

# CITY COUNCIL AGENDA

**SEPTEMBER 17, 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.**

- **Call to Order and Roll Call**  
**9:00 a.m. - Closed Session, Room 600, City Hall**  
**Absent: Council Members – Williams (excused)**  
  
**1:35 p.m. - Regular Session, Council Chambers, City Hall**  
**Absent: Council Members – None.**  
  
**7:05 p.m. - Public Hearings, Council Chambers, City Hall**  
**Absent: Council Members – Cortese (excused)**
- **Invocation (District 8)**  
**Father Martin Rock, Pastor, St. Mary’s Church, Ogden, Utah, delivered the invocation.**
- **Pledge of Allegiance**  
**Mayor Gonzales led in the Pledge of Allegiance.**
- **Orders of the Day**  
**Approved.**

## **1 CEREMONIAL ITEMS**

---

- 1.1 Recognition to the City of San José for first time recipient of the Certification of Excellence in Investment Policy from the Association of Public Treasurers of the United States & Canada (APT). (Finance)**  
**Joining Mayor Gonzales at the Podium, Council Member Dando, as Chair of the Finance and Infrastructure Committee, introduced Director of Finance Scott P. Johnson, Deputy Director of Finance Andrew E. Heath, Treasury Manager Bonnie T. Kobayashi, Analyst Carrie Murphy, and Attorney Karin Murabito, and acknowledged the outstanding achievements of the Finance Department’s success in developing and following a comprehensive investment policy for the City that meets the criteria set forth by the Association’s Investment Policy program. On behalf of the Finance and Infrastructure Committee, she commended the Finance Department as the recipient of the prestigious award, from the United States and Canada Association of Public Treasurers, which certifies their excellence. Scott Johnson accepted the commendation presented by Mayor Gonzales.**

# 1 CEREMONIAL ITEMS

---

- 1.2 Presentation of a commendation to Dave McPherson of the City Auditor's Office for assisting the City in saving 11 million dollars. (Reed)  
**Joining Mayor Gonzales at the Podium were Council Members Dando and Reed who recognized, commended and expressed appreciation to Dave McPherson for his professional accomplishments and deep commitment to help ensure the City of San José continues to provide high quality services to the residences and businesses of the community. Mayor Gonzales presented the commendation to the honoree.**
- 1.3 The City Council joined Council Member Dando in welcoming Cub Scouts from Pack 274, Almaden Valley – Will, Anthony, Nick, Brian, Greg, Justin, Kris, and Greg – and Den Leaders Ron Westerhouser and Jeff Greene, who were asked to stand and be recognized.

# 2 CONSENT CALENDAR

---

- 2.1 Approval of Minutes.  
None.

- 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances:

- (a) ORD. NO. 26709 – Amends Section 23.04.020 of Chapter 23.04 of Title 23 of the San José Municipal Code to include regulations of skyline signs and roof signs within the area bounded by US Highway 101, Interstates 237 and 880, and the Guadalupe River and to make additional minor modifications.  
[Deferred from 9/3/02 – Item 2.2(a)]  
**Deferred to 09/24/02.**

- (b) ORD. NO. 26728 – Rezones certain real property situated on the northeast corner of Cypress Avenue and Adra Avenue (3475 Adra Avenue). PDC 02-039  
**Ordinance No. 26728 adopted.**

- 2.3 Approval of various actions related to the proposed Bailey Avenue/Route 101 Interchange.

**Recommendation:**

- (a) Adoption of a resolution approving the Freeway Maintenance Agreement with the State of California providing for the maintenance of the proposed Bailey Avenue/Route 101 Interchange. CEQA: Resolution No. 68705.  
Council District 2. (Public Works)  
(Deferred from 8/13/02 – Item 2.9 et al., 9/3/02 – Item 2.11)  
**Resolution No. 71208 adopted.**

## 2 CONSENT CALENDAR

---

### 2.3 Approval of various actions related to the proposed Bailey Avenue/Route 101 Interchange. – (Cont'd.)

**Recommendation:**

- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Valley Transportation Authority providing for the project management of the proposed Bailey Avenue/Route 101 Interchange. CEQA: Resolution No. 68705. Council District 2. (Public Works)

**Resolution No. 71209 adopted.**

**Council approved the various actions related to the proposed interchange with direction to Staff to provide Council with information regarding possible impacts anticipated by the modified design of the interchange and extension project.**

### 2.4 Approval of an agreement for consulting services related to security issues at the Airport.

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement with AvAirPros, Inc. for consulting services related to security issues at Norman Y. Mineta San José International Airport, increasing the compensation by \$100,000, from \$50,000 for a total agreement amount not to exceed \$150,000, and extending the term of the agreement to June 30, 2003. CEQA: Not a Project. (Airport)

**Resolution No. 71210 adopted.**

### 2.5 Approval of the City Manager's travel.

**Recommendation:** Approval of City Manager Del Borgsdorf's travel to Philadelphia, Pennsylvania, from September 29 – October 2, 2002, to participate in a panel entitled Rising Expectations, to discuss the reallocation of resources to public safety and strategies to balance other public service needs. CEQA: Not a Project. (City Manager's Office)

**Approved.**

### 2.6 Approval of various 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 Anti-Graffiti Services and Strong Neighborhoods Initiative Program, with a net impact to the fund of \$180,000. CEQA: Not a Project. (City Manager's Office)

**Ordinance No. 26731 adopted.**

**Resolution No. 71211 adopted.**

## 2 CONSENT CALENDAR

---

### 2.7 Approval of the Line of Credit Agreement for the operation of Downtown College Prep Charter School.

**Recommendation:** Approval of the second amendment to the Line of Credit Agreement between the City of San José and Across the Bridge Foundation, Inc. to provide for the third \$150,000 installment of a multi-year no-interest gap financing line of credit, increasing the line of credit amount to \$450,000, for the operation of Downtown College Prep Charter School. CEQA: Not a Project. Council District 3. SNI: University. (City Manager's Office)

**Approved.**

### 2.8 Approval of a grant agreement related to Million Solar Roofs Program activities.

**Recommendation:**

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with the Department of Energy to conduct education, research, and data collection to encourage solar energy installations, to accept a grant in an amount not to exceed \$50,000, for a total program cost not to exceed \$106,200, including the value of in-kind services to be provided by other agencies, for the term retroactive to August 1, 2002 through July 31, 2003. CEQA: Not a Project.

**Resolution No. 71212 adopted.**

- (b) Adoption of the following appropriation ordinance and funding source resolution amendments in the General Fund: CEQA: Not a Project.

- (1) Increase the estimate in the General Fund for Revenue from the Federal Government by \$50,000.
- (2) Increase the Environmental Services Department's Personal Services appropriation by \$34,500.
- (3) Increase the Environmental Services Department's Non-Personal/Equipment appropriation by \$15,500.

(Environmental Services/City Manager's Office)

**Ordinance No. 26732 adopted.**

**Resolution No. 71213 adopted.**

### 2.9 Approval of an agreement related to the Civic Center Project.

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Willis Insurance Services of California, Inc. to provide broker services for an Owner Controlled Insurance Program for the Civic Center Project. (Finance)

**Deferred to 09/24/02.**

## 2 CONSENT CALENDAR

---

### 2.10 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 #6, and authorization for the Director of General Services to execute the purchase orders. CEQA: Not a Project.  
(General Services)

**Approved.**

### 2.11 Approval of Independent Police Auditor's travel.

**Recommendation:** Approval of Independent Police Auditor's, Teresa Guerrero-Daley, travel:

(a) To Mexico City, Mexico, September 29 – October 6, 2002, to attend the "Senior Fellows Seminar on Mexico. Funding: Scholarship from the Mexican and American Solidarity Foundation.

**Approved.**

(b) To Cambridge, Massachusetts, October 30 – November 4, 2002, to attend the National Association of Civilian Oversight of Law Enforcement (NACLOE). Funding: Independent Police Auditor General Funds.

(Independent Police Auditor)

**Approved.**

### 2.12 Approval of an ordinance to establish Parking Meter Districts.

**Recommendation:** Approval of an ordinance amending Chapter 11.40 of Title 11 of the San José Municipal Code to eliminate parking Meter Zones and establish Parking Meter Districts in Downtown and in certain Neighborhood Business Districts. Council District 3. CEQA: Exempt, PP02-08-219. (Transportation)

**Ordinance No. 26733 passed for publication.**

### 2.13 Approval of Council Member Forrest Williams' travel.

**Recommendation:** Approval of Council Member Forrest Williams' travel to Las Vegas, NV, September 21-26, 2002, to attend the American Public Transportation Agency Conference. Funding: Santa Clara Valley Transportation Agency. (Williams)  
(Rules Committee referral 9/11/02)

**Approved.**

## 2 CONSENT CALENDAR

---

### 2.14 Approval of Council Member Ken Yeager's travel.

**Recommendation:** Approval of Council Member Ken Yeager's travel to Washington, D.C., October 2-6, 2002, to attend the Washington Metropolitan Conference on Transit and Livability (Rail-Volution). Funding: Valley Transportation Authority Funds. (Yeager)  
(Rules Committee referral 9/11/02)  
**Approved.**

### 2.15 Approval of an agreement related to a proposed sports fields complex in the Almaden Valley Urban Reserve.

**Recommendation:**

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Almaden Youth Association to engage qualified consultants to prepare and provide preliminary planning reports related to a proposed sports fields complex in the Almaden Valley Urban Reserve, in an amount not to exceed \$50,000.
- (b) Adoption of the following appropriation ordinance amendments in the Council District 10 Construction and Conveyance Tax Fund:
  - (1) Establish an Almaden Winery Center Conversion Project for \$515,000.
  - (2) Decrease the Reserve: Park Acquisition and Development Project by \$515,000.
- (c) Adoption of the following appropriation ordinance amendments in the General Fund:
  - (1) Establish a McKean Road Sports Complex Project for \$550,000.
  - (2) Decrease the Almaden Winery Center Conversion Project by \$515,000.
  - (3) Decrease the General Fund Contingency Reserve by \$35,000.

Council District 10. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/Budget Office)

(Deferred from 9/10/02 – Item 2.5)

**Deferred to 09/24/02.**

**END OF CONSENT CALENDAR**

## 3 STRATEGIC SUPPORT SERVICES

---

### 3.1 Report of the Study Session Mayor Gonzales, Chair No Report.

### 3 STRATEGIC SUPPORT SERVICES

---

#### 3.2 Report of the Rules Committee – Meeting of September 4, 2002

Vice Mayor Shirakawa, Jr., Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting  
**The Redevelopment Agency items to be reported out at Redevelopment Agency Board meeting.**
  
- (b) City Council
  - (1) Review September 17, 2002 Draft Agenda  
**The Committee recommended approval of the September 17, 2002 Council Agenda with one addition.**
  
  - (2) Add New Items to September 10, 2002 Amended Agenda  
**The Committee recommended two additions to the September 10, 2002 Council Agenda.**
  
- (c) City Council Committees
  - (1) Amendments to Council Committee Agendas
    - (a) Finance and Infrastructure Committee
    - (b) Economic Development and Environment Committee
    - (c) Education, Neighborhoods, Youth, and Seniors Committee**None Filed.**
  
- (d) Meeting Schedules  
**None Presented.**
  
- (e) The Public Record  
**None Filed.**
  
- (f) Boards, Commissions and Committees  
**None Presented.**
  
- (g) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee  
**None Presented.**
  
- (h) Administrative Reviews and Approval
  - (1) Workload assessment to modify the Municipal Code in regard to posting notice of tree removal  
[06/12/02 Rules Committee Report, Item 3.2(g)(l)  
(Deferred from 08.28.02)  
**The Committee directed the Administration to add the following item to the September 9, 2002 Economic Development & Environment Committee Agenda: “Proposed amendment to the Municipal Code to direct the City Arborist’s Office to notify adjacent property owners on both sides of the street for a distance of 150 feet of a street tree proposed for removal.”**

### **3 TRATEGIC SUPPORT SERVICES**

---

#### **3.3 Report of the Rules Committee – Meeting of September 4, 2002 – (Cont’d.)**

**Vice Mayor Shirakawa, Jr., Chair**

- (h) Administrative Reviews and Approval
  - (2) Request from Council Member Campos to use Council General funds to attend the League of California Cities Annual Conference October 2-5, 2002, Long Beach, CA  
**The Committee approved Council Member Campos’ request to use Council General funds to attend the League of California Cities’ Annual Conference, October 2-5, 2002, in Long Beach, California.**
- (i) Oral Communications  
**None Presented.**
- (j) Adjournment  
**The meeting was adjourned at 2:15 p.m.**

**The Rules Committee Report and actions of September 4, 2002 accepted.**

#### **Report of the Rules Committee –Meeting of September 11, 2002 – (Partial)**

**Vice Mayor Shirakawa, Jr., Chair**

- (d) Meeting Schedules  
**The Committee recommended approval of a Redevelopment Agency Study Session on Downtown Retail on September 23, 2002, 1:30-5:00 p.m., in Council Chambers at City Hall.**

**The Partial Rules Committee Report and actions of September 11, 2002 accepted.**

#### **3.4 Report of the Finance and Infrastructure Committee**

**Council Member Dando, Chair**

**No Report.**

### **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

---

#### **4.1 Report of the Economic Development & Environment Committee**

**Council Member Williams, Chair**

**No Report.**

## 4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

---

### 4.2 Approval of a report on Group Home and Reasonable Accommodations.

**Recommendation:** Approval of Report on reasonable accommodation with recommendation to take the following actions:

- (a) Direct that the reasonable accommodation process continue to consider the business aspects of proposed uses on a case-by-case basis focusing on the impacts of those aspects in the zoning district.
- (b) Direct that the reasonable accommodation process continue to consider the appropriate number of residents for each proposed use on a case-by-case basis.
- (c) Direct the Administration to discuss with Santa Clara County the possibility of setting minimum operational standards, which may include limiting the number of residents at facilities and obtain City input on facilities under contract with the County or subject to County certification.
- (d) Direct the City Attorney and the Administration to draft amendments to the Zoning Code to make the changes in procedure as follows:
  - (1) Eliminate an initial notice that has not undergone any analysis
  - (2) Refine what must be included in the application.
  - (3) Expand the noticing requirement to 300 feet, with direction to go to a greater noticing radius (500 or 1000 feet) to ensure that a sufficient number of adjacent property owners receive notice.
  - (4) Request a meeting with staff to go over the application and request a meeting for neighbors to attend.
  - (5) Issue the proposed decision stating that there will be an informal conference on site with staff and interested neighbors to discuss what is going on.
  - (6) At the Director's hearing the focus should summarize the issues discussed and resolved.
  - (7) Director's decision becomes effective 15 days after issuance if there is no appeal filed.
  - (8) If on Appeal to the Planning Commission, the Planning Commission cannot come to a decision, then the Director's decision stands.
- (e) Direct the Administration to thoroughly keep records of the location of all residential facilities by licensing, certification, type, number of residents, date of establishment, zoning district, Council district; and to amend the reasonable accommodation guidelines to consider other residential care and service facilities and other reasonable accommodations granted within 300 feet of a proposed facility.
- (f) Direct the City Manager to appoint a central person or system as a clearinghouse of all complaints to determine whether or not they have been resolved.

[Economic Development and Environment Committee 6/3/02 – Item 4.1(a)]

(Deferred from 6/18/02 – Item 4.2 et al., and 8/20/02 – Item 4.2)

**Deferred to 10/01/02 – To Be Heard in the Evening.**

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

---

### **4.3 Public Hearing on an ordinance amending the parcel map process.**

**Recommendation:** PUBLIC HEARING AND APPROVAL OF AN ORDINANCE amending Title 19 of the San José Municipal Code to modify the current Parcel Map process by eliminating the Tentative Map requirement for most parcel maps. CEQA: Exempt, PP02-07-204. (Planning, Building and Code Enforcement)  
Citywide

(Continued from 8/20/02 – Item 4.4)

**Ordinance No. 26734 passed for publication.**

### **4.4 Public hearing on petition for tentative partial cancellation of land conservation contract.**

**Recommendation:** PUBLIC HEARING ON PETITION FOR TENTATIVE PARTIAL CANCELLATION OF LAND CONSERVATION CONTRACT (Williamson Act), for property consisting of 3.5 acres located on the northeast corner of Fleming Avenue and Warner Drive (Rolando Loera, Owner). CEQA: Negative Declaration. Director of Planning, Building, and Code Enforcement recommends approval. No Planning Commission action required.

Contract No. 71-234 - District 5

(Continued from 8/20/02 – Item 11.3 and 8/27/02 – Item 4.3)

**Deferred to 10/15/02.**

### **4.5 Public Hearing and adoption of a resolution vacating a portion of a public service easement.**

**Recommendation:** PUBLIC HEARING and adoption of a resolution vacating a portion of a public service easement lying within Lot 6 of Tract No. 9380 on the easterly side of Sunol Street, northerly of Park Avenue. CEQA: Negative Declaration, PDC00-11-116. Council District 6. SNI: Burbank/Del Monte. (Public Works)

**Resolution No. 71214 adopted.**

## **5 RECREATION & CULTURAL SERVICES**

---

### **5.1 Report of the Education, Neighborhoods, Youth, and Seniors Committee Council Member Chavez, Chair**

**No Report.**

## 6 TRANSPORTATION SERVICES

---

### 6.1 Approval of a report from the San José Taxicab Advisory Team.

**Recommendation:** Approval of the report from the San José Taxicab Advisory Team (“Team”) and:

- (a) Direction to the City Manager and San José Redevelopment Agency Director to work with the Team to identify the funding needed to support the marketing and customer evaluation components of their recommendations;
- (b) Direction to the Chief of Police to approve the proposed pilot temporarily suspending the issuance of permits to additional taxicab companies not licensed as of July 1, 2002; and,
- (c) Amend the Taxicab Rate, Fares and Tariffs Resolution to increase the current per mile rate of \$2.25 per mile (.25 per 1/9 mile) to \$2.50 (.25 per 1/10), amending the flag drop from \$2.00 (including 1/9 mile) to \$2.00 per 1/10 mile), and maintain the same wait time calculation of \$.20/36 seconds (\$20 hour).

(City Manager’s Office/San José Taxicab Advisory Team)

(Deferred from 6/18/02 – Item 6.4 et al., and 8/27/02 – Item 6.1)

**Deferred to 10/15/02.**

## 7 ENVIRONMENTAL & UTILITY SERVICES

---

## 8 AVIATION SERVICES

---

### 8.1 Approval of various agreements related to the 12R/30L Reconstruction and Extension Projects for the Airport.

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

- (a) Negotiate and execute a reimbursable agreement with the Federal Aviation Administration (FAA) for design and inspection services for navigational and visual aids for the Norman Y. Mineta San José International Airport 12R/30L Reconstruction and Extension Projects, for a period not to exceed three years, from the date of execution by the FAA, in an amount to be paid by the City not to exceed \$930,029.
- (b) Negotiate and execute an Equipment Transfer Agreement with the FAA for the transfer of ownership to the FAA of navigational and visual aid equipment purchased by the City in an amount of \$600,000, for the Norman Y. Mineta San José International Airport 12R/30L Reconstruction and Extension Projects, at no cost to the FAA.
- (c) Negotiate and execute a lease with the FAA for the navigational and visual aids for the Norman Y. Mineta San José International Airport 12R/30L Reconstruction and Extension Projects, for a year-to-year term not to exceed twenty years, at no cost to the FAA.

CEQA: Resolution No. 67380, PP 02-08-229. (Airport)

**Resolution No. 71215 adopted.**

## **9 PUBLIC SAFETY SERVICES**

---

### **9.1 Approval of various actions related to the California Fire Code.**

**Recommendation:** Approval of an ordinance amending Chapter 17.12 of the San José Municipal Code to adopt the 2001 California Fire Code with local amendments:

- (a) To continue existing administrative provisions and local requirements related to fire prevention permitting, site access, storage, handling, and use of hazardous materials;
- (b) To adopt new standards for access control devices;
- (c) To adopt standards for Class I standpipe hose connection locations;
- (d) To adopt additional safeguards for battery rooms;
- (e) To adopt more restrictive requirements relating to Class I and Class II aboveground liquid storage tank;
- (f) To adopt more restrictive requirements for fire protection systems at work stations and exhaust ducts.

CEQA: Exempt, PP02-09-244. (Fire)

(Rules Committee referral 9/11/02)

**Ordinance No. 26735 passed for publication.**

## **10 JOINT COUNCIL/REDEVELOPMENT AGENCY**

---

**REDEVELOPMENT AGENCY BOARD CONVENED AT 2:00 P.M. TO CONSIDER ITEM 10.1 IN A JOINT SESSION**

### **10.1 Approval of a settlement agreement among the Redevelopment Agency, the City, the Tech Museum of Innovation, and JB & DB, INC. dba Café Primavera at the Tech.**

**Recommendation:** Approval of a settlement agreement among the Redevelopment Agency, the City, the Tech Museum of Innovation, and JB & DB, INC. dba Café Primavera at the Tech, to compensate the Museum and the Cafe in a combined amount of \$313,604, for lost revenue caused by the closure of the building due to the Redevelopment Agency's reconstruction of the acoustic ceiling. CEQA: Not a Project.

(City Attorney's Office/General Counsel)

(Rules Committee referral 9/11/02)

**Approved.**

**REDEVELOPMENT AGENCY BOARD ADJOURNED AT 2:01 P.M.**

- **Closed Session Report**

**Disclosure of Closed Session Action of September 17, 2002 Submitted by  
City Attorney, J. Richard Doyle:**

**A. Authority to File An Appeal in Litigation:**

**Case Name: Gonzales v. City of San José, et al.**

**Adverse Party or Parties: Gonzales, Huang, and Quin**

**Substance of Litigation: Trip-and-fall case where an individual is seeking damages against the City of San José. Summary Judgment granted to Huang and Quin.**

**Council Vote:**

<b>Ayes:</b>	<b>Campos, Chavez, Cortesé, Dando, Diquisto, LeZotte, Reed, Shirakawa, Jr., Yeager; Gonzales.</b>
<b>Noes:</b>	<b>None.</b>
<b>Absent:</b>	<b>Williams</b>
<b>Disqualified:</b>	<b>None.</b>

**B. Authority to Initiate Litigation Case As *Amicus Curiae*:**

**Case Name: Teter v. City of Newport Beach**

**Adverse Party or Parties: Teter**

**Substance of Litigation: Action seeking damages by an individual against the City of Newport Beach who was injured while in a detoxification facility. The person was injured by a third party.**

**Council Vote:**

<b>Ayes:</b>	<b>Campos, Chavez, Cortesé, Dando, Diquisto, LeZotte, Reed, Shirakawa, Jr., Yeager; Gonzales.</b>
<b>Noes:</b>	<b>None.</b>
<b>Absent:</b>	<b>Williams</b>
<b>Disqualified:</b>	<b>None.</b>

- **Closed Session Report – (Cont’d.)**

- C. **Authority to Initiate Litigation Case As *Amicus Curiae*:**

Case Name: Eastburn v. Regional Fire Protection Agency

Adverse Party or Parties: Eastburn

**Substance of Litigation:** This is an action by an individual who was injured in a home accident and seeks damages against a Fire Protection Authority that provided 911-dispatch service.

**Council Vote:**

**Ayes:** Campos, Chavez, Cortesé, Dando, Diquisto, LeZotte, Reed, Shirakawa, Jr., Yeager; Gonzales.

**Noes:** None.

**Absent:** Williams

**Disqualified:** 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:

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>
9390	NE corner of Park Ave & Naglee Ave	6	Classic Communities Inc	26 SFR	13 SFD, 13 SFA	Approve
9336	NW corner of Aborn Rd & Murillo Ave	8	Summerhill Homes	72 SFR	72 SFD	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.**

**The Council of the City of San José recessed at 2:05 p.m. and reconvened at 7:05 p.m., Council Chambers, City Hall.**

# 11 PUBLIC HEARINGS

---

## 11.1 Public Hearing on a street renaming.

**Recommendation:** PUBLIC HEARING ON STREET RENAMING of a proposed frontage road running parallel to the east of State Highway 87, between the northerly line of West Hedding Street and southerly line of Coleman Avenue to Guadalupe Road. CEQA: Exempt. Historical Landmarks Commission and Director of Planning, Building and Code Enforcement recommend renaming to El Pueblo Viejo. Planning Commission recommends renaming to Guadalupe Parkway Frontage Road (7-0-0).

District 3

(Continued from 12/4/01 – Item 11.1 et al., and 9/3/02 – Item 11.1)

**Continued to 10/01/02.**

## 11.2 Public Hearing on approval of an ordinance amending a development agreement with Palm Corporation.

**Recommendation:** PUBLIC HEARING ON APPROVAL OF AN ORDINANCE AMENDING A DEVELOPMENT AGREEMENT WITH PALM CORPORATION for property located at the south side of State Route 237, between Zanker Road and North First Street, on 72.16 gross acres in the IP-Industrial Park Zoning District, to allow implementation of the Development Agreement by a time extension for development to construct and occupy at least 200,000 square feet by June 1, 2006 and to similarly construct and occupy an additional 300,000 square feet by December 31, 2008 (Palm, Inc., Owner/Developer). CEQA: Resolution No. 67510. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1-1)

DA-3COM – District 4

(Continued from 8/20/02 – Item 11.2)

**Ordinance No. 26736 passed for publication.**

## 11.3 Public Hearing on conforming rezoning at East Taylor Street and 23<sup>rd</sup> Street.

**Recommendation:** PUBLIC HEARING ON CONFORMING REZONING of the property located north of East Taylor Street on the southeast side of 23<sup>rd</sup> Street, from R-1-8 Residence Zoning District to R-M Residence Zoning District, to allow multi-family residential uses on 0.69 gross acres. (John Licking, Owner/Developer). CEQA: Resolution No. 65459. Director of Planning, Building, and Code Enforcement recommends approval. No Planning Commission action required.

C 02-01-006 - District 3

(Continued from 3/19/02 – Item 11.10 et al., and 8/20/02 – Item 11.6)

**Council denied the proposed rezoning, as recommended in Council Member Chavez' memorandum of September 16, 2002.**

# 11 PUBLIC HEARINGS

---

## 11.4 Public Hearing on planned development rezoning at North First Street and East Gish Road.

**Recommendation:** PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the northeast corner of North First Street and East Gish Road, from CN Commercial Neighborhood Zoning District to PD Planned Development Zoning District, to allow a mixed use development of 3,230 square feet of ground floor commercial use and 22 multi-family attached residential units on 0.5 gross acre. (The Southland Corporation, Owner; BEC, Inc., Developer). CEQA: Negative Declaration. Director of Planning, Building, and Code Enforcement and Planning Commission recommend approval (7-0-0).

PDC 02-014 - District 3

(Continued from 6/18/02 – Item 11.13 et al., and 8/20/02 – Item 11.7)

**Continued to 10/01/02.**

## 11.5 Public Hearing on planned development rezoning at Almaden Expressway and McAbee Road.

**Recommendation:** PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the southwest corner of Almaden Expressway and McAbee Road, from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow the addition of a drive-through lane and pick-up window to an existing fast food restaurant on 5.31 gross acres. (Moitozo, Owner; Henley/McDonald's, Developer). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement recommend approval of a staff alternative design. Planning Commission recommends denial (4-3-0).

PDC 00-06-049 - District 10

(Continued from 8/6/02 – Item 11.4 and 8/20/02 – Item 11.8)

**Continued to 10/15/02.**

## 11.6 Public Hearing on planned development rezoning at South Bascom and Curtner Avenues.

**Recommendation:** PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the east side of South Bascom Avenue, approximately 690 feet southerly of Curtner Avenue, from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow up to 9 single-family attached and 1 single-family detached residences on 0.63 gross acre. (James A. Cusato, Owner/Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC 02-01-003 - District 9

**Ordinance No. 26737 passed for publication.**

# 11 PUBLIC HEARINGS

---

## 11.7 Public Hearing on planned development rezoning at San Pedro and W. Saint James Streets.

**Recommendation:** PUBLIC HEARING ON PLANNED DEVELOPMENT REZONING of the property located at the west side of San Pedro Street, approximately 130 feet north of W. Saint James Street, from CG General Commercial Zoning District to A(PD) Planned Development Zoning District, to allow up to 124 multi-family attached residential units on 0.77 gross acre. (Barry Swenson, Builder, Owner/Developer). CEQA: Resolution No. 64273. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).  
PDC 01-100 - District 3

**Ordinance No. 26738 passed for publication.**

**Council approved the proposed rezoning with direction to Staff to work with Redevelopment Agency, at the PD Permit phase of the project, to ensure the use of stronger construction materials for connections at stoops to the sidewalk.**

## 11.8 Public Hearing on conforming planned development rezoning at Curtner Avenue and Highway 87.

**Recommendation:** PUBLIC HEARING ON CONFORMING PLANNED DEVELOPMENT REZONING of the property located at the south side of Curtner Avenue, approximately 700 feet easterly of Highway 87, from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, to allow up to 425 single-family and multi-family residential units on a 60.2 gross acre site. (MTA Properties, Owner; Summerhill Homes, Developer). CEQA: Mitigated Negative Declaration.  
PDC 02-042 - District 7

**Continued to 10/01/02.**

- **Open Forum**

**Eight (8) individuals addressed Council regarding employment at Garden City and Bay 101 Cardclubs.**

- **Adjournment**

**The meeting of the Council of the City of San José was adjourned at 7:55 p.m. in memory of Lark Chastain, dedicated wife, mother, and successful businesswomen who owned and operated her own employment agency in San José.**