

CITY COUNCIL AGENDA

SEPTEMBER 28, 2004

AMENDED AGENDA

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**
9:30 a.m. - Closed Session, Room 600, City Hall
[See Separate Agenda](#)
1:30 p.m. - Regular Session, Council Chambers, City Hall
- **Invocation (District 8)**
JF Smith Elementary School
- **Pledge of Allegiance**
- **Orders of the Day**

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

ITEMS 10.1 AND 10.2 ARE TO BE CONSIDERED IN A JOINT CITY COUNCIL/REDEVELOPMENT AGENCY BOARD SESSION.

THERE WILL BE A JOINT CITY/FINANCING AUTHORITY SESSION FOLLOWING THE COUNCIL MEETING.

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 the 2004 Building & Earth/Green Building Award for the West Valley Branch Library. (Public Works)
- 1.2 Presentation of a proclamation declaring September 30, 2004 as E.O.P. Reading Day to encourage and promote literacy in San José. (Yeager, Mayor)
- * **DROP**

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.

2.2 Final adoption of ordinances.

2.3 [Approval to amend the agreement with Next Door Solutions to Domestic Violence.](#)

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the current after-care services agreement with Next Door Solutions to Domestic Violence to:

- (a) Extend the final term of the agreement for a period not to exceed two additional months; and
- (b) Increase the amount of the final term of the after-care services agreement for an additional amount not to exceed \$19,148.

CEQA: Not a Project. (Police)

2.4 [Approval of actions for the Los Lagos Golf Course.](#)

Recommendation: Adoption of a resolution authorizing the City Manager to execute and record a Deed Restriction, restricting land use in a 2.9-acre capped area of the Los Lagos Golf Course site to parking, recreational or commercial uses, and restricting soil disturbance within the restricted area, at no cost to the City. CEQA: Resolution No. 69623, PP 98-03-064. Council District 7. (Public Works/Parks, Recreation and Neighborhood Services)

* **RENUMBERED TO JOINT CITY/FINANCING AUTHORITY ITEM 2**

2.5 [Approval of a Community Event for use of the HP Pavilion.](#)

Recommendation: Approval of use of the HP Pavilion at San José for a Community Event date, at a 75% program funding level that is not to exceed \$30,000 for the San José Sports Hall of Fame Induction Ceremony on November 4, 2004. CEQA: Not a Project. (San José Arena Authority)

2 CONSENT CALENDAR

2.6 [Approval of assignment of Caltrans air-space ground lease.](#)

- * **Recommendation:** Approval of a lease assignment and first amendment from the State of California Department of Transportation Airspace Ground Lease to the City of San José for a property to be used as a parking lot facility located beneath I-280 at South First Street, between Caltrans and Center for Employment Training, Inc., at a cost of \$3,847 per month, subject to an annual adjustment equal to the Consumer Price Index, commencing on October 1, 2004 and expiring on March 31, 2033. CEQA: Exempt, PP04-07-218. Council District 3. (Transportation)
RECOMMEND DEFERRAL TO 10/19/04

2.7 [Approval to amend an agreement for the Silicon Valley Intelligent Transportation Systems West Corridor Project.](#)

Recommendation: Approval of the first amendment to the consultant services agreement with Kimley-Horn and Associates, Inc., for the development of the Silicon Valley Intelligent Transportation Systems West Corridor Project, extending the term of the agreement from September 28, 2004 to December 31, 2005, increasing compensation by \$25,000, for a total maximum compensation of \$724,725, authorizing the Director of Transportation to extend the term of the agreement up to 180 days at his sole discretion. CEQA: Exempt, PP00-02-026. Council Districts 1 and 6. (Transportation)

2.8 [Approval of the amendment to the Cooperative Agreement for the I-880/Coleman Avenue Interchange Project.](#)

[Supplemental](#)

Recommendation: Approval of the first amendment to the Cooperative Agreement with the Santa Clara Valley Transportation Authority for utility relocation as part of the I-880/Coleman Avenue Interchange Project, extending the term of the agreement from September 30, 2004 to June 30, 2005, at no cost to the City. CEQA: Resolution No. 71488, PP03-02-071. (Transportation)

2.9 **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 from 9/21/04 – Item 2.5)

2 CONSENT CALENDAR

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

* **Recommendation:**

- (a) Approval of an ordinance amending Section 2.08.150 of the San José Municipal Code changing the regular maximum terms of members of certain non-charter commissions from one full four-year term to two full three-year terms, and allowing for an appointment to up to one additional three-year term in certain circumstances. (City Clerk)
(Deferred from 9/21/04 – Item 2.7)
- (b) Authorization for the City Clerk to reopen the application period for the Advisory Commission on Rents allowing previously ineligible incumbent members an opportunity to reapply for vacant positions on the Commission. (Housing)

2.11 Approval of travel for the City Manager.

- * **Recommendation:** Approval for City Manager Del D. Borgsdorf to travel to San Antonio, Texas on October 13-15, 2004 to participate in the San Jose Silicon Valley Chamber of Commerce/City of San Jose City-to-City event. (City Manager's Office)
(Rules-in-lieu referral 9/22/04)

2.12 Approval of actions related to an agreement for the West Community Policing Center and Community Center.

* **Recommendation:**

- (a) Approval of an agreement with the Offices of Jerome King Architects (OJK, Inc.) for consultant services including design services for the new joint facility for the West Community Policing Center and Community Center, from the date of execution to December 31, 2005, in the amount of \$227,325.
- (b) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Park Trust Fund:
 - (1) Decrease the Reserve: District 1 Community-Serving Center by \$200,000; and
 - (2) Establish the West Community Joint Facility Project for \$200,000 to the Parks, Recreation and Neighborhood Services Department.

CEQA: Exempt, PP04-03-090. Council District 1. SNI: Blackford. (Public Works/City Manager's Office)

(Rules-in-lieu Committee referral 9/22/04)

2.13 **Approval of Mayor Gonzales' travel to Washington D.C., September 27-30, 2004.**

- * **Recommendation:** Approval of Mayor Gonzales' travel to Washington D.C., September 27 through September 30, 2004. Funding: Mayor's Office. (Mayor)
(Rules in lieu referral 9/22/04)

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair

3.2 Report of the Rules Committee – September 15, 2004 Vice Mayor Dando, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review September 28, 2004 Draft Agenda
 - (2) Add New Items to September 21, 2004 Amended Agenda
 - Mayor and Council Member Requests
 - City Manager Requests
 - City Attorney Requests
 - City Clerk Requests
 - (3) List of Reports Outstanding
- (c) Legislative Update
 - (1) State
 - (a) Propositions 1A and 65 on the November State Ballot
SEE ITEM 3.5 FOR COUNCIL ACTION TO BE TAKEN
 - (2) Federal
- (d) Meeting Schedules
 - (1) Approve Rules-in-Lieu Schedule
- (e) The Public Record
- (f) Appointment to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Revision of Definition of Surviving Child for Purposes of Retirement
- (h) Oral communications
- (i) Adjournment

3.3 Report of the Making Government Work Better Committee – September 16, 2004 Council Member Campos, Chair

- (a) Review of Request for Proposal Issues:
 - (1) Review of the City's RFP Process
 - (2) Administrative Procedures and Definitions Related to Conflict of Interest with Consultant Contracts
- (b) Transport Vehicle Audit Follow-up
- (c) Major IT Projects Update
- (d) Concentrated Code Enforcement Audit Follow-up
- (e) Follow-up on Fire Department Overtime
- (f) San Jose Municipal Water System (Phase I)
- (g) Oral Petitions
- (h) Adjournment

* **RECOMMEND DEFERRAL TO 10/5/04**

3 STRATEGIC SUPPORT SERVICES

3.4 Adoption of a resolution of commitment to the National League of Cities' American Dream Campaign.

Recommendation: Adoption of a resolution of commitment to the National League of Cities' American Dream Campaign. (Campos)

3.5 Adoption of a resolution of the Council of the City of San José expressing support for Proposition 1A.

- * **Recommendation:** Adoption of a resolution in support of Proposition 1A, "Protection of Local Government Revenues," and oppose Proposition 65, "Local Government Funds and Revenues. State Mandates." (City Manager's Office)
[Rules Committee referral 9/15/04 – Item 3.2(c)(1)(a)]

3.6 [Approval of a Memorandum of Agreement with the Confidential Employees' Organization, AFSCME Local 101, AFL-CIO.](#)

- * **Recommendation:** Adoption of a resolution approving the terms of Memorandum of Agreement with the Confidential Employees' Organization (CEO), AFSCME Local 101, AFL-CIO, and authorizing the City Manager to execute the agreement with a term of September 26, 2004 through September 24, 2005. (City Manager's Office)
(Rules-in-lieu Committee referral 9/22/04)

3.7 [Approval of Proposed City Position on Proposed Regulations for Revisions to Communications Excise Tax Rules.](#)

- * **Recommendation:** Adoption of a resolution approving the Proposed City Position and Related Comments to the United States Department of Treasury and Internal Revenue Service on Proposed Regulations for Revisions to Communications Excise Tax Rules. (Finance)
(Rules-in-lieu Committee referral 9/22/04)

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

**4.1 Report of the Building Strong Neighborhoods Committee
Council Member Chavez, Chair**

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

5 RECREATION & CULTURAL SERVICES

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

5.2 [Approval of a change order for the Tuers-Capitol \(Los Lagos\) Golf Course Project.](#)

* **Recommendation:**

- (a) Approval of Contract Change Order No. 41 with Granite Construction Company, for the Tuers-Capitol (Los Lagos) Golf Course Project, increasing the compensation by \$594,005.79, for a total contract amount of \$16,198,401.65.
- (b) Adoption of the following appropriation ordinance amendments in the General Fund:
 - (1) Increase the Los Lagos Golf Course Enhancements appropriation in the amount of \$113,006.
 - (2) Decrease the General Liability Claims appropriation in the amount of \$113,006.

CEQA: Resolution No. 69623, PP98-03-064. Council District 7. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

RECOMMEND DEFERRAL TO 10/5/04

6 TRANSPORTATION SERVICES

6.1 [Report of the Building Better Transportation Committee – September 13, 2004](#) Council Member Cortese, Chair

- (a) Expansion and Improvement of Transit and Transportation Systems
 - (1) A Report on High Occupancy Toll Lane Study
- (b) Traffic Relief/Safe Streets
 - (1) No items
- (c) Supporting Smart Growth
 - (1) Report and Discussion on the Developer Nexus for Street Resurfacing Funding and Other Funding Options
 - (2) Report and Discussion on the Transit Oriented Development Policy & Program
- (d) Regional Relationships/Funding/Policy
 - (1) Discussion and recommendation regarding the proposed Valley Transportation Authority Master Agreement for Construction Impact Mitigation

SEE ITEM 6.2 FOR COUNCIL ACTION TO BE TAKEN
- (e) Oral petitions
- (f) Adjournment

6 TRANSPORTATION SERVICES

6.2 Approval of a Cooperative Agreement for Construction Impact Mitigation Plans.

- * **Recommendation:** Approval of a Cooperative Agreement with the Santa Clara Valley Transportation Authority for the preparation of Construction Impact Mitigation Plans related to major transportation improvement projects. (Transportation)
[Building Better Transportation Committee referral 9/13/04 – Item 6.1(d)(1)]
RECOMMEND DEFERRAL TO 10/5/04

7 ENVIRONMENTAL & UTILITY SERVICES

8 AVIATION SERVICES

9 PUBLIC SAFETY SERVICES

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEMS 10.1 AND 10.2 IN A JOINT SESSION

10.1 Approval of actions for CDLAC application for Housing set-aside tax allocation bonds.

* **Recommendation:**

(a) Adoption of a resolution by the Redevelopment Agency Board:

- (1) Expressing its intent to issue up to \$125 million in private activity tax-exempt housing set-aside tax allocation bonds to finance loans relating to those projects listed in Exhibit A, attached hereto; and authorizing the Director of Housing to file an application with the California Debt Limit Allocation Committee ("CDLAC") for an allocation of up to \$125 million in private activity bonds; and
 - (2) Delegating to the Director of Finance of the City of San José the ability to hold TEFRA hearings relating to the projects listed in Exhibit A and for future issuance of private activity tax-exempt housing set-aside bonds and to the Director of Housing the ability to file future applications to CDLAC for private activity bond allocation.
- (b) Adoption of a resolution of the City Council agreeing to accept the delegation of authority from the Redevelopment Agency to:
- (1) The Director of Finance of the City of San José to hold TEFRA hearings relating to the projects listed in Exhibit A and future issuance of tax-exempt private activity housing set-aside bonds; and
 - (2) The Director of Housing to file future applications to CDLAC for private activity bond allocation.

CEQA: Various - see memo for CEQA designations. (City Manager's Office/ Redevelopment Agency)

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

10.2 Approval of fiscal actions related to the Delmas Park Apartments Project.

Recommendation:

- (a) Adoption of a resolution of the City Council:
- (1) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Delmas Park) Series 2004C-1 and Series 2004C-2" in an aggregate principal amount not to exceed \$19,379,000 (collectively, the "Bonds" and, individually, the Series 2004C-1 Bonds and Series 2004C-2 Bonds);
 - (2) Approving a loan of Bond proceeds to Delmas Park Associates, L.P., a California limited partnership, for financing the construction of the Delmas Park Apartments Project located at 598 West San Carlos Street in San José;
 - (3) Approving in substantially final form the Bonds, Trust Indenture, Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, Bond Purchase Agreement and Subordination Agreements; and
 - (4) Authorizing the City Manager or other authorized officers to execute and, as appropriate, to negotiate, execute, and deliver these bond documents and other related bond documents as necessary.
- CEQA: Resolution No. 68839, and addenda thereto, PDC 03-016. Council District 3. (Housing/Finance)
- (b) Adoption of a resolution by the Redevelopment Agency Board approving an Owner Participation and Grant Agreement with Delmas Park Associates, L.P., a California limited partnership, or a related entity, in the amount of \$1.5 million for the development of property for a mixed-use residential and retail project located at 598 West San Carlos Street. (Redevelopment Agency)

* **RECOMMEND DEFERRAL TO 10/5/04**

ADJOURN REDEVELOPMENT AGENCY BOARD PORTION OF THE MEETING

- **Closed Session 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:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9494	W/S of Boynton Av 400’ s/o Stevens Creek.	1	Advance Development Group	6 Units	SFA	Approve
9608	North Side of Quimby Rd w/o White Rd	8	Braddock & Logan Group III	12 Lots	SFD	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:

None.

- **Open Forum—To be heard jointly with Redevelopment Agency Public Discussion.**
- **Adjournment**

**CITY OF SAN JOSÉ FINANCING AUTHORITY
AGENDA**

1:30 P.M. TUESDAY, SEPTEMBER 28, 2004 CHAMBERS

1. Call to Order

2. **Approval of actions for the Los Lagos Golf Course.**

Recommendation: Adoption of resolutions by the City Council and by the Board of the City of San José Financing Authority authorizing the City Manager and Executive Director of the City of San José Financing Authority, respectively, to execute and record Deed Restrictions, restricting land use in a 2.9 acre capped area of the Los Lagos Golf Course site to parking, recreational or commercial uses, and restricting soil disturbance within the restricted area, at no cost to the City. CEQA: Resolution No. 69623, PP 98-03-064. Council District 7. (Public Works/Parks, Recreation & Neighborhood Services)
RENUMBERED FROM ITEM 2.4

3. Adjournment