

CITY COUNCIL AGENDA

AUGUST 3, 2004

SYNOPSIS

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

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
TERRY O. GREGORY
DAVID D. CORTESE
JUDY CHIRCO
PAT DANDO, VICE MAYOR

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**
9:35 a.m. - Closed Session, Room 600, City Hall
Absent – Council Members: None.

1:30 p.m. - Regular Session, Council Chambers, City Hall
Absent – Council Members: None.
- **Invocation (District 7)**
Apsara of San José performed two Cambodian cultural dances:
(1) **Apsara Dance was performed by the instructor Sinoun Buth.**
(2) **Butterfly Dance was performed by Monita Pen, Veronica Ho, Sonita Bin, and Angel Sar.**
- **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.

1 CEREMONIAL ITEMS

- 1.1 Presentation of the “Certificate of Achievement for Excellence in Financial Reporting” by the Government Finance Officers Association (GFOA) to the Redevelopment Agency of the City of San Jose for its Combined Annual Financial Report. (Redevelopment Agency)
Mayor Gonzales presented Deputy Executive Director of Redevelopment Agency, Harry Mavrogenes and Director of Finance & Administration, David Baum with a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association.
- 1.2 Annual Redevelopment Agency Employee Recognition Awards.
(Redevelopment Agency)
Deferred to 8/24/04.

2 CONSENT CALENDAR

2.1 Approval of Minutes.

None.

2.2 Final adoption of ordinances.

None.

2.3 Approval to amend an agreement for the Agriculture in Partnership Program.

Recommendation: Approval of a fourth amendment to the consultant agreement with Karin Grobe for technical assistance services for the Agriculture in Partnership Program, extending the term by two years, from August 1, 2004 to August 1, 2006, and increasing compensation by \$30,000, for a total agreement amount not to exceed \$121,448. CEQA: Not a Project. (Environmental Services)

(Deferred from 6/22/04 – Item 2.9 and 6/29/04 – Item 2.35)

Dropped

2.4 Approval of Purchase and Sale Agreements for the Story Road Redevelopment Project Area.

Recommendation: Approval of Purchase and Sale Agreements with:

- (a) Albert and Lily Toy, in the amount of \$10,300, plus related closing costs, for the acquisition of a portion of 1101 South King Road (APN: 486-10-068), in the area of the proposed streetscape for the Story Road Redevelopment Project Area; and,
- (b) Dennis Fong and Polly Kam, in the amount of \$95,000, plus related closing costs, for the acquisition of a portion of 1666 South King Road (APN: 486-10-086,88,89), in the area of the proposed streetscape for the Story Road Redevelopment Project Area.

CEQA: Exempt, PP04-05-171. Council District 5. (Public Works)

(Deferred from 6/29/04 – Item 2.30)

Deferred to 8/10/04.

2.5 Approval of various fiscal actions for Redevelopment Agency Capital Projects.

Recommendation:

- (a) Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the Meadowfair Park Phase II Project (PSM 375), the King and Story Road Improvements Project (PSM 221#4), the Transit Mall Lighting Project (PSM 379), and the Traffic Signal at King/Wilshire (PSM 380), in the amount of \$193,000.
- (b) Adoption of a resolution making certain determinations regarding the related expenditures of Redevelopment Agency funds on certain public improvements in connection with the Traffic Signal at King/Wilshire Project, as more specifically described in the memorandum from the Redevelopment Agency, dated June 17, 2004.

CEQA: Not a Project. Council Districts 5 and 8. SNI: West Evergreen, Gateway East. (City Manager's Office)

Dropped.

2 CONSENT CALENDAR

2.6 Approval of fiscal actions to rebudget funds to 2004-2005 to complete projects.

Recommendation:

- (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Park Trust Fund:
- (1) Increase the Beginning Fund Balance by \$72,000.
 - (2) Establish the Sonora Turnkey Park Project appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$72,000.

Ordinance No. 27217 adopted.

Resolution No. 72262 adopted.

- (b) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Hayes Mansion Phase III Fund:

- (1) Increase the Beginning Fund Balance by \$143,000.
- (2) Establish the Underground Parking - Tax Exempt appropriation to the Public Works Department in the amount of \$143,000.

Ordinance No. 27218 adopted.

Resolution No. 72263 adopted.

- (c) Adoption of the following appropriation ordinance and funding sources resolution amendments in Community Development Block Grant Fund:

- (1) Increase the Beginning Fund Balance by \$1,254,413.
- (2) Increase the CDBG Administration appropriation to the Parks, Recreation and Neighborhood Services Department by \$150,000.
- (3) Establish the EDA Revolving Loan Program appropriation to the Office of Economic Development in the amount of \$241,218.
- (4) Establish the Merlin Child Care Loan Program appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$57,494.
- (5) Establish the 6th and Bestor Park appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$118,113.
- (6) Establish the Curb Ramp Improvements for SNI appropriation to the Department of Transportation in the amount of \$536,201.
- (7) Establish a Street Lighting: Lenzen – Keeble appropriation to the Department of Transportation in the amount of \$45,294.
- (8) Establish a Street Lighting: Neighborhood Enhancement appropriation to the Department of Transportation in the amount of \$27,308.
- (9) Establish a Street Lighting: White Road appropriation to the Department of Transportation in the amount of \$16,565.
- (10) Establish a Street Lighting: Washington Area appropriation to the Department of Transportation in the amount of \$23,274.
- (11) Establish a Street Lighting: Edenvale Area (Phase I) appropriation to the Department of Transportation in the amount of \$2,796.
- (12) Establish a Street Lighting: Reed Street Pedestrian Corridor appropriation to the Department of Transportation in the amount of \$36,150.

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

Ordinance No. 27219 adopted.

Resolution No. 72264 adopted.

2 CONSENT CALENDAR

2.7 Approval to express interest in the possible future purchase of land from the San José/Evergreen Community College District.

Recommendation: Direction to the City Manager to notify the San José/Evergreen Community College District of the City's interest in the acquisition of an approximately 2.0 acre portion of the 27.1-acre surplus property owned by the San José/Evergreen Community College District, located adjacent to Evergreen Community College, surrounding the northeast corner of San Felipe and Yerba Buena Roads (Assessor's Parcel Number 660-21-022, and portions of 660-21-016 and 023). CEQA: Not a Project. Council District 8. (Planning, Building and Code Enforcement)

Approved.

2.8 Approval to set a Public Hearing for the vacation of a portion of Lenzen Avenue.

Recommendation: Adoption of a resolution of intention to vacate a portion of Lenzen Avenue and reserve a public service easement (PSE), located 350 feet east of Stockton Avenue, and setting a Public Hearing for September 7, 2004 at 1:30 p.m. CEQA: Exempt. Council District 6. (Public Works)

Resolution No. 72265 adopted.

2.9 Approval to award a contract for the Almaden Winery Park Youth Lot Project.

Recommendation: Report on bids and award of contract for the Almaden Winery Park Youth Lot Project to the low bidder, G&G Builders, Inc., to include the base bid and Add Alternate Nos. 1 and 2 in the amount of \$207,648, and approval of a contingency in the amount of \$11,000. CEQA: Exempt, PP04-02-053. Council District 10. (Public Works/Parks, Recreation and Neighborhood Services)

Approved.

2.10 Auditor's Monthly Report of Activities and Findings though June 15, 2004.

Recommendation: Acceptance of the Office of the City Auditor's monthly "*Report of Activities and Findings through June 15, 2004*". (Auditor)

The report was accepted.

2.11 Approval of nominations to the San José Silicon Valley Workforce Investment Network Board of Directors.

Recommendation: Approval of nominations to the San José Silicon Valley Workforce Investment Network Board of Directors. (Mayor)
(Rules in Lieu referral 7/28/04)

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 Dando, Chair
No Report.

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

3.4 Approval of actions related to establishing the FY 2004-05 property tax levy.

Recommendation: Adoption of a resolution establishing the FY 2004-05 property tax levy for all taxable property for general obligation bonded indebtedness. CEQA: Not a Project. (Finance)

Resolution No. 72266 adopted.

3.5 Approval of an agreement with the Association of Maintenance Supervisory Personnel (AMSP).

Recommendation: Adoption of a resolution approving the terms of an agreement with the Association of Maintenance Supervisory Personnel, and authorizing the City Manager to execute the agreement with a term of July 1, 2004 through June 30, 2005. (Employee Relations)

Resolution No. 72267 adopted.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

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

4.2 Report of the Driving a Strong Economy Committee – June 28, 2004
Council Member Williams, Chair

(a) Affordable Housing Production Update
The Committee accepted the staff's report, "Affordable Housing Production Update".

(b) Housing Rehabilitation Program Report
The Committee accepted the staff's report, "Housing Rehabilitation Program".

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.2 Report of the Driving a Strong Economy Committee – June 28, 2004 (Cont'd.)

- (c) Teacher Homebuyer and First Time Homebuyer Report
The Committee accepted the staff's report, "Teacher Homebuyer and First Time Homebuyer Report".
- (d) 10-Year Homeless Strategy Update
The Committee accepted the staff's report, "10 Year Homeless Strategy".
- (e) Market Rate Housing Citywide
The Committee accepted staff's report on , "Market Rate Housing Citywide".
- (f) Greater Downtown Housing
The Committee accepted staff's report on, "Greater Downtown Housing".
- (g) Report on attracting amateur and professional sports to San José
The Committee accepted staff's request for deferral until August 23, 2004.
- (h) Oral petitions
None.
- (i) Adjournment
The meeting was adjourned at 3:30 P.M.

The Driving a Strong Economy Committee Report and actions were accepted. Staff directed to provide Council with the updated report for Item 4(g): Report on attracting amateur and professional sports to San José.

5 RECREATION & CULTURAL SERVICES

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

5 RECREATION & CULTURAL SERVICES

5.2 Approval to submit an annual special tax for library purposes for placement on the November Election.

Recommendation:

- (a) Adoption of a resolution to submit to the electors of the City of San José, at the General Municipal Election to be held on November 2, 2004, a measure to impose an annual special tax in the form of a parcel tax for library purposes.

Resolution No. 72268 adopted.

- (b) Adoption of a resolution stating the City Council's intention that the base General Fund level of funding support for the Library Department will not fall below that of Fiscal Year 2004-05, to be determined by the City Manager's Budget Office, but in no case lower than 3.79% of the City's General Fund budget.

CEQA: Exempt, PP04-07-219. (Library).

Resolution No. 72269 adopted.

5.3 Approval of actions related to the Selma Olinder Park Project (Phase 1).

Recommendation: Report on bids and award of contract for the Selma Olinder Park Project to the low bidder, Galeb Paving, Inc., for the base bid and Add Alternate No. 1, in the amount of \$1,429,240, and approval of a contingency in the amount of \$143,000. CEQA: Mitigated Negative Declaration, PP00-10-147. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Public Works/Parks, Recreation and Neighborhood Services)

Approved.

6 TRANSPORTATION SERVICES

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

7 ENVIRONMENTAL & UTILITY SERVICES

7.1 Public Hearing and approval of actions related to the placement of the Sanitary and Storm Sewer charges on the 2004-2005 County tax roll.

Recommendation: PUBLIC HEARING and approval of the Sanitary Sewer Service and Use charges and Storm Sewer Service charges report filed with the City Clerk's Office and approval of the placement of recommended Sanitary Sewer and Use charges and Storm Sewer Service charges on the 2004/2005 tax roll, with such modifications as Council may make based on public hearing testimony. CEQA: Not a Project. (Finance)

Approved.

8 AVIATION SERVICES

9 PUBLIC SAFETY SERVICES

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened to consider Items 10.1, 10.2, and 10.3 in a Joint session at 2:35 P.M.

10.1 Approval to acquire an easement for publicly owned and maintained electrical facilities within the garage of the Adobe building (Phase 2).

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to execute a Grant of Easement with the San José Redevelopment Agency, SMBC Leasing and Finance, Inc., and Adobe Systems Incorporated to convey to the City an easement for publicly owned and maintained electrical facilities within the garage of the Adobe building (Phase 2) at the northwest corner of Almaden Boulevard and Park Avenue and all other documents necessary to complete the transaction; and

Resolution No. 72270 adopted.

- (b) Adoption of a resolution authorizing the Redevelopment Agency Executive Director to execute the Grant of Easement described above.

CEQA: Resolution No. 68839, RH01-01-001. Council District 3. (City Manager's Office/Redevelopment Agency)

Resolution No. 72271 adopted.

10.2 Approval to convey an easement for two properties at the southeast corner of Story and King Roads.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to quitclaim the City's interest in a light and air easement burdening two properties owned by the Redevelopment Agency at the southeast corner of Story and King Roads back to the Agency; and

Resolution No. 72272 adopted.

- (b) Adoption of a resolution authorizing the Redevelopment Agency Executive Director to accept the above referenced quitclaim.

CEQA: Negative Declaration, PP02-02-017 and addenda thereto, CP03-030 and H04-021. Council District 5. SNI: East Valley/680. (City Manager's Office/Redevelopment Agency)

Resolution No. 72273 adopted.

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

10.3 Study Session on the Draft Lobbyist Ordinance, as proposed by the Blue Ribbon Task Force.

Recommendation: Conduct the Study Session on the Draft Lobbyist Ordinance, as proposed by the Blue Ribbon Task Force, and provide direction to staff, as appropriate. (City Attorney's Office)

The Study Session was held; No Council action taken.

Staff directed to evaluate the registration fee costs to ensure cost recovery, to provide Council with contribution limits used by comparable cities, to evaluate each quarter issues pertaining to smaller non-profits and the amount of hours they require to meet with Council pertaining to the communities they effect, to address any concerns put forward by local non-profits in relation to the ordinance and to restate the logic behind including any of those organizations.

The Redevelopment Agency Board portion of the meeting adjourned at 4:49 P.M.

- Closed Session Report

- A. Authority to Enter Litigation Case As *Amicus Curiae*:

Case Name: Cashman v. City of Cotati

Adverse party or parties: Gene Cashman

Substance of litigation: The City agreed to join an *amicus curiae* brief supporting the City of Cotati in an appeal of a judgment that found Cotati's mobilehome rent control ordinance unconstitutional.

Council Vote: Ayes: Ron Gonzales, Nora Campos, Cindy Chavez, Judy Chirco, David D. Cortese, Pat Dando, Terry O. Gregory, Linda L. LeZotte, Chuck Reed, Forrest Williams, and Ken Yeager.

- **Notice of City Engineer’s Pending Decision on Final Maps**

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9596	e/s of Hicks Ave. approximately. 320’ of Dry Creek Road	6	Charles W. Davidson	8 lots/8 units	SFDR	Approve
9541	W/S of King Road, 250’ s/o Commodore Drive	4	KB Home South Bay	78 units	SFAR	Approve

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>
9608	N/S Quimby Road, 300’ E/o Mission Green Drive	8	Braddock & Logan	12 lots	SFDR
9611	Southerly terminus of Basking Ridge Road	2	Metcalf Prop.	213 units	SFDR

- **Open Forum—**

- (1) **James Rowen spoke on issues relating to San José State University.**

- **Adjournment**

The meeting of the Council of the City of San José adjourned at 4:52 P.M in memory of James “Jim” L. Mirassou of Rochelle Winery (formerly known as Mirassou Winery); and in memory of Norma Mantez and William McCarthy, who drowned while attempting to save two children who were in danger of drowning when they got caught by the current.