: Resolution No. 67814, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute a Repair Contract with Anderson Pacific Engineering Construction, Inc. for the Repair of the Return Sludge Pipe at the Water Pollution Control Plant", was adopted. Vote: 11-0-0-0.

- 6e(10) Approval of award of purchase of 40 TMP-390 traffic signal controllers with modules and modems for the Streets and Traffic Department to Intersection Development Corporation as a sole source purchase at a total cost of \$142,673.50, including tax and installation, and authorization for the Director of General Services to execute the purchase order. (General Services)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated November 25, 1997, recommending Council award said purchase to Intersection Development Corporation as a sole source purchase pursuant to subsection 4.12.020D of the San José Municipal Code, and authorize the Director of General Services to execute the purchase order.

Discussion/Action: The award of purchase to Intersection Development Corporation, as a sole source purchase, was approved and execution of the purchase order authorized. Vote: 11-0-0-0.

- 6e(11) Report on bids and award of purchase of one (1) 4-wheel bi-directional tractor with mower for the San José International Airport to the sole bidder Municipal Maintenance Equipment (MME), at a total cost of \$96,523.38, including tax, and authorization for the Director of General Services to:**
- (a) Execute the purchase order for one (1) 4-wheel bi-directional tractor and mower.**

- (b) **Exercise the option to purchase additional 4-wheel bi-directional tractor(s) with mowers at the same unit price of \$93,523.38 for one (1) year, only after sufficient funds have been appropriated.**

(General Services)

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated November 25, 1997, recommending Council approve the report on bids and award said contract to the sole bidder, and authorize the Director of General Services to execute the purchase orders.

Discussion/Action: Council Member Fiscalini suggested Staff scrutinize more closely the bid specifications in an effort to attract greater numbers of qualified bidders. The report on bids and award of contract to the sole bidder, Municipal Maintenance Equipment (MME) were approved, and the option to purchase and execution of the purchase order authorized. Vote: 11-0-0-0.

- 6e(12) Adoption of a resolution authorizing the Director of General Services to execute an amendment to the agreement with ACME Building Maintenance Co. for janitorial services at City facilities, increasing the compensation by \$15,000, from \$836,000 to \$851,000. (General Services)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated November 25, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67815, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Amendment to the Agreement With Acme Building Maintenance Co. for Janitorial Services", was adopted. Vote: 11-0-0-0.

- 6e(13) Adoption of a resolution authorizing the Director of General Services to execute a first amendment to the agreement with Applied Management Engineering, Inc. for the building condition assessment, increasing the compensation by \$128,000, from \$72,000 to \$200,000, for the period January 2, 1998 to January 1, 1999. (General Services)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated November 25, 1997, recommending Council adopt said resolution.

Discussion/Action: Supporting Council approval of the amendment to the contract with Applied Management Engineering, Inc., Council Member Powers protested the condition of the elevators in City Hall Annex. She stated the intermittent and sporadic manner in which the elevators operate suggests the motors should be replaced and the vehicles thoroughly serviced or replaced, and that the Administration should consider those improvements during the Winter Legislative Recess. Resolution No. 67816, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Amendment to the Agreement With Applied Management

Engineering, Inc. for Building Conditions Assessment”, was adopted. Vote: 11-0-0-0.

6e(14) Adoption of a resolution authorizing the Director of General Services to:

- (a) **Execute an agreement with All American Maintenance Service for citywide park restroom maintenance for the period January 1, 1998 to October 31, 1998, in an amount not to exceed \$170,982.38.**
- (b) **Exercise four (4) one-year options for renewal contingent upon satisfactory performance by the contractor and based on the Consumer Price Index (CPI) at an annual cost of \$176,633.58 plus adjustment, only after sufficient funds have been appropriated.**

(General Services)

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated November 25, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67817, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute An Agreement With All American Maintenance Service for Park Restroom Maintenance Services for the Period January 1, 1998 to October 31, 1998, and Four One-Year Options”, was adopted. Vote: 11-0-0-0.

6e(15) Adoption of a resolution authorizing the City Manager to execute a first amendment to the agreement with Syntel, Inc. for Year 2000 consultant services, adding additional services, and increasing the compensation by \$60,450, from \$49,500 to \$109,950, and extending the term of the agreement by six (6) months, from January 1, 1998 to June 30, 1998. (Information Technology)

Documents Filed: Memorandum from Acting Director of Information Technology, Ellis M. Jones, Jr., dated December 12, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67818, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a First Amendment to the Agreement With Syntel, Inc. for Year 2000 Consulting Services”, was adopted. Vote: 11-0-0-0.

- 6e(16) (a) Approval of a continuation agreement with Kutzmann & Associates for building plan check services, increasing the compensation by \$80,000, from \$209,000 to \$289,000.**
- (b) **Approval of a seventh amendment to the consultant agreement with Linhart, Petersen, Powers, Associates for building plan check services, increasing the compensation by \$80,000, from \$339,000 to \$419,000.**
 - (c) **Approval of a fifth amendment to the consultant agreement with R.K. Associates for building plan check services, increasing the compensation by \$15,000, from \$132,000 to \$147,000.**

6e(16)(d) Approval of a first amendment to the consultant agreement with EsGil

Corporation for building plan check services, increasing the compensation by \$20,000, from \$25,000 to \$45,000.

(Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Council Liaison, Norberto Duenas, dated December 15, 1997, correcting Item "D" in the recommendation section of the Staff memorandum to reflect an approval of a first amendment to the agreement between the City of San José and EsGil Corporation. (2) Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated November 25, 1997, recommending Council approve actions necessary to provide for plan checking services.

Discussion/Action: William J. Garbett spoke against the proposed action. The continuation agreement with Kutzmann & Associates, the seventh amendment to the consultant agreement with Linhart, Petersen, Powers, Associates, the fifth amendment to the consultant agreement with R.K. Associates, and the first amendment to the consultant agreement with EsGil Corporation, were approved and execution of the contracts authorized. Vote: 11-0-0-0.

6e(17) Approval of a first amendment to the agreement with KPMG Peat Marwick LLP for the drafting of the Request for Proposals for the Integrated Development Tracking System (IDTS), extending the agreement by one (1) year, from June 30, 1997 to June 30, 1998, and increasing the compensation by \$14,000, from \$125,400 to \$139,400. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated November 25, 1997, recommending Council approve said continuation agreement.

Discussion/Action: The first amendment to the continuation agreement with KPMG Peat Marwick LLP was approved and execution of the amendment authorized. Vote: 11-0-0-0.

6e(18) Approval of amendment to the employment agreement with Heather Cook. (Powers)

Documents Filed: None.

Discussion/Action: The amendment to the employment agreement with Heather Cook was approved and its execution authorized. Vote: 11-0-0-0.

6e(19) Approval of the third amendment to the lease agreement with Beverly Building Investors, Ltd., a California Limited Partnership, extending the term of the lease of 16,000 square feet of warehouse space located at 233-235 Commercial Street, for a period of thirty-six (36) months, from December 31, 1997 to December 31, 2000, at a cost of \$10,200 per month for the first year, with Consumer Price Index rent adjustments annually on the anniversary of the lease commencement date. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 25, 1997, recommending Council approve the third amendment to said lease agreement.

Discussion/Action: The third amendment to the lease agreement with Beverly Building Investors, Ltd., was approved and its execution authorized. Vote: 11-0-0-0.

6e(20) Adoption of a resolution authorizing the City Manager to execute a grant funding agreement with the Bay Area Air Quality Management District (BAAQMD) to accept \$208,000 of grant funding for development of trail improvements between the Almaden Light Rail Station and Blossom Hill Road. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 25, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67819, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Grant Funding Agreement With the Bay Area Air Quality Management District to Accept \$208,000 for the Development of Trail Improvements Between the Almaden Light Rail Station and Blossom Hill Road”, was adopted. Vote: 11-0-0-0.

6e(21) Approval of a an agreement with Rust E&I, Inc. for consultant services for the Interim Groundwater Monitoring and Reporting Program (IMRP) and Risk-Based Data Evaluation for the Main Service Yard Project in the amount of \$75,600, and additional services in the amount of \$24,400, for a total agreement amount of \$100,000. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 25, 1997, recommending Council approve said consultant services agreement.

Discussion/Action: The consultant services agreement with Rust E&L, Inc. was approved and its execution authorized. Vote: 11-0-0-0.

6e(22) Report on bids and award of contract for the Diesel Exhaust for Fire Stations 10, 12, 19, and 20 Project to the low bidder and approval of a ten (10) percent contingency. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 25, 1997, recommending approval of report on bids and award of said contract to the low bidder.

Discussion/Action: This item was dropped.

6e(23) Report on bids and award of contract for the Almaden Lake Park East Entrance Project to the low bidder, Collishaw Construction, Inc., in the amount of \$124,820. CEQA: Exempt. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 25, 1997, recommending approval of report on bids and award of said contract to the low bidder.

Discussion/Action: The report on bids and award of contract to Collishaw Construction, Inc., the low bidder, were approved and execution of the contract authorized. Vote: 11-0-0-0.

6e(24) Approval of the first amendment to the agreement with Cottong & Taniguchi for consultant services for the Story Road Median Island Decorative Paving Project to include modifications to the scope of services, extension of the term of the agreement by six (6) months from March 2, 1998 to September 2, 1998, and increase the additional services in the amount of \$11,550, for a total agreement amount of \$71,550. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 25, 1997, recommending Council approve the amendment to said consultant services agreement.

Discussion/Action: The first amendment to the consultant services agreement with Cottong & Taniguchi was approved and its execution authorized. Vote: 11-0-0-0.

**6e(25) Adoption of a resolution authorizing the City Manager to negotiate and execute the seventh amendment to the remediation agreement with Chevron U.S.A. Inc., at no additional cost to the City. (Airport)
(Rules in Lieu 12/10/97)**

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated December 11, 1997, recommending Council approve the amendment in connection with the joint application for reimbursement of environmental remediation costs incurred at the Airport fuel farm.

Discussion/Action: Resolution No. 67820, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute a Seventh Amendment to the Remediation Agreement Between the City of San José and Chevron USA, Inc. to Include Provisions in the Existing Agreement Between the City of San José and Chevron USA, Inc. Necessary for Pursuit of a Joint Application to the State Water Resources Control Board", was adopted. Vote: 11-0-0-0.

6e(26) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with Spartan Shops, Inc. for the widening of Spartan Stadium in the amount of \$100,000. CEQA: Exempt. (City Manager's Office)

(Rules in Lieu 12/10/97)

Documents Filed: Memorandum from Assistant to the City Manager, Nina S. Grayson, dated December 12, 1997, recommending Council adopt said resolution.

Discussion/Action: William J. Garbett spoke against the proposed action. Resolution No. 67821, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Grant Agreement With Spartan Shops, Inc. for Widening of Spartan Stadium in an Amount Not to Exceed \$100,000.00", was adopted. Vote: 11-0-0-0.

- 6e(27) Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the consultant agreement with the Wolf Organization, Inc. for the development of implementation strategies for the 20/21 Cultural Plan, increasing the compensation by \$75,000, from \$40,000 to \$115,000, and extending the term of the agreement by fifty-nine (59) days, from January 1, 1998 to February 28, 1998. (Conventions, Arts and Entertainment)
(Rules in Lieu 12/10/97)**

Documents Filed: Memorandum from Director of Conventions, Arts and Entertainment, Nancy Johnson, dated December 11, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67822, 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 Consultant Agreement With the Wolf Organization, Inc., for Services Related to the Implementation of the Cultural Plan", was adopted. Vote: 11-0-0-0.

- 6e(28) Report on bids and approval to reject all bids for the Asbury Street Houses and WRC Demolition Project. CEQA: ND and Resolution No. 65071.
(Public Works)
(Rules in Lieu 12/10/97)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 8, 1997, recommending approval of the report on bids and authorization to reject all bids for said project.

Discussion/Action: The report on bids was accepted and rejection of all bids for the Asbury Street Houses and WRC Demolition Project approved. Vote: 11-0-0-0.

- 6e(29) Report on bids and approval to reject the sole bid for the Downer-Canoas Sanitary Sewer I&I Rehabilitation Phase I Project and authorization for the Director of Public Works to readvertise and rebid the project. CEQA: Exempt. (Public Works)
(Rules in Lieu 12/10/97)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr.,

dated December 8, 1997, recommending Council approve the report on bids and reject the sole bid for said project, and authorize the Director of Public Works to readvertise and rebid the project.

Discussion/Action: The report on bids was accepted and rejection of the sole bid for the Downer-Canoas Sanitary Sewer I&I Rehabilitation Phase I Project approved, and authorization to readvertise and rebid the project granted. Vote: 11-0-0-0.

**6e(30) Report on bids and award of contract for the Guadalupe Creek Park Improvements Project to the low bidder, Collishaw Construction, Inc., for the Base Bid only, in the amount of \$177,250, and approval of a contingency in the amount of \$10,000. CEQA: Exempt. (Public Works)
(Rules in Lieu 12/10/97)**

Documents Filed: (1) Supplemental memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 11, 1997, recommending Council approve the report on bids and award said contract to the low bidder, Collishaw Construction, Inc. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 8, 1997, recommending Council approve the report on bids and award said contract to the low bidder.

Discussion/Action: Council Member Dando stated the staff report indicates Santa Clara Valley Water District has reviewed the project and expressed concern over the placement of a “high intensity sport facility adjacent to the percolation ponds”. She stated the Guadalupe Creek Park Improvements consist of construction of a new tot-lot play area with concrete curb wall and paving, fencing, rubber and wood chip surfacing, picnic tables, and a “sand volleyball court”, in addition to security lighting, grading, tree removals and landscaping, site furniture and play equipment, plumbing and electrical systems. She recommended Council approve the contract and direct Staff to reconfigure the improvements to place the volleyball court away from the percolation ponds located to the south of the site. The report on bids and award of contract to Collishaw Construction, Inc., the low bidder, were approved and execution of the contract authorized with Staff directed to amend the Site Development permit to place the volleyball court away from the percolation ponds. Vote: 11-0-0-0.

6e(31)(a) Report on bids and award of contract for the Police Firing Range Refurbishment Project to the low bidder, George Bianchi Construction, Inc., in the amount of \$202,369. (Public Works)

(b) Adoption of appropriation ordinance amendments in the General Fund to appropriate \$96,200 from the General Fund Contingency Reserve to the Public Works Department for increased costs related to the repair of the Police Department’s Firing Range. (City Manager’s Office)

This item renumbered from Item 6f(7)

Documents Filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 8, 1997, recommending Council approve the report on bids and award

said contract to the low bidder, George Bianchi Construction, Inc. (2) Memorandum from Budget Director, Larry D. Lisenbee, dated December 8, 1997, recommending Council approve said appropriation ordinance amendments in the General Fund.

Discussion/Action: The report on bids and award of contract to George Bianchi Construction, Inc., the low bidder, was approved and execution of the contract authorized; Ordinance No. 25477, entitled: "An Ordinance of the Council of the City of

San José Amending Ordinance No. 25390 to Appropriate Moneys in the General Fund in the Amount of \$96,200 for Increased Costs Related to the Repair of the Police Department's Firing Range; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 11-0-0-0.

6e(32)(a) Adoption of a resolution authorizing the City Manager to negotiate and execute a second amendment to the agreement with the History Museums of San José for the operation and management of the Fallon-Peralta Complex, increasing the compensation by \$18,000, from \$18,000 to \$36,000, and extending the term of the agreement by fifty-nine (59) days, from January 1, 1998 to February 28, 1998; and,

(b) Authorizing the City Manager to execute monthly extensions up to June 30, 1998, if necessary.

(c) Adoption of related appropriation ordinance amendments in the General Fund in the amount of \$18,000.

(Conventions, Arts & Entertainment/City Manager's Office)

(Rules in Lieu 12/10/97)

Documents Filed: Memorandum from Director of Conventions, Arts and Entertainment Nancy Johnson, and Budget Director Larry D. Lisenbee, dated December 12, 1997, recommending Council approve the extension of the amended agreement and the appropriation actions necessary to continue the operations agreement.

Discussion/Action: In recommending Council approval of the proposed action, City Manager, Regina V.K. Williams, stated the increase in appropriation for the operation and management of the Fallon-Peralta Complex is \$18,000; therefore, the Agenda item should be changed to reflect the increase "from \$18,000 to \$36,000" with the term of the agreement extended 59 days. Resolution No. 67823, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute the Second Amendment to the Agreement With the History Museums of San José Related to the Operation and Management of the Fallon-Peralta Complex"; and Ordinance No. 25478 entitled: "An Ordinance of the Council of the City of San José Amending Ordinance No. 25390 to Appropriate Moneys in the General Fund in the Amount of \$18,000, for the Operation and Management of the Fallon-Peralta Complex; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", were adopted. Vote: 11-0-0-0.

6e(33) Approval to initiate RFP/RFQ process to solicit proposals for the private

**development and operation of a multi-field softball complex on the site of the former Singleton Landfill. (City Manager's Office)
(Rules-in-Lieu 12/10/97)**

Documents Filed: Memorandum from Senior Deputy City Manager, Darrell Dearborn, dated December 12, 1997, recommending Council authorize the issuance of a RFQ for potential financing, development and operation of a multi-field softball complex.

Discussion/Action: Rodrigo-Roy Hernandez, Santa Clara Valley Athletic Association, spoke in favor of the sports complex. The authorization to initiate the RFP/RFQ process for the multi-field softball complex was granted. Vote: 11-0-0-0.

**6e(34) Approval to pursue development of a privately developed and operated indoor sports complex on approximately 4.0 acres of City-owned land adjacent to the Police stables on Tully Road. (City Manager's Office)
(Rules-in-Lieu 12/10/97)**

Documents Filed: Memorandum from Senior Deputy City Manager, Darrell Dearborn, dated December 12, 1997, recommending Council approve actions appropriate for the development of the preferred site.

Discussion/Action: The proposal to pursue development of a privately developed and operated indoor sports complex was approved. Vote: 11-0-0-0.

Routine Legislation

- 6f(1)(a) Adoption of appropriation ordinance and funding sources resolution amendments for the Municipal Health Services Program, to extend the Program from January 1, 1998 to June 30, 1998.**
- (b) Authorization of the addition of 1.0 MHSP Project Assistant.
(City Attorney's Office)**

Documents Filed: See Item 6e(5)(b).

Discussion/Action: This item was renumbered to Item 6e(5)(b). See Item 6e(5) for Council action taken.

6f(2) Adoption of appropriation ordinance and funding sources resolution amendments in the General Fund in the amount of \$5,190 for the 1997/98 Adult Basic Education Grant. (City Manager's Office)

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated November 25, 1997, recommending Council approve the appropriation ordinance and funding sources resolution amendments in said fund.

Discussion/Action: Ordinance No. 25479, entitled: "An Ordinance of the Council of the

City of San José Amending Ordinance No. 25390 to Appropriate Moneys in the General Fund to the Library Department in the Amount of \$5,190 for the 1997-98 Adult Basic Education Grant; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 67824, “A Resolution of the Council of the City of San José Amending Resolution No. 67424 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1997-98 to Adjust Revenues in the General Fund”, were adopted. Vote: 11-0-0-0.

6f(3) Adoption of appropriation ordinance amendments in the Parks City-wide Construction and Conveyance Fund for the Guadalupe River South-Reach 13 Project in the amount of \$52,000. (City Manager’s Office)

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

Discussion/Action: Ordinance No. 25480, entitled: “An Ordinance of the Council of the City of San José Amending Ordinance No. 25390 to Appropriate Moneys in the Construction and Conveyance Tax Fund; City-Wide Parks Purposes, in the Amount of \$52,000, for the Guadalupe River South-Reach 13 Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. Vote: 11-0-0-0.

6f(4) Adoption of a resolution accepting a donation in the amount of \$8,400 from Happy Hollow Corporation to reimburse the City’s costs for the zoo education and membership staff and authorization for the Director of Conventions, Arts and Entertainment to accept Happy Hollow Corporation’s proposed donation of \$48,300. (Conventions, Arts and Entertainment)

Documents Filed: Memorandum from Director of Conventions, Arts and Entertainment, Nancy Johnson, dated November 25, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67825, entitled: “A Resolution of the Council of the City of San José Accepting a Donation From the Happy Hollow Corporation and Authorizing the Director of Conventions, Arts and Entertainment to Accept Happy Hollow Corporation’s Proposed Donation”, was adopted. Vote: 11-0-0-0.

6f(5) Approval of a 60-day program to provide rebates of \$25 for each ultra low flow toilet installed in a multi-family dwelling, at a total cost not to exceed \$217,500. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 25, 1997, recommending Council authorize Staff to implement a 60-day installation rebate offer for Voucher Program participants. (2) Letter from Treatment Plant Advisory Committee, James F. Arno, Chairperson, dated December 12, 1997, recommending approval to implement rebate offers.

Discussion/Action: The program was approved. Vote: 11-0-0-0.

- 6f(6) Adoption of a resolution initiating proceedings and setting January 27, 1998 at 1:30 p.m. as the date for Council consideration of the reorganization of territory designated as Evergreen No. 182 which involves the annexation to the City of San José of 9.98 acres of land, located on the east side of East Capitol Expressway, both corners of Nieman Boulevard and the detachment of the same from the Central Fire District. CEQA: ND.
(Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement, James R. Derryberry, dated November 25, 1997, recommending the placement of the adoption of said resolution on the Consent Calendar of December 16, 1997 City Council Agenda.

Discussion/Action: Resolution No. 67826, entitled: “A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for Annexation and Detachment of Certain Uninhabited Territory Designated as Evergreen No. 182 and Described Herein, and Setting the Date and Place for Consideration of Such Reorganization”, was adopted. Vote: 11-0-0-0.

- 6f(7)(a) Report on bids and award of contract for the Police Firing Range Refurbishment Project to the low bidder, George Bianchi Construction, Inc., in the amount of \$202,369. (Public Works)**
- (b) Adoption of appropriation amendments in the General Fund to appropriate \$96,200 from the General Fund Contingency Reserve to the Public Works Department for increased costs related to the repair of the Police Department’s Firing Range. (City Manager’s Office)**

Documents Filed: See Item 6e(31).

Discussion/Action: This item was renumbered to Item 6e(31). See Item 6e(31) for Council action taken.

- 6f(8) Adoption of a resolution determining that public interest and necessity require the acquisition of certain property owned by Aetna Life Insurance Company in the vicinity of Tasman Drive and Zanker Road, and directing the City Attorney to file an eminent domain action.
CEQA: Resolution No. 66985. (Public Works)
[Deferred from 12/9/97 - Item 6f(6)(b)]**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 20, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67827, entitled: “Resolution of the Council of the

City of San José Making Certain Findings and Determinations Relating to the Exercise of the Power of Eminent Domain Pursuant to Article 2, Chapter 4, Title 7 of Part 3 of the California Code of Civil Procedure for the Following Project: Tasman Drive Improvement; Authorizing the Empowering the City Attorney to Bring an Action of Eminent Domain to Acquire Certain Property (Portion of APN 097-07-044) For Said Project and to Apply for an Order of Possession Before Judgment and to Prosecute Said Action to Final Judgment; and Authorizing and Empowering the Deposit of Money in Court for Possession of Said Property From the Funds Lawfully Available Therefore”, was adopted. Vote: 11-0-0-0.

- 6f(9) Adoption of appropriation ordinance amendments to establish an appropriation for the Guadalupe Corridor Project in the amount of \$112,000.**
(City Manager’s Office)
(Rules in Lieu 12/10/97)

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated December 5, 1997, recommending Council approve appropriation ordinance amendments in the Building and Structure Construction Tax Fund.

Discussion/Action: Ordinance No. 25481, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25390 to Appropriate Moneys in the Building and Structure Construction Tax Fund in the Amount of \$112,000 for the Guadalupe Corridor Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. Vote: 11-0-0-0.

- 6f(10) Adoption of a resolution authorizing the City Manager to submit a grant application to the David and Lucile Packard Foundation to augment funding for the San José B.E.S.T. Program, in the amount of \$250,000.**
(Parks, Recreation and Neighborhood Services)
(Rules in Lieu 12/10/97)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services, Mark Linder, dated December 9, 1997, recommending Council adopt said resolution.

Discussion/Action: Resolution No. 67828, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Submit a Grant Application in the Amount of \$250,000 to the David and Lucile Packard Foundation”, was adopted. Vote: 11-0-0-0.

- 6f(11) Adoption of a resolution amending Resolution No. 67425 to correct a clerical error regarding the Downtown Entertainment Zone Benchmark Enforcement Fee, Downtown Entertainment Zone Enforcement Fee, late payment penalties and interest, Special Event Fee, and Special Event Late Notice Surcharge for City’s Fiscal Year 1997-98. (Police Department)**
(Rules in Lieu 12/10/97)

Documents Filed: None.

Discussion/Action: This item was dropped.

6f(12) Adoption of related appropriation ordinance amendments in the General Fund to shift \$50,000 from an earmarked reserve to the Parks, Recreation and Neighborhood Services Department for apprenticeship training for At-Risk Youth Program.

(Parks, Recreation and Neighborhood Services/City Manager's Office)
(Orders of the Day 4b)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Mark Linder, and Budget Director Larry D. Lisenbee, dated December 8, 1997, recommending Council approve appropriation ordinance amendments in the General Fund to support said program.

Discussion/Action: Ordinance No. 25482, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25390 to Appropriate Moneys in the General Fund in the Amount of \$50,000 for the Apprenticeship Training for At-Risk Youth Program; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 11-0-0-0.

6f(13) Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund in the amount of \$130,000 for the Civic Center Master Plan Project.

(City Manager's Office)
(Orders of the Day 4c)

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated December 12, 1997, recommending Council approve the appropriation ordinance and funding sources resolution amendments in the City-Side Redevelopment Fund.

Discussion/Action: Ordinance No. 25483, entitled: "An Ordinance of the City of San José Amending Ordinance No. 25390 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund in the Amount of \$130,000 for the Civic Center Master Plan Project; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption"; and Resolution No. 67829, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 67424 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1997-98 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund", were adopted. Vote: 10-1-0-0. Noes: Woody.

END OF CONSENT CALENDAR

FISCAL AFFAIRS

10e(1) Public Hearing pursuant to Section 147(f) of the Internal Revenue Service Code

(TEFRA Hearing) on the issuance of up to \$16,000,000 in Airport Revenue Refunding Bonds, Series 1998A.

- (2) Adoption of the Ninth Supplemental Airport Bond Resolution authorizing the sale and issuance of not to exceed \$16,000,000 of principal amount of City of San José Airport Revenue Refunding Bonds, Series 1998A, amending the Master Resolution, and authorizing the Director of Finance to execute the Certificate of Award for the Series of 1998A Bonds at a true interest cost not to exceed 7.0% and to distribute and execute other documents as necessary; and to authorize for the distribution of the preliminary official statement and final official statement.**
- (3) Adoption of a resolution authorizing the City Attorney to negotiate and execute an agreement with Orrick, Herrington & Sutcliffe, LLP to serve as bond counsel in an amount not to exceed \$60,000.**

(Finance/Airport)

Documents Filed: (1) Supplemental memorandum from Director of Finance, John V. Guthrie, dated December 8, 1997, attaching a copy of the draft Preliminary Official Statement for the City of San Jose Airport Revenue Refunding Bonds, Series 1998A. (2) Memorandum from Director of Finance John V. Guthrie, and Director of Aviation Ralph G. Tonseth, dated December 12, 1997, recommending Council take appropriate actions in connection with the Series 1998A Airport Revenue Refunding Bonds.

Discussion/Action: Mayor Hammer opened the public hearing to permit members of the public to speak on the issue of the issuance of Airport Revenue Refunding Bonds, Series 1998A. There was no discussion from the Floor. Upon motion by Council Member Powers, seconded by Council Member Johnson and unanimously carried, the public hearing was closed and Resolution No. 67830, entitled: "The Ninth Supplemental Resolution of the Council of the City of San José Providing for the Sale and Issuance of Not to Exceed \$16,000,000 Principal Amount of City of San José Airport Revenue Refunding Bonds, Series 1998A, and Prescribing the Terms, Conditions and Form of Said Series 1998A Bonds and Amending Resolution No. 57794, as Amended"; and Resolution No. 67831, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute an Agreement With Orrick, Herrington and Sutcliffe LLP for Bond Counsel Services in Connection With Airport Revenue Refunding Bonds, Series 1998A", were adopted. Vote: 11-0-0-0.

COMMISSION, COMMITTEE, AND STANDING REPORTS

7c Report of the Finance/Agency Finance Committee - December 10, 1997

Documents Filed: Finance/Agency Finance Committee Report of December 10, 1997.

- (1) Monthly Investment Report for October 1997. Attachment: Memorandum from Director of Finance, John V. Guthrie, dated November 21, 1997, transmitting the Investment Report for October of 1997.

The Committee accepted the report.

- (2) Monthly Financial Report for November 1997. Attachment: Memorandum from Budget Director, Larry D. Lisenbee, dated December 3, 1997, transmitting the October 1997 Monthly Financial Report.

The Committee noted and filed the report with the explanation that the Budget Director presented the Monthly Financial Report for October, 1997, not November, 1997.

- (3) Report on Staffing Analysis of Two Additional Police Patrol Channels. Attachments: (1) Memorandum from City Manager, Regina V.K. Williams, dated November 17, 1997, recommending that the City Auditor be directed to review dispatcher staffing and police patrol channel utilization in the Spring of 1999, approximately six months after patrol redistricting has been put into effect and additional experience has been gained with the utilization levels of two additional patrol channels. (2) Letter from City Auditor, Gerald A. Silva, transmitting the results of the City Auditor's analysis of and conclusions, and recommendations for the number of Public Safety Dispatcher positions required to adequately staff the two new police radio channels

The Committee recommended approval of the report and recommendations.

- (4) Chair Review of September 10, 1997 Finance Committee minutes regarding item #2 - Audit of the City of San José Landfill Fees and Taxes

The Committee deferred this item to January 14, 1998 meeting.

- (5) Activities and Accomplishments of the Office of the City Auditor. Attachment: City Auditor's Executive Summary of *Activities and Accomplishments of the Office of the City Auditor for the Period July 1, 1995 Through June 30, 1997*.

The Committee accepted the report.

- (6) NALGA - Peer Review of the Office of the City Auditor for May 1, 1995 through June 30, 1997. Attachment: Letter from City Auditor, Gerald A. Silva, dated December 4, 1997, submitting the Independent Auditor's Report that representatives of the National Association of Local Government Auditors prepared in November 1997.

The Committee accepted the report.

- (7) Oral petitions

Bill Chew spoke on telecommunications and William Garbett commented on the proposed new City Hall.

(8) Adjournment

The meeting was adjourned at 10:52 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Johnson and unanimously carried, the Finance/Agency Finance Committee Report and actions of December 10, 1997 were accepted. Vote: 11-0-0-0.

7d Report of the Housing and Community Development Committee - December 1, 1997

Documents Filed: Housing and Community Development Committee Report of December 1, 1997.

(1) Report on the Progress made by the San José Neighborhood and Housing Services

The Committee deferred this item to January 12, 1998 meeting.

(2) Review of the requirements of Relocation Law. Attachments: (1) Memorandum from Director of Housing, Alex Sanchez, dated November 24, 1997, providing the Committee with an overview of residential rental relocation and attaching an outline of the information that will be covered. (2) Undated, one-page document comparing state and federal laws governing relocation benefits.

The Committee noted and filed the report.

(3) Recommendation on the Feasibility of Recoverable Grants for the Housing Rehabilitation Program - Audit Follow-Up

The Committee deferred this item to January 12, 1998 meeting.

(4) Recommendation on the Feasibility of Using an Open Purchase Order Process for Housing Rehabilitation Grants - Audit Follow-Up

The Committee deferred this item to February 2, 1998 meeting.

(5) Report on Management Information used by the Housing Department - Audit Follow-Up. Attachment: Memorandum from Director of Housing, Alex Sanchez, dated November 21, 1997, submitting audit recommendations to establish and track timeliness performance measures for rehabilitation projects, ascertain reasons for delays, and take corrective action (Audit Recommendations #20 & #21), and recommending the Committee note and file the report.

The Committee recommended approval of the Staff report and requested that Staff return in February 1998 with the breakdown of information on the

rehabilitation and paint grants by Council District and review the owner application process to further streamline procedures for the purpose of improving the 75% completion on time to somewhere in the 80-95% range.

- (6) Recipient Signed Notice of Completion - Audit Follow-Up. Attachment: Memorandum from Director of Housing, Alex Sanchez, dated November 21, 1997, responding to Committee direction on Recommendation #9 and #3, and recommending that the Housing and Community Development Committee note and file the report.

The Committee accepted the staff report.

- (7) Update on Happy Hollow RFP. Attachment: Memorandum from Director of Conventions, Arts and Entertainment, Nancy Johnson, dated November 14, 1997, recommending the Housing and Community Development Committee accept the status report regarding the solicitation of a qualified consultant firm to formulate an RFP for the management and operation of Happy Hollow amusement park.

The Committee accepted the staff report.

- (8) Adoption of Library Master Plan. Attachments: (1) Memorandum from Council Members Powers and Diaz, as Chair and Vice Chair of the Master Plan Task Force, dated November 21, 1997, recommending the Housing and Community Development Committee accept the San Jose Public Library's Master Plan to 2020 and refer the Plan back to staff and the Library Commission for assistance with implementation. (2) Memorandum from Rosalio Gandara, Chair, Library Commission, dated November 21, 1997, submitting the Library Commission comments and recommendations on the Library Master Plan. (3) Document entitled *San José Public Library Draft Master Plan*, dated October, 1997.

The Committee accepted the Library Master Plan and referred the Plan back to staff and the Library Commission for assistance with implementation.

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

- (9) Adoption of Workplan for January-June 1998. Attachment: Document Draft of the *Housing & Community Development Committee Workplan for January-June 1998*.

The Committee adopted the Workplan with the addition of review of the Paramedic Program in February, 1998.

- (10) Oral petitions

None presented.

(11) Adjournment

The meeting was adjourned at 4:00 p.m.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, the Housing and Community Development Committee Report and actions of December 1, 1997 were accepted with Council action on Item 7d(8) taken at Item 9x. Vote: 11-0-0-0.

GENERAL GOVERNMENT

- 9a(1) Adoption of a resolution increasing the Commercial Solid Waste (CSW) Collection Franchise Fee from \$1.64 to \$2.41 per uncompacted cubic yard collected (excluding the first 29,200 cubic yards hauled in the fiscal year), for solid waste handling services performed on or after January 1, 1998.**
- (2) Adoption of a resolution amending the 1997-98 Schedule of Fees to reduce the Commercial Solid Waste Source Reduction and Recycling Fee from \$1.77 to \$1.44 per cubic yard of uncompacted material, effective January 1, 1998.**
[Finance/Agency Finance Committee referral 11/12/97 - Item 7c(5)]
[Deferred from 11/25/97 - Item 9n(3)&(4)]

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated December 12, 1997, recommending Council increase/decrease the CSW Collection Franchise Fee per uncompacted cubic yard collected and the CSW AB 939 Fee per uncompacted cubic yard collected. (2) Memorandum from City Attorney, Joan R. Gallo, dated November 25, 1997 stating the Recycle Plus fees should not be considered as "Property Related" under Proposition 218, but that the procedures of the Proposition should be followed to avoid unnecessary litigation.

Discussion/Action: Representing Commercial Industrial Waste Application, Anne Lauzoa spoke against the proposed increase; and William Johnson, President, Waste Management of Santa Clara County, reiterated concerns expressed to City Staff regarding the application and payment/nonpayment of franchise fees by customers and the impact on collectors, consideration of certain exemptions from fees, and postponement of implementation date to allow proper noticing to customers. Speaking to the Staff recommendation, Council Member Dando opposed the rate increase as premature until Staff has met with and resolved collection franchisees' concerns regarding the recommendation. Council Member Pandori stated the objective of the proposed changes to the rate structure is unclear. In responding to concerns expressed by speakers and Council Members with respect to the rates and fees structure, Director of Environmental Services, Louis N. Garcia, stated solid waste rates are not cost recovery for the residential sector, yet the commercial sector is generating funds; however, with approval of the policy position, both sectors could achieve cost-recovery status by the year 2002. He stated the program will be in a deficit by the year 1999, if no action is taken; therefore, with a rate increase, only the composition of the rates between the franchise and AB 939 fees would be adjusted. He stated the approved increase in CSW fees and a decrease in

AB 939 fees at the same time, effective January 1, 1998, would repropotion the moneys in the IWM Fund. He stated the residential rate structure that was adopted in February, 1993 and implemented July 1, 1993 has remained unchanged and is approximately 90% cost recovery; in July 1994, the Integrated Waste Management Fund was established which segregated IWM-related revenue and costs from the General Fund. He stated the fund's revenue sources include residential garbage fees, AB 939 fees from residents, commercial businesses, and landfills, lien-related charges, and other related sources; revenues from commercial franchise fees and the Disposal Facility Tax continue to accrue to the General Fund. He stated the Administration will maintain the franchise fee revenue base, yet prefer not to increase AB 939 fees to the 1997-98 Fees and Charges Report level. He noted the Administration supports rate changes that would keep the overall fee impact on the commercial market stable after an initial increase to return General Fund franchise fees to prior years' levels; from that point forward within the IWM Fund, commercial AB 939 fees will be reduced as residential fees increase, in order to capture full cost recovery while maintaining stability of the fund. He stated the recommendation would increase franchise fees as the AB 939 rates decrease, so that a neutral price effect on the commercial market is maintained. He stated a redesign of the commercial solid waste system was approved in August 1994 as another element of the City's strategy to meet the AB 939 goals; this redesign established a free-market, non-exclusive franchise system intended to increase waste diversion through economic incentives, education, and technical assistance. He stated the redesign eliminated the distinction between rubbish and garbage, revised the CSW franchise fee rates imposed on haulers and credited to the General Fund; and increased CSW AB 939 fees imposed on waste generators and credited to the IWM Fund. He recommended Council approval of the process to notify property owners of the proposed rate increase in the Commercial Solid Waste Collection Franchise Fee and reduction in the Commercial Solid Waste Source Reduction and Recycling Fee. Upon motion by Council Member Johnson, seconded by Council Member Fiscalini and carried, Resolution No. 67832, entitled: "A Resolution of the Council of the City of San José Setting Commercial Solid Waste Collection Franchise Fees for Services Performed on or After January 1, 1998"; and Resolution No. 67833, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 67425, the 1997-98 Schedule of Fees and Charges, to Reduce the Commercial Solid Waste Source Reduction and Recycling Fee Effective January 1, 1998", were adopted. Vote: 7-4-0-0. Noes: Dando, Diaz, Diquisto, Pandori.

**91 Report and recommendations of the Campaign Finance Review and Ethics Board.
(City Clerk)**

[Deferred from 10/21/97 - Item 9c(1) and 12/9/97 - Item 9a]

Documents Filed: (1) Memorandum from Mayor Hammer, dated December 9, 1997, requesting Council approve the recommendations as prepared by the Blue Ribbon Panel. (2) Memorandum from City Attorney, Joan R. Gallo, dated October 20, 1997, responding to questions related to the recommendations with regard to future enforcement of the City Campaign Contribution Ordinance. (3) Memorandum from Council Member Pandori, dated October 7, 1997, requesting the City Attorney provide Council with a summary of City laws that are more restrictive than those provided in Proposition 208. (4)

Memorandum from Campaign Finance Review and Ethics Board, Alex Stuart, Chair, dated October 16, 1997, explaining the Board's recommendation to disband. (5) Letter from Michael E. Fox, Sr., dated October 16, 1997, asking Council to reconsider the issue of dissolving the Ethics Commission.

Discussion/Action: Mayor Hammer acknowledged the members and the exacting work of the "Blue Ribbon Panel—Carl Guardino, Joe Head, Laura Udall, Dr. Stephen VanBeek, and Judge Donald Chapman, Chair—and expressed appreciation to City Attorney Gallo and Deputy City Attorney Sato for their work which has enabled the Panel to formulate recommendations for the ethics process. Mayor Hammer acknowledged the presence of Ethics Board Members Prof. Roy Young and Terry Reilly, and thanked them for their years of service to the City of San José. Council Member Fiscalini expressed support of the report and concern about future Boards and the requirement for potential oversight to prevent abuse of subpoena powers and to justify the need for subpoenas. Council Member Pandori queried the City Attorney on the procedure to follow in the event a Writ is filed against the Board's action, and whether there is any legal prohibition to delegating authority to the Board to implement, defend, and execute its decisions. Regarding subpoena powers, City Attorney Gallo stated a report will be submitted to the Ethics Board; after which the Board's input and recommendations on the procedures will be presented to Council for adoption. She stated the Ethics Board should be empowered to subpoena witnesses, compel their attendance and testimony at hearings, and require the production of any records or items which are material to the Board's duties; however, the power to subpoena should be used only as a last resort and after good-faith efforts to acquire the relevant information. With regard to the remaining questions and concerns of Council with respect to evaluator qualifications, Board composition, and subpoena powers involving a Writ, she stated the City Attorney's Office will prepare a report to Council. Upon motion by Council Member Diaz, seconded by Council Member Powers and unanimously carried, the report was accepted and the "Blue Ribbon Panel's" recommendations approved as follows: (1) The local Ethics Board should continue to be the enforcement agency with the revisions recommended in the Panel's Report. (2) An independent and neutral "evaluator" should be retained. (3) The Ethics Board should have clearly established procedures and processes for conducting investigations and hearings; the procedures should be adopted by Resolution of the City Council of San José. (4) The Ethics Board should have the authority to issue subpoenas. (5) The civil penalties in the City's Campaign Ordinance should be continued, but criminal penalties should be deleted. Vote: 11-0-0-0.

9x Approval of the Library Master Plan.
[Housing and Community Development Committee referral 12/1/97 - Item 7d(8)]

Documents Filed: See Housing and Community Development Committee Report of December 1, 1997, Item 7d(8).

Discussion/Action: Library Director Jane Light presented an overview of the development of a Library Master Plan for library services to the year 2020. Using transparencies, she identified five key areas of library service and specific strategies to

achieve the goals; pointed out the vision of the Library System; and elaborated on various questions that have been answered in the Master Plan, i.e., Who will be the Libraries' customers in 2020 and what will be the needs of those customers and how will the Library meet those needs. She stated the Library, in order to provide services to Library users—seekers, “how-to-'rs”, enjoyers, and community builders—will need facilities, resources, collections, services and programs as well as technology and access through state-of-the-art telecommunications infrastructure. She stated significant attention and funding are needed for library construction to meet the minimum standard of 10,000 square feet per 36,000 population. She stated the City has 129,618 total branch square feet and the need is for 218,957 square feet, and in the year 2020 the need will be for 306,500 square feet. She stated the on-going operating expenditure should be no less than the average for city libraries in California serving a population of over 400,000. In responding to Council questions regarding the next steps to be taken, she stated the Facilities Master Plan is now needed to examine the facilities needs from a detailed perspective; a comprehensive training and education program for Library staff and users must be established and maintained; an annual public relations and marketing plan will be needed for the entire library system; a development program formulated to increase resources and proceed with the Plan; and financing alternatives explored to improve the funding of the libraries and programs; e.g., Redevelopment Agency, Community Development Block Grants, and voter approval for library expansions. During Council discussion, Staff was requested to consider an “Adopt-a-Library” program; predicated on service population, directed to look at increasing staffing levels at the libraries and to implement some of the steps in the Plan during the next budget process; and to consider library needs in those areas where residential development has occurred over the years. Mayor Hammer and Council Members expressed their appreciation to all the individuals who have been involved in the creation of the Master Plan document. The following individuals spoke in favor of the Library Master Plan: Ross Signorino; and Library Commissioners James Webb and Monica Watanabe. Upon motion by Council Member Powers, seconded by Council Member Johnson and unanimously carried, the report was accepted and the Master Plan referred back to Staff and the Library Commission with direction to establish priorities for its implementation and development of a Facilities Master Plan. Vote: 11-0-0-0.

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

9b Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Anderson Brule Architects to provide professional consulting services for Phase Five of the Airport Acoustical Treatment Program (ACT) in an amount not to exceed \$3,720,507. CEQA: Resolution No. 67380. (Airport)

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated December 12, 1997, recommending Council approve a consulting services agreement with Anderson Brule Architects for the Airport Acoustical Treatment Program, Phase Five.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council

Member Woody and unanimously carried, Resolution No. 67834, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With Anderson Brule Architects for Consultant Services for Phase Five of the Airport Acoustical Treatment Program in an Amount Not to Exceed \$3,720,507”, was adopted. Vote: 10-0-1-0. Absent: Fernandes.

9c Approval of a consultant agreement with Campbell Aviation Group, Inc. for air service route services for the period December 17, 1997 to June 30, 1999, in an amount not to exceed \$400,000. (Airport)

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated November 25, 1997, recommending Council adopt a resolution authorizing the Director of Aviation to execute a consultant services agreement for air service development.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Woody and unanimously carried, the consultant services agreement with Campbell Aviation Group, Inc. was approved and its execution authorized. Vote: 10-0-1-0. Absent: Fernandes.

9d Adoption of appropriation ordinance and funding sources resolution amendments to the Services for Redevelopment Capital Projects Fund for various City expenditures on Redevelopment Agency projects with a net impact to the Fund of \$391,983 and to the Rincon De Los Esteros Redevelopment Project Area Fund to establish an appropriation in the amount of \$18,914 for funds to be returned to the Redevelopment Agency pursuant to the Transfer of Public Facilities Cooperation Agreement. (City Manager’s Office)

Documents Filed: Memorandum from Budget Director, Larry D. Lisenbee, dated December 1, 1997, recommending Council approve appropriation ordinance and funding sources resolution amendments in the City-Side Redevelopment Capital Fund and the Rincon de los Esteros Redevelopment Project Area Fund.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, Ordinance No. 25484, entitled: “An Ordinance of the City of San José Amending Ordinance No. 25390 to Appropriate Moneys in the Services for Redevelopment Capital Projects Fund in the Amount of \$391,983 for Various Capital Projects and in the Rincon De Los Esteros Redevelopment Project Area Fund in the Amount of \$18,914 to Return Funds to the Redevelopment Agency Pursuant to the Transfer of Public Facilities Cooperation Agreement; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption”; and Resolution No. 67835, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 67424 Setting Forth the Estimated Sources of Funds for the Fiscal Year 1997-98 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund”, were adopted. Vote: 10-0-1-0. Absent: Fernandes.

9e Adoption of a resolution authorizing the City Manager to negotiate and execute grant increases in the Retrofit Grant agreements with the following South Bay Water Recycling project customers:

(1) Oak Hill Funeral Home and Memorial Park, in the amount of \$330,000.

(2) Great Mall of the Bay Area, in the amount of \$33,000.

CEQA: Resolution No. 64667. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 25, 1997, recommending Council adopt said resolution. (2) Letter from Treatment Plant Advisory Committee, James F. Arno, Chairperson, dated December 12, 1997, recommending adoption of said resolution.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, Resolution No. 67836, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute Agreements With Oak Hill Funeral Home and Memorial Park and the Great Mall of the Bay Area to Provide Grants in Respective Amounts Not to Exceed \$330,000 and \$33,000 for Recycled Water Retrofit Improvements", was adopted. Vote: 10-0-1-0. Absent: Fernandes.

9f Adoption of a resolution approving the use of a group bid construction process and authorization for the Director of Environmental Services Department to solicit and award bids, and to execute and administer agreements with property owners and contractors to retrofit private properties for use of recycled water, so long as the total amount of the agreements do not exceed \$750,000, and the amount of each retrofit does not exceed \$50,000. CEQA: Resolution No. 64667. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 25, 1997, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, Resolution No. 67837, entitled: "A Resolution of the Council of the City of San José Approving the Use of a Group Bid Construction Process for the South Bay Water Recycling Customer Retrofit Program and Authorizing the Director of Environmental Services to Solicit and Award Bids, and to Execute and Administer Recycled Water Customer Retrofit Construction Contracts and Any Other Agreements Necessary to Facilitate and Complete Recycled Water Customer Retrofit Construction", was adopted. Vote: 10-0-1-0. Absent: Fernandes.

9g Adoption of a resolution authorizing the City Manager to negotiate and execute a consultant agreement with Tetra Tech, Inc. for technical studies and analysis for the development of a Total Maximum Daily Load (TMDL) for copper and nickel for South San Francisco Bay, in an amount not to exceed \$2,800,000, for the period January 1, 1998 to December 31, 2001; and to exercise an option to add additional services and increase the maximum amount of compensation to \$3,650,000 only

**after sufficient funds have been appropriated.
(Environmental Services)**

Documents Filed: (1) Supplemental memorandum from Director of Environmental Services, Louis N. Garcia, dated December 11, 1997, requesting Council approval of a consultant contract with Tetra Tech, Inc. to perform technical studies and analysis. (2) Memorandum from Director of Environmental Services, Louis N. Garcia, dated November 25, 1997, recommending approval of an agreement and option with Tetra Tech, Inc. to perform technical studies and analysis in the development of a TMDL. (3) Letter from Treatment Plant Advisory Committee, James F. Arno, Chairperson, dated December 12, 1997, recommending approval of said agreement.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, Resolution No. 67838, entitled: "A Resolution of the Council of the City of San José Delegating to the City Manager the Authority to Negotiate and Execute an Agreement With Tetra Tech, Inc. to Perform Technical Studies and Analysis for Use in Development of a Total Maximum Daily Load Per For Copper and Nickel for South San Francisco Bay, in an Amount Not to Exceed \$2.8 Million for the Period January 1, 1998 Through December 31, 2001; and Authorizing the City Manager to Exercise an Option to Add Additional Services and Increase the Maximum Amount of Compensation to \$3.65 Million After July 11, 1998, Subject to Appropriation of Additional Funding for the Agreement by the City Council in the Fiscal Year 1998-99 Treatment Plant Operating Budget", was adopted. Vote: 10-0-1-0. Absent: Fernandes.

9h Public Hearing and approval of the Police Department's proposed use of FY 1997-98 State Supplemental Law Enforcement Services Funds (SLESF) pursuant to AB 1584, in an amount not to exceed \$2,008,582. (Police)

Documents Filed: Memorandum from Chief of Police, Louis A. Cobarruviaz, dated November 25, 1997, recommending Council approve the proposed use of specific funds pursuant to Assembly Bill 1584, and direct Staff to report back to Council with funding actions.

Discussion/Action: Mayor Hammer opened the public hearing for a review of proposed fund use for front-line law enforcement services. There was no discussion from the Floor. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the public hearing was closed and the proposed use of State Supplemental Law Enforcement Services Funds were approved and the Staff directed to report back to Council with the recommended appropriation and revenue resolutions, following a review by the SLES Oversight Committee. Vote: 10-0-1-0. Absent: Fernandes.

9i Adoption of a resolution authorizing the City Manager to negotiate and execute a consultant agreement with CH2M Hill for the design of the Rincon Storm Water Pump Station in an amount not to exceed \$488,000. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 25, 1997, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, Resolution No. 67839, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With CH2M Hill for Design of the Rincon Storm Water Pump Station in an Amount Not to Exceed \$488,000", was adopted. Vote: 10-0-1-0. Absent: Fernandes.

9j Report on bids and award of contract for the DeAnza Park Improvements Project to the lowest responsive bidder, Robert A. Bothman, Inc., for the Base Bid in the amount of \$405,000. CEQA: Exempt. (Public Works)

Documents Filed: (1) Supplemental Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 11, 1997, recommending Council approve report on bids and award said contract to the lowest bidder, Robert A. Bothman, Inc. (2) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 25, 1997, recommending Council approve report on bids and award said contract to the low bidder.

Discussion/Action: Randy C. Hall, representing Robert A. Bothman, Inc., spoke in support of the recommended contract award. Upon motion by Council Member Fiscalini, seconded by Council Member Johnson and unanimously carried, the report on bids and award of contract to Robert A. Bothman, Inc., the lowest responsive bidder, was approved and execution of the contract authorized. Vote: 10-0-1-0. Absent: Fernandes.

9k Report on bids and award of contract for the East Santa Clara Street Sidewalk Improvement Project Phase I to the low bidder, Golden Bay Construction, Inc., in the amount of \$762,000. CEQA: ND. (Public Works)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated November 25, 1997, recommending Council approve report on bids and award said contract to the low bidder, Golden Bay Construction, Inc.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, the report on bids and 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: Fernandes.

**9m Approval of a contract/policy with Standard Insurance Company to provide a fully insured life insurance program for City employees, retirees, and dependents. (Human Resources)
(Deferred from 11/25/97 - Item 9f and 12/9/97 - Item 9c)**

Documents Filed: Memorandum from Director of Human Resources, Nona Tobin, dated December 15, 1997, recommending Council approve the contract and policy with

Standard Insurance Company.

Discussion/Action: Representing City Labor Alliance, Deborah Powell, President of Confidential Employees Organization, expressed concerns about the 5.4¢ administration fee to be assumed by plan participants and the possible uses of the excess fund balance. She urged Council to support the proposed insurance contract/policy, acknowledged the inclusion of recommendations proposed by the Alliance, and noted the organizations' continued interest in working with the City. Upon motion by Council Member Johnson, seconded by Council Member Fiscalini and unanimously carried, the contract/policy with Standard Insurance Company was approved and execution of the contract authorized. Vote: 10-0-1-0. Absent: Fernandes.

**9n Discussion and adoption of modifications to the Hotel Implementation Policy. (Mayor)
(Deferred from 12/9/97 - Item 9h)**

Documents Filed: Memorandum from Susan Hammer, dated December 12, 1997, recommending Council adopt the revised Hotel Implementation Policy.

Discussion/Action: Speaking in support of the policy standards and proposed changes recommended by Mayor Hammer, Council Member Powers stated limited-service hotels are limited to either 100 or 150 rooms, one restaurant, and a 150-person capacity for meeting room and banquet facilities. She requested an increase from 150 to 175-person capacity allowed within the areas so noted. Upon motion by Council Member Powers, seconded by Council Member Diaz and unanimously carried, the Hotel Implementation Policy was approved with revisions recommended in the December 12, 1997 memorandum from Mayor Hammer and with additional modification to increase from 150 to 175 the room capacity in Edenvale Redevelopment Project area and within the North San José Corridor. Vote: 10-0-1-0. Absent: Fernandes.

**9o Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Corlett, Skaer and DeVoto Architects to provide consulting services for Phase Six of the Airport Acoustical Treatment Program (ACT) in an amount not to exceed \$4,821,133. (Airport)
(Rules in Lieu 12/10/97)**

Documents Filed: Memorandum from Director of Aviation, Ralph G. Tonseth, dated December 12, 1997, recommending Council authorize the City Manager to negotiate and execute said consultant services agreement with Corlett, Skaer and DeVoto Architects.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, Resolution No. 67840, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement With Corlett, Skaer and DeVoto Architects for Consultant Services for Phase Six of the Airport Acoustical Treatment Program in an Amount Not to Exceed \$4,821,133", was adopted. Vote: 10-0-1-0. Absent: Fernandes.

- 9p Approval of award of purchase of communications equipment to Motorola, Inc. for the Police Department's Redistricting Project, at a total cost of \$301,331.92, including tax, as a sole source purchase, and authorization for the Director of General Services to execute the purchase order. (General Services)
(Rules in Lieu 12/10/97)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated November 25, 1997, recommending Council approve said award to Motorola, Inc., as sole source purchase pursuant to Section 4.12.020 of the San José Municipal Code, and authorize the Director of General Services to execute the purchase order.

Discussion/Action: William J. Garbett spoke against the proposed action. Mayor Hammer stated for the public record the City's General Service Purchasing Division has confirmed that the requested items are only available through Motorola, Inc., and that Motorola has no authorized dealers through which this system can be purchased. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the award of purchase to Motorola, Inc., as sole source purchase, pursuant to Section 4.12.020 of the San José Municipal Code, was approved and execution of the purchase order authorized. Vote: 10-0-1-0. Absent: Fernandes.

Council Member Pandori left Council Chambers during discussion of Item 9q.

- 9q(1) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement to purchase electric power and associated services with New Energy Ventures, Inc. (NEV) at a total annual cost not to exceed \$5,420,000, for the period January 1, 1998 to December 31, 1998, and including three (3) one (1) year options.**
- 9q(2) Authorize the City Manager to negotiate with other energy providers any other options for power purchase during the initial six (6) month period of this contract.
(General Services)
(Rules in Lieu 12/10/97)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated December 12, 1997, recommending Council adopt said resolution and authorize the City Manager to negotiate with other energy providers any other options for power purchase during the initial six-month period of this contract.

Discussion/Action: Council Member Fiscalini stated the authorization should be changed to direct the City Manager to enter into negotiations with other energy providers for the purchase of electricity. Council Member Johnson stated the contract does not include a "green power" component and suggested Staff considers that aspect when exploring power savings for the City. Upon motion by Council Member Diaz, seconded by Council Member Dando and unanimously carried, Resolution No. 67841, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute An Agreement for the Purchase of An Annual Supply of Electric Power With

New Energy Ventures (NEV), at a Total Cost Not to Exceed \$5,420,000 for the Period January 1, 1998 to December 31, 1998”, was adopted and the City Manager authorized to negotiate with other energy providers any other options for power purchase during the initial six-month period of this contract. Vote: 9-0-2-0. Absent: Fernandes, Pandori.

Council Member Pandori returned to the meeting at 4:33 p.m.

9r(1) Adoption of a resolution authorizing the Director of General Services to execute the following two-year agreements, effective September 1, 1997 to August 31, 1999:

- (a) **AT&T Commission Agreement at the rate of 28% of revenues for “0+” long distance service (collect, credit card and billed to third number) calls.**
- (b) **Pacific Bell Space Use Agreement, Various Locations at the rate of 44% for all coin calls and 33% for non-coin local and 43% for non-coin long distance calls, plus \$17.88 per phone, per month space rental fee.**
- (2) **Approval for the Administration to report back on a policy-governing placement for pay telephones by the City in the public right-of-way.**

**(Information Technology/General Services)
(Rules in Lieu 12/10/97)**

Documents Filed: Memorandum from Director of General Services, Ellis M. Jones Jr., dated December 11, 1997, recommending Council adopt said resolution and direct the Administration to report back on a policy-governing placement of pay telephones by the City.

Discussion/Action: Upon motion by Council Member Dando, seconded by Council Member Diaz and unanimously carried, Resolution No. 67842, entitled: “A Resolution of the Council of the City of San José Authorizing the Director of General Services to Execute an Agreement for the Purchase of an Annual Supply of Electrical Power With New Energy Ventures (NEV), at a Total Cost Not to Exceed \$5,420,000 for the Period January 1, 1998 to December 31, 1998”, was adopted and the Administration directed to report back on a policy governing placement for pay telephones by the City in the public right-of-way. Vote: 10-0-1-0. Absent: Fernandes.

9s(1) Approval of the Women’s Residential Center Project agreement with the County of Santa Clara. (Public Works)

- (2) **Report on bids, and adoption of a resolution authorizing the City Manager to waive a minor bid irregularity, and award of contract for the Women’s Residential Center Project to the low bidder, McCrary Construction Company, to include the Base Bid and Add Alternate Nos. 1 through 5, in the amount of \$3,085,000, and approval of a contingency in the amount of \$310,000. CEQA: ND. (Public Works)**

(Rules in Lieu 12/10/97)

Documents Filed: Memoranda from Director of Public Works, Ralph A. Qualls, Jr., both dated December 8, 1997, recommending Council (a) approve said agreement with the County of Santa Clara, and (b) approve the report on bids, waive a minor bid irregularity,

and award said contract to the low bidder, McCrary Construction Company.

Discussion/Action: Director of Public Works, Ralph A. Qualls, Jr., stated adoption of the resolution should authorize the City Manager to waive a minor bid irregularity. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the Women's Residential Center Project agreement with the County of Santa Clara was approved and its execution authorized, and Resolution No. 67843, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Waive a Minor Bid Irregularity and Award a Construction Contract for the Women's Residential Center Project to the Low Bidder, McCrary Construction Company, in the Amount of \$33,085,000 and Approval of a Contingency in the Amount of \$310,000", was adopted. Vote: 10-0-1-0. Absent: Fernandes.

- 9t Adoption of a resolution authorizing the City Manager to award a contract for the Bailey/Santa Teresa Pump Station and Force Main Project to the low bidder, Ranger Pipelines Inc., in the amount of \$1,122,940, and approval of a contingency in the amount of \$112,300. CEQA: Exempt. (Public Works)
(Rules in Lieu 12/10/97)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 11, 1997, recommending Council adopt said resolution.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, Resolution No. 67844, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Award a Construction Contract for the Bailey/Santa Teresa Pump Station and Force Main Project to the Low Bidder, Ranger Pipelines, Inc., in the Amount of \$1,122,940, and Approval of a Contingency in the Amount of \$112,300", was adopted. Vote: 10-0-1-0. Absent: Fernandes.

- 9u Report on bids and award of contract for the ISTE A Funded Street Resurfacing Project to the low bidder, De Silva Gates Construction, LP, in the amount of \$2,079,010. CEQA: Exempt. (Public Works)
(Rules in Lieu 12/10/97)**

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 10, 1997, recommending Council approve report on bids and award said contract to the low bidder, DeSilva Gates Construction, LP.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Johnson and unanimously carried, the report on bids and award of contract to De Silva Gates Construction, LP, the low bidder, were approved and execution of the contract authorized. Vote: 10-0-1-0. Absent: Fernandes.

- 9v Approval of a second amendment with Lockheed to extend the current agreement and pay for additional services provided in support of the Parking Citation**

Administrative Adjudication Process in an amount of \$86,400, for FY 96-97 and payment of these additional services and other costs due to increased citation issuance through June 30, 1998, in the amount of \$153,600, for a total amount not to exceed \$240,000.

(Streets and Traffic)

(Rules in Lieu 12/10/97)

Documents Filed: Memorandum from City Manager, Regina V.K. Williams, dated December 5, 1997, transmitting to Council a memorandum from the Director of Streets and Traffic, Wayne K. Tanda, which provides a full explanation of the circumstances leading to a recommendation to provide Lockheed Martin with additional funding for parking citation processing.

Discussion/Action: Council Member Dando disqualified herself from voting on the proposed action, because Lockheed employs a family member. Upon motion by Council Member Fiscalini, seconded by Council Member Johnson and carried, the second amendment to the current agreement with Lockheed was approved and execution of the amendment authorized. Vote: 9-0-1-1. Absent: Fernandes. Disqualified: Dando, family member employed by Lockheed.

**9w Report on the National League of Cities Annual Conference. (Powers)
(Orders of the Day 4d)**

Documents Filed: Memorandum from Council Members Johnson, Powers and Woody, dated December 12, 1997, submitting a request to add under Orders of the Day a report on the National League of Cities Conference.

Discussion/Action: As the State of California's representative on the Energy and Environment Natural Resources Committee, Council Member Johnson noted two items that were submitted to the League: A resolution which was incorporated into policy language and adopted without challenge, and a resolution dealing with increasing the efficiency of "efficiency challenged vehicles", which was adopted after debate; shared program materials from workshops which she attended—Internet Billings/Electronic Payment Systems; Master Naturalist Program; and Taxing the Internet; participated in a roundtable discussion on "Growth Management While Retaining Economic Development"; and stated the City of Ft. Lauderdale, FL, was the winner of the "1997 Innovation Award" for its Neighborhood Leadership College which evolved from a police academy into a full citizens academy—a program which she recommends for Channel 35. Council Member Woody focused comments on San Jose's professional display at the conference and the need for convention-type souvenirs in the form of lapel pins, etc., as promotional tools; participation in telecommunications workshops, deregulation of utility industries, and the workshop on Philadelphia's "Let's Stop Domestic Violence", which is the only pilot project selected by the "Family Violence Prevention Fund" for a 3-5 year model demonstration; the pilot project will provide programs aimed at improving public education and increase individual motivation to participate in efforts to stop domestic violence. She noted plans for working with the

City's Task Force, the Family Violence Prevention Fund and Administration, and intentions to bring similar public awareness campaigns to the City of San José, and to start planning events for "Domestic Violence Awareness Month" in October 1998. As a member of the Community and Economic Development Steering Committee, Council Member Powers stated San José has submitted several resolutions which have been adopted on the Floor of the League—Income Tax Credits for Affordable Housing, Section 8, Mark-to-Market Rate Housing, and construction of Affordable Housing as an Economic Development issue; she moderated a workshop entitled "People, Places and Plenty To Do - Tailor-made Economic Development That Fits", which describes how cities encourage economic development in their downtown areas; she participated with HUD officials in a roundtable discussion on exploring ways in which HUD will be more responsive to the needs of communities involved in affordable housing projects; she participated in a "mobile workshop" on public art, viewed the "Public Art Tower", and toured the "Avenue of the Arts". By unanimous consent, Council accepted the reports on various activities observed and participated in by the City's delegates during the National League of Cities Annual Conference. Vote: 10-0-1-0. Absent: Fernandes.

FISCAL AFFAIRS

- 10a TEFRA PUBLIC HEARING and adoption of a resolution regarding the issuance of up to \$21,875,000 in Multifamily Tax Exempt Revenue Bonds for the Italian Gardens Family Housing Project, located on the east side of Almaden Road, approximately 800 feet south of Alma Avenue.
(Housing)**

Documents Filed: (1) Memorandum from Director of Housing, Alex Sanchez, dated November 25, 1997, complying with federal law requirements for public hearings on the proposed use of tax-exempt bond proceeds for the Italian Gardens Family Housing Project, Carlton Plaza Senior Housing Project, Coleman Senior Housing Project, and the Italian Gardens Senior Housing Project. (2) Notice of Public Hearings to consider approval of the issuance by the City of San José of four separate issues of tax-exempt revenue bonds for the purpose of financing the construction and permanent phases of three senior and one family rental housing developments, dated November 24, 1997, and Proof of Publication of the Notice of Public Hearings submitted by the City Clerk. (3) Affidavit of Posting of the Notice of Public Hearings regarding tax-exempt revenue bonds for four housing projects, dated November 24, 1997.

Discussion/Action: Mayor Hammer opened the public hearing on the proposed use of multi-family tax-exempt bonds for the Italian Gardens Family Housing Project. There was no discussion from the Floor. Upon motion by Council Member Johnson, seconded by Council Member Powers and unanimously carried, the public hearing was closed and Resolution No. 67845, entitled: "A Resolution of the Council of the City of San José Approving the Financing of the Acquisition, Construction and Development of a Multi-Family Senior Development of a Multi-Family Senior Housing Care Facility (Italian Gardens Family Housing)", was adopted. Vote: 10-0-1-0. Absent: Fernandes.

- 10b TEFRA PUBLIC HEARING and adoption of a resolution regarding the issuance of up to \$12,500,000 in Multifamily Tax Exempt Mortgage Revenue Bonds for the Carlton Plaza Senior Housing Project, located at Branham Lane and Vista Avenue. (Housing/Finance)**

Documents Filed: See Item 10a.

Discussion/Action: Mayor Hammer opened the public hearing on the proposed use of multifamily tax-exempt mortgage revenue bonds for the Carlton Plaza Senior Housing Project. William J. Garbett spoke against the proposed action. Upon motion by Council Member Johnson, seconded by Council Member Powers and unanimously carried, the public hearing was closed and Resolution No. 67846, entitled: “A Resolution of the Council of the City of San José Approving the Financing of the Acquisition, Construction and Development of a Multi-Family Senior Development of a Multi-Senior Housing Care Facility (Carlton Plaza)”, was adopted. Vote: 10-0-1-0. Absent: Fernandes.

- 10c TEFRA PUBLIC HEARING and adoption of a resolution regarding the issuance of up to \$9,000,000 in Multifamily Tax Exempt Revenue Bonds for the Coleman Senior Housing Project, on a 3.74-acre site located at the northwest corner of Coleman Road and Almaden Expressway. (Housing/Finance)**

Documents Filed: See Item 10a.

Discussion/Action: Mayor Hammer opened the public hearing on the proposed use of multifamily tax-exempt revenue bonds for the Coleman Senior Housing Project. There was no discussion from the Floor. Upon motion by Council Member Johnson, seconded by Council Member Powers and unanimously carried, the public hearing was closed and Resolution No. 67847, entitled: “A Resolution of the Council of the City of San José Approving the Financing of the Acquisition, Construction and Development of a Multi-Family Senior Development of a Multi-Senior Housing Care Facility (Coleman Senior Housing)”, was adopted. Vote: 10-0-1-0. Absent: Fernandes.

- 10d TEFRA PUBLIC HEARING and adoption of a resolution regarding the issuance of up to \$9,000,000 in Multifamily Tax Exempt Revenue Bonds for the Italian Gardens Senior Housing Project, located on the east side of Almaden Road, 500 feet south of Alma Avenue. (Housing/Finance)**

Documents Filed: See Item 10a.

Discussion/Action: Mayor Hammer opened the public hearing on the proposed use of multifamily tax-exempt revenue bonds for the Italian Gardens Senior Housing Project. There was no discussion from the Floor. Upon motion by Council Member Johnson, seconded by Council Member Powers and unanimously carried, the public hearing was closed and Resolution No. 67848, entitled: “A Resolution of the Council of the City of

San José Approving the Financing of the Acquisition, Construction and Development of a Multi-Family Senior Development of a Multi-Senior Housing Care Facility (Italian Gardens Senior Housing)”, was adopted. Vote: 10-0-1-0. Absent: Fernandes.

10f(1) Adoption of three (3) resolutions:

- (a) **Resolution confirming Special Election results for Annexation Area 1 to Community Facilities District No. 2 (Aborn-Murillo) and, contingent upon two-thirds (2/3) voter approval, confirming annexation of Annexation Area 1 into Community Facilities District No. 2 and directing recording of Notice of Special Tax Lien.**
- (b) **Resolution confirming Special Election results for Annexation Area 2 to Community Facilities District No. 2 (Aborn-Murillo) and, contingent upon two-thirds (2/3) voter approval, confirming annexation of Annexation Area 2 into Community Facilities District No. 2 and directing recording of Notice of Special Tax Lien.**
- (c) **Resolution confirming Special Election results for Annexation Area 3 to Community Facilities District No. 2 (Aborn-Murillo) and, contingent upon two-thirds (2/3) voter approval, confirming annexation of Annexation Area 3 into Community Facilities District No. 2 and directing recording of Notice of Special Tax Lien.**

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

- (a) **Ordinance ordering the levy of the special tax for Annexation Area 1 to Community Facilities District No. 2.**
- (b) **Ordinance ordering the levy of the special tax for Annexation Area 2 to Community Facilities District No. 2.**
- (c) **Ordinance ordering the levy of the special tax for Annexation Area 3 to Community Facilities District No. 2.**

(Public Works)

(Rules in Lieu 12/10/97)

Documents Filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated December 12, 1997, recommending Council adopt said resolutions and approve actions in connection with the special tax rates.

Discussion/Action: City Clerk, Patricia L. O’Hearn, read into the public record the canvass and statement of result of the elections. She certified that on December 16, 1997, the returns of the election held on December 16, 1997 were canvassed, in proposed Annexation Area Nos. 1, 2, and 3 of Community Facilities District No. 2 (Aborn-Murillo) of the City of San José and the total number of votes cast in that District and the total number of votes cast for and against the measure are as follows and the totals for and against the measures are full, true and correct: Annexation Area No. 1: No Ballots Received. Annexation Area No. 2: Votes Cast: 55; Yes: 39; No: 16; and Percentage of Yes Votes: 71%. Annexation Area No. 3: Votes Cast: 28; Yes: 27; No: 1; Percentage of Yes Votes: 96%. Upon motion by Council Member Johnson, seconded by Council Member Powers and unanimously carried, pursuant to said Canvass, the proposed

Annexation Area No. 1 to Community Facilities District 2 presented at the special election was not approved by the qualified electors; and Resolution No. 67849, entitled: “A Resolution of the Council of the City of San José Declaring Results of Special Election”; Resolution No. 67850, 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”; Resolution No. 67851, 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”, were adopted; and Ordinance No. 25485, entitled: “An Ordinance of the City of San José Levying Special Taxes Within Annexation Area 2 to Community Facilities District No. 2 (Aborn-Murillo)”; and Ordinance No. 25486, entitled: “An Ordinance of the City of San José Levying Special Taxes Within Annexation Area 3 to Community Facilities District No. 2 (Aborn-Murillo)”, were adopted. Vote: 10-0-1-0. Absent: Fernandes.

ORAL COMMUNICATIONS

Cathy S. Brandhorst commented on domestic violence in Santa Clara County.

RECESS/RECONVENE

Following Oral Communications, Council recessed at 5:00 p.m. and reconvened at 7:08 p.m., Council Chambers, City Hall.

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

Absent: Council Members: None

City Clerk, Patricia L. O’Hearn, read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the below noted continuances and other actions were granted. Vote: 11-0-0-0.

PUBLIC HEARINGS

- 15d PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the south side of West Alma Avenue, opposite Belmont Way, from C-2 Commercial to A(PD) Planned Development, to allow up to 5 multi-family attached residences on a 0.32 gross acre site (Lou Iacomini, Owner/Developer). CEQA: ND.
PDC 97-03-023 - District 6**

Documents Filed: None.

Discussion/Action: This item was dropped and will be renoticed.

- 15f PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the northwest corner of Market Street and Pierce Avenue, from A(PD) Planned Development to A(PD) Planned Development Zoning District, to**

**allow up to 54 multi-family attached residences on 1.22 gross acres (Redevelopment Agency, Owner; Core Development, Inc., Developer). CEQA: ND.
PDC 97-07-039 - District 3**

Documents Filed: None.

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

- 15i PUBLIC HEARING ON CONVENTIONAL REZONING of the property located on the south side of Tully Road, 250 feet easterly of Monterey Road, from T-M Mobilehome Park to I-Industrial Zoning District, to allow industrial uses on 5.42 gross acres (Estelle Suarez, Owner; Paul Ireland, Developer). CEQA: ND.
C 97-08-055 - District 7**

Documents Filed: None.

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

- 15j PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the west side of Radio Avenue, 500 feet northerly of Curtner Avenue, from R-1 Residence to A(PD) Planned Development Zoning District, to allow 8 single-family detached residences on 0.82 gross acre (Elysian Fields, Owner/ Developer). CEQA: ND.
PDC 97-09-059 - District 6**

Documents Filed: None.

Discussion/Action: This item was dropped and will be renoticed.

CEREMONIAL ITEMS

- 5b Swearing in of Youth Commissioner for District 8. (Woody)**

Documents Filed: Memorandum from City Clerk, Patricia L. O'Hearn, dated December 10, 1997, submitting to Council the name of the Youth Commissioner to be sworn in during the evening session of the December 16th Council meeting.

Discussion/Action: Council Member Woody acknowledged the accomplishments of Eric Cote, Silver Creek High School student, and City Clerk, Patricia L. O'Hearn administered the Oath of Office to the newly appointed Commissioner.

- 5c Presentation of a commendation to the "Creating a Beautiful Gateway" Committee for their hard work and effort to improve Highway 280 exits at 10th and 11th Streets. (Pandori)
(Rules in Lieu 12/10/97)**

Documents Filed: None.

Discussion/Action: Council Member Pandori presented commendations to Kenneth P. Krings, Craig Giraud, Gina Ward, Carolyn Mervau, Roy Buis, Linda Nemmer, and Candice Stein in appreciation for their work with Caltrans in planting 80 trees, 900 plants, and repairing irrigation systems. The neighborhood volunteers were commended for their “armed with determination” attitude to make a positive difference in their community.

- 5d Presentation of a commendation to Wendal Reid for saving a student from drowning at Castellero Middle School. (Dando)
(Rules in Lieu 12/10/97)**

Documents Filed: None.

Discussion/Action: Joined by Mayor Hammer at the Podium, Council Member Dando presented the commendation to the Castellero Middle School teacher, and acknowledged the heroic actions of Wendal Reid in saving the life of the individual.

PUBLIC HEARINGS

- 15k PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the north side of San Fernando Street, between South 4th Street and South 3rd Street, from A(PD) Planned Development to A(PD) Planned Development, to allow up to 316 multi-family attached units and 10,500 square feet of commercial uses on 2.99 gross acres (F.C. Wang, Owner; Forest City Development, Developer). CEQA: Resolution No. 64273. Director of Planning recommends approval. Planning Commission recommends approval (6-0-1).
PDC 97-09-061 - District 3**

Documents Filed: None.

Discussion/Action: Council Member Pandori stated the Redevelopment Agency has requested a continuance of this item to the first evening meeting in 1998. By unanimous consent, this item was continued to February 3, 1998. Vote: 11-0-0-0.

- 15a PUBLIC HEARING ON STREET RENAMING of Scheller Avenue to Coyote Creek Golf Drive, located between Highway 101 and Coyote Creek and on the east side of Highway 101 at the Scheller Avenue/Highway 101 interchange. Director of Planning recommends approval. No Planning Commission action required.
(Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from the Planning Commission, dated November 25, 1997, recommending Council adopt a resolution for renaming a portion of Scheller Avenue. (2) Notice of Public Hearing to consider a Street Renaming, dated September 16, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on renaming said portion of Scheller Avenue. There was no discussion from the Floor. Upon motion by Council Member Powers, seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed and Resolution No. 67852, entitled: “A Resolution of the Council of the City of San José Renaming a Portion of Scheller Avenue, Located on Both Sides of the Scheller Avenue/Highway 101 Interchange to Coyote Creek Golf Drive”, was adopted. Vote: 11-0-0-0.

**15b PUBLIC HEARING and approval of an ordinance amending Section 20.38.600 of Chapter 20.38 of Title 20 of the San José Municipal Code to correct the inadvertent deletion of properties subject to the Downtown Parking Management Zone. CEQA: Resolution No. 64273.
(Planning, Building and Code Enforcement)**

Documents Filed: (1) Memorandum from the Planning Commission, dated December 11, 1997, recommending Council approve an ordinance amendment to correct the inadvertent deletion of properties subject to the Downtown Parking Management Zone. (2) Notice of Public Hearing to consider an amendment to Section 20.38.600 of the San José Municipal Code, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing to consider an amendment of the San Jose Municipal Code. William J. Garbett spoke against the proposed action. Upon motion by Council Member Pandori, seconded by Council Member Johnson and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 25487, entitled: “An Ordinance of the City of San José Amending Section 20.38.600 Chapter 20.38 of Title 20 of the San José Municipal Code to Correct the Inadvertent Deletion of Properties Subject to the Downtown Parking Management Zone”, was passed for publication. Vote: 11-0-0-0.

**15c PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the south side of Channing Avenue, 230 feet westerly of Seaboard Avenue, from A(PD) Planned Development to A(PD) Planned Development, to allow a drive through restaurant on a 1.03 gross acre site (Al Sarti, Owner; Len Rotide, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (6-0-1).
PDC 97-09-062 - District 4
(Continued from 10/28/97 - Item 8c)**

Documents Filed: (1) Memorandum from the Planning Commission, dated November 25, 1997, recommending Council adopt an ordinance approving the subject rezoning. (2) Renotice of Public Hearing to consider a change in Zoning for PDC 97-09-062, dated November 7, 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. Robert Anne, representing 2510-2514

Channing Avenue Associates, spoke in opposition to the project citing increased traffic problems and lack of conformance with the City's Drive-Through Use Policy. Virginia Fanelli, representing the applicant, and Tom Lubbe, General Manager of Best Western Gateway Inn, spoke in support of the Planning Commission recommendation. Regarding traffic issues, Vice Mayor Fernandes asked that Staff review the facility design plans during the PD Permit phase of the project for possible refinements to mitigate traffic impacts in and around the Trimble Road area of the project. Council Member Johnson suggested that Staff at the PD Permit phase of the project identify a safe pedestrian passage from the motel to the restaurant. Upon motion by Vice Mayor Fernandes, seconded by Council Member Shirakawa, Jr., and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 25488, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of Channing Avenue, 230 Feet Westerly of Seaboard Avenue", was passed for publication with direction to Staff to address at the PD Permit phase traffic impact issues and to work out plans for suggested pedestrian crosswalk for pedestrians coming from the motel. Vote: 11-0-0-0.

15e PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the northeast corner of North 7th Street and Taylor Street, from M-1 Manufacturing to A(PD) Planned Development, to allow 232 multi-family attached residences and 3,600 square feet commercial space on 6.1 gross acres (Stella Amerion, Owner; Fairfield Development, Inc., Developer). CEQA: ND. PDC 97-05-032 - District 3

Documents Filed: (1) Memorandum from the Planning Commission, dated December 11, 1997, recommending Council adopt an ordinance approving the subject rezoning with the condition that the applicant continue to work with staff and the community during the Planned Development Permit review process to resolve specific urban design issues. (2) Notice of Public Hearing to consider a change in Zoning for PDC 97-05-032, dated November 18, 1997, and Proof of Publication submitted by the City Clerk. (3) Letter from Attorney Norman E. Matteoni, Matteoni, Saxe & Nanda, dated December 15, 1997, transmitting a petition bearing approximately 850 signatures of individuals urging Council to preserve Bini's Bar & Grill as an institution of 65 years.

Discussion/Action: Mayor Hammer 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 project is the first major residential development proposal affording an opportunity to implement the Jackson-Taylor Residential Strategy adopted October 1992 by the City Council. He stated the site and architectural design plans for this development are conceptual, and with appropriate input from the community, details will be finalized during the Planned Development Permit review process. The following spoke in support of the project: Rob Steinberg, The Steinberg Group, representing the applicant; John H. Wells, representing Japantown Business Association; and William J. Garbett. Upon motion by Council Member Pandori, seconded by Council Member Johnson and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved with the condition that the

applicant continue to work with staff and the community during the Planned Development Permit review process to resolve urban design issues related to implementation of the Jackson-Taylor Residential Strategy as raised in staff's report, and the consideration for relocation of garage entries to minimize interruption of the pedestrian edge along North Seventh Street, and Ordinance No. 25489, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northeast Corner of North Seventh Street and Taylor Street", was passed for publication. Vote: 11-0-0-0.

- 15g PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the east side of Cypress Avenue, 125 feet northerly of Olsen Drive, from R-1:B-8 Residence to A(PD) Planned Development Zoning District, to allow up to 2 single-family attached and 1 single-family detached residences on .30 gross acre (Daryoush Marhamat, Owner/Developer). CEQA: Exempt. Director of Planning recommends approval. Planning Commission recommends approval (5-0-2).
PDC 97-07-040 - District 1**

Documents Filed: (1) Memorandum from the Planning Commission, dated November 25, 1997, recommending Council adopt an ordinance approving the subject rezoning. (2) Notice of Public Hearing to consider a change in Zoning for PDC 97-07-040, dated October 22, 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 Johnson, seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 25490, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Cypress Avenue, 125 Feet Northerly of Olsen Drive, was passed for publication. Vote: 11-0-0-0.

- 15h PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the north side of University Avenue, 320 feet easterly of The Alameda, from R-2 Residence to A(PD) Planned Development, to allow up to 4 single-family attached residences on 0.31 gross acre (McClain & Viguie, Owner; De Mattei Construction, Developer). CEQA: ND. Director of Planning recommends approval. Planning Commission recommends approval (5-0-2).
PDC 97-08-053 - District 6**

Documents Filed: (1) Memorandum from the Planning Commission, dated December 3, 1997, recommending Council adopt an ordinance approving the subject rezoning. (2) Notice of Public Hearing Notice to consider a change in Zoning for PDC 97-08-053, dated October 22, 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 Fiscalini, seconded by Council Member Powers and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 25491, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of University Avenue, 320 Feet Easterly of The Alameda", was passed for publication. Vote: 11-0-0-0.

**15l PUBLIC HEARING ON CITY COUNCIL-INITIATED CONFORMING PREZONING of the property located on the northerly side of Curtner Avenue, 530 feet easterly of Salerno Drive, between South Bascom Avenue and Salerno Drive, from County to R1:B8, on a .34 gross acre site (City of San José, Owner/Developer). CEQA: Exempt. Director of Planning recommends approval. No Planning Commission action required.
CC 97-10-069 - District 9**

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report for CC 97-10-069, dated November 25, 1997, recommending approval of the proposed conforming prezoning of the subject property. (2) Notice of Public Hearing to consider a change in Zoning for CC 97-10-069, dated November 18, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the conforming prezoning of the subject property. There was no discussion from the Floor. Upon motion by Council Member Diquisto, seconded by Council Member Dando and unanimously carried, the public hearing was closed and Ordinance No. 25492, entitled: "Ordinance of the City of San José Prezoning Certain Real Property Situated on the North Side of the Curtner Avenue Centerline Between Salerno Drive and South Bascom Avenue, 530 Feet Easterly of Salerno Drive", was passed for publication. Vote: 11-0-0-0.

**15m PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the northwest corner of East Reed Street and Twelfth Street, from R-1 Residence to A(PD) Planned Development, to allow up to 4 single-family detached residences on a 0.4 gross acre site (Eureath J. Horning, Owner; Steven Codraro, Developer). CEQA: ND.
PDC 97-08-050 - District 3**

Documents Filed: (1) Memorandum from the Planning Commission, dated December 11, 1997, recommending Council adopt an ordinance approving the subject rezoning. (2) Notice of Public Hearing to consider a change in Zoning for PDC 97-08-050 dated November 18, 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 Pandori, seconded by Council Member Fiscalini and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved, and Ordinance No. 25493, entitled: "Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of East Reed

Street and South Twelfth Street”, was passed for publication. Vote: 11-0-0-0.

15n PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located on the northwest corner of South White Road and Florence Avenue, from R-1:B-6 Residence to A(PD) Planned Development, to allow 14 single-family detached units on 1.15 gross acres (Kenneth and Eleanor Santos, Owner; John Brezzo, Developer). CEQA: ND. PDC 97-09-065 - District 5

Documents Filed: (1) Memorandum from the Planning Commission, dated December 11, 1997, recommending Council adopt an ordinance approving the subject rezoning with the condition that prior to the issuance of the Planned Development Permit, the applicant shall submit a warrant study to the satisfaction of the Director of Public Works to determine what improvements are needed at the intersection of South White Road and Florence Avenue. (2) Notice of Public Hearing to consider a change in Zoning for PDC 97-09-065, dated November 18, 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 Diaz, seconded by Council Member Diquisto and unanimously carried, the public hearing was closed, the Planning Commission recommendation approved with the condition that prior to the issuance of the Planned Development Permit, the applicant shall submit a warrant study to the satisfaction of the Director of Public Works to determine what improvements are needed at the intersection of South White Road and Florence Avenue, and Ordinance No. 25494, entitled: “Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of Florence Avenue and South White Road”, was passed for publication. Vote: 11-0-0-0.

15o PUBLIC HEARING ON CONFORMING REZONING AND PREZONING of the property located at the easterly terminus of Harmon Court, from M-1 Manufacturing to I-Industrial and County to I-Industrial, on a 3.88 gross acre site (Del Grande Properties, Owner/Developer). CEQA: Resolution No. 65459. C 97-11-079 - District 6

Documents Filed: (1) Department of Planning, Building and Code Enforcement Staff Report for C 97-11-079, dated November 25, 1997, recommending approval of the proposed Conforming Rezoning/Prezoning. (2) Notice of Public Hearing to consider a change in Zoning for C 97-11-079, dated November 24, 1997, and Proof of Publication submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing on the conforming rezoning and prezoning of the subject property. There was no discussion from the Floor. Upon motion by Council Member Fiscalini, seconded by Council Member Powers and unanimously carried, the public hearing was closed and Ordinance No. 25495, entitled:

“Ordinance of the City of San José Rezoning/Prezoning Certain Real Property Situated at the Easterly Terminus of Harmon Avenue”, was passed for publication. Vote: 11-0-0-0.

ORAL COMMUNICATIONS

- (1) Cathy S. Brandhorst commented on the efficiency of homeless shelters.
- (2) Bill Chew spoke on telecommunications.

ADJOURNMENT

The Council of the City of San José adjourned at 8:05 p.m. in memory of Leonel Stanley Valdez, brother of Martha Mazza of the City’s Neighborhood Development Center; and in memory of Delores G. Costanza, a member of the San José Disability Advisory Commission, to meet again on Thursday, December 18, 1997, at 1:30 p.m., in a joint session with the Redevelopment Agency, Council Chambers, City Hall.

SUSAN HAMMER, MAYOR

ATTEST:

PATRICIA L. O’HEARN, CITY CLERK