

CITY COUNCIL AGENDA

OCTOBER 12, 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**
9:00 a.m. - Closed Session, Room 600, City Hall
[See Separate Agenda](#)
1:30 p.m. - Regular Session, Council Chambers, City Hall
- **Invocation (District 9)**
Reverend Dwight Kinter, Chaplain for the Interfaith Chaplaincy at Norman Y. Mineta, San José International Airport.
- **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 10.1 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

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 CONSENT CALENDAR

2.1 Approval of Minutes.

* **Recommendation:** Approval of City Council Minutes for:

- (a) [Regular Meeting of August 24, 2004](#)
- (b) [Joint City Council/San José Financing Authority Meeting of August 24, 2004](#)
- (c) [Regular Meeting of August 31, 2004](#)

2.2 Final adoption of ordinances.

Recommendation:

- (a) **ORD. NO. 27255** – Amends Section 2.08.150 and Section 2.08.830 of Chapter 2.08 of Title 2 of the San José Municipal Code to modify the length and number of terms served by members of certain City Boards or Commissions not established by the Charter.

2.3 [Approval of an ordinance suspending a portion of the Building and Structure Construction Tax, the Commercial-Residential-Mobilehome Park Building Tax, and the Construction Tax for small business improvements. \(GFB2W Initiative\)](#)

[Ordinance Draft](#)

Recommendation: Approval of an ordinance amending Chapters 4.46, 4.47, and 4.54 of Title 4 of the San José Municipal Code to add Sections to suspend the collection of fifty percent of the Building and Structure Construction Tax, the Commercial-Residential-Mobilehome Park Building Tax, and the Construction Tax for construction of small business improvements, either as new construction or tenant improvements, of 3,000 square feet or less by new or existing small businesses. (City Attorney's Office) (GFB2W Initiative)

2.4 Acceptance of City Auditor's Reports.

Recommendation: Acceptance of City Auditor's Reports.

- (a) [Office of the City Auditor's Report of Activities and Findings for the Period August 16 through September 15, 2004"](#).
- (b) [Findings reports from Kafoury, Armstrong, & Company, LLP for the quarter ending June 30, 2004, relating to the Bay 101 Conditional Approval of Stock Transfer"](#).
(City Auditor)

2 CONSENT CALENDAR

2.5 [Approval of fiscal actions for Redevelopment Agency Capital Projects.](#)

Recommendation: Adoption of appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for the Spartan Keyes Noise Study Project (PSM 351#) Project, the Sound Walls Noise Study Project (PSM 353#) Project and the Mayfair Streetlights Project (PSM 359#) Project, with a net impact to the fund of \$92,000. CEQA: Not a Project. Council Districts 3 and 5. SNI: Spartan/Keyes, East Valley/680 and Mayfair. (City Manager's Office)

[Supplemental](#)

2.6 [Approval of non-profit Reuse and Recycling Agreements for FY 2004-05.](#)

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute the Reuse and Recycling Agreements with the following non-profit organizations, for a one-year period beginning July 1, 2004 and ending June 30, 2005, in the annual amounts of:

- (a) Goodwill Industries of Santa Clara County, in an amount not to exceed \$369,000.
- (b) The Salvation Army, in an amount not to exceed \$123,500.
- (c) St. Vincent de Paul Society, in an amount not to exceed \$13,000.
- (d) Hope Services, in an amount not to exceed \$10,000.

CEQA: Not a Project. (Environmental Services)

2.7 [Approval of the extension to the Letter of Credit for the Airport Commercial Paper Program.](#)

Recommendation: Adoption of a resolution authorizing the Director of Finance, to extend the letter of credit expiration date to November 2, 2007, and the commitment expiration date to October 18, 2005, pursuant to the Letter of Credit and Reimbursement Agreement between the City of San José and Morgan Guaranty Trust Company of New York ("JPMorgan") and authorizing the Director of Finance to negotiate and execute future extensions to the Agreement with respect to the expiration dates and fees paid to JPMorgan. CEQA: Not a Project. (Finance)

2.8 [Approval of open purchase orders for the purchase of supplies, materials, equipment, and services.](#)

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2004-2005 #4, and authorization for the Director of General Services to execute the purchase orders. CEQA: See memo for CEQA designation(s). (General Services)

2 CONSENT CALENDAR

2.9 [Approval to amend two leases for office space at 4 North Second Street.](#)

Recommendation: Approval of amendments to two leases with Cornerstone Properties, LLC, for office space at 4 North Second Street reducing the combined monthly rent from \$90,608.80 to \$68,384.00 per month while increasing the term of the agreements by 8 months to August 31, 2005. CEQA: Not a Project. (General Services)

2.10 [Approval of Council Member Forrest Williams' travel request.](#)

Recommendation: Approval of Council Member Forrest Williams' travel to Atlanta, Georgia, October 9-14, 2004, to attend American Public Transportation Agency Conference. Funding: Santa Clara Valley Transportation Authority. (Williams)

2.11 **Approval of Council Member Campos' travel.**

- * **Recommendation:** Approval of Council Member Nora Campos' travel to San Antonio, Texas, on October 13 – 15, 2004 as part of the San José Silicon Valley Chamber of Commerce/City of San José, San José State University City to City Delegation. Funding: Council District 5 Office Budget. (Campos)
(Rules Committee referral 10/6/04)

2.12 **Approval of Council Member Cortese's travel.**

- * **Recommendation:** Approval of Council Member Dave Cortese's travel to San Antonio, Texas, on October 13 – 15, 2004 as part of the San José Silicon Valley Chamber of Commerce/City of San José, San José State University City to City Delegation. Funding: Council District 8 Funds. (Cortese)
(Rules Committee referral 10/6/04)

2.13 [Approval of Mayor Gonzales' travel.](#)

- * **Recommendation:** Approval of Mayor Ron Gonzales' travel to San Antonio, Texas, on October 13 – 15, 2004 as part of the San José Silicon Valley Chamber of Commerce/City of San José, San José State University City to City Delegation. Funding: Mayor's Office. (Mayor)
(Rules Committee referral 10/6/04)

2.14 **Approval of Council Member LeZotte's travel.**

- * **Recommendation:** Approval of Council Member Linda LeZotte's travel to San Antonio, Texas, on October 13 – 15, 2004 as part of the San José Silicon Valley Chamber of Commerce/City of San José, San José State University City to City Delegation. Funding: Council General or other appropriate funding source. (LeZotte)
(Rules Committee referral 10/6/04)

2 CONSENT CALENDAR

2.15 Approval of Council Member Yeager's travel.

- * **Recommendation:** Approval of Council Member Ken Yeager's travel to San Antonio, Texas, on October 13 – 15, 2004 as part of the San José Silicon Valley Chamber of Commerce/City of San José, San José State University City to City Delegation. Funding: Council District 6 Funds. (Yeager)
(Rules Committee referral 10/6/04)

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session – August 27, 2004

Mayor Gonzales, Chair

- * (a) [Getting Families Back to Work – One Year Anniversary](#)

3.2 Report of the Rules Committee – September 29, 2004

Vice Mayor Dando, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review October 12, 2004 Draft Agenda
 - (2) Add New Items to October 5, 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) Approve City Positions on November 2004 State Ballot Propositions. **HEARD BY COUNCIL ON 10/5/04.**
 - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointment to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) [High-Rise Safety Regulation Review](#)
 - (2) Revision of Definition of Surviving Child as it Pertains to Police and Fire Retirement Plan.
- (h) Oral communications
- (i) Adjournment

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

3 STRATEGIC SUPPORT SERVICES

3.4 [Approval of various actions to implement 2003-2004 Annual Report.](#)

Recommendation:

- (a) Acceptance of the 2003-2004 City Manager's Annual Report of the Finances and Administrative Activities of the City of San José, pursuant to the City Charter Section 701(f).
- (b) Adoption of appropriation ordinance and funding sources resolution amendments in various operating and capital funds to implement 2003-2004 Annual Report recommendations and provide appropriate technical adjustments.
- * (c) [Approval of amendments to the City's Budget Policies and Practices and adoption of a Council Policy that contains the revised Budget Policies and Practices. \(Mayor\)](#)
(Rules Committee referral 10/6/04)
CEQA: Not a Project. (City Manager's Office)

3.5 **Adoption of an ordinance ratifying final expenditures in various appropriations for FY 2003-04**

Recommendation: Adoption of an ordinance ratifying final expenditures in various appropriations for FY 2003-04. (City Manager's Office)

- * **RECOMMEND DEFERRAL TO 10/19/04**

3.6 [Acceptance of the 2003-04 Year-End City Service Area Performance Report.](#)

Recommendation: Acceptance of the 2003-04 Year-End City Service Area Performance Report. (City Manager's Office)

3.7 **Approval of a consultant agreement for technical and procurement services to complete the Converged Network RFP for the New City Hall.**

[Supplemental](#)

- * **Recommendation:** Adoption of a resolution authorizing the City Manager to execute an agreement with Gartner, Inc. for technical and procurement services for the New City Hall Converged Network RFP, in an amount not to exceed \$365,226 plus an additional 15% (\$54,774) for additional services related to Server/SAN procurement. (Information Technology)
(Deferred from 10/5/04 – Item 3.5)

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

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

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.2 Report of the Driving a Strong Economy Committee – September 27, 2004

Council Member Williams, Chair

- (a) Parkland Dedication Ordinance and Park Impact Ordinance Proposed Revisions
- (b) North San José Development Policy Update
- (c) Sign Code Amendments
SEE ITEM 4.3 FOR COUNCIL ACTION TO BE TAKEN
- (d) Oral Petitions
- (e) Adjournment

4.3 Direction to the City Attorney to amend the Sign Code Ordinance.

- * **Recommendation:** Discussion regarding proposed amendments to the Sign Code Ordinance, direction to the Administration to conduct outreach efforts on the proposals, and direction to the City Attorney to prepare amendments to the Sign Code for Council consideration. (Planning, Building and Code Enforcement)
[Driving a Strong Economy Committee referral 9/27/04 – Item 4.2(c)]

4.4 Approval of actions for the City's opposition to a reorganization of territory.

- * **Recommendation:** Adoption of a resolution indicating the City's opposition to a reorganization of territory involving the detachment of certain real property located at 15221 Skyview Drive (APN: 595-06-002) and directing the City Clerk to transmit a copy of this resolution to the Local Agency Formation Commission of Santa Clara County on or before October 19, 2004. CEQA: Exempt. Council District 4. (Planning, Building and Code Enforcement)

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 10/5/04 – Item 4.3)
RECOMMEND DEFERRAL TO 10/19/04

5 RECREATION & CULTURAL SERVICES

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

5.2 Recommendation to name a new park.

Recommendation: As recommended by the Parks and Recreation Commission, name a park located at the intersection of San Felipe Road and Larkspur Canyon Road as “Canyon Creek Park.” Council District 8. (Parks, and Recreation Commission/City Clerk)

5.3 Approval of actions to put in place grant agreements for the San José B.E.S.T. Eligible Service Providers (2004-2007).

* **Recommendation:**

- (a) Approval of the list of San José B.E.S.T. Eligible Service Providers for 2004-2007.
- (b) Adoption of a resolution authorizing the City Manger to negotiate and execute grant agreements and amendments with the San José B.E.S.T. Eligible Service Providers, consistent with the directives of the Mayor’s Gang Prevention Task Force for a term of September 1, 2004 through August 31, 2005, and for a total amount not to exceed \$2,465,000.

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)
(Deferred from 10/5/04 – Item 5.3)

5.4 Follow-up on alternative strategies to abate Coyotes in the Villas of Almaden.

* **Recommendation:** Direct Animal Care Services to coordinate alternative non-lethal methods to expel the coyote population currently living in the Almaden Villas with the State Department of Fish and Game, Santa Clara County Vector Control, the residents of the Almaden Villas and surrounding areas, and other interested and capable agencies.

CEQA: Exempt, PP04-276. (Parks, Recreation and Neighborhood Services/City Attorney)
(Council referral 10/5/04 – Item 5.6)

6 TRANSPORTATION SERVICES

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

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)]
(Deferred from 9/28/04 – Item 6.2 and 10/5/04 – Item 6.2)

7 ENVIRONMENTAL & UTILITY SERVICES

8 AVIATION SERVICES

9 PUBLIC SAFETY SERVICES

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEM 10.1 IN A JOINT SESSION

10.1 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

(Continued on next page)

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

10.1 Approval of fiscal actions related to the Delmas Park Apartments Project. (Cont'd.)

Recommendation:

- (a) Adoption of a resolution of the City Council:
 - (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 City Council and Redevelopment Agency Board approving an Owner Participation and Grant Agreements by and among EHC Delmas Park, L.L.C., Delmas Park Associates, L.P., AOF/Pacific Affordable Housing Corporation, the City of San José, and the Redevelopment Agency of the City of San José, for a total of \$1,500,000 in two grants for the development of property for a mixed-use residential and retail project located at 598 West San Carlos Street. CEQA: Downtown Strategy Plan EIR and addenda thereto, Resolutions No. 64273 and 68839 (File No. PDC03-016). Council District 3. SNI: Delmas Park. (City Manager's Office/Redevelopment Agency)
(Deferred from 9/28/04 – Item 10.2 and 10/5/04 – Item 10.1)

[Supplemental](#)

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>
9605	West side of Saratoga Ave., 150' S of Graves Ave.	1	Toll Brothers Inc.	77 units	SFA	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