



CITY COUNCIL AGENDA

APRIL 12, 2005

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ, VICE MAYOR
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
VACANT
DAVID D. CORTESE
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.htm

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:30 a.m. - Closed Session, Room 600, City Hall
[See Separate Agenda](#)
1:30 p.m. - Regular Session, Council Chambers, City Hall
- **Invocation (District 4)**
Mr. Ashish Brahmhatt, Mr. Prakash Shah, and Mr. Nilkanth Patel, BAPS Hindu Temple presenting a non-sectarian prayer for peace.
- **Pledge of Allegiance**
- **Orders of the Day**

Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

- * **ADJOURNMENT:** This meeting will be adjourned in the memory of Pope John Paul II, an influential geopolitical leader of the Catholic Church for more than 26 years.

1 CEREMONIAL ITEMS

- ***1.1** Presentation of a commendation to the Capital Project Management Team for its exemplary dedication and invaluable contributions to the City organization. (City Manager/Mayor)
- ***2.2** (b) ORD. NO. 27392 – Rezoning certain real property situated on both sides of San Juan Avenue, between Sonora Avenue to the north and Ferrari Avenue to the south to R-1-8 Residence Zoning District. CC05-017

2 CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

2.1 Approval of Minutes.

2.2 Final adoption of ordinances.

- (a) ORD. NO. 27385 – Amending Section 14.04.415 of Chapter 14.04 of the San José Municipal Code to authorize the Director of Public Works to issue change orders to reduce the compensation for Airport Master Plan Public Works Contracts in any amount.

2.3 Approval of various actions related to the Hacienda Creek Park improvements.

Recommendation:

- (a) Adoption of a resolution authorizing the Director of Public Works to negotiate and execute an agreement to accept and record a Grant Deed from ROEM Development Corporation (ROEM), for unencumbered land and park improvements associated with Hacienda Creek Park as a condition from Planned Development Rezoning Project PDCSH01-10-097, at a total cost of \$294,000.
- (b) Adoption of the following appropriation ordinance and funding source resolution amendments in the Subdivision: Park Trust Fund (Fund 375):
 - (1) Establish an appropriation in the amount of \$294,000 to the Parks, Recreation and Neighborhood Services Department for the Hacienda Creek Park Project;
 - (2) Increase the Earned Revenue estimate by \$287,500; and
 - (3) Decrease the Reserve: Future PDO/PIO Projects by \$6,500.

CEQA: Mitigated Negative Declaration, PDC01-10-097. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Parks, Recreation and Neighborhood Services/City Manager's Office)

(Deferred from 3/22/05 – Item 2.6)

2.4 Approval of fiscal actions for Redevelopment Agency Capital Projects.

Recommendation:

- (a) Adoption of the following 2004-2005 Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):
 - (1) Increase the appropriation to the Department of Transportation for the Edenvale/Great Oaks-Traffic Calming project (PSM 405) by \$22,000.
 - (2) Increase the estimate for Earned Revenue by \$22,000.

(b) Adoption of the following 2004-2005 Appropriation Ordinance and Funding Sources Resolution amendments in the Economic Development Enhancement Fund:

- (1) Increase the appropriation to the Office of Economic Development for the Small Business Loan Program project (PSM 296#1) by \$250,000.
- (2) Increase the estimate for Earned Revenue by \$250,000.

CEQA: Not a Project. Council Districts 2 and 3. SNI: Edenvale/Great Oaks. (City Manager's Office)

*(c) Adoption of a resolution making certain determinations regarding the expenditure of Redevelopment Agency funds on certain public improvements in connection with the Edenvale/Great Oaks Traffic Calming Project, as more specifically described in the memorandum from the Redevelopment Agency dated March 1, 2005.

2.5 [Approval of actions related to Rule 20A and 20B Underground Utility Program.](#)

Recommendation: Acceptance of the report on the proposed Fiscal Year 2004/05 - 2009/10 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program, and the proposed Rule 20B (In-Lieu Fee) Undergrounding Master Plan.

CEQA: Not a Project. (Public Works)

* **RECOMMEND DEFERRAL TO 4/26/05**

2.6 [Approval to award a contract for the Gateway East SNI Area CDBG/RDA Funded Sanitary Lateral Improvement Project.](#)

Recommendation: Report on bids and award of contract for the Gateway East SNI Area CDBG/RDA Funded Sanitary Lateral Improvement Project to the low bidder, Andes Construction, in the amount of \$397,500, and approval of contingency in the amount of \$79,500. CEQA: Exempt, PP04-281. Council District 5. SNI: Gateway East. (Public Works)

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair

3.2 [Report of the Rules Committee – March 30, 2005](#) Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review April 12, 2005 Council Agenda
 - (2) Add New Items to April 5, 2005 Amended Agenda
 - (3) List of Reports Outstanding
- (c) Legislative Update
 - (1) State
 - (2) Federal

- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Public Record Acts Requests
 - (2) Approval of the 2005 City sponsored community events for which funds were already solicited/collected and expenses incurred prior to Council prohibition of Special Event Accounts.
 - (a) Day in the Park
 - (b) Cesar Chavez Breakfast
 - (c) Book Circus
 - (d) Resource Fair
 - (3) Discussion of California Assembly Bill 985, The California Reservists Job Security Bill.
- (h) Oral Communications
- (i) Adjournment

**3.3 Report of the Making Government Work Better Committee
Council Member Reed, Chair**

3.4 [Approval of actions related to the Integrated Utility Billing, Customer Service and Performance Management System Project \(CUSP\).](#)

Recommendation: Adoption of a resolution authoring the Director of Finance:

- (a) To execute an amendment to the Agreement for Services between the City of San Jose and BearingPoint, Inc. to provide for Customer Relationship Management (CRM) gap/fit analysis required to integrate the Recycle Plus, Municipal Water, wastewater, storm water and the Citywide Centralized Call Center service areas and increasing the total compensation by \$60,000 for a total maximum compensation not to exceed \$500,220; and
- (b) To execute change orders to the BearingPoint Stage 1 Agreement in adding a 15% contingency amount not to exceed \$75,033. (Finance)

3.5 Approval to award the purchase of Freestanding Furniture for the New City Hall

Recommendation: Report on bids and award the purchase of Freestanding Furniture for New City Hall to the lowest responsive bidder and approval of a 10% contingency.
CEQA: Not a Project. (City Manager's Office)

3.6 Approval of actions related to servers for the New City Hall.

- * **Recommendation:** Adoption of a resolution authorizing the Director of Finance to:
 - (a) Execute an agreement with Systems Technology Associates (STA) for the purchase of 45 servers, 5 external arrays and one external tape library in support of the NCH facility for a total cost of \$422,747.31.
 - (b) Approve a 5% contingency to cover unanticipated changes in the system design and/or support.

(Information Technology/Finance)
(Rules Committee referral 4/6/05)
RECOMMEND DEFERRAL TO 4/19/05

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee Council Member Chirco, Chair

4.2 [Report of the Driving a Strong Economy Committee](#) – March 28, 2005 Council Member Williams, Chair

- (a) Discussion of Supporting Innovative Companies in San José through the use of City Investment funds.
- (b) [Impact on Expansion of the Duties of the Small Business Commission](#)
- (c) [Secondary Units](#)
[Attachment A](#)
[Attachment B](#)

*** COUNCIL ACTION TO BE TAKEN ON 5/3/05 EVENING SESSION**

- (d) [Development Process Status Report](#)
[Attachment](#)
- (e) Oral Petitions
- (f) Adjournment

4.3 Approval of actions related to the San José Grand Prix.

Recommendation: Approval of an amended and restated agreement with Canary Enterprises, LLC, the San José Arena Authority Management and the San José Sports Authority pertaining to the San José Grand Prix. (City Manager's Office).

*** RENUMBERED TO 10.1**

4.4 Approval of Actions regarding Cirque du Soleil.

*** Recommendation:**

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a lease agreement with Cirque du Soleil for the purpose of leasing portions of the City's "E" Parking Lot (Taylor/San Pedro/Mission) to Cirque du Soleil from December 05, 2005 to March 10, 2006 to allow Cirque du Soleil to present to the public its touring show.
- (b) Direction to staff to begin the permitting process required to be able to authorize use of the "E" Parking Lot for Cirque du Soleil's touring show, which will include community outreach and City employee and public parking plans, and that the City hold a public hearing to consider the Conditional Use Permit for the use of this site by August 05, 2005.
- (c) Refer to the 2005-2006 Budget Process the appropriation of \$60,000 to be used by the City for its share of site preparation, utility connections and site restoration as needed.

CEQA: Exempt, File No. PP05-055. (City Manager's Office)

(Deferred from 4/5/05 – Item 2.4)

5 RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair

5.2 [Approval of actions related to the Viet Heritage Society.](#)

[Attachment 1](#)

*** Recommendation:**

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Vietnamese Heritage Society (VHS) for the development, maintenance and operations of the Vietnamese Heritage Garden (VHG) providing for payment by the City of \$1,000,000 toward construction and design costs of Phase I, plus \$80,000 toward City costs for plan review and inspections, and with a term of 15 years, with two extension terms which may be exercised by VHS for five years each.
- (b) Adoption of the following Appropriation Ordinance amendments in the Parks City-Wide Construction and Conveyance Tax Fund (Fund 391):
 - (1) Increase the Vietnamese Cultural Heritage Garden appropriation in the amount of \$750,000;
 - (2) Decrease the Reserve: Vietnamese Cultural Heritage Garden Grant by \$250,000;
 - (3) Decrease the Ending Fund Balance by \$500,000.

CEQA: EIR Resolution No. 66098, and Addenda thereto, File No. PP04-08-228. Council District 7. SNI: Tully/Senter. (Parks, Recreation and Neighborhood Services/City Manager's Office)

- * Approval of actions related to the Vietnamese Heritage Society.**

6 TRANSPORTATION SERVICES

6.1 Report of the Building Better Transportation Committee Council Member Campos, Chair

7 ENVIRONMENTAL & UTILITY SERVICES

8 AVIATION SERVICES

8.1 [Acceptance of the draft Airport Landscape Master Plan.](#)

Recommendation: Acceptance of the draft Airport Landscape Master Plan, Report and Design Guidelines for the Norman Y. Mineta San José International Airport and take appropriate action based on review of the report. CEQA: Resolution Nos. 67380 and 71451, PP 05-041. (Airport/Public Works)

9 PUBLIC SAFETY SERVICES

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

10.1 Approval of actions related to the San José Grand Prix. RENUMBERED FROM 4.3

[Attachment A](#)

[Attachment B](#)

*

Recommendation:

- (a) Adoption of a resolution by the City Council:
 - (1) Approving the Amended and Restated Agreement to Conduct a San José Grand Prix, by and among the City, Canary Enterprises, LLC; San José Arena Management (SJAM) LLC; and San José Sports Authority, amending among other things the proposed Race Circuit and deleting certain financial obligations of the City and SJAM;
 - (2) Authorizing the City Manager to negotiate and execute as necessary, amendments to that certain Parking Agreement with Walton San Jose Investors III (the San José Marriott) and the San José Hilton with regard to the use of the Convention Center parking garage during the Grand Prix, at no cost to the City or Agency;
 - (3) Authorizing the City Manager to negotiate and execute, as necessary, amendments to that certain Lease between the City and Boston Properties for the public parking lot located on the west side of Almaden Blvd. south of San Carlos Street, with regard to the use of that parking lot in conjunction with the Grand Prix, at no cost to the City or Agency;
 - (4) Finding that the economic development benefits of bringing international exposure to San José through a Grand Prix event justifies the City's financial obligations under the Agreement with regard to use of City property and assistance with certain fees;
 - (5) Terminating the Cooperation Agreement with the Redevelopment Agency with regard to the funding of the Improvements on the HP Pavilion, which are no longer required due to the relocation of the Race Circuit.
- (b) Adoption of appropriation ordinance and funding sources resolution amendments by the City Council in the General Fund to reflect the lower contributions from City and Agency Funds for the project:
 - (1) Decrease the San José Grand Prix appropriation by \$650,000.
 - (2) Decrease the revenue estimate for Transfers by \$650,000.

- (c) Adoption of a resolution by the Agency Board:
 - (1) Terminating the Cooperation Agreement with the City with regard to the funding of the Improvements at the HP Pavilion, which are no longer required due to the relocation of the Race Circuit.
 - (2) Authorizing the Executive Director to negotiate and execute, as necessary, amendments for certain lease of property from Caltrans on Woz Way under Highway 87 for the use of that parking lot in conjunction with the Grand Prix at no additional cost to the City or Agency.
 - (3) Authorizing the Executive Director to negotiate and execute, as necessary, amendments to certain parking agreements with West Hotel Partners, L.P. (Hilton) and Hotel Sainte Claire Partners, L.P., with regard to the use of the Convention Center Parking Garage during the Grand Prix, at no cost to the City or Agency.

CEQA: Resolution No. 68839, and Addendum thereto, PP05-061. Council District 3.
 (City Manager’s Office)

RENUMBERED FROM 4.3

- **Closed Session Report**
- **Notice of City Engineer’s Pending Decision on Final Maps**
 In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

* In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

| <u>Tract</u> | <u>Location</u> | <u>Council District</u> | <u>Developer</u> | <u>Lots/Units</u> | <u>Type</u> |
|--------------|-------------------|-------------------------|------------------|-------------------|-------------|
| 9706 | 97 Balbach Street | 3 | Balbach LLC | 14 Units | Condo |

- **Open Forum—To be heard jointly with Redevelopment Agency Public Discussion.**
- **Adjournment:** This meeting will be adjourned in the memory of Pope John Paul II, an influential geopolitical leader of the Catholic Church for more than 26 years.



**JOINT CITY OF SAN JOSÉ
CITY COUNCIL/FINANCING AUTHORITY
AGENDA**

1:30 P.M.

TUESDAY, APRIL 12, 2005

CHAMBERS

1. Call to Order

2. Approval of various actions for Revenue Bonds related to the Hayes Mansion.

*** Recommendation:**

- (a) Adoption of a resolution by the City of San José Financing Authority (the "Authority") authorizing the Treasurer or the Treasurer's designee to procure an increased Surety Bond for the debt service reserve fund for the Authority's \$42,500,000 Taxable Lease Revenue Bonds, Series 2001B and Series 2001C, to pay the required premium, to negotiate and execute an amendment to the existing Guaranty Agreement dated as of February 14, 2001 by and between Ambac Assurance Corporation and the Authority required to increase the amount of the existing Surety Bond, and authorizing the Treasurer or the Treasurer's designee to execute documents and to provide any necessary direction to the Trustee related to the release of funds from the debt service reserve fund.
- (b) Adoption of a resolution by the City Council approving the use of the excess monies in the debt service reserve fund for the purpose of repaying a portion of the outstanding balance on the Comerica Line of Credit and authorizing the Director of Finance or the Director's designee to take any necessary actions related to the repayment of the Comerica Line of Credit and the Authority's procurement of the increased Surety Bond.
- (c) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Community Facilities Revenue Fund:
 - (1) Establish a Transfer from the Hayes Mansion Phase III Debt Service Reserve Fund in the amount of \$2,061,250 to reflect the transfer of funds released as a result of increasing the Surety Bond.
 - (2) Establish an appropriation for Hayes Mansion Line of Credit Repayment in the amount of \$2,061,250 to reflect a partial repayment of amounts drawn on the Hayes Mansion Line of Credit with Comerica Bank.CEQA: Not a Project. (Finance/City Manager's Office)

3. Adjourn the San José Financing Authority.