



CITY COUNCIL AGENDA

SEPTEMBER 26, 2006

AMENDED AGENDA

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
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**

9:30 a.m. - Closed Session, City Hall Tower, 18th Floor, City Hall

[See Separate Agenda](#)

1:30 p.m. - Regular Session, Council Chambers, City Hall

- **Invocation (District 8)**

- * Ley Va Middle School Student Body Officers' and City Year Members' presentation of the "Importance of Community Partnership"

- **Pledge of Allegiance**

- **Orders of the Day**

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

**** SEE ITEM 5.4, TO BE HEARD LAST ON THE AGENDA.**

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

- * ADJOURNMENT: This meeting will be adjourned in memory of Carl A. Lindstrom, Sr. who passed away on September 14, 2006 after a long illness.

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

1. CEREMONIAL ITEMS

1.1 Presentation of a commendation honoring Mr. Cong Thanh Do and his return to the United States. (Chavez/Nguyen/Pyle)

- * **DEFERRED TO 10/3/06
TO BE HEARD IN THE EVENING**

2. CONSENT CALENDAR

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

2.1 Approval of Minutes.

Recommendation: Approval of minutes:

(a) Regular Minutes of December 13, 2005
[Deferred from 9/19/05 – Item 2.1(b)]

* **DEFERRED TO 10/3/06**

2.2 Final adoption of ordinances.

* **Recommendation:**

(a) ORD. NO. 27863 – Amending Section 4.68.140 of Chapter 4.68, Section 4.72.100 of Chapter 4.72, Section 4.74.100 of Chapter 4.74, and Section 4.78.260 of Chapter 4.78, all of Title 4 of the San José Municipal Code and amending Section 9.10.960 of Chapter 9.10 of Title 9 of the San José Municipal Code to authorize the Director of Finance to waive penalties imposed on delinquent payments of Utility Users Taxes, Transient Occupancy Taxes, Occupancy Taxes, Disposal Facility Taxes and Solid Waste Enforcement Fees.

2.3 [Approval of an agreement for street pavement maintenance on Martin Avenue.](#)

* **Recommendation:** Approval of a cooperation agreement between the City of San José and the City of Santa Clara to perform street pavement maintenance on Martin Avenue from Brokaw Road to De La Cruz Boulevard in an amount not to exceed \$423,711 including construction cost in the amount of \$355,788, project administration and management in the amount of \$32,344, and a ten percent (10%) contingency in the amount of \$35,579. CEQA: Exempt, PP06-066. Council District 3. (Transportation) (Deferred from 9/12/06 – Item 2.3)

2.4 [Conditional approval of Stock Transfer.](#)

Recommendation: Acceptance of the finding reports from Kafoury, Armstrong and Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer. (City Auditor)
(Rules Committee referral 9/13/06)

2. CONSENT CALENDAR

2.5 Approval of fiscal actions for Redevelopment Agency Capital Projects.

- * **Recommendation:** Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (Cityside Redevelopment Fund):
- (a) Increase the estimate for Earned Revenue by \$137,675.
 - (b) Increase the appropriation to the Department of Transportation for the Pedestrian Improvements Project (PSM #431, Amendment 1) in the amount of \$43,675.
 - (c) Increase the appropriation to the Department of Public Works for the South First Streetscape Project (PSM #433, Amendment 1) in the amount of \$94,000.
- CEQA: Resolution No. 72767 and Exempt, File No. PP06-105. Council District 3.
(City Manager's Office)

2.6 Approval to reject all bids for the construction of the Water Pollution Control Plant Compressed Air Upgrade Project.

Recommendation: Approval to reject all bids for the construction project entitled, "San José/Santa Clara Water Pollution Control Plant, FY 1997/1998 Compressed Air Upgrade Project." CEQA: Exempt, PP05-124. (Environmental Services)
(Deferred from 8/22/06 – Item 2.5)

2.7 Approval to amend an agreement for the Water Pollution Control Plant.

Recommendation: Approval of the second amendment to the agreement with the consulting firm, Carollo Engineers, for the project entitled, "San José/Santa Clara Water Pollution Control Plant: Wet Weather Reliability and Hydraulic Capacity Project," amending the scope of services and increasing the total compensation by \$658,000 from \$5,450,000, for a total maximum compensation amount not to exceed \$6,108,000, with no change to the term of agreement. CEQA: Not a Project. (Environmental Services)

2.8 Approval to amend an agreement for the Environmental Enforcement Data Management System.

Recommendation: Approval of a second amendment to the agreement with enfoTech & Consulting, Inc. to extend the term of the agreement by 15 months from September 30, 2006 to December 31, 2007 for the development and implementation of the Environmental Enforcement Data Management System at no additional cost to the City. CEQA: Not a Project. (Environmental Services)

2. CONSENT CALENDAR

2.9 [Approval of report on bids and award for Installation of Potable and Non-Potable Water Services and Mains.](#)

[Supplemental](#)

Recommendation: Report on bids and award of contract for Installation of Potable and Non-Potable Water Services and Mains: 2006-2007 to the low bidder, San José Water Company, for the estimated term of October 2006 to November 2007, in an amount not to exceed \$573,485.69. CEQA: Exempt, File No. PP05-130. (Environmental Services)

2.10 [Approval to award open purchase order #7 for FY 2006-2007.](#)

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #7 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)

2.11 [Approval to amend an agreement for the Lake Cunningham Regional Skate Master Plan Amendment Project.](#)

- * **Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the consultant agreement for management and design services with Beals Alliance, Inc., for the Lake Cunningham Regional Skate Park Master Plan Amendment Project extending the term from March 31, 2008 to June 30, 2008, and increasing the compensation by \$167,991, from \$500,000 for a total agreement amount not to exceed \$667,991. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

2.12 [Approval of the sale of a portion of Ninth Street.](#)

Recommendation: Adoption of a resolution to:

- (a) Declare the vacated 5,140 square foot portion of North Ninth Street of City-owned property surplus to the needs of the City.
- (b) Authorize its sale to Standard Pacific Corporation for \$308,400.
- (c) Delegate authority to the Director of Public Works to execute all documents necessary to complete the transfer of the property.

CEQA: Mitigated Negative Declaration PDC05-059. Council District 3. SNI: 13th Street. (Public Works)

2. CONSENT CALENDAR

2.13 [Approval of the City/Arena Authority Restated Agreement.](#)

Recommendation:

- (a) Approval of the Restated Agreement between the City and the San José Arena Authority.
- (b) Approve an amendment to the Transition Agreement between the City and the Arena Authority to extend the term for 30 days from October 1, 2006 to November 1, 2006 and increase City funding in the amount of \$17,500, from \$87,500 to a not to exceed amount of \$105,000.

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

* (Rules Committee referral 9/20/06)

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair

3.2 Report of the Rules Committee – [September 13, 2006](#) Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review September 26, 2006 Draft City Council Agenda
 - (a) Adds to the September 26, 2006 Draft City Council Agenda
 - (2) Add New Items to September 19, 2006 City Council Agenda
 - (a) Mayor and Councilmember Requests
 - (b) Council Appointee Requests
 - (3) List of Reports Outstanding
- (c) Legislative Update
 - (1) State
 - (2) Federal
- (d) Meeting Schedules
 - (1) Approval of Special Building Strong Neighborhoods Committee Meeting
 - (2) Approval of Facility Reuse City Council Study Session
 - (3) Approval of changes to the Summer and Fall 2006 City Council General Plan Hearings
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
 - (1) Approval of appointment of Troy Bentley Overton to fill a vacant position on the Appeals Hearing Board (Chirco)

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – September 13, 2006 (Cont'd.)

Vice Mayor Chavez, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (2) Approval of the addition of an Audit of Code Enforcement to the City Auditor's Work Plan (Cortese)

* **Deferred to 9/27/06**

- (h) Review of Significant Public Records Act Requests
- (i) Review of Council Policy Updates per Sunshine Reforms
- (j) Open Forum
- (k) Adjournment

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

3.4 Approval of an ordinance ratifying final expenditures in various appropriations for Fiscal Year 2005-2006.

Recommendation: Adoption of an ordinance ratifying the final 2005-2006 appropriation increases detailed in this report. CEQA: Not a Project. (City Manager's Office)

* **RECOMMEND DEFERRAL TO 10/3/06**

4. COMMUNITY & ECONOMIC DEVELOPMENT

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 to set a public hearing and initiate proceedings for the Arguello Gosbey House as a special historic landmark.](#)

Recommendation: Adoption of a resolution to:

- * (a) Initiate proceedings to consider the Arguello Gosbey House located at 456 North 3rd Street, as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.
- (b) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.
- (c) Set a public hearing on October 24, 2006 at 1:30 p.m.
CEQA: Exempt, File No. HL06-156. Council District 3. SNI: 13th Street. (Planning, Building and Code Enforcement)

5. NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee – [September 14, 2006](#) Council Member Yeager, Chair

- (a) Update on 2006 Kindergarten Readiness and its Implications for City Provided Services to preschoolers
- (b) Update on Youth Commission Work Plan
- (c) Update on Early Care and Education Strategic Plan 2006
Request deferral to October 2006
- (d) Oral Petitions
- (e) Adjournment

5.2 [Approval of policies to meet HUD's reporting and compliance requirements.](#)

Recommendation: Adoption of the following policies in order to comply with the U.S. Department of Housing and Urban Development (HUD) requirements:

- (a) Adoption of a policy related to Section 3, which is a federal requirement that all grantees, contractors, or subrecipients of federal HUD funds providing housing rehabilitation, housing construction, or other public construction projects, to outreach and hire, when appropriate, low-income individuals or subcontract with Section 3 businesses (those residing in low-income areas).
- (b) Adoption of a policy related to Minority-Owned and Women-Owned Business Enterprises (MBE/WBE), which is a federal requirement that all grantees, contractors, or subrecipients of federal HUD funds over \$10,000 provide outreach to minority-owned and women-owned businesses when soliciting bids for subcontracts of services and/or construction projects.

CEQA: Not a Project. (Housing)

5.3 [Approval of actions related to the CAPER and CDBG contracts.](#)

[Supplemental](#)

Recommendation:

- (a) Approval of the 2005-2006 Consolidated Annual Performance Evaluation Report (CAPER).
- * (b) Adoption of a resolution authorizing the Director of Housing to negotiate and execute all amendments and modifications to Community Development Block Grant (CDBG) contracts and unexecuted CDBG contracts that were awarded funding by the City Council prior to FY 2006-2007, where those amendments and modifications are for non-capital Community Development Block Grant (CDBG) projects that in the determination of the Director of Planning are not projects requiring CEQA/NEPA review.

CEQA: Not a Project. (Housing/Parks, Recreation and Neighborhood Services)

5. NEIGHBORHOOD SERVICES

5.4 [Approval of the application process and schedule for the 2007-2008 Healthy Neighborhoods Venture Fund.](#)

[Supplemental](#)

Recommendation: Approval of the application process criteria, and schedule for the 2007-2008 Healthy Neighborhoods Venture Fund (HNVF) application Cycle 8. CEQA: Exempt. (Parks, Recreation and Neighborhood Services)

* **TO BE HEARD LAST ON THE AGENDA**

5.5 [Approval of actions related to the Lower Guadalupe River Reach A Project and the Coyote Creek Project.](#)

Recommendation:

- * (a) Adoption of a resolution authorizing the City Manager to submit an application for local assistance funds of up to \$350,000 from the State of California, Resource Agency, Department of Parks and Recreation (DPR) under the Recreational Trails Program to be used for the TRAIL: Lower Guadalupe River Reach A Project, to accept any grant funds and to negotiate and execute all documents related to the grant funding agreements.
- (b) Adoption of a resolution authorizing the City Manager to submit an application for local assistance funds of up to \$830,000 from the State of California, Resource Agency, Department of Parks and Recreation (DPR) under the Proposition 50 River Parkways Grant Program to be used for the TRAIL: Coyote Creek (Story Road to Phelan Avenue) Project, to accept any grant funds and to negotiate and execute all documents related to the grant funding agreements.

CEQA: Mitigated Negative Declaration, PP04-323 and PP91-06-162. Council District: 4 and 7. SNI: Tully-Senter. (Parks, Recreation and Neighborhood Services)

5.6 [Approval of report on bids and award of contract for the Joyce Ellington Branch Library.](#)

Recommendation:

- (a) Report on bids and award of contract for the Joyce Ellington Branch Library Project to the low bidder, John Plane Construction Co., Inc., in the amount of \$7,100,000, and approval of a contingency in the amount of \$710,000.
- (b) Adoption of the following Appropriation Ordinance amendments in the Branch Libraries Bond Projects Fund (Fund 472):
- (1) Increase the Joyce Ellington Branch Library Project by \$1,130,000; and
 - (2) Decrease the Cambrian Branch Project by \$710,000; and
 - (3) Decrease the Ending Fund Balance by \$420,000.

CEQA: Exempt, PP05-011. Council District 3. SNI: 13th Street. (Public Works/Library/City Manager's Office)

5. NEIGHBORHOOD SERVICES

5.7 [Approval of report on bids and to take action for the Pearl Avenue Branch Library Project.](#)

[Supplemental](#)

- * **Recommendation:** Report on bids and award of contract for the Pearl Avenue Branch Library Project to the low bidder, Bogard Construction, Inc., in the amount of \$6,099,900, and approval of a contingency in the amount of \$610,000. CEQA: Exempt, PP06-064. Council District 9. (Public Works/Library)

5.8 [Approval to name a new park.](#)

Recommendation: As recommended by the Parks and Recreation Commission, name a new park located at the intersection of Curci Drive and St. Elizabeth Street as “St. Elizabeth Park”. (City Clerk)
(Rules Committee referral 9/20/06)

6. TRANSPORTATION & AVIATION SERVICES

6.1 **Report of the Building Better Transportation Committee – [September 14, 2006](#) Council Member Campos, Chair**

- (a) Options for maintaining trail access during construction projects
- (b) Report on State and Regional Transportation Funding
 - (1) Report on Funding Opportunities
 - (2) Recommendations on City Advocacy and Priority Projects
- * **SEE ITEM 6.3 FOR COUNCIL ACTION TO BE TAKEN**
- (c) Status Report on Taxi Program
- (d) Oral Petitions
- (e) Adjournment

6.2 [Approval to amend an agreement related to the Almaden/Woz Way Parking Lot.](#)

[Supplemental](#)

- * **Recommendation:** Approve the Seventh Amendment to a Parking Lot Lease Agreement between the City of San José (City) and Boston Properties which includes the following:
 - (a) A provision extending the lease to be effective from October 1, 2006 to December 31, 2007, in the amount of \$498,000 (\$33,200 per month) for the property commonly referred to as Almaden/Woz Way parking lot, located at the west side of Almaden Boulevard between West San Carlos and Woz Way; and,
 - (b) A provision allowing for the placement of public grandstands on the subject parking lot for use during the San José Grand Prix event scheduled for the weekend of July 27 – 29, 2007.
 - (c) A provision allowing for the use of a portion of the subject parking lot for the Northern California Motorcycle Show scheduled in December 2007.
 - (d) A provision allowing the City to have two one-year options to extend the lease under the same terms and conditions.

CEQA: Resolution No. 72767. Not a Project. Council District 3. (Transportation)
(Deferred from 9/19/06 – Item 6.3)

6.3 [Approval to update the City’s Regional Transportation Project Priority List.](#)

* **Recommendation:** Approval of an update to the City’s Regional Transportation Project Priority List, expanding the list from 30 to 36 projects by including:

- (a) Downtown San José Freeway Access Management System.
- (b) Route 101-Trimble Road Interchange Upgrade.
- (c) Route 101-Zanker/Skyport/Fourth Interchange.
- (d) Route 101/Oakland Road Interchange Upgrade.
- (e) Route 101/Mabury Road Interchange.
- (f) Route 101/Blossom Hill Road Interchange.

CEQA: Not a Project. (Transportation)

[Building Better Transportation Committee referral 9/14/06 - Item 6.1(b)(2)]

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Approval of actions related to Watson Park.](#)

Recommendation: Adoption of a resolution:

- (a) (1) Authorizing the City Manager to submit an application for local assistance funds of up to \$750,000 from the State of California Integrated Waste Management Board (CIWMB) under the Solid Waste Disposal and Codisposal Site Cleanup Program Matching Grants to Public Entities to Abate Solid Waste Disposal Sites to be used for the Watson Park Project.
- (2) Authorizing the City Manager to accept any grant funds and to negotiate and execute all documents related to the grant funding agreement.
- (b) [Approval of the first amendment to the master agreement with URS Corporation](#) for environmental services for Watson Park, increasing the total compensation by \$800,000, for a total agreement amount of not to exceed \$1,600,000.

CEQA: Exempt, File No. PP05-156. Council District 3. SNI: 13th Street. (Parks, Recreation and Neighborhood Services/Public Works/Environmental Services)

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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

9.1 Approval of the Quarterly Status Report on the CIP and SNI Projects.

Recommendation: Acceptance of the Quarterly Status Report on the Citywide Capital Improvement Program (CIP) including Parks, Library, and Public Safety Bond Projects, Strong Neighborhoods Initiative (SNI) Projects funded by the City and Redevelopment Agency funded projects. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)

ADJOURN REDEVELOPMENT AGENCY BOARD PORTION OF THE MEETING

- Closed Session Report
- Notice of City Engineer's Pending Decision on Final Maps
- Notice of City Engineer's Award of Construction Projects
- Open Forum—To be heard jointly with Redevelopment Agency Public Discussion.
- Adjournment