



CITY COUNCIL AGENDA

NOVEMBER 12, 2002

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
GEORGE SHIRAKAWA, JR.
DAVID D. CORTESE
JOHN DIQUISTO
PAT DANDO

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.ci.san-jose.ca.us/cty_clk/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**
9:30 a.m. - Closed Session, Room 600, City Hall
Absent - Council Members: LeZotte (excused)

1:35 p.m. - Regular Session, Council Chambers, City Hall
Absent - Council Members: LeZotte (excused)
- **Invocation (District 10)**
The Allen School Chorus, comprised of 4th and 5th graders, presented a Holiday Medley consisting of *Jingle Bell Rock* and a song entitled *Now*, under the direction of Director Dawn Mauer.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**
Approved.

1 CEREMONIAL ITEMS

- 1.1 Proclamation declaring the week of November 17-23, 2002, as National Hunger and Homelessness Awareness Week. (Mayor)
Council received testimony from Regina Salazar, Scott Wagers, Adrienne Lawton, and Wendy Wunsch, all representing C.H.A.M. Mayor Gonzales stated next week's agenda will carry recommendations for grants from the Mayor's Homeless Families and Children's Initiative Fund totaling \$300,000. Mayor Gonzales presented a proclamation declaring the week of November 17-23, 2002 as National Hunger and Homelessness Awareness Week to the Director of Housing Leslye Corsiglia, who thanked the City's partners and service providers, the advocates who work with the City, and City Staff for their commitment to the needs of homeless families.

1 CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to the members of the Revolving Loan Fund Administration Board for their service and commitment to the economic vitality of the City of San José. (Cortese)
(Rules Committee referral 11/6/02)
Council Member Cortese joined Mayor Gonzales at the podium and was joined by Economic Development Director Paul Krutko for the presentation of a commendation to members of the Revolving Loan Fund Administration Board: Joe Wilson, Steve Grork, David Herrera, Jr., Balbir Dhillon, and retired Board Member Allan (Bob) Saxe, in recognition of their commitment to community service and to residents of the City of San José.
- 1.3 Presentation of a commendation to Allan (Bob) Saxe for his years of service and dedication to the City of San José and the County of Santa Clara. (Cortese)
(Rules Committee referral 11/6/02)
Mayor Gonzales was joined by Council Member Cortese for presentation of a commendation to Allan (Bob) Saxe for his years of service to the City of San José and the County of Santa Clara, serving on numerous boards and commissions and acknowledged his tremendous contribution to the community.
- 1.4 Presentation of gifts to the City of San José by Council Member Nora Campos on behalf of the delegates and representatives she met during her Sister Cities visit to Okayama and Tainan. (Campos)
(Rules Committee referral 11/6/02)
Joining Mayor Gonzales at the podium, Council Member Campos invited to the podium representatives of San José's Sister Cities of Okayama, Japan and Tainan, Taiwan, which she visited. Delegation members included May Wong Novak, Vice President, San José-Okayama Sister City Committee, Peter Hu, Vice-President, San José Tainan Sister City Committee, Maurice Hsueh, San José-Tainan Sister City Committee, Sui Hwu, San José - Tainan Sister City Committee, Rudy Navarro, City of San José employee, and Rosa Campos, retired teacher. May Novak presented gifts from the City of Okayama and Peter Hu presented gifts from the City of Tainan; Mayor Gonzales accepted the gifts on behalf of the City of San José.
- 1.5 Presentation of awards for the Library's 2002 Teen Read Week Art Contest. (Library)
(Rules Committee referral 11/6/02)
Mayor Gonzales was joined by City Librarian Jane Light for presentation of awards to the following winners in the Library's 2002 Teen Read Week Art Contest: From the Middle School Division – *First Place*: Hien Khanh Huynh, 7th grade, District 6; *Second Place*: Rebecca Spitzer, 8th grade, District 9; *Third Place*: Phil Opamuratawongse, 6th grade, District 1; and *Honorable Mention*: Luis Flores, 8th grade, District 4. From the High School Division – *First Place*: Nancy Thai, 11th grade, District 8; *Second Place*: Nick Lee, 11th grade, District 10; *Third Place*: Lan Jun Wang, 12th grade, Sunnyvale; *Honorable Mentions*: Christine Spitzer, 10th grade, District 9 and Michael A. Amato, 12th grade, District 6. Librarian Light commended the honorees for their creativity in presenting original art illustrating their favorite book and being selected out of 160 entries for awards.

2 CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of City Council Minutes for:

- (a) Regular meeting of May 7, 2002
- (b) General Plan Hearing of May 7, 2002
- (c) Joint City Council/Redevelopment Agency Board meeting of May 7, 2002

Approved.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 26767 - Amends Chapter 17.23 of Title 17 of the San José Municipal Code to: (1) add new Sections 17.23.125, 17.23.126, 17.23.155, and 17.23.161, adding new defined terms; (2) rennumbers Section 17.23.031 of the ordinance to Section 17.23.600 and makes minor changes to assure consistency of terms in that Section; (3) adds Part 6 to the Chapter which will regulate evictions from units covered by the limitations on rent increases in this Chapter by requiring landlords to offer arbitration of the date of lease termination to tenants after giving such tenants certain notices of less than ninety or one hundred twenty days, when such notices would not otherwise be subject to notices to vacate of three days or less under state law; (4) creates a required arbitration procedure for those evictions in which a landlord gives a tenant a notice of less than ninety or one hundred twenty days, which procedure will allow an arbitrator to set a termination date of the lease of between sixty and one hundred twenty days based on an evaluation of the hardships to landlord and tenant; and (5) creates a required mediation for certain rental units first built after the effective date of this Chapter.

Ordinance No. 26767 adopted.

2.3 Approval of an ordinance increasing settlement authority in workers' compensation cases.

Recommendation: Approval of an ordinance amending Section 4.24.015 of Chapter 4.24 of Title 4 of the San José Municipal Code to grant \$100,000 settlement authority in workers' compensation cases to the City Attorney. (City Attorney's Office)

Ordinance No. 26770 passed for publication.

2.4 Approval of an appropriation for the Library Department.

Recommendation: Adoption of appropriation ordinance and funding sources resolution amendments in the General Fund increasing the Library Grants appropriation for the Library Department by \$265,070. CEQA: Not a Project. (City Manager's Office)

Ordinance No. 26771 adopted.

Resolution No. 71289 adopted.

2 CONSENT CALENDAR

2.5 Approval of actions related to the City of San José Revolving Loan Fund.

Recommendation: Adoption of a resolution certifying that:

- (a) The City of San José's Revolving Loan Fund (RLF) Plan is consistent with, and supportive of the area's current economic adjustment strategy, and
- (b) The RLF is being operated in accordance with the policies and procedures contained in the RLF plan, and the loan portfolio meets the standards contained therein, except as noted in the report.

CEQA: Not a Project. (Economic Development)

Resolution No. 71290 adopted.

2.6 Approval of an agreement to the Foreign Trade Zone Agreement.

Recommendation: Approval of a continuation to the Foreign Trade Zone Agreement with San José Distribution Services, extending the term to February 18, 2004, and amending the fee schedule. CEQA: Not a Project. (Economic Development)

Approved.

2.7 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 2002-2003 12, and authorization for the Director of General Services to execute the purchase orders. CEQA: Not a Project. (General Services)

Approved.

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 2002-2003 13, and authorization for the Director of General Services to execute the purchase orders. CEQA: Resolution No. 67380, PP02-09-254. (General Services)

Approved.

2.9 Approval of an agreement for the Rincon Storm System Improvements Phase II Project.

Recommendation: Approval of a Pacific Gas and Electric Service and Extension agreement for the Rincon Storm System Improvements Phase II Project, in the amount of \$141,733.27. CEQA: Resolution No. 60197, PP00-10-149. Council District 4. (Public Works)

Approved.

2 CONSENT CALENDAR

2.10 Approval of Events at the HP Pavilion at San José.

Recommendation: Approval of one proposed City Event, as provided in the San José Management Agreement, for use of the HP Pavilion on November 13, 2002, for San José Sports Hall of Fame Induction Ceremony and one proposed Community Event on November 18, 2002, for a Recognition Banquet. CEQA: Not a Project. (San José Arena Authority)

Approved.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

No report.

3.2 Report of the Rules Committee – October 30, 2002

Vice Mayor Shirakawa, Jr., Chair

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

(b) City Council

(1) Review November 12, 2002 Draft Agenda

The Committee recommended approval of the November 12, 2002 Council agenda.

(2) Add New Items to November 5, 2002 Amended Agenda

The Committee recommended one addition to the November 5, 2002 agenda.

(c) City Council Committees

(1) Amendments to Council Committee Agendas

(a) Finance and Infrastructure Committee
None filed.

(b) Economic Development and Environment Committee

At the request of Member Forrest Williams, the Committee recommended an addition to the December 2, 2002 EDE Committee meeting entitled, “Report back on signs in residential areas.”

(c) Education, Neighborhoods, Youth, and Seniors Committee

None filed.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – October 30, 2002 (Cont'd.)

Vice Mayor Shirakawa, Jr., Chair

- (d) Meeting Schedules
There were none.
- (e) The Public Record
The Committee noted and filed the Public Record.
- (f) Boards, Commissions and Committees
There were none.
- (g) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee
There were none.
- (h) Administrative Reviews and Approval
- (1) Report back on request to reconsider Item 8.1 from the October 8, 2002 Council agenda, “*Approval of an agreement for airport parking facilities management*”
The Committee accepted City Attorney Doyle’s memorandum, with direction to Staff as follows:
- **Ensure that Ampco and City Staff understand the concerns expressed today by the Rules Committee.**
 - **Obtain a written commitment from Ampco that they will honor the Collective Bargaining Agreement (CBA) that expired 9/30/02 until they complete their own negotiations and a new CBA is in place.**
 - **Request that Ampco provide its retention policy for parking employees at the Airport.**
- (i) Oral communications
Peter Campbell, a resident of District 1, commented on expansion of The Hayes Mansion Conference Center.
- (j) Adjournment
The meeting adjourned at 2:30 p.m.

Rules Committee report and actions of October 30, 2002, accepted.

3.3 Report of the Finance and Infrastructure Committee

Council Member Dando, Chair

No report.

3 STRATEGIC SUPPORT SERVICES

3.4 Adoption of a resolution amending the Fiscal Policy E.1. in the Capital Improvement Program.

Recommendation: Adoption of a resolution amending the Fiscal Policy E.1. in the Capital Improvement Program to the following: “The amount set aside for contingencies shall correspond with public agency or industry standards, or a percentage of the total contract amount as otherwise determined by the City Council.” (Public Works)
(Deferred from 11/5/02 – Item 3.4)

Deferred to 12/3/02.

3.5 Approval of Mayor Ron Gonzales’ travel.

Recommendation: Approval of Mayor Ron Gonzales’ travel to:

- (a) Phoenix, Arizona, on October 17-18, 2002, for a City-to-City Leadership Visit.
- (b) Colorado Springs, Colorado, on November 1-3, 2002, for BASOC – SF 2012 Delegation.

Funding: Mayor’s Office. CEQA: Not a Project. (Mayor)
(Rules Committee referral 11/6/02)

Approved.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Economic Development & Environment Committee Council Member Williams, Chair

No report.

4.2 Approval of various actions related to Miranda Villa Apartments, Le Mirador Apartments, the Sienna Apartments, and the Verandas Apartments.

Recommendation: Adoption of a resolution:

- (a) Approving conditional grants up to \$3,200,000 of Supplemental Redevelopment Agency Extremely Low Income (ELI) funding to JSM Enterprises, or its designated partnership, to allow a reduction in rent for the Miranda Villa Apartments located at 2094 Forest Avenue, the Le Mirador Apartments located at 1191 Coleman Road, the Sienna Apartments located at 1496 Almaden Road, and the Verandas Apartments located at 1868 N. Capitol Avenue, and;
- (b) Amending existing business terms for the repayment of the loans to allow the projects to maintain financial stability, and extension of the term of the affordability restrictions.

CEQA: Not a Project. Council Districts 4, 6, 7, and 10. (Housing)

Resolution No. 71291 adopted.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.3 Public Hearing on conforming rezoning at Aiello Drive and Lewis Road.

Recommendation: PUBLIC HEARING ON CONFORMING REZONING of the property located at the west side of Aiello Drive, approximately 350 feet northerly of Lewis Road, from IP Industrial Park Zoning District to LI Light Industrial Zoning District, to allow industrial uses on 0.49 gross acre. (Robert & Sharon Bothman, Owner). CEQA: General Plan 2020 Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required
C 02-074 - District 7

(Continued from 11/5/02 – Item 11.8)

Ordinance No. 26772 passed for publication.

4.4 Approval of various actions related to the establishment of Community Facilities District No. 9 (Bailey/Highway 101).

Recommendation:

(a) Approval to undertake the proceedings necessary to establish Community Facilities District No. 9 (Bailey/Highway 101) by taking the following actions:

(1) Adoption of a resolution of intention to establish Community Facilities District No. 9 (Bailey/Highway101), and setting a public hearing on December 17, 2002 at 1:30 p.m., regarding formation of the District.

Resolution No. 71292 adopted.

(2) Adoption of a resolution:

(a) Of intention to incur bonded indebtedness for Community Facilities District No. 9 (Bailey/Highway 101); and

(b) To authorize the City Attorney to negotiate and execute an amendment to an agreement with Jones Hall in an amount not to exceed \$135,000, for bond counsel and disclosure counsel services.

Resolution No. 71293 adopted.

(3) Adoption of a resolution authorizing the City Manager to negotiate and execute any amendments to existing agreements regarding implementation of the Bailey Extension Project and any new agreements, as may be appropriate and necessary to implement the proposal set forth in the memorandum, provided that any such amendments and new agreements shall be consistent with such proposal.

CEQA: Resolution No. 68705. Council District 2. SNI: 13th Street, Five Wounds/Tully/Senter. (City Manager's Office)

Resolution No. 71294 adopted.

(Item continued on next page)

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.4 Approval of various actions related to the establishment of Community Facilities District No. 9 (Bailey/Highway 101). (Cont'd.)

Recommendation:

- (b) (1) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Construction Excise Tax Fund:
 - (a) Decrease the Bailey Avenue Improvements Project by \$44,966,000.
 - (b) Decrease the estimate for Earned Revenue by \$44,966,000.

- (2) Adoption of the following appropriation ordinance amendments in the Building and Structure Construction Tax Fund:
 - (a) Establish an appropriation to the Department of Transportation for the VTA: Bailey/101 Improvements Project in the amount of \$4,050,000.
 - (b) Establish a Reserve for the VTA: Bailey/101 Improvements Project in the amount of \$950,000.
 - (c) Decrease the Oakland Road: Route 101 to Hedding Project by \$202,000.
 - (d) Decrease the Story Road: Senter to McLaughlin Project by \$600,000.
 - (e) Decrease the Ending Fund Balance by \$4,198,000.

CEQA: Resolution No. 68705. Council District 2. SNI: 13th Street, Five Wounds/Tully/Senter. (City Manager's Office)

(Rules Committee referral 11/6/02)

Ordinance No. 26774 adopted.

Council accepted the following revision to the Staff report dated November 7, 2002: The Oakland Road project will not be delayed and the \$220,000 identified for this project would come from the ending fund balance in the Capital Improvement Fund.

Council directed Staff to (1) provide adequate time for notification of project changes or delays which impact Council Districts or SNI areas to enable the neighborhoods to be informed and kept apprised of the latest proposals affecting their areas; and (2) to ensure that the \$200,000 funding for pre-development funds in the 2003-04 Capital Improvement Budget be set aside for the pedestrian bridge over Almaden Expressway.

5 RECREATION & CULTURAL SERVICES

- 5.1 Report of the Education, Neighborhoods, Youth, and Seniors Committee
Council Member Chavez, Chair**
No report.

6 TRANSPORTATION SERVICES

7 ENVIRONMENTAL & UTILITY SERVICES

8 AVIATION SERVICES

- 8.1 Approval of an agreement related to the City's expanded Acoustical Treatment (ACT) Program.**

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

- (a) Negotiate and execute an agreement with Corlett, Skaer and DeVoto Architects Inc. (CSDA) for consultant services related to the acoustical treatment of 500 homes as part of the City's expanded Acoustical Treatment (ACT) Program, for the period November 18, 2002 to December 31, 2005, in an amount not to exceed \$4,015,481; and
- (b) Exercise an option to add consultant services for the acoustical treatment of up to 400 additional homes in the expanded ACT Program area, in an additional amount not to exceed \$3,314,585, and subject to appropriation of funding for the additional consultant services.

CEQA: Resolution No. 67380, PP 02-11-317. Council District 3. SNI: Washington.
(Airport)

Resolution No. 71296 adopted.

9 PUBLIC SAFETY SERVICES

10 JOINT COUNCIL/REDEVELOPMENT AGENCY

- **Closed Session Report**

City Attorney Doyle disclosed the following Closed Session actions of November 12, 2002:

A. Authority to Enter Litigation Case as *Amicus Curiae*:

1. Case Name: Barden

Substance of litigation: Action brought against the City of Sacramento alleging that the City was violating the Americans with Disabilities Act by failing to adequately maintain City sidewalks.

Council Vote: Ayes: Campos, Chavez, Cortese, Dando, Diquisto, Shirakawa, Jr., Reed, Yeager, Williams; Gonzales.

Noes: None.

Absent: LeZotte.

Abstain: 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:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9164	S/o Hellyer Avenue	8	William Lyon Homes	60 lots 40 lots	SFDR SFAR (duets)	Approve
9437	SW/c of Camden Ave. and Vista Loop Rd.	9	Mashom Real Estate Investment LLC	5 units	SFDR	Approve
9456	S/s of Foxworthy Avenue at Rubino Drive	9	Summer Hill Homes	83 units	detached townhomes	Approve
9457	348 Cypress Ave – 400 feet south of Stevens Creek Blvd	1	Grayson Hanson	3 units	SFDR	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.**
 - (1) **Brian Karek spoke on zoning and growth issues.**
 - (2) **Ross Signorino spoke on development issues pertaining to Santana Row.**
 - (3) **Rich De La Rosa, from the Tropicana Merchants Association, requested the issues pertaining to the Tropicana Shopping Center be heard in evening sessions.**

- **Adjournment**

The Council of the City of San José adjourned at 3:43 p.m.