

CITY COUNCIL AGENDA

NOVEMBER 2, 2004

SYNOPSIS

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.

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On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:03 a.m. - Closed Session, Room 600, City Hall
Absent – Council Members: None.

1:30 p.m. - Regular Session, Council Chambers, City Hall
Absent – Council Members: None.

7:00 p.m. - **CANCELLED**
- **Invocation (District 10)**
San José Fire Choir performed songs, “Now” and “Here I Am”.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.

1 CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Ultratech, Inc. recognizing its important contribution to the economy. (Mayor/Reed)
(Rules Committee referral 10/17/04)
Mayor Gonzales was joined at the podium by Council Member Reed and Deputy Executive Director of Redevelopment Agency, John Weis to present a commendation to representatives of Ultratech, Inc., CEO and Chair Arthur Zafiropoulo, President John Denzel, CFO Bruce Wright, and Vice President of Corporate Services Dave Ghosh in recognition of Ultratech, Inc. important contributions to the economy.

2 CONSENT CALENDAR

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 27268 – Rezoning certain real property situated on the north side of Hanchett Avenue, approximately 410 feet west of Alameda (1123 Hanchett Avenue) to A(PD) Planned Development Zoning District. PDC03-005
Ordinance No. 27268 adopted.
- (b) ORD. NO. 27269 – Rezoning certain real property situated on the west side of South King Road, approximately 780 feet northerly of Aborn Road from R-1-2 Residential to A(PD) Planned Development Zoning District. PDC04-025
Ordinance No. 27269 adopted.
- (c) ORD. NO. 27270 – Prezoning certain real property situated on the north side of Umbarger Road, approximately 1,200 feet westerly of Senter Road to A(PD) Planned Development Zoning District. PDC04-054
Ordinance No. 27270 adopted.
- (d) ORD. NO. 27274 – Amends Sections 14.25.520 and 14.25.530 of Chapter 14.25 to Title 14 and Sections 19.38.520 and 19.38.530 of Chapter 19.38 of Title 19 of the San José Municipal Code to extend the low income unit exemptions and low income payment procedures in the Park Impact Fee and Parkland Dedication Ordinances.
Ordinance No. 27274 adopted.
- (e) 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.
Ordinance No. 27255 adopted.

2.3 Approval of an agreement for the Water Pollution Control Plant.

Recommendation: Approval of an agreement with CH2M HILL for provision of professional engineering services to the San José/Santa Clara Water Pollution Control Plant, from January 1, 2005 through December 31, 2005, in an amount not to exceed \$500,000. CEQA: Not a Project. (Environmental Services)

Deferred to 11/16/04.

2 CONSENT CALENDAR

2.4 Approval to amend a lease agreement for office space located at 1190 South Bascom Avenue.

Recommendation: Approval of the first amendment to the office space lease for the Parks, Recreation and Neighborhood Services' Office on Aging, with J. R. Realty #1 LLC, Bascom Equity Partners, LLC, Coralaire Associates, LTD, Yale/Bascom Garden Investors, and Wright Apartment Investors II as tenants-in-common (collectively "LESSOR") reducing the leased area from 2,116 rentable square feet to 1,444 rentable square feet, reducing the monthly rent from \$6,813.50 to \$4,649.66 and updating the City's address for notices in the lease. CEQA: Not a Project. Council District 6. (General Services)

Approved.

2.5 Approval to amend the Arts Operating Grant guidelines.

Recommendation: Adoption of a resolution amending the Arts Operating Grant guidelines to authorize qualified recipients of FY 2004-05 arts grants awarded through the Arts Operating Grant Program the option of using their most recent evaluation scores for FY 2005-06 Arts Operating Grant requests, instead of submitting new applications for evaluation, as described in the proposal. CEQA: Not a Project. (Office of Cultural Affairs)

Resolution No. 72374 adopted.

Staff directed to provide an information memorandum describing how grant recipients will certify that they are eligible to use their FY2004-2005 scores.

2.6 Approval of an agreement for artwork at Hillview Branch Library.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Amy Trachtenberg to fabricate and install an artwork at Hillview Branch Library, in an amount not to exceed \$149,995. CEQA: Negative Declaration, H03-057. Council District 5. (Office of Cultural Affairs)

Resolution No. 72375 adopted.

2.7 Approval of an agreement with the County of Santa Clara for connection services to public safety data systems.

Recommendation: Adoption of a resolution authorizing the City Manager to execute a continuation agreement with the County of Santa Clara for data processing services and related connection services regarding the Records Indexing System (RIS) and Criminal Justice Information Control (CJIC), for the period July 1, 2003 to November 30, 2004, and the total amount of the continuation agreement is \$101,822. CEQA: Not a Project. (Police)

Resolution No. 72376 adopted.

2 CONSENT CALENDAR

2.8 Approval to amend a parking lot lease agreement located at 282 Almaden Boulevard.

Recommendation: Approval of a fourth amendment to a lease agreement with Boston Properties (dba BP Almaden Associates, LLP) in the amount of \$252,000, \$21,000 per month, for the lease of the property commonly referred to as Almaden/Woz Way parking lot, located at 282 Almaden Boulevard, and extending the agreement term to December 31, 2005. CEQA: Not a Project. Council District 3. (Transportation)

Approved.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair

None.

3.2 Report of the Rules Committee – October 20, 2004 Vice Mayor Dando, Chair

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review November 2, 2004 Draft Agenda

The Committee recommended approval of the November 2, 2004 City Council Agenda.

(2) Add New Items to October 26, 2004 Amended Agenda

The Committee recommended the following additions to the October 26, 2004 City Council agenda:

- Mayor and Council Member Requests
Approval of a nomination to the San José Valley Workforce Investment Network Board of Directors. (Mayor)
- City Manager Requests
 - a. **Approval for a change order for The Alameda at Martin and Cleaves Improvements Project.**
 - b. **Approval of actions for the Park Impact Ordinance and the Parkland Dedication Ordinance.**
- City Attorney Requests
Approval of City's response to Grand Jury Report on Financial and Performance Audits for the County and Cities in the County.
- City Clerk Requests
There were none.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – October 20, 2004 (Cont'd.)

Vice Mayor Dando, Chair

- (b) City Council
 - (3) List of Reports Outstanding
The Committee noted and filed the City Manager's report.

- (c) Legislative Update
 - (1) State – **There was no report.**
 - (2) Federal – **There was no report.**

- (d) Meeting Schedules
The Committee accepted the recommendation to cancel the November 23, 2004 and the December 21, 2004 Council meetings and reschedule the evening session from December 21, 2004 to December 14, 2004. The Committee also recommended a Rules-In-Lieu meeting for November 24, 2004.

- (e) The Public Record
The Committee noted and filed the Public Record.

- (f) Appointment to Boards, Commissions and Committees
The Committee recommended appointment of Trish Glassey to the Deferred Compensation Advisory Committee as the AFSCME, Municipal Employees' Federation (MEF) and Confidential Employees' Organization (CEO) employee representative for a term ending March 1, 2006.

- (g) Rules Committee Reviews, Recommendations and Approvals
The Committee accepted the recommendation to include the proposed assignments in the City Auditor's 2004-2005 Audit Workplan.

- (h) Oral communications – **There were none.**

- (i) Adjournment
The meeting adjourned at 2:20 p.m.

The Rules Committee Report and actions of October 20, 2004 were approved.

3 STRATEGIC SUPPORT SERVICES

3.3 Report of the Making Government Work Better Committee – October 21, 2004 Council Member Campos, Chair

- (a) Review of Request for Proposals Issue
 - (1) Review of the City's RFP Process
 - (2) Administrative Procedures and Definitions Related to Conflict of Interest with Consultant Contracts

The Committee accepted the staff report with the request to bring back to the Committee, in January, a follow up report as to the status of the proposed guidelines and that it be added to the workplan.

- (b) Transport Vehicle Audit Follow-up
The Committee accepted the staff report with the request to bring back to the Committee, in November, the final report.

- (c) Discussion of Additional Streamlining Opportunities to the Streamlining Ordinance
Defer to 2005 workplan.

- (d) ESD Laboratory
Defer to January.

- (e) Interim Cell Phone Utilization Oral Report
The Committee accepted the staff report with the request to bring back to the Committee, in November the final report.

- (f) San José Muni Water Systems (Phase I)
The Committee accepted the staff report.

- (g) City Clerk One-Stop Shop and Office Automation Update
The Committee accepted the staff report.

- (h) Call Center – City-wide Customer Service Standards
The Committee accepted the staff report.

- (i) Vehicle and Metered Equipment Update
The Committee accepted the staff report with the direction to bring back to the Committee, in November, the follow-up report.

- (j) Oral Petitions

- (k) Adjournment
The meeting was adjourned at 3:30 p.m.

The Making Government Work Better Committee Report and actions of October 21, 2004 were accepted.

3 STRATEGIC SUPPORT SERVICES

3.4 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 and 10/19/04 – Item 3.7)
Deferred to 11/9/04.

3.5 Follow-up Reports on Council Policy 0-28, which sets forth procedures regarding censure.

Recommendation:

- (a) Receive report from City Attorney on questions outlined in the Mayor's memorandum, dated 10/15/2004.
- (b) Receive report from the Blue Ribbon Task Force on its review of Council Policy 0-28. (City Attorney's Office)
(Referred from 10/19/04 – Item 3.5)

Council approved Mayor Gonzales' memorandum, dated November 2, 2004:

- (1) recommending the City Council table the discussion until the Blue Ribbon Task Force on Ethics completes its review of the Council Policy ;
- (2) informing Council that he plans to launch an investigation into any and all allegations against Council Member Gregory by taking to the Rules Committee on November 3, 2004 a request to place on the November 9, 2004 agenda, an appropriation action for the retention of an independent investigator.

3.6 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, 10/19/04 and 10/26/04 – Item 3.4)
Deferred to 11/9/04.

3 STRATEGIC SUPPORT SERVICES

3.7 Approval of a Memorandum of Agreement with the Association of Building, Mechanical and Electrical Inspectors (ABMEI).

Recommendation: Adoption of a resolution approving the terms of a Memorandum of Agreement with the Association of Building, Mechanical and Electrical Inspectors, and authorizing the City Manager to execute the agreement with a term of October 26, 2004, through October 19, 2007. (City Manager's Office)
(Rules Committee referral 10/27/04)

Resolution No. 72377 adopted.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee – October 18, 2004 Council Member Chavez, Chair

(a) School/City Agreements as Nexus to the Parkland Dedication Ordinance and Park Impact Ordinance

The Committee deferred action on this report and requested staff to return on November 15 with the direction to provide updates on:

- **Report out of Mayor's meeting**
 - approach
 - elements
- **Framework for going back to Council**
- **One year extension – on any agreement**
- **HUB concept – focus on newly closed facility**
- **School closure and strategy**
- **Recreational facility on hold**

(b) Strong Neighborhoods Initiative Partnerships with Higher Education

The Committee accepted the report with the direction to be included in the next workplan schedule report back

- **Solid steps taken with outside partners**
- **Quantify what is done**
- **Provide goals**

(c) Strong Neighborhoods Initiative Business Plan Discussion
Deferred to November 15, 2004

(d) Oral Petitions
There were none.

(e) Adjournment
The meeting was adjourned at 3:23 p.m.

The Building Strong Neighborhoods Committee Report and actions were accepted.

4 ECONOMIC & NEIGHORHOOD DEVELOPMENT

- 4.2 **Report of the Driving a Strong Economy Committee**
Council Member Williams, Chair
None.

5 RECREATION & CULTURAL SERVICES

- 5.1 **Report of the All Children Achieve Committee**
Council Member Yeager, Chair
None.

6 TRANSPORTATION SERVICES

- 6.1 **Report of the Building Better Transportation Committee**
Council Member Cortese, Chair
None.

7 ENVIRONMENTAL & UTILITY SERVICES

8 AVIATION SERVICES

- 8.1 **Approval to award a contract for the Airport's Terminal C, Apron Lighting System Project.**

Recommendation:

- (a) Report on bids and award of contract for the Norman Y. Mineta San José International Airport, Terminal C Apron Lighting System Project to the low bidder, Royal Electric Company, for the base bid and Add Alternate Nos. 1, 2, 3 and 4, in the amount of \$846,400, and approval of a contingency in the amount of \$126,960.

Approved.

- (b) Adoption of the following appropriation ordinance amendments in the Airport Renewal and Replacement Fund:

(1) Increase the Terminal C Apron Lighting appropriation by \$472,000.

(2) Decrease the Ending Fund Balance by \$472,000.

CEQA: Resolution Nos. 67380 and 71451, PP 04-07-216. (Public Works/Airport/City Manager's Office)

Resolution No. 27275 adopted.

Staff encouraged to seek additional Airport Improvement Program (AIP) grant funding in an effort to cover all the costs associated with the project.

8 AVIATION SERVICES

8.2 Approval to award a contract for the Airport's On-Call Construction Contract.

Recommendation: Report on bids and award of contract for the Norman Y. Mineta San José International Airport - On-Call Construction Contract to the lowest responsive bidder, Granite Rock Co. DBA Pavex Construction Division, in an amount not to exceed \$1,400,000, for a period of two years from the date of award or until expenditures under the contract reach \$1,400,000, whichever occurs first. CEQA: Resolutions Nos. 67380 and 71451, PP04-03-087. (Public Works/Airport)
(Deferred from 10/26/04 – Item 8.1)

Approved.

9 PUBLIC SAFETY SERVICES

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

- Closed Session Report

None.

- 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:

None.

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

Ross Signorino provided suggestion about the Council agenda process and commented about voter turnout.

- Adjournment

The Council of the City of San José adjourned in memory of Desmond Casey and Jeffery Fontana, two former police officers who lost their lives while representing the San José Police Department at 2:33 p.m.