

CITY COUNCIL AGENDA

OCTOBER 19, 2004

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
 - 7:00 p.m. - Public Hearings, Council Chambers, City Hall
- **Invocation (District 9)**
 - *Rev. Bill Johnson, 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.

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

*1.3 Presentation of a commendation to sponsors and student artists that participated in the San José Downtown Foundation's Downtown Door project. (Chavez)

***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 and 10/12/04 – Item 5.3)

1 CEREMONIAL ITEMS

1.1 *[Appointment of swearing in of District 4 and 9 Youth Commissioners. \(Mayor\)](#)
[9-8-04 Rules Committee Referral]

1.2 Horticulture, Santa Clara County Agriculture and Resource Management - Administrative Office, Santa Clara County Integrated Waste Management Division, Silicon Valley Manufacturing Group, Fat Spaniel Technologies, Reel Grobman & Associates, Lunch Stop (Cafeteria, San Jose City Hall), Lunch Stop (Berger Drive), American Lung Association of Santa Clara/San Benito Counties, Raines, Melton, and Carella, Inc. (Environmental Services)

1.3 **Presentation of a commendation to sponsors and student artists that participated in the San José Downtown Foundation's Downtown Door project. (Chavez)**

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.**

Recommendation: Final adoption of ordinances.

(a) [ORD. NO. 27258 – Amending Chapter 12.08 of Title 12 of the San José](#) Municipal Code to revise the City of San José Gift Ordinance.

* (b) [ORD. NO. 27265](#) – Amends Chapter 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.

2.3 [Approval of assignment of Caltrans air-space ground lease., and approving Parking and Maintenance Agreements regarding the parking facility at I-280 and South First Street.](#)

Recommendation:

- (a) 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 November 1, 2004 and expiring on March 31, 2033.
- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute Parking Agreements with Presentacion Dominguez for the rental of thirty-two (32) parking spaces at an annual rate of \$9,116 for a term of five (5) years with four (4), five (5) year options, and the Bill Wilson Marriage and Family Counseling Center for the rental of thirty-four (34) parking spaces at an annual rate of \$9,685 for a term of five (5) years with four (4), five (5) year options.
CEQA: Exempt, PP04-07-218. Council District 3. (Transportation)
(Deferred from 9/28/04 - Item 2.6)

2.4 [Approval of an agreement for removal, transportation, and beneficial reuse of biosolids.](#)

[Supplemental](#)

[TPAC](#)

Recommendation: Adoption of a resolution authorizing the Director of General Services to execute an amendment to the existing agreement with Browning-Ferris Industries, Inc. for removal, transportation, and beneficial reuse of biosolids, to increase the first year compensation by \$175,000, for a total maximum first year compensation not to exceed \$1,360,730. CEQA: Exempt, PP 03-09-300. (General Services)

2.5 [Approval to purchase mobile radios and remote control cables for the Police Department.](#)

Recommendation: Approval of award for a sole source purchase of 161 Motorola Astro-Spectra W4 mobile radios and remote control cables from Motorola, Inc for a total cost not to exceed \$425,532.76, including tax and delivery, and authorize the Director of General Services to execute the purchase order. CEQA: Not a Project. (General Services/Information Technology/Police)

2.6 [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 Joint Venture: Silicon Valley Network Annual Index Briefing and Celebration, on January 27, 2005. CEQA: Not a Project. (San José Arena Authority)

2.7 ***Approval of a “Support” position for West Valley-Mission Community College District Bond Measure H.**

Recommendation: Approval of a City Council position of “Support” for Measure H, the “College Repair/Job Training Measure” for the West Valley-Mission Community College District on the November 2, 2004 ballot. (City Manager’s Office)
(Rules-In-Lieu referral 10/13/04)

2.8 ***Approval of the proposed revision to the Federal Community Reinvestment Act.**

Recommendation: Authorization for the Administration to file comments on the proposed rules issued by the Federal Deposit Insurance Corporation (FDIC) objecting to proposed regulation changes that would decrease the number of lenders and limit lender accountability to lend to low- and moderate-income communities pursuant to the Federal Community Reinvestment Act (CRA). CEQA: Not a Project. (Housing)
(Rules-In-Lieu referral 10/13/04)

3 STRATEGIC SUPPORT SERVICES

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

3.2 **Report of the Rules Committee – October 6, 2004**
Vice Mayor Dando, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
 - (1) Review October 19, 2004 Draft Agenda
 - (2) Add New Items to October 12, 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
 - (2) Federal
- (d) Meeting Schedules
 - (1) Proposed 2005-2006 City Budget Calendar
- (e) The Public Record
- (f) Appointment to Boards, Commissions and Committees
 - (1) Advisory Commission on Rents Recruitment Outreach
- (g) Rules Committee Reviews, Recommendations and Approvals

- (1) Approval of a Proposed Amendment to Council Rules of Order Resolution No. 71820, Rule 1, Section G: Designation of the Chair in the Absence of the Mayor and Vice Mayor.
SEE ITEM 3.6 FOR COUNCIL ACTION TO BE TAKEN
- (2) Council Member Authorization to Travel Out of State
- (3) Crossing Guard Criteria
- (h) Oral communications

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

3.4 Approval of actions related to the Customer Service and Performance Management System (CUSP).

Recommendation: Adoption of a resolution authorizing the City Manager to execute a consultant services contract to assist City staff with a business process gap analysis, contract negotiations, and provide technical architecture and quality assurance support related to the development of the BearingPoint/PeopleSoft contract scope of services.

CEQA: Not a Project. (Finance)
(Deferred from 10/5/04 – Item 3.4)

RECOMMEND DEFERRAL TO 10/26/04

3.5 [Review and discussion of Council Policy 0-28.](#)

[Attachment 1](#)
[Attachment 2](#)
[Attachment 3](#)

Recommendation: Review and discussion of Council Policy 0-28, which sets forth Council procedures regarding censure. (Yeager/Mayor)

3.6 *[Resolution amending the Council Rules of Order.](#)

***Recommendation:** Adoption of a resolution superseding Resolution No. 71820, the Council's Rules of Order, to amend Rule 1, Section G as it relates to the designation of the Chair in the absence of the Mayor and Vice Mayor.

[Rules Committee referral 10/6/04 – Item 3.2(g)(1)]

3.7 *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)

(Deferred from 10/12/04 – Item 3.5)

3.8 *[Approval of policy guidelines for use of the Mayor and Council Travel Fund.](#)

Recommendation: Approval of the following policy guidelines for use of the Mayor and Council Travel Fund, established October 12, 2004:

- (a) The Mayor and Council Travel Fund may be used for:
 - (1) The annual San Jose Silicon Valley Chamber of Commerce and City of San Jose City to City trip.
 - (2) Mayor and Council member travel where those traveling are appointed by the Council to represent the City to either advocate for priority legislation or to represent the City on Boards and Committees of the League of California Cities, the U.S. Conference of Mayors or the National League of Cities.
- (b) Elected officials wishing to use these funds should submit a written request to the Rules Committee.

CEQA: Not a Project. (City Manager's Office)
(Rules-In-Lieu Committee referral 10/13/04)

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

4.3 [Approval of various actions related to the Enterprise Zone tax credit voucher fee.](#)

Recommendation: Adoption of a resolution authorizing the City Manager to allocate \$25,000 from the Office of Economic Development budget for payment to the State of California for the newly adopted Enterprise Zone tax credit voucher fee. CEQA: Not a Project. (Economic Development)

4.4 *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 10/12/04 – Item 4.5)

5 RECREATION & CULTURAL SERVICES

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

5.2 [Approval of the Guadalupe River Trail Reach 6 Master Plan.](#)

Recommendation: Approval of the Guadalupe River Trail Reach 6 (Willow Street to Highway 280) Master Plan. CEQA: Mitigated Negative Declaration, PP04-03-102. Council Districts 3 & 6. SNI: Washington. (Parks, Recreation and Neighborhood Services)

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 and 10/12/04 – Item 5.3)

6 TRANSPORTATION SERVICES

**6.1 [Report of the Building Better Transportation Committee](#) – October 4, 2004
Council Member Cortese, Chair**

- (a) Expansion and Improvement of Transit and Transportation Systems
 - (1) Taxicab Service Model Implementation Follow-up Report and Recommendations
 - (2) Review of Niemen-Route 87 Portion of Downtown-East Valley Light Rail Project
- (b) Traffic Relief/Safe Streets
 - (1) Review of Annual Traffic Calming Report to Council
- (c) Supporting Smart Growth
 - (1) No items.
- (d) Regional Relationships/Funding/Policy
 - (1) Caltrans District 4 Regional Transportation Issues Report
 - (2) One Year Report on the Construction Impact Mitigation Plan (CIMP) activity
- (e) Oral petitions
- (f) Adjournment

7 ENVIRONMENTAL & UTILITY SERVICES

8 AVIATION SERVICES

9 PUBLIC SAFETY SERVICES

9.1 *Updated status report on the replacement of the Computer Aided Dispatch System (CAD).

Recommendation: Updated status report on the replacement of the Computer Aided Dispatch System (CAD). (Police/Fire/Information Technology)

9.2 *Approval of actions for the Safe Surrender Sites.

Recommendation: Adoption of a resolution authorizing the City Manager to:

- (a) Request that the Santa Clara County Board of Supervisors designate all City of San José Fire Stations as Safe Surrender Sites for newborn abandoned infants pursuant to Health & Safety Code Section 1255.7 (Safe Surrender Law), upon adoption of a Countywide Safe Surrender Implementation Plan, and the designation of fire stations countywide as Safe Surrender Sites; and
- (b) To execute any documents necessary to effectuate designation of the City Fire Stations as Safe Surrender Sites.

CEQA: Not a Project. (Fire)
(Rules-In-Lieu referral 10/13/04)

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

- 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>
9613	Southeast corner of Jackson Avenue and Madden Avenue	5	Falk Development	162 Units (Condo)	SFA	Approve
9530	Northside of Aborn Road approximately 1000 feet East of Altamara Avenue	8	Blossom Valley Investors, Inc./Pinn Brothers Construction, Inc.	31 Units	SFDR	Approve

- Open Forum—To be heard jointly with Redevelopment Agency Public Discussion. Following Open Forum, Council will recess until 7:00 p.m.

11 PUBLIC HEARINGS

(To be heard by the City Council at 7:00 p.m.)

11.1 Public Hearing on and consider approval of an ordinance on amending Chapter 20.100 of Title 20 of the San José Municipal Code.

Recommendation: Public Hearing on and consider approval of an ordinance amending Chapter 20.100 of Title 20 of the San José Municipal Code to allow exemptions from single-family house permit requirements for building height for construction of and additions to houses located in flood zones. CEQA: Exempt.

PP04-08-227 – Citywide

RECOMMEND CONTINUANCE TO 11/9/04

11.2 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.

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 et al., and 10/5/04 – Item 11.3). **DROPPED**

11.3 Public Hearing on approval of an ordinance on Planned Development Rezoning of the property located at 568 Hillsdale Avenue.

Recommendation: Public Hearing on and consider approval of an ordinance on Planned Development Rezoning of the property located at the south side of Hillsdale Avenue, approximately 420 feet east of Highway 87 (568 Hillsdale Avenue), from R-1-5 and R-1-8 Residence Zoning Districts to A(PD) Planned Development Zoning District, to allow 26 single-family attached residential units on a 1.6 gross acre site. (George P Thotus Trustee et al, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).

PDC 04-060- District 10

* (Continued from 10/5/04 – Item 11.4). **RECOMMEND CONTINUANCE TO 11/9/04**

11.4 [Public Hearing on and consider approval of an ordinance on Planned Development Rezoning of the property located on 1123 Hanchett Avenue.](#)

[Supplemental](#)

Recommendation: Public Hearing on and consider approval of an ordinance on Planned Development Rezoning of the property located on the north side of Hanchett Avenue, approximately 410 feet west of Alameda Avenue (1123 Hanchett Ave), from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow an existing unpermitted social service use in a single-family residential structure, an approximately 3,073 square foot expansion of the existing structure and off-site parking on a 0.17 gross acre site. (Young Life, Owner). CEQA: Exempt.

PDC 03-005 - District 6

*Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

11.5 [Public Hearing on and consider approval of an ordinance on Planned Development Rezoning of the property located at the west side of South King Road approximately 780 feet northerly of Aborn Road.](#)

Recommendation: Public Hearing on and consider approval of an ordinance on Planned Development Rezoning of the property located at the west side of South King Road approximately 780 feet northerly of Aborn Road, from R-1-2 Residential Zoning District to A(PD) Planned Development Zoning District, to allow up to 158,650 square feet of mini storage uses, outdoor RV/boat storage, a 2,700 square foot manager's office/residence, a 1,250 square foot radio transmitter building, continued operation of an existing 8,050 square foot transmitter/office building and (3) three existing radio transmission towers on a 9.91 gross acre site. (Entravision Communications Corp, Owner). CEQA: Mitigated Negative Declaration. SNI: West Evergreen.

PDC 04-025 - District 7

*Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

11.6 [Public Hearing on adoption of a resolution for a Planned Development Permit for consideration of the final site, architectural and landscape designs for the property located at the west side of South King Road.](#)

* **Recommendation:** Public Hearing on adoption of a resolution for a Planned Development Permit for consideration of the final site, architectural, and landscape designs for the property located at the west side of South King Road approximately 780 feet northerly of Aborn Road. CEQA: Mitigated Negative Declaration. SNI: West Evergreen. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PD 04-019 - District 7

11 PUBLIC HEARINGS

11.7 *Public Hearing on adoption of a resolution for a Tentative Map located at the west side of South King Road approximately 780 feet northerly of Aborn Road.

Recommendation: Public Hearing on adoption of a resolution approving the Tentative Map to reconfigure three existing subject parcels into 6 lots for commercial purposes for the property located at the west side of South King Road, approximately 780 feet northerly of Aborn Road. CEQA: Mitigated Negative Declaration. SNI: West Evergreen. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PT 04-024 - District 7

11.8 Public Hearing on and consider approval of an ordinance on a Planned Development Rezoning located at the north side of Umbarger Road approximately 1,200 feet westerly of Senter Road (425 Umbarger Road).

Recommendation: Public Hearing on and consider approval of an ordinance on a Planned Development Rezoning from County to A(PD) Planned Development Zoning District, to allow up to 31 single-family detached residences on a 3.49 gross acre site, located at the north side of Umbarger Road approximately 1,200 feet westerly of Senter Road (425 Umbarger Road). (TLB Properties LLC, Owner; DAL Properties LLC – Mark Lazzarini, Developer). CEQA: Mitigated Negative Declaration. SNI: None.
PDC 04-054 - District 7

*Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

- Open Forum
- Adjournment