



# CITY COUNCIL AGENDA

**AUGUST 15, 2006**

## **SYNOPSIS**

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

DISTRICT 1  
DISTRICT 2  
DISTRICT 3     RON GONZALES MAYOR  
DISTRICT 4  
DISTRICT 5

KEN YEAGER  
MADISON P. NGUYEN  
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.
- ***Community & Economic 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.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for 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 9 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:

- **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.
- When the Council reaches your item on the agenda, Mayor 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.
- 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.
- To assist you in tracking your speaking time, there is a display on 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.asp](http://www.sanjoseca.gov/clerk/agenda.asp)

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (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**  
1:32 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Members: Pyle; Gonzales. (Excused)**  
  
7:05 p.m. - Public Hearings, Council Chambers, City Hall  
**Absent Council Members: Pyle; Gonzales. (Excused)**
- **Invocation (District 7)**  
**Cambodian Dance Group.**
- **Pledge of Allegiance**  
**Vice Mayor Chavez led the Pledge of Allegiance.**
- **Orders of the Day**  
**The Orders of the Day and the Amended Agenda were approved, with Items 11.3 and 11.5 continued to August 29, 2006.**

## **1. CEREMONIAL ITEMS**

---

- 1.1 Presentation of a commendation of the multi-departmental Grand Prix Team for their contributions to the success of the 2006 San José Grand Prix Team. (City Manager's Office)  
**Vice Mayor Chavez recognized and commended the Grand Prix Team for their extraordinary contributions to the 2006 San José Grand Prix.**
- 1.2 Presentation to the Arthritis Foundation and Office of San José Arthritis Walk for their commitment to public health and dedication to community awareness in fighting arthritis. (Cortese)  
(Rules Committee referral 8/2/06)  
**Heard in the evening.**  
**Vice Mayor Chavez and Council Member Cortese recognized and commended the Arthritis Foundation and the Office of San José Arthritis Walk for their commitment and dedication in fighting arthritis.**

## 1. CEREMONIAL ITEMS

---

- 1.3 Presentation of a commendation to Dave and Barbara Kocina for their dedication to the youth of their neighborhood through their 28 years of coaching Little League Baseball and teaching life skills to hundreds of South San José youth. (Mayor/Williams)  
(Rules Committee referral 8/9/06)  
**Heard in the evening.**  
**Vice Mayor Chavez and Council Members Campos and Williams recognized and commended Dave and Barbara Kocina for their dedication to the hundreds of youth in South San José.**
- 1.4 Presentation of a commendation to Jim Kosmala for his dedication to the youth of his neighborhood, through his twenty years of coaching Little League Baseball and teaching life skills to hundreds of youth in South San José. (Mayor/Williams)  
(Rules Committee referral 8/9/06)  
**Heard in the evening.**  
**Vice Mayor Chavez and Council Member Williams recognized and commended Mr. Jim Kosmala for his service and dedication to the hundreds of youth in South San José.**
- 1.5 Presentation of a commendation to Adobe and Cushman & Wakefield for their commitment to reducing their environmental footprint and being an environmental leader in the City of San Jose. (Mayor/LeZotte/Chirco)  
**Vice Mayor Chavez, Council Members LeZotte and Chirco recognized and commended Adobe and Cushman & Wakefield for their commitment to the environment in the City of San José.**

## 2. CONSENT CALENDAR

---

### 2.1 Approval of Minutes.

**Recommendation:** Approval of Minutes:

- (a) Regular Minutes of November 1, 2005.
  - (b) Regular Minutes of November 8, 2005.
  - (c) Regular Minutes of November 15, 2005.
  - (d) San José Financing Authority Minutes of November 15, 2005.
  - (e) Regular Minutes of November 29, 2005.
- (Deferred from 6/27/06 – and 8/8/06 - Item 2.1)

**Approved.**

## 2. CONSENT CALENDAR

---

### 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances:

- (a) ORD. NO. 27796 – Rezoning certain real property situated on the southeast corner of Miller Street and Asbury Street to A(PD) Planned Development Zoning District. PDC05-101  
[Deferred from 8/8/06 – Item 2.2(b)]

**Dropped.**

### 2.3 Acceptance of the Office of the City Auditor’s Report.

**Recommendation:** Acceptance of the Office of the City Auditor’s Sales Tax Audit Results for the Quarter Ended March 31, 2006. (City Auditor)  
(Rules Committee referral 8/2/06)

**Report Accepted.**

### 2.4 Approval of an amendment to the agreement for legal services related to the Airport Terminal Area Improvement Project.

**Recommendation:** Adoption of a resolution authorizing the City Attorney to negotiate and execute a second amendment to the agreement with Nossaman Guthner Knox & Elliot LLP for legal services for the negotiation of the Design Build Agreement for the Airport Terminal Area Improvement Project, increasing the compensation by \$100,000 from \$150,000 to a total amount not to exceed \$250,000. CEQA: Not a Project. (City Attorney’s Office)

**Resolution No. 73348 adopted.**

### 2.5 Approval to award open purchase order #4 for FY 2006-2007.

**Recommendation:** Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #4 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration’s memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)

**Approved.**

### 2.6 Approval to award the purchase of Self Contained Breathing Apparatus.

**Recommendation:** Report on bids and award the purchase of self-contained breathing apparatus on behalf of various local agencies within Santa Clara County to the low bidder, Bauer Compressor, Inc. (Hayward, CA), for a total amount not to exceed \$161,558 using Urban Area Security Initiative (UASI) grant funds and authorize the Director of Finance to execute the purchase order. CEQA: Not a Project. (Finance)

**Approved.**

### **3. STRATEGIC SUPPORT SERVICES**

---

**3.1 Report of the Study Session**  
**Mayor Gonzales, Chair**  
**No Report.**

**3.2 Report of the Rules Committee**  
**Vice Mayor Chavez, Chair**  
**No Report.**

**3.3 Report of the Making Government Work Better Committee**  
**Council Member Reed, Chair**  
**No Report.**

**3.4 Approval to renew maintenance services for the Converged Network and Telephony System at City Hall.**

**Recommendation:** Adoption of a resolution authorizing the Director of Finance to:

- (a) Execute an amendment to the agreement with Nortel Networks Corporation (“Nortel”) for annual Operations and Maintenance services of the converged network and telephony system in an amount not to exceed \$1,102,500; and
- (b) Execute one annual option to renew the O&M Services effective July 1, 2007 subject to appropriation of funding.

CEQA: Not a project. (Finance)

**Resolution No. 73349 adopted.**

### **4. COMMUNITY & ECONOMIC DEVELOPMENT**

---

**4.1 Report of the Building Strong Neighborhoods Committee**  
**Council Member Chirco, Chair**  
**No Report.**

**4.2 Report of the Driving a Strong Economy Committee**  
**Council Member Williams, Chair**  
**No Report.**

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

---

### **4.3 Approval of revisions to Council Policy 6-29, Post-Construction Urban Runoff Management.**

**Recommendation:** Adoption of a resolution approving revisions to the Council Policy 6-29: Post-Construction Urban Runoff Management to:

- (a) Require the implementation of Post-Construction Best Management Practices (BMPs) and installation of Storm Water Treatment Control Measures (TCMs) in all development projects that create, replace or add 10,000 square feet or more of impervious surface;
- (b) Update the Policy definition of “Other Unenumerated Land Uses of Concern,” eliminate the Policy definitions of “Land Uses of Concern” and “Major Project,” and add a Policy definition of “Applicable Project;” and
- (c) Make technical clarifications regarding exclusion of roof area from project square footage calculation for determining whether numerically sized Treatment Control Measures (TCMs) are required.

CEQA: Exempt, File No. PP05-012. (Planning, Building and Code Enforcement)

**Resolution No. 73350 adopted.**

### **4.4 Approval to initiate actions related to the annexation of Story No. 57.**

**Recommendation:** Adoption of a resolution initiating proceedings, and setting September 19, 2006 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Story No. 57 which involves the annexation to the City of San José of 3.18 gross acres of land located at the south side of Fleming Avenue, approximately 1,032 feet southeast of Alum Rock Avenue, and the detachment of the same from the appropriate special districts including Central Fire Protection, Area No. 01 (Library Services) County Service and County Sanitation District 2-3. CEQA: Mitigated Negative Declaration. Council District 5. (Planning, Building and Code Enforcement).

**Heard in the evening.**

**Resolution No. 73351 adopted.**

## **5. NEIGHBORHOOD SERVICES**

---

### **5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair No Report.**

## **5. NEIGHBORHOOD SERVICES**

---

### **5.2 Approval to conduct a Public Hearing and various actions related to the New Casa Feliz Development.**

**Recommendation:** Adoption of a resolution as follows:

- (a) Acceptance of the summary of costs and findings of the Summary 33433 Report pursuant to Health and Safety Code Section 33433 for the sale and disposition of the property located at 525 South Ninth Street under the terms and conditions of the proposed Disposition and Development Agreement (“DDA”).
- (b) Approval of a DDA between the City of San José and the proposed partnership between First Community Housing and the John Stewart Company, or their designated affiliate, for the development of the New Casa Feliz, a 60-unit three- and four-story affordable housing project and authorizing the City Manager or his designee to negotiate, execute and record all documents reasonably necessary to convey the property as provided in the DDA.
- (c) Approval of an amendment to the Option Agreement for the subject property with Sponsor and authorizing the City Manager or his designee to negotiate and execute the amendment to the Option Agreement.
- (d) Approval of a funding commitment of up to \$1,000,000 to the Sponsor for development costs of the project.

CEQA: Exempt, File No. PDC05-020. Council District 3. SNI: University. (Housing)

**Resolution No. 73353 adopted.**

**Staff directed to provide an information memorandum on the relocation of the 68 tenants of New Casa Feliz.**

## **6. TRANSPORTATION & AVIATION SERVICES**

---

### **6.1 Report of the Building Better Transportation Committee Council Member Campos, Chair No Report.**

## 7. ENVIRONMENTAL & UTILITY SERVICES

---

### 7.1 Approval of actions related to Recycle Plus Program Services.

**Recommendation:**

- (a) Adoption of a resolution authorizing the Director of Finance to negotiate and execute agreements with:
  - (1) Norcal Waste Systems, Inc., for single-family residential Solid Waste Services and Recycling Services in Districts A and C for a two-year term from July 1, 2007, through June 30, 2009.
  - (2) GreenWaste Recovery, Inc., for Yard Trimmings and Residential Street Sweeping Services in District C for a six-year term from July 1, 2007, through June 30, 2013; and
- (b) Direction to the Administration to report back to Council within 60 days on a procurement strategy for Solid Waste and Recycling Services for Districts A and C commencing July 1, 2009.
- (c) Direction to staff to prepare any public notices and reports required to prepare for the necessary single-family rate increase of 25 percent in Fiscal Year 2007-08, subject to final Council action during the City's annual budget process.

(Environmental Services/Finance)

**Deferred to 8/22/06.**

### 7.2 Acceptance of report on bids and approval of actions related to the South Bay Water Recycling Program.

**Recommendation:** Acceptance of report on bids and award of contract for the SJ-14 Pump Stations 5 & 8/11 Reliability Project to the low bidder, Anderson Pacific Engineering Construction Inc., in the amount of \$3,736,200, and approval of a contingency in the amount of \$370,000. CEQA: Exempt, File No. SP04-054 and PD04-068. Council Districts 3 and 8. SNI: Spartan Keyes. (Environmental Services)

**Approved.**

## 8. PUBLIC SAFETY SERVICES

---

### 8.1 Acceptance of Staff's response to the Civil Grand Jury Report on Racial Profiling.

**Recommendation:** Acceptance of the San José Police Department's response to the 2005-2006 Santa Clara County Civil Grand Jury's report entitled "Racial Profiling by San José Police Department – Perception vs. Reality". CEQA: Not a Project. (Police)

**Approved.**

**The City Manager directed to work with the Police Chief and the Independent Police Auditor to develop the scope of a study by the Police Department of the definitions of inquiries and complaints, as well as processes used in other jurisdictions. The scope and timeline shall be taken to the Rules Committee for review and consideration before Council approval.**

## **9. JOINT COUNCIL/REDEVELOPMENT AGENCY**

---

- **Closed Session**  
**No Report.**
  
- **Open Forum**
  - (1) **Robert Apgar expressed personal observations.**
  - (2) **Ross Signorino criticized campaign flyers sent out by the San José Silicon Valley Chamber of Commerce.**
  - (3) **William Garbett stated he observed racial profiling by members of the San José Police Department.**
  
- **Adjournment**  
**The afternoon City Council session was adjourned at 3:56 p.m.**

## 10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

---

## 11. PUBLIC HEARINGS ON CONSENT CALENDAR

---

(Heard by the City Council at 7:05 p.m.)

### 11.1 Public Hearings on Consent Calendar.

#### Recommendation:

- (a) Consideration of an ordinance rezoning the real property located on the east side of De Anza Boulevard, 350 feet northerly of Sharon Drive (1426 S. De Anza Boulevard) (Yu-Sheng Kao, Owner) from R-2 Residential District to A(PD) Planned Development Zoning District Residential District to allow up to four single family attached/detached residences on a 0.52 gross acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1). CEQA: Exempt.  
PDC05-027 – District 1  
[Continued from 6/20/06 – Item 11.1(a)]  
**Ordinance No. 27828 passed for publication.**
- (b) Consideration of an ordinance rezoning the real property located at/on the northeast corner of Almaden Avenue and West Alma Avenue (1390 Almaden Ave.) (Neighborhood Housing Services Silicon Valley, Rodney Geiman, Owner) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District and associated Planned Development Permit to allow up to 17 single family attached residences on a 0.75 gross acre site. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. CEQA: Mitigated Negative Declaration. SNI: Washington.  
PDC06-021 & PD06-022 - District 3  
**Ordinance No. 27829 passed for publication.**  
**Resolution No. 73354 was adopted.**
- (c) Consideration of an ordinance rezoning the real property located at the northeast corner of Old Tully Road and Monterey Highway from LI Light Industrial Zoning District to CN Commercial Neighborhood Zoning District to allow commercial uses on an approximately 6.0 gross acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (5-0-2). CEQA: Resolution No. 65459.  
C05-120 - District 7  
**Ordinance No. 27830 passed for publication.**

# 11. PUBLIC HEARINGS ON CONSENT CALENDAR

---

## 11.1 Public Hearings on Consent Calendar (Cont'd.)

- (d) Consideration of a director initiated rezoning ordinance rezoning an approximately 7 gross acres containing 28 parcels on the southeast side of Mabury Road, east of King Road from County of Santa Clara to R-1-8 Single Family Residence Zoning district for single family residential purposes (Numerous Owners). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. CEQA: EIR Resolution No. 65459.

C06-032 – District 3

**Ordinance No. 27831 passed for publication.**

- (e) Consideration of a director initiated rezoning ordinance rezoning an approximately 2.3 gross acres consisting of 2 parcels on the southwesterly side of Stone Creek Drive, approximately 120 feet southerly of Isadora Drive from County of Santa Clara to R-1-8 Single Family Residence Zoning district for single family residential purposes (Numerous Owners). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. CEQA: EIR Resolution No. 65459.

C06-035 – District 4

**Ordinance No. 27832 passed for publication.**

- (f) Consideration of a director initiated rezoning ordinance rezoning an approximate 10.89 gross acre site located on the southwesterly corner of Capitol Avenue and Gimelli Way from County of Santa Clara to RM Multiple Residence District for multiple residential purposes (Genevieve M. Merlino, Owner). CEQA: EIR Resolution No. 65459.

C06-044 – District 5

**Continued to 9/19/06.**

- (g) Consideration of a director initiated rezoning ordinance rezoning an approximate 3.2 gross acre site located on both sides of Maria Way and Antonio Lane and the west side of Essex Way, extending approximately 180 feet north of Valley Forge Way from County of Santa Clara to R-1-8 Single Family Residence District for single family residential purposes on (Numerous Owners). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. CEQA: EIR Resolution No. 65459.

C06-045 – District 1

**Ordinance No. 27833 passed for publication.**

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## 11. PUBLIC HEARINGS

---

### 11.2 Rezoning the real property located on the southeast corner of Stevens Creek and South Winchester Boulevard.

**Recommendation:** Consideration of an ordinance rezoning the real property located on the southeast corner of Stevens Creek and South Winchester Boulevard (3055 Olin Ave) (FRIT San José Town & Country Village, LLC, Owner/Developer) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to: (1) allow up to 400 additional multi-family attached residences (1,601 total units if a second hotel is not built); (2) allow an additional 15,000 square feet of retail/commercial space for a total of 695,000 square feet; (3) allow up to 20,000 square feet of currently permitted general retail/commercial space to be replaced with 20,000 square feet of restaurant space for a total of 115,200 square feet of restaurant/night club uses; and (4) reduction in required parking on the 40.79 gross acre Santana Row site.

PDC05-030 - District 6

(Continued from 6/20/06 – Item 11.6)

**Dropped.**

### 11.3 Administrative Hearing on the Appeal of the Planning Commission's decision to deny a Conditional Use Permit.

**Recommendation:** Administrative Hearing on the consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit and deny the granting of a determination for Public Convenience or Necessity for the off-sale of alcoholic beverages at an existing retail store on a 0.43 gross acre site in the CP Commercial Pedestrian Zoning District located at the southwest corner of Winchester Boulevard and Impala Drive (1539 S. Winchester Blvd.) (Ronnie Berry, Owner). Director of Planning, Building and Code Enforcement recommends to uphold the Planning Commission's decision to deny (5-0-1). CEQA: Exempt. SNI: Winchester.

CP06-009 & ABC06-006 - District 1

**Continued to 8/29/06.**

### 11.4 Rezoning the real property located at/on the south side of Balbach Street.

**Recommendation:** Consideration of an ordinance rezoning the real property located at/on the south side of Balbach Street, approximately 300 feet westerly of South Market Street from CG General Commercial Zoning District to A(PD) Planned Development Zoning District to allow 38 single family attached residences and associated improvements (120 Balbach Street) (Corotto Company Inc., Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1). CEQA: Mitigated Negative Declaration. SNI: Market Almaden.

PDC05-078- District 3

**Ordinance No. 27834 passed for publication.**

## 11. PUBLIC HEARINGS

---

### 11.5 Administrative Hearing on the Appeal of the Planning Director's decision to approve a Planned Development Permit.

**Recommendation:** Administrative Hearing on the consideration of an appeal of the Planning Director's decision to approve a Planned Development Permit to construct 34 single family detached residences and a Tentative Subdivision Map to reconfigure 2 parcels into 34 lots for single family detached residential purposes on a 4.16 gross acre site, in the A(PD) Planned Development Zoning District located on the south side of Rock Avenue, approximately 800 feet westerly of Oakland Avenue (Aldo J. Scoffone, Trustee & et al, Loren J. Jones and Catherine A. Valentine, Owner; Taylor Woodrow Homes, Inc., Alan Loving, Developer). Planning staff recommends to uphold the Director of Planning's decision to approve. No Planning Commission action. CEQA: Mitigated Negative Declaration.

PD06-003 & PT06-006 - District 4

**Resolution No. 73352 adopted.**

### 11.6 Rezoning the real property located at the southwest corner of Monterey Road and Goble Lane.

**Recommendation:** Consideration of an ordinance rezoning the real property located at the southwest corner of Monterey Road and Goble Lane rezoning from A(PD) Planned Development Zoning District which allows up to 969 single family and multi family residential units and approximately 18,000 square feet of commercial space site to A(PD) Planned Development Zoning District to modify the previously approved General Development Standards to allow (1) a reduction in setbacks along Monterey Road; (2) to allow detached units; (3) to clarify the park dedication requirement (2745 Monterey Road) (ROEM Development Corporation, Owner/Developer). CEQA: Resolution No. 72877, File No. PDC02-066.

PDC06-034 - District 7

**Continued to 9/19/06.**

- **Open Forum**

- (1) **Salvatore A. LaRosa requested assistance in resolving downtown residential parking issues. Staff to contact him for more information.**
- (2) **Robert Apgar expressed personal observations.**
- (3) **Mark Trout presented religious viewpoints.**

- **Adjournment**

**The Council of the City of San José was adjourned at 8:13 p.m. in memory of Miriam Ayllon, Valley Transportation Authority Community Outreach Supervisor, who passed away on Sunday in a tragic rafting accident when visiting friends and family in Bolivia.**