



CITY COUNCIL AGENDA

OCTOBER 31, 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. Council Meetings are televised live and rebroadcast on Channel 26.

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**

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

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 Engine Captain Mark Loutzenhiser, Engine Operator Jess McLean, Assistant Engine Operator Jason McKay, and Firefighter Daniel Hoover-Najera, who lost their lives battling the Esperanza Fire in the San Jacinto Mountains in Southern California.

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)
- 1.3 Presentation of a commendation to Lina Broydo, Director of Public Relations for the Fairmont San José Hotel, for her many years of outstanding professional and community service to the San José community. (Mayor)
* (Rules Committee referral 10/25/06)
- 1.4 Presentation of a proclamation recognizing October as Domestic Violence Awareness Month. (Campos/Williams)
(Rules Committee referral 10/25/06)
- 1.5 Presentation of commendation to John Nguyen for his dedication to volunteerism, his constant participation and assistance with numerous events throughout the City of San José, and his leadership and community spirit. (Nguyen)
* (Rules Committee referral 10/25/06)
- 1.6 Presentation of a commendation to Angie Horne for her extraordinary volunteer services to the Bagby Elementary School community and the people of San José, (Yeager)
* (Rules Committee referral 10/25/06)
- 1.7 Presentation of commendations to the City of San José Multi-Departmental Team and to Elite Racing for the successful debut of the San José Rock n’ Roll Half Marathon.
(Office of Economic Development)
* (Rules Committee referral 10/25/06)

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. CONSENT CALENDAR

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 27885 – Rezoning certain real property situated on the southwesterly corner of Eberly Drive and Neilson Court to A(PD) Planned Development Zoning District. PDC04-091
[Deferred from 10/17/06- Item 2.2(d) and 10/24/06 – Item 2.2(a)]

* **RECOMMEND DEFERRAL TO 11/14/06**

- (b) ORD. NO. 27894 – Amending Section 4.46.039.8 of Chapter 4.46 of Title 4 of the San José Municipal Code to extend the period of suspension of collection of the Building and Structure Construction Tax for the Construction of Special Industrial Use Tenant Improvements.
- (c) ORD. NO. 27895 – Amending Section 4.46.039.9 of Chapter 4.46 of Title 4 of the San José Municipal Code to extend the period of suspension of collection of the Building and Structure Construction Tax for the Construction of Office Use Tenant Improvements in the Downtown Core.

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. CONSENT CALENDAR

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

- * **Recommendation:** Approval of the first amendment to the agreement between the City of San José and American Medical Response West (AMR) for Pre-Hospital Emergency Medical Care and Transportation Services to provide for direct reimbursement by AMR of City emergency medical personnel training costs in an amount not to exceed \$19,262 annually, conform City patient record-keeping requirements to the standard County format; provide the City with greater flexibility in changing the base locations of the City medical transport units; and acknowledge authority of County emergency medical services agency over patient treatment decisions and City reporting obligations. 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)

2.8 [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)

2.10 [Approval of City Auditor Gerald Silva's travel calendar.](#)

- Recommendation:** Approval of City Auditor Gerald Silva's travel calendar through December 31, 2006 at no cost to the City. (City Auditor)
- * (Rules Committee referral 10/25/06)

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
 - (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. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – [October 11, 2006](#)

* Vice Mayor Chavez, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
 - (b) City Council
 - (1) Review October 24, 2006 Draft City Council Agenda
 - (a) Adds to the October 24, 2006 Draft City Council Agenda
 - (2) Add New Items to the October 17, 2006 Agenda
 - (3) List of Reports Outstanding
 - (c) Legislative Update
 - (1) State
 - (2) Federal
 - (d) Meeting Schedules
 - (1) Approval to schedule a Study Session on Solar and Energy Issues on January 25, 2007. (Environmental Services)
 - (2) Approval to schedule Getting Families Back to Work Study Sessions on November 16 and 17, 2006. (Mayor)
 - (e) The Public Record
 - (f) Appointments to Boards, Commissions and Committees
 - (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) City Council Spending Policy. (Cortese)
 - (2) Approval of the Revised Building Strong Neighborhoods Committee Work Plan. (Mayor/Chirco)
 - (3) Request the City Manager to assess Code Enforcement-The General Code Compliant Handling Process and the Fee Based Multi Family Dwelling Program. (Planning, Building and Code Enforcement)
Deferred to 10/17/06
 - (4) Proposed Work Load Assessment for the Administration of HP Grants. (City Manager's Office/City Clerk)
Deferred to 10/17/06
 - (5) Discussion and possible action regarding the City's Military Reservist Policy. (Campos)
Dropped.
 - (h) Review of Significant Public Records Act Requests
 - (i) Review of Council Policy Updates per Sunshine Reforms
 - (1) Approve the proposed methodology and process to review and update the Council Policy manual. (City Manager's Office)
 - (j) Open Forum
 - (k) Adjournment
- (Deferred from 10/24/06 – Item 3.2)

3. STRATEGIC SUPPORT SERVICES

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
- * **SEE ITEM 3.7 FOR COUNCIL ACTION TO BE TAKEN**
- (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.](#)

[Mayor's Memo \(Supplemental\)](#)

[Memo from Vice Mayor Chevez and Councilmember Campos](#)

* **Recommendation:**

- (a) Approval to continue to provide supplemental pay and benefits, pursuant to Resolution No. 73180, to employees who are military reservists and who are called to active duty.
- (b) [Direction to staff to continue to work to resolve the pending issues](#) involving the military reconciliation process and implement procedures to help minimize these issues in the future.

CEQA: Not a Project. (Employee Relations/Finance)

(Rules Committee Referral 10/18/06)

RECOMMEND DEFERRAL TO 11/14/06

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. STRATEGIC SUPPORT SERVICES

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)

3.7 [Approval of actions related to the Grants Management Report.](#)

* **Recommendation:**

- (a) (1) Develop a Procedures Manual to formally document City policies and procedures regarding grant oversight.
- (2) Develop a citywide grants database to provide comprehensive grant information, facilitate better grant awarding decisions and grantee monitoring, and help ensure grantee compliance with grant requirements.
- (3) Establish a City Manager's Office Grant Oversight Working Group to:
 - (a) Establish citywide consistent policies and procedures;
 - (b) Establish specific training requirements for staff involved in grants management and monitoring;
 - (c) Establish criteria when audited financial statements are obtained and reviewed;
 - (d) Establish risk-based criteria for determining when more detailed audits, reviews or monitoring are required;
 - (e) Adopt consistent and reasonable grant agreement requirements related to grantee reporting.

(City Manager's Office)

[Making Government Work Better Committee 10/19/06 – Item 3.3(b)]

- (b) Acceptance of status report from the City Manager on the issuance of HNVF Grants. (City Manager's Office)

[Supplemental](#)

- (c) [Response from City Attorney on Exhibit \(f\) of the grants procedure background and fingerprinting requirements.](#) (City Attorney's Office)

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

4.3 [Approval of actions related to the American Musical Theatre of San José.](#)

[Memo from City Auditor](#)

[Memo from Councilmember Williams, Pyle, and Yeager](#)

* **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 AMTSJ authorize the utilization of the newly-created Arts Stabilization Fund.

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. NEIGHBORHOOD SERVICES

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

[Supplemental](#)

- * **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.

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

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

[Supplemental](#)

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

* In accordance with Sec. 19.16.140d of the San José 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>
9713	WS of Masonic Dr., 520' S of Canoas Garden Ave.	6	Vitiol-Scottish LLC	1 Lot/ 172 Units	SFAR	Approve

- Notice of City Engineer's Award of Construction Projects
- Open Forum

- **Adjournment**

This meeting will be adjourned in honor of Engine Captain Mark Loutzenhiser, Engine Operator Jess McLean, Assistant Engine Operator Jason McKay, and Firefighter Daniel Hoover-Najera, who lost their lives battling the Esperanza Fire in the San Jacinto Mountains in Southern California.