

CITY COUNCIL AGENDA

AUGUST 22, 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

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**
9:32 a.m. - Closed Session, City Hall Tower, 18th Floor, City Hall
Absent Council Members: Cortese. (Excused)

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.
- **Invocation (District 7)**
Building Respect Through Dance.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 7.1 to be heard last.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to Adrian Flores for his innovative and multi-faceted school dance program, “Building Respect Through Dance”, piloted at Andrew Hill High School, brings ballroom dance to San José youth. (Nguyen/Chavez/Chirco)
(Rules Committee referral 8/16/06)
Mayor Gonzales, Vice Mayor Chavez and Council Members Nguyen and Chirco recognized and commended Mr. Adrian Flores for his innovative and multi-faceted school dance program, “Building Respect Through Dance” to the youth of the City of San José.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

There were none.

2.3 Public Hearing on the Historic Property Contract agreement between the City and the property owners for the preservation of the National Guard Armory.

Recommendation: Public Hearing on the Historic Property Contract (California Mills Act) agreement between the City and the property owners for the preservation of the National Guard Armory (City Landmark No. HL88-047) on a 0.43 gross acre site, in the CG General Commercial Zoning District, located at/on the east side of North 2nd Street, approximately 250 feet northerly of St. James Street (240 N. 2nd Street) (Bel Aire Inv Inc.) CEQA: Exempt. (Planning, Building and Code Enforcement)

MA06-001 - District 3

(Deferred from 6/27/06 – Item 3.5)

Dropped.

2.4 Acceptance of the Office of the City Auditor's Report.

Recommendation: Acceptance of the Office of the City Auditor's *Report of Activities and Findings for the Period May 16, 2006 through June 15, 2006*. (City Auditor)

(Rules Committee referral 8/9/06)

Report Accepted.

2.5 Approval to award a contract for the Water Pollution Control Plant Compressed Air Upgrade Project.

Recommendation: Report on bids and award of contract for the construction project entitled, "San José/Santa Clara Water Pollution Control Plant, FY 1997/1998 Compressed Air Upgrade Project," to the low bidder, Air Perfection, Inc., in the amount of \$267,807; and approval of a contingency in the amount of \$27,000 for a total agreement amount not to exceed \$294,807. CEQA: Exempt, PP05-124. (Environmental Services)

Deferred to 9/26/06.

2.6 Approval to award a contract to purchase hazardous materials entry suits.

Recommendation: Report on bids and award the purchase of hazardous materials entry suits on behalf of various local agencies within Santa Clara County to the lowest responsive bidder, Bauer Compressor, Inc., for a total amount not to exceed \$116,002.87 using Urban Area Security Initiative grant funds. CEQA: Not a Project. (Finance)

Approved.

2. CONSENT CALENDAR

2.7 Approval of actions related to the annexation of Story No. 55.

Recommendation: Adoption of a resolution ordering the reorganization of territory designated as Story No. 55 which involves the annexation to the City of San José of 1.33 gross acres of land located at the northwest corner of South White Road and Story Road and adjacent to the City of San José annexations Capitol No. 5 and Hillview No. 11 and the detachment from County Lighting County Service, Central Fire Protection, Area No. 01 (Library Service) County Service and County Sanitation 2-3 Districts. CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)

Resolution No. 73355 adopted.

2.8 Approval of actions related to the annexation of McKee No. 131.

Recommendation: Adoption of a resolution ordering the reorganization of territory designated as McKee No. 131 which involves the annexation to the City of San José of 2.10 gross acres of land located at the northeast corner of North Capitol Avenue and Grandview Drive and adjacent to the City of San José annexations McKee Nos. 97, 55-A, 9 and 129 and the detachment of the same from Central Fire Protection, Area No. 01 (Library Service) County Service Districts. CEQA: Mitigated Negative Declaration, File No. PDC05-064. Council District 4. (Planning, Building and Code Enforcement)

Resolution No. 73356 adopted.

2.9 Approval of actions related to the Telecommunication Antenna Installation and Property Use Agreement.

Recommendation:

- (a) Adoption of a resolution approving a standard form Non-Exclusive Multi-Site Telecommunication Antenna Installation and Property Use Agreement for use with telecommunication companies for a five year term with one five-year option and authorizing the City Manager to execute those agreements.
- (b) Adoption of a resolution revising the rate schedule previously approved in Resolution No. 70538 adopted August 7, 2001, to include a standard rate schedule for the standard multi-site agreement with annual use fee increases of 4% or the annual increase of the Consumer Price Index, whichever is highest, and a 20% discount in rates for multiple sites.

CEQA: Exempt, File No. PP06-114. (Public Works)

Resolution No. 73358 adopted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

No Report.

3.2 Report of the Rules Committee – August 9, 2006

Vice Mayor Chavez, Chair

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review August 22, 2006 Draft City Council Agenda

(a) Adds to the August 22, 2006 Draft City Council Agenda

The Committee approved the August 22, 2006 Draft City Council Agenda with one addition.

(2) Add New Items to August 15, 2006 City Council Agenda

(a) Mayor and Councilmember Requests

(b) Council Appointee Requests

The Committee approved the August 15, 2006 City Council Agenda with three additions.

(3) List of Reports Outstanding

The Committee noted and filed the City Manager's Report.

(c) Legislative Update

(1) State

Director of Intergovernmental Relations Betsy Shotwell, presented a brief State update and mentioned that four bills are being watched closely: SB1206, legislation regarding Redevelopment Agency Practices AB2907, Cable and Video Services SB1128, Sex Offenders and AB2223, Annexation of Unincorporated pockets.

(2) Federal

No Report.

(d) Meeting Schedules

(1) Approval to set a Joint City/County Meeting for August 31, 2006, 10:00 a.m. to 12:00 Noon in the Council Chambers

The Committee approved the meeting schedule.

(e) The Public Record

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

There were none.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – August 9, 2006 (Cont'd.)

Vice Mayor Chavez, Chair

(g) Rules Committee Reviews, Recommendations and Approvals

(1) Approve Council Committee Work Plans

(a) All Children Achieve Committee

(b) Building Strong Neighborhoods Committee

(Deferred from 6/21/06 and 8/2/06)

The Committee approved the Work Plans.

(h) Review of Significant Public Records Act Requests

(1) Accept staff information report on the American Civil Liberties Union
Public Records Request

**The Committee accepted Staff's response and recommended that this
item be forwarded for Council discussion in two weeks.**

(i) Review of Council Policy Updates per Sunshine Reforms

There were none.

(j) Open Forum

There were none.

(k) Adjournment

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

The Rules Committee Report and the Actions of August 9, 2006, were accepted.

3.3 Report of the Making Government Work Better Committee

Council Member Reed, Chair

No Report.

3.4 Approval of an ordinance amending Title 12 of the San José Municipal Code.

Recommendation: Approval of an ordinance amending Title 12 of the San José
Municipal Code to require Council Members to regularly disclose any outside
compensatory activities and the nature of such activities. (City Attorney)

Deferred to 8/29/06.

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.

4.3 Approval of actions related to the HP Pavilion’s Advertising Program.

Recommendation:

(a) Acceptance of the San José HP Pavilion Study Advertising Plan.
Accepted.

(b) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with San José Arena Management to place Comerica naming revenue in the approximate amount of \$175,000 per year in an account dedicated to:

- (1) Analysis and planning for the enhancement of the Arena as per the “Applicable Standard”;
- (2) The identification of improvements necessary to accommodate an NBA franchise; and
- (3) Devote the balance of funds not expended under (1) & (2) above to upgrade the Arena through the early establishment of the Enhancement Fund provided for in the Arena Management Agreement.

CEQA: Not a Project. (City Manager’s Office)

Resolution No. 73359 adopted.

5. NEIGHBORHOOD SERVICES

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

6. TRANSPORTATION & AVIATION SERVICES

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

6. TRANSPORTATION & AVIATION SERVICES

6.2 Approval of actions related to the Airport Arts Activation Project.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the contract for Arts Infrastructure Team, Gorbet + Banerjee to increase the scope of work for the Mineta San José International Airport Arts Activation Project to include the Terminal Area Improvement Program, and increase the contract amount by \$105,000 from \$250,000 to a not to exceed amount of \$355,000. CEQA: Resolution Nos. 67380 and 71451, PP05-207. (Economic Development)

Resolution No. 73360 adopted.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval of actions related to Recycle Plus Program Services.

Recommendation:

- (a) Adoption of resolutions 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.

CEQA: Negative Declaration, File No. PP06-009. (Environmental Services/Finance)

[Deferred from 8/15/06 – Item 7.1]

Staff recommendations not approved.

**** The following actions were approved by the City Council:**

7.1 Approval of actions related to Recycle Plus Program Services

- (a) Adoption of a resolution authorizing the Director of Finance to negotiate agreements with:
 - (1) California Waste Solutions, Inc., for single-family residential Recycling Services in Districts A and C, commencing July 1, 2007;
 - (2) Garden City Sanitation, Inc., for single-family residential Solid Waste Services in Districts A and C, commencing July 1, 2007.

Resolution No. 73362 adopted.

Disqualified: Gonzales.

(Item continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval of actions related to Recycle Plus Program Services (Cont'd.)

- (b) Direction to staff to explore the possibility of an extended contract term in their negotiations with Garden City Sanitation and California Waste Solutions, in the interests of securing the best deal possible for ratepayers.

Approved.

Disqualified: Gonzales.

- (c) Adoption of a resolution authorizing the Director of Finance to negotiate and execute agreements with 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.

Resolution No. 73363 adopted.

Disqualified: Gonzales.

- (d) Request the City Manager to identify the appropriate Council Committee to review and develop policy initiatives related to Solid Waste Management and work with the Committee Chair to incorporate discussion of pertinent items within their annual work plan as appropriate.

Approved.

Disqualified: Gonzales.

The Council approved the following:

- (1) **Strict performance measures that will be monitored on an ongoing basis, including minimizing contaminated recyclables and increasing diversion rate.**
- (2) **Fair costs to taxpayers, guarding against any potential rate increases over the life of the contract.**
- (3) **Service enhancements over the life of the contract, including increased programs for the disposal of bulky goods and appliances, increased street sweeping and ensuring that recyclables are not contaminated by waste. City Manager to bring this item back to Council.**
- (4) **Each contractor must be held to clear deadlines throughout the mobilization phase.**
- (5) **The City Manager shall provide adequate on-site inspection and develop performance standards to ensure compliance with the provisions of the executed contract.**

Council also authorized the City Manager to:

- (1) **Negotiate the major aspects of the Memorandums of Understanding with the contractors and bring back to Council for approval.**
- (2) **Explore with Norcal the possibility of a limited extension of their contract, if and only if, the other contractors are not ready by July 1, 2007.**

Disqualified: Gonzales.

8. PUBLIC SAFETY SERVICES

8.1 Approval to purchase two tractor drawn aerial ladder fire trucks for the Fire Department.

Recommendation: Report on bids and approval of the purchase of two tractor drawn aerial ladder fire trucks from Emergency Vehicle Group, Inc., from the low bidder, in an amount not to exceed \$1,696,361.94 and authorize the Director of Finance to execute the purchase order. CEQA: Not a Project. (Finance)

Approved.

8.2 Approval of actions related to Fire Station No. 19.

Recommendation: Adoption of a resolution determining that the public interest and necessity require the acquisition of a portion of a parcel currently improved with a vacant commercial building, for purposes of relocating and constructing a new facility for Fire Station 19 at the corner of Piedmont and Sierra Roads, from the owner, Piedmont and Sierra Road Plaza, LLC, A California Limited Liability Company (“Owner”) and located at 1275 Piedmont Road, San José, CA 95132 (APN No. 591-14-052) and authorizing the City Attorney to file suit in eminent domain to acquire such property interest, to apply for an order for possession before judgment, and to prosecute the action to final judgment, and authorizing the deposit of money in court for possession of the property from the funds lawfully available. CEQA: Exempt, PP06-116. Council District 4. (Public Works)

Resolution No. 73361 adopted.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

- Closed Session Report
No 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 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>
9833	West side of Cypress Ave, 400 ft south of Stevens Creek Blvd	1	Mr. Abdy Mirzadegan	5 Lots/ 4 Units	Single and Multi Family
9837	West side of Delmas Ave, 170 ft north of Dorothy Ave	6	Mr. Greg Schatzel	11 Lots/ 10 Units	Single Family Detached

- **Notice of City Engineer's Award of Construction Projects**
No Report.

The City Council adjourned to the Joint Redevelopment Agency portion of the meeting at 1:51 p.m. and reconvened at 2:21 p.m. to hear Item 7.1.

- **Open Forum.**
There were none.

- **Adjournment**
The Council of the City of San José was adjourned at 5:43 p.m.