

# CITY COUNCIL AGENDA

**AUGUST 30, 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.
- **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:

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 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 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) 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, City Hall Tower, 18<sup>th</sup> Floor, City Hall  
See Separate Agenda  
1:30 p.m. - Regular Session, Council Chambers, City Hall  
7:00 p.m. - Public Hearings, Council Chambers, City Hall
- **Invocation (District )**
- **Pledge of Allegiance**
- **Orders of the Day**

**ITEM 9.1 IS TO BE CONSIDERED IN A JOINT CITY COUNCIL/REDEVELOPMENT AGENCY BOARD SESSION.**

**Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.**

## **1 CEREMONIAL ITEMS**

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- 1.1 Presentation of a commendation to John Boncher, Chief Operating Officer and President of Cupertino Electric for their contributions to the local economy. (Mayor/Vice Mayor)
- 1.2 Presentation of a commendation to the Friends of the Guadalupe River Park and Gardens in recognition of the grand opening of the Guadalupe River Park on September 10, 2005. (Chavez/Yeager)
- 1.3 Presentation of a commendation to Kaiser Permanente for its contributions to the City of San José in the field of health in relation to their innovative Farmers' Market Program that was awarded the 2005 Ellis J. Bonner Community Leadership Award by America's Health Insurance plans. (Williams)  
(Rules Committee referral 8/17/05)

# 1 CEREMONIAL ITEMS

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- 1.4 Presentation of a proclamation celebrating August 28, 2005 as San José Fire Department's 10 year Anniversary for providing Advanced Life Support Services to the residents of San José. (Mayor)  
(Rules Committee referral 8/17/05)
- 1.5 Presentation of an award by representatives from the Department of Defense/Employer Support of the Guard and Reserve (ESGR) and signing of the Five Star Statement of Support by the Mayor of the City's nomination to receive the Freedom Award. (Mayor)  
(Rules Committee referral 8/17/05)
- 1.6 Presentation of a commendation to Presentation High School in recognition of their outstanding commitment to women's athletics and education through the construction and dedication of new sports fields and aquatic facilities on their campus. (Yeager)  
(Rules Committee referral 8/17/05)

# 2 CONSENT CALENDAR

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**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.

**Recommendation:** Final adoption of ordinances:

- (a) ORD. NO. 27515 – Rezoning certain real property located on the southeasterly corner of Piercy Road and Silver Creek Valley Place (5815 Silver Creek Valley Place) to A(PD) Planned Development Zoning District. PDC05-045
- (b) ORD. NO. 27516 – Rezoning certain real property situated at the northeast corner of Almaden Avenue and West Alma Avenue (1390 Almaden Avenue) to A(PD) Planned Development Zoning District. PDC05-019
- (c) ORD. NO. 27517 – Prezoning certain real property situated on the north side of Fleming Avenue approximately 350 feet east of Fourier Drive (1238 Fleming Avenue) to A(PD) Planned Development Zoning District. PDC05-015
- (d) ORD. NO. 27518 – Rezoning certain real property situated on the southwest side of Park Avenue approximately 150 feet northwest of Emory Street (1819 Park Avenue) to CN – Commercial Neighborhood Zoning District. C05-065

## 2 CONSENT CALENDAR

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### 2.2 Final adoption of ordinances (Cont'd.)

**Recommendation:** Final adoption of ordinances:

- (e) ORD. NO. 27519 – Rezoning certain real property situated on the east side of Senter Road, approximately 200 feet northwesterly of Quinn Avenue (2266 Senter Road) to LI(PD) Planned Development Zoning District. PDC04-111
- (f) ORD. NO. 27520 – Rezoning certain real property situated southeast side of Elwood Drive approximately 100 feet southerly of Nikette Way to A(PD) Planned Development Zoning District. PDC04-059

### 2.3 [Acceptance of the finding reports from Kafoury, Armstrong & Company, LLP for the quarters ending December 31, 2004 and March 31, 2005, relating to the Bay 101 Unconditional Approval of Stock Transfer.](#)

**Recommendation:** Acceptance of the finding reports from Kafoury, Armstrong & Company, LLP for the quarters ending December 31, 2004 and March 31, 2005, relating to the Bay 101 Unconditional Approval of Stock Transfer. (City Auditor)  
(Rules Committee referral 8/17/05)

### 2.4 [Approval of an agreement for the Water Pollution Control Plant.](#)

#### [Supplemental](#)

**Recommendation:** Approval of an agreement with H.T. Harvey & Associates to provide land use planning consultant services for the San José/Santa Clara Water Pollution Control Plant, including salt pond A18, in an amount not to exceed \$300,000, for a term from September 1, 2005 to August 31, 2009. CEQA: Not a Project. (Environmental Services)

### 2.5 [Approval of actions related to the 21<sup>st</sup> Century Community Learning Centers.](#)

**Recommendation:** Adoption of a resolution accepting additional grant funding, for the 21<sup>st</sup> Century Community Learning Centers, and authorizing the City Manager to negotiate and execute continuation grant agreements with the YMCA, Cross-Cultural Community Services, San José After School All Stars and the Boys and Girls Club to increase compensation by \$352,665, for a total grant amount of \$1,645,665, and extending the term of the agreements to December 30, 2005. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

## 2 CONSENT CALENDAR

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### 2.6 [Adoption of a resolution ordering the reorganization of territory designated as McKee No. 128.](#)

**Recommendation:** Adoption of a resolution ordering the reorganization of territory designated as McKee No. 128 which involves the annexation to the City of San José of 1.19 acres of land more or less, located at the on the east side of Kirk Avenue, approximately 110 feet southerly of Summit Avenue and adjacent to the City of San José annexations McKee Nos. 117 and 40 and the detachment of the same from Central Fire Protection, Area No.01 (Library Services) County Services and Sanitation District 2-3. CEQA: GP2020 EIR, Resolution No. 65459, File No. C04-090. Council District 5. (Planning, Building and Code Enforcement)

### 2.7 [Approval of action related to Rule 20A and Rule 20B Underground Utility District.](#)

**Recommendation:** Adoption of a resolution to consider the establishment of combination Rule 20A/In-Lieu Fee (Rule 20B) Underground Utility District on Taylor Street from First Street to Tenth Street; Jackson Street from Seventh Street to Ninth Street; Seventh Street from Jackson Street to Taylor Street; and Sixth Street from Taylor Street to Empire Street, and setting a public hearing on September 27, 2005 at 1:30 p.m. CEQA: Exempt, PP05-148. Council District 3. (Public Works)

## 3 STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the Study Session Mayor Gonzales, Chair

### 3.2 Report of the Rules Committee – August 17, 2005 Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review August 30, 2005 Council Agenda
  - (2) Add New Items to August 23, 2005 Council 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

### **3 STRATEGIC SUPPORT SERVICES**

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#### **3.2 Report of the Rules Committee – August 17, 2005 (Cont'd.)**

##### **Vice Mayor Chavez, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Revision of Definition of Surviving Child
  - (2) Megan's Law Registry Changes
  - (3) Approval of Travel by Council Member LeZotte to Denver, Colorado
  - (4) Approval of Travel by Mayor Gonzales to Denver, Colorado
- (h) Oral Communications
- (i) Adjournment

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

#### **3.4 Approval of City Council response to the 2004-2005 Santa Clara County Civil Grand Jury Report regarding the Norcal Recycle Plus Agreement.**

**Recommendation:** Approval of City Council response to Grand Jury Report regarding the Norcal Recycle Plus Agreement. (City Manager/City Attorney)

(Rules Committee referral 8/10/05)

(Deferred from 8/16/05 – Item 3.4)

**RECOMMEND DEFERRAL TO 9/13/05**

#### **3.5 Independent Investigator's Status Report on the review of issues associated with Norcal garbage contract and contract amendment.**

**Recommendation:** Acceptance of the Independent Investigator's Status Report on the review of issues associated with the Norcal garbage contract and contract amendment.

(City Auditor)

(Rules Committee referral 8/10/05)

**RECOMMEND DEFERRAL TO 9/13/05**

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.6 Approval to issue Clean Water Financing Authority Sewer Revenue Refunding Bonds.

**Recommendation:** Adoption of a resolution of the City Council:

- (a) Authorizing the issuance of San José - Santa Clara Clean Water Financing Authority Sewer Refunding Revenue Bonds, Series 2005A (tax-exempt fixed rate) in a not to exceed amount of \$65,000,000; and Series 2005B (tax-exempt variable rate) in a not to exceed amount of \$30,000,000, (collectively the "Bonds").
- (b) Approving in substantially final form and authorizing the execution, as applicable, of the Second Amendment to the Improvement Agreement, two Preliminary Official Statements, two final Official Statements, Master Indenture, First Supplemental Indenture, Second Supplemental Indenture, Continuing Disclosure Agreement, Standby Bond Purchase Agreement, one or more Escrow Agreements, Financial Guaranty Agreement, Bond Purchase Agreement, Remarketing Agent Agreement, one or more Payoff Agreements with Tributary Agencies and authorizing the City Manager, Director of Finance or their designees to execute and, as appropriate, to negotiate and deliver these documents and other related financing documents and to take other actions as necessary in connection with the issuance of the Bonds.
- (c) Authorizing the City Attorney to negotiate and execute an Agreement with Nixon Peabody LLP for bond and disclosure counsel services in an amount not to exceed \$175,000.

CEQA: Not a Project. (Finance/Environmental Services)

### 4 COMMUNITY & ECONOMIC DEVELOPMENT

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

#### 4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair

#### 4.3 Approval of actions related to the off-sale of alcoholic beverages.

**Recommendation:** Adoption of an ordinance repealing the provisions pertaining to gasoline service station combined uses; amending land use regulations pertaining to off-sales of alcoholic beverages to set forth elements for consideration in a liquor license exception process and to amend the location criteria for off-sales of alcoholic beverages uses; and amendments to distinguish off-sale of beer and wine uses from off-sale of all types of alcohol uses. (Planning, Building and Code Enforcement)

(Referred from 6/14/05 – Item 4.5)

**RECOMMEND DEFERRAL TO 9/27/05**

## 5 NEIGHBORHOOD SERVICES

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

## 6 TRANSPORTATION & AVIATION SERVICES

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- 6.1 Report of the Building Better Transportation Committee  
Council Member Campos, Chair
- 6.2 [Approval to award a contract for the Airport's USO/Parking Revenue Control Modular Offices.](#)

**Recommendation:** Report on bids and award contract for the Norman Y. Mineta San José International Airport-USO/Parking Revenue Control Modular Offices (Revised) contract to the lowest responsive bidder, Pacific Mobile Structures, Inc. in the amount of \$675,427.33, and approval of a contingency in the amount of \$68,000. CEQA: Resolutions No. 67380 and 71451, PP 05-075. (Public Works/Airport)

## 7 ENVIRONMENTAL & UTILITY SERVICES

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- 7.1 Approval of actions related to Recycle Plus Rate Increases.

**Recommendation:** Resolution revising Recycle Plus rates for integrated waste management services beginning August 1, 2005, increasing single-family rates by approximately 3% and multi-family rates by approximately 2%.  
CEQA: Not a Project. (City Manager's Office/Environmental Services)  
[Deferred from 6/21/05 – Item 10.1(b)]  
**CONTINUE PUBLIC HEARING TO 9/27/05**

## 8 PUBLIC SAFETY SERVICES

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

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**CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEM 9.1 IN A JOINT SESSION**

### **9.1 Approval of 4<sup>th</sup> Street Garage and Downtown Parking Alternatives.**

**Recommendation:** Approval of 4<sup>th</sup> Street Garage and Downtown Parking Alternatives.  
(Mayor)  
(Rules Committee referral 8/17/05)

**ADJOURN REDEVELOPMENT AGENCY BOARD PORTION OF THE MEETING**

- Closed Session Report
- Notice of City Engineer's Pending Decision on Final Maps
- Open Forum—To be heard jointly with Redevelopment Agency Public Discussion. Following Open Forum, Council will recess until 7:00 p.m.

## 10 GENERAL PLAN PUBLIC HEARINGS

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No General Plan Public Hearing at this time.

## 11 PUBLIC HEARINGS

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(To be heard by the City Council at 7:00 p.m.)

### 11.1 Public Hearings Consent Calendar items.

#### **Recommendation:**

- (a) Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District Rezoning to allow six single-family attached residences in an existing building on a gross 0.17 acre site, located on the east side of 10<sup>th</sup> Street, approximately 150 feet south of San Salvador Street (422 S. 10<sup>th</sup> Street) (José and Patricia Amaya, Owner). SNI: University. CEQA: Exempt.  
PDC05-025 - District 3  
(Continued from 8/16/05 – Item 11.5)  
**RECOMMEND CONTINUANCE TO 9/20/05**
- (b) [Public Hearing on and consideration of approval of an ordinance](#) on a Planned Development Rezoning from R-1-8 Residential Zoning District to A(PD) Planned Development Zoning District to allow up to 11 detached single-family patio homes on a 0.75 gross acre site, located at/on the eastside of Almaden Road, approximately 680 feet northerly of Curtner Avenue (2190 Almaden Road) (Dennis Mulvihill, Owner). SNI: None. CEQA: Mitigated Negative Declaration.  
PDC03-047 – District 6
- (c) Public Hearing on and consideration of approval of an ordinance on Conforming Conventional Rezoning from A(PD) Planned Development Zoning District to CN Commercial Neighborhood Zoning District to allow commercial uses on a 2.3 gross acre site, located approximately 190' easterly of the intersection of Blossom Hill Road and Poughkeepsie Road (120 Blossom Hill Road) (Gavilan Plaza, Owner). CEQA: Exempt.  
C05-069 - District 2

# 11 PUBLIC HEARINGS

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**11.2 [Public Hearing on Planned Development Rezoning from IP Industrial Park Zoning District to A\(PD\) Planned Development Rezoning to allow up to 109 single-family attached residences and the demolition of existing industrial buildings on a 4.0 gross acre site.](#)**

**Recommendation:** Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 109 single-family attached residences and the demolition of existing industrial buildings on a 4.0 gross acre site, located on the northeast corner of Autumnvale Drive and Trade Zone Blvd. (2450 Autumnvale Dr.) (Autumnvale Associates, Inc., Adams Capital Management Co. Edwin Kawamoto, Owner). CEQA: Mitigated Negative Declaration.

PDC04-109 - District 4

(Continued from 8/16/05 – Item 11.8)

**11.3 [Public Hearing on Planned Development Rezoning from R-1-8 Residence District to A\(PD\) Planned Development Rezoning to allow 10 single-family detached residences on a 1.0 gross acre site.](#)**

**Recommendation:** Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from R-1-8 Residence District to A(PD) Planned Development Rezoning to allow 10 single-family detached residences on a 1.0 gross acre site, located at/on the west side of Delmas Avenue, approximately 170 feet north of Dorothy Avenue (1203 Delmas Ave.) (Greg Schatzel, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-1-1).

PDC04-099 - District 6

(Continued from 8/16/05 – Item 11.11)

**11.4 [Public Hearing on Conforming Conventional Rezoning to allow for R-1-8 Single-Family Residence District to the R-M Multiple Residence District to allow for multi-family residential uses on a 0.13 gross acre site.](#)**

**Recommendation:** Public Hearing on and consideration of approval of an ordinance on a Conforming Conventional Rezoning from the R-1-8 Single-Family Residence District to the R-M Multiple Residence District to allow for multi-family residential uses on a 0.13 gross acre site, located on the northerly side of Michigan Avenue, approximately 200 feet southwest of Pacific Street (Isidiro Ancheta, Owner). CEQA: San José 2020 General Plan Environmental Impact Report. Director of Planning, Building and Code Enforcement recommend approval. No Planning Commission action required.

C05-057 - District 4

(Continued from 8/16/05 – Item 11.7)

# 11 PUBLIC HEARINGS

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## 11.5 Public Hearing on a Planned Development Rezoning located at the southwest corner of Monterey Road and Goble Lane.

**Recommendation:** Public Hearing on and consideration of:

- (a) PUBLIC HEARING ON THE APPEAL OF PLANNING COMMISSION'S CERTIFICATION OF AN Environmental Impact Report for the Goble Lane Mixed Use Development for a Planned Development Rezoning of 29.5 gross acres located at the southwest corner of Monterey Road and Goble Lane. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend the City Council certify the Environmental Impact Report prepared for the project and find it in compliance with the requirements of CEQA. (6-0-1; Pham absent)
- (b) Approval of an ordinance on Planned Development Rezoning from R-MH Mobilehome Park, LI Light Industrial and HI Heavy Industrial Zoning Districts to A(PD) Planned Development Zoning District, to allow up to 969 single-family and multi-family residential units and approximately 18,000 square feet of commercial space on a 29.5 acre site located at the southwest corner of Monterey Road and Goble lane (Ernest L. and Thelma W. Goble, et al., Owners). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval. (4-2-1; Levy, Zito opposed; Pham absent). (Planning Building and Code Enforcement)  
PDC02-066 - District 7

- Open Forum
- Adjournment