



CITY COUNCIL AGENDA

OCTOBER 31, 2006

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 9)**
Reverend Charlotte Bear, Cambrian Park United Methodist Church
- **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

- 1.1 Presentation of a commendation to Geometrics Corporation for their contributions to San José. (Mayor/Reed)
- 1.2 Presentation of the Government Finance Officers Association's "Certificate of Achievement for Excellence in Financial Reporting" and the "Award of Financial Reporting Achievement" to the San José Redevelopment Agency. (Mayor/Executive Director)
(Rules Committee referral 10/18/06)

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 [Acceptance of the Office of the City Auditor's Report.](#)

Recommendation: Acceptance of the Office of the City Auditor's *Report of Activities and Findings for the Period August 16, 2006 through September 15, 2006.* (City Auditor)
(Rules Committee referral 10/18/06)

2.4 [Acceptance of the report on the San José Prepared Program.](#)

Recommendation: Acceptance of the report on the San José Prepared! Program.
CEQA: Not a Project. (Emergency Services)

2.5 [Approval to award open purchase order #10 for FY 2006-2007.](#)

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2006-2007 #10 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)

2.6 [Approval to amend a contract for Pre-Hospital Emergency Medical Care Transportation Services.](#)

Recommendation: Approval of an amendment to the subcontract agreement between the City of San José and American Medical Response West (AMR) for Pre-Hospital Emergency Medical Care and Transportation Services for a period of three years to June 30, 2009. CEQA: Not a Project. (Fire)

2.7 [Approval of Council Member Nguyen's Travel Out of State.](#)

Recommendation: Approval of travel by Council Member Nguyen to Chicago, Illinois on December 1-3, 2006 to attend the Vietnamese Association of Illinois 30th Annual Dinner as a keynote speaker. Source of Funds: Vietnamese Association of Illinois.
(Nguyen)
(Rules Committee referral 10/18/06)

2. CONSENT CALENDAR

2.8 Approval to set a Public Hearing and vacate a portion of Paula Street.

Recommendation: Adoption of a resolution of intention to vacate a portion of Paula Street between Race Street and Meridian Way with reservation of a public service easement over the vacated area, and setting a public hearing on November 21, 2006 at 1:30 p.m. CEQA: Mitigated Negative Declaration, PDC05-106. Council District 6. (Public Works)

2.9 Approval of actions related to the Police Southside Substation Project.

Recommendation: Approval of the master agreement with Gilbane Building Company for Peer Review and Implementation Support Services consultant for the Police Southside Substation Project, for a term from the date of execution to December 31, 2009, for a total agreement amount not to exceed \$1,000,000. CEQA: Mitigated Negative Declaration, File No. PP04-304. (Public Works/Police)

3. STRATEGIC SUPPORT SERVICES

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

3.2 **Report of the Rules Committee – October 18, 2006** **Vice Mayor Chavez, Chair**

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review October 31, 2006 Draft City Council Agenda
 - (a) Adds to the October 31, 2006 Draft City Council Agenda
 - (2) Add New Items to October 24, 2006 City 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
 - (1) Deferred Compensation Advisory Committee Appointments (Human Resources)
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Request the City Manager to assess Code Enforcement-The General Code Complaint Handling Process and the Fee Based Multi-Family Dwelling Program (Planning, Building and Code Enforcement)
Deferred to 10/25/06

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – October 18, 2006 (Cont'd.)

Vice Mayor Chavez, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
 - (2) Proposed Work Load Assessment for the Administration of Hewlett Packard Grants (City Manager/City Clerk)
(Deferred from 10/11/06)
 - (3) Urgency ordinance prohibiting the use of automobile/bus/truck horns in residential neighborhoods for any reason other than emergency warning of traffic hazards (City Attorney)
Deferred to 10/25/06
 - (4) Discussion and possible action regarding the City's Military Ordinance and Supplemental Pay Policy and Procedures (Campos)
- (h) Review of Significant Public Records Act Requests
- (i) Review of Council Policy Updates per Sunshine Reforms
 - (1) [Approve Policy 0-1, Council Policy Manual](#) (City Manager)
- (j) Open Forum
- (k) Adjournment

3.3 Report of the Making Government Work Better Committee – October 19, 2006

Council Member Reed, Chair

- (a) An Audit of Team San José
- (b) Grants Management Update
- (c) Diversity Recruitment Progress
- (d) Comprehensive Annual Financial Report for FY 2005-2006
- (e) External Auditor's Report on Single Audit for FY ended June 30, 2006
Deferred to 11/16/06
- (f) External Auditor's Report to MGWB Committee on Internal Control
Deferred to 11/16/06
- (g) Comprehensive Annual Debt Report for FY 2005-2006
- (h) Oral Petitions
- (i) Adjournment

3.4 [Military Leave Programs for City Employees.](#)

Recommendation: Discussion and possible action regarding the City's Military Ordinance and Supplemental Pay Policy and Procedures. (Chavez/Campos)
(Rules Committee referral 10/18/06)

3. STRATEGIC SUPPORT SERVICES

3.5 Approval of Executive Search Services for the recruitment of a New City Manager.

Recommendation:

- (a) Review of two search proposals submitted by Alliance Resource Consulting and Avery Associates, the two recommended executive search firms;
- (b) Interview the two firms;
- (c) Select the firm to conduct the City Manager recruitment;
- (d) Direct the Director of Human Resources to negotiate an agreement with the selected search firm for execution by the City Manager.

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

3.6 Acceptance of current Window Washing Methods for City facilities.

Recommendation:

- (a) Acceptance of the staff report regarding various departmental approaches to Window Washing Services.
- (b) Acceptance of the deployment plan to rotate the use of the Reachmaster High Reach Maintenance Lift.

CEQA: Not a Project. (General Services)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee – October 16, 2006 Council Member Chirco, Chair

- (a) Building Strong Neighborhoods of Update/Status Report (including a discussion of SNI/Framework outside of non-designated areas)
- (b) Airport Neighborhood Services Group Report Update
- (c) Discussion of Street Tree Maintenance and New Tree Planting
- (d) Discussion of City Outreach for Capital Projects

Deferred from September 2006

- (e) Oral Petitions
- (f) Adjournment

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

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Approval of actions related to the American Musical Theatre of San José.

Recommendation:

- (a) Approval to consider the recommendation in (b-c) below pursuant to the Early Distribution Process Rules (2/3 vote required).
- (b) Approval of a \$1 million revolving line of credit for the American Musical Theatre of San José (AMTSJ) under the following conditions:
 - (1) AMTSJ complies with all of the terms and conditions of the loan agreement contained in Appendix A of the report; and
 - (2) If approved, adopt a resolution authorizing the City Manager to negotiate and execute a loan agreement with AMTSJ in an amount not to exceed \$1 million.
- (c) If action is taken to approve the line-of-credit for AMTSK authorizing for the utilization of the newly-created Arts Stabilization Fund, if approved as part of the City Manager's 2005-2006 Annual Report and the associated appropriation ordinance, Item 3.4 on the October 17, 2006, City Council Agenda.

CEQA: Not a Project. (City Manager's Office)
(Deferred from 10/24/06 - Item 5.2)

5. NEIGHBORHOOD SERVICES

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

5.2 [Approval to amend an agreement with the Viet Heritage Society.](#)

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement with the Viet Heritage Society (VHS) for the development, maintenance and operations of the Vietnamese Heritage Garden (VHG) to:

- (a) Increase the City's contribution toward the project by \$330,000, from \$1,080,000 to \$1,410,000.
- (b) Add provisions describing the proposed terms of the use of the funds, if the City decides to add an additional contribution of \$170,000 in fiscal year 2007-2008, contingent upon the appropriation of funds by City Council and authorization for the City Manager to negotiate.
- (c) Authorize the City Manager to enter into an amendment to the agreement with VHS to document the additional funding and terms of use of such funds, subject to City Council appropriation of additional funds up to \$170,000.

CEQA: EIR Resolution No. 66098 and addenda thereto, File No. PP04-228. Council District 7. SNI: Tully/Senter. (Parks, Recreation and Neighborhood Services)

5. NEIGHBORHOOD SERVICES

5.3 [Approval of the Penitencia Creek Trail Reach 1 Master Plan.](#)

Recommendation: Adoption of a resolution approving the Penitencia Creek Trail Reach 1 Master Plan and incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project. CEQA: Mitigated Negative Declaration, File No. PP06-111. Council District 4. (Parks, Recreation and Neighborhood Services)

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee Council Member Campos, Chair

6.2 [Approval of an agreement to update the City's Americans with Disabilities Act Sidewalk Transition Plan and Pedestrian Master Plan.](#)

Recommendation: Approval of a consultant agreement with Alta Planning + Design, Inc., to update the City's Americans with Disabilities Act (ADA) Sidewalk Transition Plan and the City's Pedestrian Master Plan, in an amount not to exceed \$180,000. CEQA: Exempt, File No. PP06-122. (Transportation)

7. ENVIRONMENTAL & UTILITY 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 an agreement for the purchase of property located on Clifton Avenue.](#)

Recommendation:

- (a) Adoption of a resolution by the City Council:
- (1) Approving the Purchase and Sale Agreement in an amount not to exceed \$1,300,000 with Reza Banikazemi and Mehrdad John Soltani, for the purchase of properties located at 487 and 499 Clifton Avenue, San José, California (APN Nos. 277-12-051, 059 and 060), to include a Right of Entry to conduct a Phase II investigation at the sole expense of the City and with any necessary remediation expenses at the sole expense of the property owners; and
 - (2) Authorizing the Director of Public Works to execute all other documents necessary to complete the transaction; and
 - (3) Making certain determinations regarding the expenditure of Redevelopment Agency Funds for the acquisition of property that will be publicly owned.
- (b) Adoption of a resolution by the Agency Board authorizing the Executive Director to deposit \$1,330,000 into escrow after City's inspections and City's final determination that the condition of the site is appropriate for a park use.

CEQA: Exempt, File No. PP05-226. Council District 6. SNI: Burbank/Del Monte.
(City Manager's Office/San José 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
- Adjournment