

CITY COUNCIL AGENDA

SEPTEMBER 21, 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**
 - 9:33 a.m.** - Closed Session, Room 600, City Hall
Absent Council Members: Gregory. (Excused)
 - 1:37 p.m.** - Regular Session, Council Chambers, City Hall
Absent Council Members: Gregory. (Excused)
 - 7:03 p.m.** - Public Hearings, Council Chambers, City Hall
Continuation of General Plan Hearing, Council Chambers, City Hall
Absent Council Members: Gregory. (Excused)

- **Invocation (District 8)**
Ellen Grace O'Brien, Senior Minister and Spiritual Director of the Center for Spiritual Enlightenment recited a prayer for peace.

- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.

- **Orders of the Day**
The Orders of the Day, as amended at the request of Council Member Chavez, Item 5.4 was deferred to 10/5/04, and the Amended Agenda were approved.

Vic Nakamoto spoke in opposition of the deferral of Item 5.4 to 10/5/04.

1 CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation recognizing September 21, 2004 as the International Day of Peace in the City of San José. (Cortese/Mayor)
Mayor Gonzales and Council Member Cortese recognized September 21, 2004 as the “International Day of Peace” in the City of San José. Mayor Gonzales presented a plaque to Reverend Ellen Grace O’Brien.
- 1.2 Presentation to Mayor and Council of the Charles Edson Tax Credit of Excellence Award for Affordable Housing. (Housing)
Mayor Gonzales invited Director of Housing Leslye Corsiglia, David Neale, President of CORE Development, Martha Putnam, and Christy Hamley, CORE Development, and Barry del Buono, Executive Director of Emergency Housing Consortium, to the podium. Director Corsiglia presented the Charles Edson Tax Credit of Excellence Award for Affordable Housing to Mayor Gonzales and the City Council.
- 1.3 Appointment and swearing in of District 8 Youth Commissioner. (Mayor)
(Deferred from 9/7/04 – Item 1.1)
Deferred to 10/19/04. To be heard in the evening.
- 1.4 Presentation of a commendation to honor the United States Army Reserve 341st Military Police Company. (Mayor)
Heard in the evening.
Mayor Gonzales and Vice Mayor Dando invited Sergeant Frank Keffer, Jr. to the podium to recognize and honor the United States Army Reserve 341st Military Police Company for their service to America during their one year deployment in Iraq. Sergeant Keffer, Jr. presented his Company’s flag to Mayor Gonzales and the City Council. Mayor Gonzales presented a commendation to Sergeant Keffer, Jr. on behalf of the 341st Military Police Company.
- 1.5 Presentation of APWA Project Management Innovation Award. (Public Works)
(Rules Committee referral 9/15/04)
Mayor Gonzales invited Director of Public Works Katy Allen, and Taghi Saadati, Vice President of the Local Chapter of the American Public Works Association, to the podium. Mr. Saadati presented the APWA Project Management Innovation Award to Mayor Gonzales and the City Council.
- ** Mayor Gonzales and Council Member LeZotte invited Library Director Jane Light, to the podium. Mayor Gonzales presented the prestigious League of California Cities Helen Putnam Award for Excellence 2004, to Director Light for the Martin Luther King Library. The City of San José was honored for its leadership in interregional cooperation.**

2 CONSENT CALENDAR

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

- (1) ORD. NO. 27244 - Prezones certain real property situated on the west side of North Capital Avenue, opposite Penitencia Creek Road, from Unincorporated County to A(PD) Planned Development Zoning District on 5.1 acres (Lands of Yoneda); from Unincorporated County to R-M Multi-Family Residence District on 4.2 acres (Lands of Yoneda); and from Unincorporated County to R-M Multi-Family Residence District on 0.46 acre (Lands of Chelstowski).

Ordinance No. 27244 adopted.

- (2) ORD. NO. 27245 - Prezones certain real property situated at the northwest corner of Story Road and Lyndale Avenue to A(PD) Planned Development Zoning District. PDC 04-022

Ordinance No. 27245 adopted.

2.3 Approval of actions related to the annexation of Cambrian No. 33.

Recommendation: Adoption of a resolution authorizing the reorganization of territory designated as Cambrian No. 33, which involves the annexation to the City of San José of 0.44 acre of land, located on the north side of Curtner Avenue, opposite the terminus of Joseph Avenue and adjacent to the City of San José annexations Cambrian Nos. 30A and 31, and the detachment of the same from West Valley Sanitation, County Lighting County Service, Central Fire Protection, and Area No 01 (Library Services) County Service. CEQA: Resolution No. 65459, C03-092. Council District 9. (Planning, Building and Code Enforcement)

Resolution No. 72316 adopted.

2.4 Approval of actions related to the annexations of Hillview No. 72 and McKee No. 126.

Recommendation:

- (a) Adoption of a resolution initiating proceedings and setting October 5, 2004 at 1:30 p.m. for Council consideration on the reorganization of territory designated as Hillview No. 72, which involves the annexation to the City of San José of 0.18 acre of land more or less, located at the northwest corner of Story Road and Lyndale Avenue and adjacent to the City of San José annexations Hillview Nos. 11 and 62, and the detachment of the same from Central Fire Protection, Area No. 01 (Library Services) County Services, County Lighting County Services and County Sanitation District 2-3. CEQA: Mitigated Negative Declaration, PDC04-022. Council District 5. (Planning, Building and Code Enforcement)

Resolution No. 72317 adopted.

(Item continued on the next page)

2 CONSENT CALENDAR

2.4 Approval of actions related to the annexations of Hillview No. 72 and McKee No. 126 (Cont'd.)

- (b) Adoption of a resolution initiating proceedings and setting October 5, 2004 at 1:30 p.m. for Council consideration on the reorganization of territory designated as McKee No. 126, which involves the annexation to the City of San José of 15.32 acres of land more or less, located at the west side of North Capitol Avenue, opposite Penitencia Creek Road and adjacent to the City of San José annexations McKee Nos. 12, 54, and 98, and Berryessa No. 65, and the detachment of the same from Central Fire Protection and Area No. 01 (Library Services) County Services. CEQA: Mitigated Negative Declaration, PDC04-017. Council District 4. (Planning, Building and Code Enforcement)
Ordinance No. 72318 adopted.

2.5 Approval of a continuation agreement for the Berryessa Branch Library.

Recommendation: Approval of a continuation agreement with Group 4 Architecture, Research + Planning, Inc. for architecture consultant services for the Berryessa Branch Library, extending the term of the agreement to June 30, 2005, and increasing the amount of compensation by \$15,000, for a total agreement amount not to exceed \$1,010,235. CEQA: Mitigated Negative Declaration, H02-02-007. Council District 4. (Public Works)
Deferred to 9/28/04.

2.6 Approval of an agreement for the Police Southside Substation Project.

Recommendation: Approval of a third amendment to the consultant agreement with RossDrulisCusenbery Architecture, Inc. for programming and conceptual design services for the Police Southside Substation, extending the term of the agreement from September 24, 2004 to March 31, 2005, at no additional cost to the City. CEQA: Not a Project. Council District 2. (Public Works)
Approved.

2.7 Approval of an ordinance amending Section 2.08.150 of the San José Municipal Code as it relates to terms for members of boards and commissions not established by the Charter.

Recommendation: Approval of an ordinance amending Section 2.08.150 of the San José Municipal Code changing the regular maximum terms of commissioners on non-charter commissions from one full four-year terms to two full three-year terms, and allowing for an appointment to up to one additional three-year term in certain circumstances. (City Clerk)
Renumbered from 3.4
Deferred to 9/28/04.

2 CONSENT CALENDAR

2.8 Approval of 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 Opera San José at (Fox) California Theatre Project (PSM 207#3) and Keyes Street Sidewalk Reconstruction Project (PSM 383) with a net impact to the fund of \$130,500.

Ordinance No. 27248 adopted.

Resolution No. 72319 adopted.

- (b) Adoption of a resolution making certain determinations regarding the related expenditures of Redevelopment Agency funds on certain public improvements in connection with the Keyes Street Sidewalk Reconstruction Project, as more specifically described in the memorandum from the Redevelopment Agency, dated July 7, 2004.

CEQA: Not a Project. Council District 3. SNI: Market Gateway and Spartan/Keyes. (City Manager's Office)

(Rules Committee referral 9/15/04.)

Resolution No. 72320 adopted.

2.9 Adoption of a resolution accepting invitations for Opera San José.

Recommendation: Adoption of a resolution accepting invitations from David W. Packard on behalf of the City of San José and the Redevelopment Agency for a performance of the Opera San José on September 26, 2004, and approving the distribution of invitations to staff of the City and Agency in their official capacity as representative of the City of San José and Redevelopment Agency. (City Attorney's Office)

Resolution No. 72321 adopted.

2.10 Approval of Independent Police Auditor Teresa Guerrero-Daley's travel.

Recommendation: Approval of Independent Police Auditor Teresa Guerrero-Daley's travel to Portland, Oregon and Chicago, Illinois on September 22 through September 24, 2004, and October 17 through October 24, 2004, to attend a Second Annual Conference for Police Auditors and the National Association of Civilian Oversight of Law Enforcement. Funding: University of Nebraska Grant/Personal funds. (Independent Police Auditor)

(Rules Committee referral 9/15/04)

Approved.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

No Report.

3.2 Report of the Rules Committee – September 8, 2004

Vice Mayor Dando, Chair

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

(b) City Council

(1) Review September 21, 2004 Draft Agenda

The Committee recommended approval of the September 21, 2004 City Council agenda with four additions.

(2) Add New Items to September 14, 2004 Amended Agenda

- Mayor and Council Member Requests
- City Manager Requests
- City Attorney Requests
- City Clerk Requests

The Committee recommended approval of two additions to the September 14, 2004 Amended Agenda.

(3) List of Reports Outstanding

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

(c) Legislative Update

(1) State

(a) Approval of the 2004 League of California Cities Resolutions
This item was reported on at the September 14, 2004 City Council Meeting, Item 3.2(c)(1)(2).

(2) Federal

There was no report.

(d) Meeting Schedules

(1) Approval of the Redevelopment Agency Budget Schedule

This item was reported on at the September 14, 2004 City Council Meeting, Item 3.2(d)(1).

(e) The Public Record

The Committee noted and filed the Public Records.

(f) Appointment to Boards, Commissions and Committees

(1) Recruitment for Youth Commission districts 4, 7, and 9

The Committee noted and filed the Notice of Vacancy.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – September 8, 2004 (Cont'd.)

Vice Mayor Dando, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Proposal for a Hotline in the City Auditor's Office
**The Committee accepted the report, with Staff directed to:
(1) Determine how many of the Top 10 Cities in the United States have a fraud hotline and which department or office manages/maintains the operation; (2) Coordinate protocol, guidelines and procedures with the City Auditor, City Attorney, Employee Relations, and Independent Police Auditor, and report back to the Rules Committee in 30 days.**

- (h) Oral communications
None were presented.

- (i) Adjournment
The meeting was adjourned at 2:48 p.m.

Meeting of September 15, 2004

- (c) Legislative Update
 - (1) State
 - (a) Propositions 1A and 65 on the November State Ballot
The Committee recommended support of Proposition 1A and opposition of Proposition 65.

The Reports of Rules Committee, and the Actions of September 8, and September 15, were accepted.

3.3 Report of the Making Government Work Better Committee

Council Member Campos, Chair

No Report.

3.4 Approval of an ordinance amending Section 2.08.150 of the San José Municipal Code as it relates to terms for members of boards and commissions not established by the Charter.

Recommendation: Approval of an ordinance amending Section 2.08.150 of the San José Municipal Code changing the regular maximum terms of commissioners on non-charter commissions from one full four-year terms to two full three-year terms, and allowing for an appointment to up to one additional three-year term in certain circumstances. (City Clerk)

Renumbered to 2.7.

Deferred to 9/28/04.

3 STRATEGIC SUPPORT SERVICES

3.5 Adoption of a resolution nominating a portion of the Market Almaden SNI Area for designation as a Conservation Area.

Recommendation: Adoption of a resolution nominating a portion of the Market Almaden SNI Area for designation as a Conservation Area and directing the Department of Planning, Building and Code Enforcement to initiate the required process and proceedings to establish the Conservation Area, including a necessary outreach to community members and property owners. (Chavez)

(Rules Committee referral 9/15/04)

Resolution No. 72322 adopted.

3.6 Direction to the City Attorney to draft an amendment to the Municipal Code to transfer the authority and responsibilities of the Director of General Services with regard to purchasing to the Director of Finance.

Recommendation: Direction to the City Attorney to draft an amendment to the Municipal Code to transfer the authority and responsibilities of the Director of General Services with regard to purchasing to the Director of Finance. (City Manager's Office)

(Rules Committee referral 9/15/04)

Approved.

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
Council Member Williams, Chair**

No Report.

**4.3 Final hearing and approval of the 2003-04 Consolidated Annual Performance
Evaluation Report.**

Recommendation: Final hearing and approval of the 2003-04 Consolidated Annual Performance Evaluation Report (CAPER). CEQA: Not a Project. (Housing/Parks, Recreation and Neighborhood Services)

Report Approved.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.4 Acceptance of the progress report and actions for the Coyote Valley Specific Plan Task Force.

- (a) Accept a progress report from the Coyote Valley Specific Plan Task Force on the “Composite Framework,” identifying potential infrastructure elements for a new Coyote Valley community.
- (b) Reaffirm Council’s direction on the preparation of the Coyote Valley Specific Plan as outlined in Council’s Vision and Expected Outcomes for Coyote Valley Specific Plan Task Force, originally considered by the Council on August 20, 2002.

CEQA: Exempt, PP03-11-366. Council District 2. (Planning, Building and Code Enforcement)

Heard in the evening.

The Progress Report was accepted and Council’s Direction was approved, with additional direction to:

- (1) Identify land uses such as places of worship, retail, medical, residential, commercial, etc.**
- (2) Continue to keep the community involved.**
- (3) Clarify the high density projected for this area.**
- (4) Return with a work plan addressing the issues surrounding financing, open space and to include the Green Belt property owners in the process.**

4.5 Approval to award a contract for the Towers Lane Improvement Project.

Recommendation: Reports on bids and award of contract for the Towers Lane Improvement Project (north of Aborn Road) to the low bidder, DeSilva Gates Construction, LP, in the amount of \$626,191, and approval of a 15 percent contingency in the amount of \$94,000. CEQA: Exempt, PP 02-03-046. Council District 7. SNI: West Evergreen. (Public Works/Transportation)

(Deferred from 8/31/04 – Item 4.3, et al, and 9/14//04 – Item 4.4)

Deferred to 10/5/04.

5 RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee – September 9, 2004 Council Member Yeager, Chair

- (a) Status Report on Implementation of Parks, Recreation and Neighborhood Services Multi-Service Delivery “Hub” Model
The Committee accepted the report.
- (b) Report on San José BEST Allocation Process
Update on San José BEST Eligible Service Providers
The Committee accepted the report.
- (c) Youth Commission Workplan Update
Police Department’s Youth Advisory Council
The Committee accepted the report.
- (d) Report on San José After School Implementation
Deferred to October 14, 2004.
- (e) Oral petitions
There were none.
- (f) Adjournment
The meeting was adjourned at 3:05 p.m.

The Report of the All Children Achieve Committee and the Actions of September 9, 2004, were approved.

5.2 Approval of actions for the Willow Glen Spur Trail Project.

Recommendation:

- (a) Approval of a funding agreement to allow the contribution of up to \$2,000,000 in funds from the County of Santa Clara (County) for the acquisition of any properties associated with the Willow Glen Spur Trail Project.
Approved.
- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute a funding agreement to accept \$1,000,000 from the Open Space Authority (OSA) for the acquisition of any properties associated with the Willow Glen Spur Trail Project.

CEQA: Exempt, PP02-12-370. Council District 6. (Parks, Recreation and Neighborhood Services)

Resolution No. 72323 adopted.

5 RECREATION & CULTURAL SERVICES

5.3 Recommendation to name two new parks.

Recommendation:

- (a) As recommended by the parks and Recreation Commission, name a new park located at the intersection of Sixth and Bestor Streets as “Bestor Art Park.”
- (b) As recommended by the parks and Recreation Commission, name a new park located at the intersection of Floyd and Locust Streets as “Parque de Padre Mateo Sheedy.”

(Parks and Recreation Commission/City Clerk)

Heard in the evening.

Approved.

5.4 Recommendation to re-name the Northside Community Center.

Recommendation: As recommended by the Parks and Recreation Commission, re-name the Northside Community Center located near the intersection of 6th Street and Empire Street to the Jacinto “Tony” Sequig Northside Community Center. (Parks and Recreation Commission/City Clerk)

(Rules Committee referral 9/15/04)

Deferred to 10/5/04, per Orders of the Day. To be heard in the evening.

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 consider approval of an ordinance granting a Commercial Solid Waste and Recyclables Collection Franchise to Sonrise Consolidated Inc.

Recommendation: Public Hearing on the application of Sonrise Consolidated Inc. for a Commercial Solid Waste and Recyclables Collection Franchise, and consider approval of an ordinance granting the franchise, and approval of a Commercial Solid Waste and Recyclables Collection Franchise Agreement with Sonrise Consolidated Inc.

(Environmental Services)

Ordinance No. 27249 passed for publication.

7 ENVIRONMENTAL & UTILITY SERVICES

7.2 Approval of actions related to the cooperative efforts with the Santa Clara Valley Water District.

Recommendation:

- (a) Accept the Status Report on cooperative efforts between the City of San José and the Santa Clara Valley Water District.
- (b) Reaffirm the City's interest in continuing to explore opportunities for expansion of the reuse of recycled water countywide through continued participation in the South Bay Water Recycling Collaborative Effort.

Accepted.

- (c) Adopt a resolution authorizing the City Manager to negotiate and execute the Trash Prevention and Removal Memorandum of Agreement between the City of San José and the Santa Clara Valley Water District.

Resolution No. 72324 adopted.

- (d) Reaffirm the City's commitment to continued participation in the Water Resources Protection Collaborative.

CEQA: (a) and (d) Not a Project; (b) Exempt, PP04-249 and (c) Exempt, PP04-0248. (Environmental Services/Public Works/Parks, Recreation and Neighborhood Services/Planning, Building and Code Enforcement)

Accepted.

7.3 Approval to amend the agreement with Norcal for Recycle Plus Integrated Waste Management Services.

Recommendation:

- (a) Accept the staff report regarding Norcal Waste Systems of San José, Inc's request for an amendment to the Recycle Plus Integrated Waste Management Services agreement. (City Manager's Office)

Report Accepted.

Noes: Cortese, LeZotte, Reed.

- (b) Adoption of a resolution authorizing the City Manager and City Attorney to negotiate and authorizing the City Manager to execute an amendment to the agreement between the City and Norcal Waste Systems of San José, Inc. for Recycle Plus Integrated Waste Management Services to include payment for additional labor costs, contribution to a recycle characterization study, an e-scrap collection and processing program, and bins for 10 additional neighborhood cleanups. (Mayor's Office)

(Deferred from 9/7/04 – Item 7.1 and 9/14/04 – Item 7.2)

Resolution No. 72325 adopted, with City Attorney and City Manager directed to negotiate the agreement and return to Council for approval of the final agreement.

Noes: Cortese, LeZotte, Reed.

8 AVIATION SERVICES

8.1 Approval to amend an agreement for the Airport Master Plan.

Recommendation: Approval of the ninth amendment to the consultant agreement with PB Aviation, Inc. for consulting services for the Airport Master Plan, increasing the compensation by \$11,126,000, from \$48,840,000, for a total agreement amount not to exceed \$59,966,000, and extending the term of the agreement from December 1, 2005 to July 1, 2006. CEQA: Resolution Nos. 67380 and 71451, PP 04-08-243. (Airport/Public Works)

Deferred to 10/5/04.

8.2 Approval to amend an agreement for master architectural services for the Airport.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute the third amendment to the agreement with M. Arthur Gensler, Jr. & Associates (Gensler) for master architectural services, increasing compensation by \$13,590,363, from \$25,060,000, for a total agreement amount not to exceed \$38,650,363, and extending the term of the agreement from December 1, 2005 to December 1, 2008. CEQA: Resolution Nos. 67380 and 71451, PP 04-08-241. (Airport/Public Works)

Deferred to 10/5/04.

9 PUBLIC SAFETY SERVICES

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board was convened at 3:41 p.m. to consider Item 10.1 in a Joint Session.

10.1 Acceptance of the quarterly CIP and SNI status reports.

Recommendation: Acceptance of the quarterly report on the Citywide Capital Improvement Program (CIP), including park, library, public safety bond projects, and Strong Neighborhoods Initiative (SNI) Projects. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)

Report Accepted.

The Redevelopment Agency Board portion was adjourned at 3:57 p.m.

- **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 pending decision on the following Final Maps:

None.

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:

None.

- **Open Forum**
 - (1) **Ross Signorino spoke of retaining a baseball team in San José.**
 - (2) **Brian Schmidt spoke of concerns regarding Coyote Valley.**

- **Adjournment**
The Council of the City of San José adjourned the afternoon session at 4:01 p.m.

11 PUBLIC HEARINGS

(Heard by the City Council at 7:03 p.m.)

11.1 Public Hearing on appeal of the Planning Commission's decision to approve a Conditional Use Permit.

Recommendation: Public Hearing on appeal of the Planning Commission's decision to approve a Conditional Use Permit in conjunction with an Alcohol Beverage Control Exception to allow for the off-sale of alcoholic beverages at a grocery store on a 9.5 gross acre site in the CG General Commercial Zoning District, located at the northeast corner of Jackson Road and McKee Road (2327 McKee Road). (Chavez Super Market, Developer/Chi Chiu Lo Trust, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends upholding the Planning Commission's decision to approve the CUP. (6-0-1).

CP 04-046 - District 5

Continued to 10/05/04.

11.2 Public Hearing on review and recommendation of the Update to City Council Policy 6-30, Public Outreach.

Recommendation: Public Hearing on review and recommendation of the Update to City Council Policy 6-30, Public Outreach, and adoption of a related resolution amending the policy. CEQA: Not a Project. (Planning, Building, and Code Enforcement)
Citywide

Resolution No. 72326 adopted.

Staff directed to:

- (1) **Report back in one year regarding the progress/hardships with neighborhood outreach, including the use of language translation services.**
- (2) **Continue to involve neighborhood groups in outreach with current updated information, including the use of consistent plain speech for noticing in a recognized bold print, and standard envelope.**
- (3) **List land use issues by District on the City of San José's public web site.**

11.3 Public Hearing on planned development rezoning of the property located at the south side of State Street, approximately 300 feet easterly of Pacific Avenue.

Recommendation: Public Hearing on and consider approval of an ordinance on Planned Development Rezoning of the property located at the south side of State Street, approximately 300 feet easterly of Pacific Avenue, from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District, to allow up to 6 single-family detached residences on a 0.41 gross acre site. (Next Step Homes, LLC, Owner/ Developer). CEQA: Mitigated Negative Declaration.

PDC 03-104 - District 4

(Continued from 9/7/04 – Item 11.3)

Continued to 10/5/04.

11 PUBLIC HEARINGS

11.4 Public Hearing on planned development rezoning of the property located at the southwest corner of McKee Road and North Jackson Avenue.

Recommendation: Public Hearing on and consider approval of an ordinance on Planned Development Rezoning of the property located at the southwest corner of McKee Road and North Jackson Avenue, from A Agriculture, CG Commercial General, CO Commercial Office, A(PD) Planned Development, and R-2 Two Family Residence Districts to A(PD) Planned Development Zoning District, to allow approximately 1,030,000 square feet of medical facility uses on a 34.2 gross acre site. (San José Healthcare System, LP, Owner). CEQA: Pending.

PDC 03-093 - District 5

Dropped. See Items 12.1(a)(1) and 12.1(a)(2).

11.5 Public Hearing on planned development rezoning of the property located at 1240 McKay Drive.

Recommendation: Public Hearing on and consider approval of an ordinance on Planned Development Rezoning of the property located at the southwest corner of Lundy Avenue and McKay Drive (1240 McKay Drive), from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District, to allow up to 313 single-family attached residences on a 17.38 gross acre site. (Sobrato Sobrato Interests, Owner; The Riding Group, Kendall Riding, Developer). CEQA: Pending.

PDC 04-001 - District 4

Heard after Item 12.3(a). Action taken under Item 12.3(b).

11.6 Public Hearing on planned development rezoning of the property located at South 12th Street and Orvis Avenue.

Recommendation: Public Hearing on and consider approval of an ordinance on Planned Development Rezoning from R-1-8 Residence Zoning District, CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to 53 single-family detached residences on an 8.6-gross-acre site, located at the southeast corner of South 12th Street and Orvis Avenue. (San Jose Bible College, Owner; KB Home South Bay, Inc., Developer). CEQA: Mitigated Negative Declaration.

PDC03-094 – District 3

Heard after Item 12.2(a). Action taken under Item 12.2(b).

11 PUBLIC HEARINGS

11.7 Public Hearing on conforming rezoning of the property located at 3361 Madeline Drive.

Recommendation: Public Hearing on and consider approval of an ordinance on Conforming Rezoning of the property located at the north side of Madeline Drive, approximately 200 feet easterly of White Road (3361 Madeline Drive), from County to R-1-8 Residential Zoning District, to allow residential uses on a 0.13 gross acre site. (Gilbert E and Diane M Carpio, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C 04-049 - District 5

Ordinance No. 27250 passed for publication.

11.8 Public Hearing on planned development rezoning of the property located at 1410 North First Street.

Recommendation: Public Hearing on and consider approval of an ordinance on Planned Development Rezoning of the property located on the northeast corner of North First Street and East Gish Road (1410 North First Street), from CN Neighborhood Commercial Zoning District to A(PD) Planned Development Zoning District, to allow up to 35 affordable multi-family attached residences and 3,775 square feet for commercial use on a 0.42 gross acre site. (The Southland Corporation, Owner; 1st Community Housing, Jeff Oberdorfer, Developer). CEQA: Addendum to Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC 04-055 - District 3

Ordinance No. 27253 passed for publication, with the recognition of the following elements:

- (1) **Accept and recognize the description of the operation of the commercial portions of the project for the retail spaces as proposed and planned by the applicant as part of the description to the applicant's ultimate project, including:**
 - (a) **Alcohol sales will be limited to the hours of 6 a.m. to midnight.**
 - (b) **Single bottles, malt liquors, and fortified wines will not be sold at the store.**
 - (c) **Adult magazines will not be sold at the store.**
 - (d) **Possible tenancy of the second retail space will not include bail bond operators or tattoo shops and will target neighborhood serving retailers.**
- (2) **Accept the applicant's offer to construct a gate to prevent trespassing of the area between the proposed development and adjacent restaurant.**
- (3) **Accept the applicant's offer to pursue placement of 3 signs at entrances to Rosemary Gardens Neighborhood identifying the streets as neighborhood serving, not through streets, all in a manner consistent with City standards and laws.**
- (4) **Staff was further directed to continue to work with the property owners.**

11 PUBLIC HEARINGS

11.9 Public Hearing on conventional rezoning of the property located at 2278 Story Road.

Recommendation: Public Hearing on and consider approval of an ordinance on Conventional Rezoning of the property located at the south side of Story Road, approximately 200 feet westerly of Jackson Avenue (2278 Story Road), from CO Office Commercial Zoning District to CP Pedestrian Commercial Zoning District, to allow commercial uses on a 0.24 gross acre site. (Vong Zenh S, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. SNI: East Valley/680 Communities.
C 04-058 - District 5

Ordinance No. 27251 passed for publication.

12 GENERAL PLAN PUBLIC HEARINGS

CONTINUATION OF SEPTEMBER 7, 2004 GENERAL PLAN HEARING

12.1 Approval of General Plan Consent Calendar items.

Recommendation:

- (a) Public Hearing on the following items located at the southwest corner of Jackson Avenue and McKee Road on a 34.2-acre site. (San Jose Health System, LP, Owner/Applicant).
- (1) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram from Medium-High Density Residential (12-25 DU/AC) designation on 7.9 acres; Office on 4.9 acres, and Neighborhood/Community Commercial on 4.6 acres to Public/Quasi-Public.
GP03-05-10 - District 5
Dropped. Renote for December 7, 2004.
- (2) PUBLIC HEARING ON PLANNED DEVELOPMENT PREZONING from A Agriculture, CG Commercial General, CO Commercial Office, A (PD) Planned Development, R-2 Two Family Residence Districts to A (PD) Planned Development Zoning District to allow up to 1,030,000 square feet of medical office uses on a 34.2 gross site.
PDC03-093 - District 5
Dropped. Renote for December 7, 2004.

12 GENERAL PLAN PUBLIC HEARINGS

12.1 Approval of General Plan Consent Calendar items. (Cont'd)

Recommendation:

- (b) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Light Industrial to Medium Density Residential (8-16 DU/AU) for property located on the southeast corner of Marburg Way and Highway 101 on a 3.24-acre site. (Borrelli Investment Company, Owner/Ray Hashimoto, Applicant). SNI: Five Wounds/Brookwood Terrace.
GP03-03-16 - District 3
Dropped. Renotece for December 7, 2004.
- (c) PUBLIC HEARING ON GENERAL PLAN TEXT AMENDMENT request to change the text of policies and Land Use/Transportation Diagram designation descriptions to facilitate the continuation and expansion of recycling uses on landfill sites after closure of landfills. CEQA: Mitigated Negative Declaration, GP04-T-01. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1; Dhillon Absent).
GP04-T-01a - District Citywide
Staff/Planning Commission recommendation was tentatively approved.
- (d) PUBLIC HEARING ON GENERAL PLAN TEXT AMENDMENT request to change the text of the Specific Land Use Plan for the Alviso Planned Community Land Use/Transportation Diagram designation description of Solid Waste Landfill Overlay to facilitate the continuation and expansion of recycling uses on landfill sites after closure of landfills. CEQA: Mitigated Negative Declaration, GP04-T-01. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1; Dhillon Absent).
GP04-T-01b - District 4
Staff/Planning Commission recommendation was tentatively approved.

12 GENERAL PLAN PUBLIC HEARINGS

- 12.2 **Public Hearing on the following items located on the east side of South 12th Street between Orvis Street and Highway 280 on an approximately 5.6-acre site. (San Jose Christian College, Owner/Ray Hashimoto (HMH), Applicant)**

Recommendation:

- (a) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8 DU/AC) on 1.6 acres and Medium High Density Residential (12-25 DU/AC) on approximately 4 acres to Medium Density Residential (8-16 DU/AC) on a 5.6-acre site. CEQA: Mitigated Negative Declaration, GP03-03-17. SNI: University. Director of Planning, Building and Code Enforcement recommends denial. Planning Commission recommends approval (5-1-1; Dhillon Opposed; Platten Absent).

GP03-03-17 - District 3

Staff/Planning Commission recommendation was tentatively approved.

- (b) PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING from R-1-8 Residence Zoning District, CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to 55 single-family detached residences on an 8.6-gross-acre site. CEQA: Mitigated Negative Declaration, PDC03-094. SNI: University. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval with no bollards at Orvis Street entrance and no vehicular circulation under the native Valley Oak tree. (5-1-1; James Opposed; Platten Absent).

PDC03-094 - District 3

Ordinance No. 27252 passed for publication.

12 GENERAL PLAN PUBLIC HEARINGS

- 12.3 Public Hearing on General Plan amendment for property located on the southwest corner of Lundy Avenue and McKay Drive at (1240 & 1290 McKay Drive and 1750 Ringwood Avenue) on a 17.38-acre site.**

Recommendation:

- (a) PUBLIC HEARING ON GENERAL PLAN AMENDMENT request to change the Land Use/Transportation Diagram designation from Industrial Park to Medium High Density Residential (12-25 DU/AC) for property located on the southwest corner of Lundy Avenue and McKay Drive at (1240 and 1290 McKay Drive and 1750 Ringwood Avenue) on a 17.38-acre site. (Philips Semiconductors Inc., Sobrato Inc, Owners/The Riding Group, Applicant). CEQA: Resolution to be adopted, GP03-04-04. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission forwards negative recommendation (3-2-1-1; Zito & Dhillon Opposed; Platten Absent; Levy Abstained).
GP03-04-04 - District 4
- (b) PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 304 single-family attached residences. CEQA: Resolution to be adopted, PDC04-001. Director of Planning, Building and Code Enforcement recommends conditional approval and Planning Commission recommends approval (5-0-1-1; Platten Absent; Levy Abstained).
PDC04-001 - District 4

CEQA Resolution No. 72327 adopted.

Ordinance No. 27254 adopted.

- 12.4 Adoption of a resolution approving all General Plan amendment actions taken on September 7 and September 21, 2004.**

Recommendation: Adoption of a resolution approving all General Plan amendment actions taken on September 7 and September 21, 2004. (Planning, Building and Code Enforcement)

Resolution No. 72328 adopted.

- **Open Forum**
 - (1) **Linda Combs spoke of issues related to the Fairgrounds.**

- **Adjournment**

The Council of the City of San José was adjourned at 10:24 p.m.