

CITY COUNCIL AGENDA

OCTOBER 28, 2003

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.

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
Absent – Council Members: None.

1:30 p.m. - Regular Session, Council Chambers, City Hall
Absent – Council Members: None.
- **Invocation (District 9)**
Reverend Karl Overbeek from the Church of the Chimes delivered the Invocation.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**
Item 3.5 was deferred to 11/4/03 and Item 4.4 was deferred 11/8/03.

1 CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to the Youth Science Institute for 50 years of contributions to the citizens of San José and Santa Clara County. (Parks, Recreation and Neighborhood Services)
Mayor Gonzales was joined at the podium by Deputy Director of Parks, Recreation & Neighborhood Services Julie Mark to present a commendation to Ann Denim, Executive Director of the Youth Science Institute in honor of the Institute’s 50 years of dedication and commitment to provide the public and children of San José with informative and attractive displays of Natural History, School Programs, nature hikes and Science camps and their hosting of the Annual Wildlife Festival at Alum Rock Park. The Science Youth Institute has helped to fill the growing need in Science and Environmental education for young people in an increasing and complex world and the continued operation of the institute has remained desirable for the health, education, and general welfare of the people of San José. Ann Denim thanked the Mayor and Council for their commendation and also thanked the Youth Science Institutes’ Board of Directors and past and present staff members who have helped to keep the institute’s mission of increasing science education and to continue helping young people understand the scientific principles that make the world work better and to teach them to make sound choices in difficult decisions about the Earth and environmental concerns.

1 CEREMONIAL ITEMS

- 1.2 Presentation of the League of California Cities' 2003 Helen Putnam Award of Excellence to the City of San José for the Teacher Housing Program. (City Manager's Office)
Mayor Gonzales was joined at the podium by Legislative Director of the League of California Cities, Dwight Steenbachen; Superintendent of Oak Grove School District, Manny Bombero; Superintendent of Cambrian School District, Dr. Barry Groves; and Director of Housing Leslye Corsiglia. Dwight Steenbachen presented the League of California Cities' 2003 Helen Putnam Award of Excellence to Mayor Gonzales, honoring the City of San José for their Teacher Housing Program. Mayor Gonzales thanked the League of California Cities for the award and thanked the Council and community for their part in supporting the Teacher Housing Program, as well as Superintendents Bombero and Groves for their outreach in helping to bring the program to the teachers of San José. He stated the program was developed to aid the teachers who help to train children within San José's communities to become future leaders and the award is in recognition of a program that has helped aid 350 teachers in the purchase of their first homes in San José. Mayor Gonzales also thanked the Housing department for their work and support of this program.
- 1.3 Presentation of a proclamation to Services for Brain Injury (SBI) in recognition of Brain Injury Month; for the past fourteen years, SBI has tirelessly worked to assist their clients and their families with services to help them regain maximum independence and to improve their quality of life. (Dando)
(Deferred from 10/21/03 – Item 1.5)
Vice Mayor Dando joined Mayor Gonzales at the podium to present a proclamation to Christine Camaro, Brian Burson, Maurice Webb, Derek Webb and Dottie Laura on behalf of the Services for Brain Injury in recognition of Brain Injury Month and for their work of over 14 years in helping clients and their families with services to help them regain their maximum independence and to improve their quality of life. Christine Camaro thanked the Mayor and Council for the proclamation and the efforts of Council has made to encourage the outreach and services to those affected by brain injury. Maurice Webb thanked the Services for Brain Injury for the help they had provided for his family and thanked the Mayor and Council for recognizing the organization and the needed services they provide.

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.**
None.

2 CONSENT CALENDAR

2.2 Final adoption of ordinances.

None.

2.3 Acceptance of the report on the status of implementation of the Small Business Opportunity Program.

Recommendation: Acceptance of the report on the status of implementation of the Small Business Opportunity Program. CEQA: Not a Project. (Economic Development)

The Small Business Opportunity Program implementation status report was accepted.

2.4 Approval of an agreement related to a Recycle Plus Waste Characterization Study.

Recommendation: Approval of an agreement with R3 Consulting Group Inc. to perform a waste characterization study for the Recycle Plus Program in a total amount not to exceed \$220,000, and adoption of a resolution accepting a contribution from Norcal Waste Systems as reimbursement for the cost of a portion of the study in an amount not to exceed \$80,000. CEQA: Not a Project. (Environmental Services)

Approved.

Staff was directed to re-organize the Recycle Plus Waste Characterization Study into cart collection stages and to report back to Council their findings. Staff directed to provide clarification regarding whether the findings from the study conclude the problems lie with the haulers or with the residents of San José themselves and to clarify if the action of collecting the recycling within one bin has had an impact on collections and if it has enabled the residents to be less diligent with their recycling . Staff was directed to provide a report to Council pertaining to the results of the initial study of the Recycle Plus Waste Characterization Study and to ensure the statement is of clear purpose and the result objectives are clearly defined within the report and directed to provide a timeline of the modifications that were made and the progress of the Recycle Plus program to date, as well as including the methodology used and who was involved within that process.

2.5 Approval of a cost sharing agreement with the Santa Clara Valley Water District.

Recommendation: Approval of an agreement with the Santa Clara Valley Water District (District) for cost sharing associated with implementation of water conservation programs in 2003-2004, under which the City will receive an amount not to exceed \$362,500 from the District, and the District will receive an amount not to exceed \$446,847 from the City. CEQA: Not a Project. (Environmental Services)

Deferred to 11/18/03.

2 CONSENT CALENDAR

2.6 Approval to purchase one Airport Rescue and Fire Fighting Vehicle.

Recommendation: Report on bids and award the purchase of one major Airport Rescue and Fire Fighting (ARFF) Vehicle to the low bidder, Oshkosh Truck Corporation, at a total cost of \$662,611.24, including tax and delivery, approximately 80% funded by grant funds, and authorize the Director of General Services to execute the purchase order for the:

- (a) Purchase of one ARFF vehicle; and
- (b) Approval of a contingency of 5% for unforeseen engineering requirements that may arise subsequent to the publication of the bid specifications.

CEQA: Not a Project. (General Services)

Approved.

2.7 Approval to declare a portion of City-owned land as surplus and approving its sale.

Recommendation:

- (a) (1) Direction to the City Clerk to accept a Quitclaim Deed from the County of Santa Clara to the City of San José for a 17,468 square foot parcel of land located southeasterly of Route 87 and Almaden Expressway, adjacent to APN 455-20-060; and

Approved.

- (2) Adoption of a resolution declaring said 17,468 square foot portion of now City-owned land, located southeasterly of Route 87 and Almaden Expressway, surplus to the needs of the City, and authorize its sale to Evans Lane Apartments, L.P. (the adjoining property owner) for \$220,000.

CEQA: Negative Declaration, PDC98-10-078.

Resolution No. 71801 was adopted.

- (b) (1) Adoption of a resolution declaring a 871.2 square foot portion of City-owned land, located northwesterly of Old Bayshore Highway, adjacent to APN 237-27-064, surplus to the needs of the City; and

Resolution No. 71802 was adopted.

- (2) Approval of its sale to Pavone & Pena LLC (the adjoining property owner) for \$2,500.

CEQA: Exempt, PP03-02-043.

(General Services)

Approved.

2.8 Approval of the Plata Arroyo Park Master Plan Update.

Recommendation: Approval of the Plata Arroyo Park Master Plan Update. CEQA: Exempt, PP03-08-251. Council District 5. SNI Area: Gateway East. (Parks, Recreation and Neighborhood Services)

Approved.

2 CONSENT CALENDAR

2.9 Approval of a contract for the Edenvale Garden Park Perimeter Fencing Project.

Recommendation: Report on bids and take appropriate action based on the evaluation of bids for the Edenvale Garden Park Perimeter Fencing Project, and approval of a five percent contingency. CEQA: Negative Declaration, PP90-03-078. Council District 2. (Public Works/ Parks, Recreation and Neighborhood Services)

Deferred to 11/4/03.

2.10 Approval of a contract for the Hostetter Road Improvement Project.

Recommendation: Report on bids and award of contract for the Hostetter Road Improvement Project to the low bidder, Grade Tech Inc., in the amount of \$177,870, and approval of a contingency in the amount of \$18,000. CEQA: Negative Declaration, PP 87-05-128. Council District 4. (Public Works/ Transportation)

Approved.

2.11 Approval of a contract for the Oakland Road Widening Project.

Recommendation: Report on bids and award of contract for the Oakland Road Widening Project from Brokaw Road to Commercial Street to the low bidder, Granite Construction Company, in the amount of \$321,998, and approval of a contingency in the amount of \$32,000. CEQA: Negative Declaration, PP03-06-209. Council District 4. (Public Works/Transportation)

Approved.

2.12 Acceptance of the San José Arena Authority Ticket Distribution Program Report.

Recommendation: Acceptance of the Third Quarter 2003 San José Arena Authority Ticket Distribution program Report. CEQA: Not a Project. (San José Arena Authority)

The Third Quarter 2003 San José Arena Authority Ticket Distribution Program Report was accepted.

2.13 Approval of a revised Appeals Hearing Board Interview Process.

Recommendation: Approval of a revised Appeals Hearing Board Interview Process (Mayor/Chirco)

(Rules Committee referral 10/22/03)

Approved.

2.14 Approval of an ordinance permitting the private sale of City property.

Recommendation: Approval of an ordinance amending Section 4.20.080 of Chapter 4.20 of Title 4 of the San José Municipal Code to permit the private sale of City property for economic development and redevelopment. (City Attorney's Office)

(Rules Committee referral 10/22/03)

Ordinance No. 27007 passed for publication.

3 STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

No Report.

3.2 Report of the Rules Committee – October 15, 2003

Vice Mayor Dando, Chair

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

(b) City Council

(1) Review October 28, 2003 Draft Agenda

The Committee recommended approval of the October 28, 2003 City Council agenda.

(2) Add New Items to October 21, 2003 Amended Agenda

- Mayor and Council Member Requests
- City Manager Requests
- City Attorney Requests
- City Clerk Requests

The Committee recommended one addition to the October 21, 2003 City Council agenda.

(3) List of Reports Outstanding

The Committee noted and filed the City Manager's report listing five staff reports outstanding for the October 21, 2003 Council agenda.

(c) Legislative Update

(1) State

There was no report.

(2) Federal

There was no report.

(d) Meeting Schedules

There were none.

(e) The Public Record

There was no Public Record filed.

(f) Appointment to Boards, Commissions and Committees

(1) Request to waive Council Policy regarding appointment to Youth Commission

Heard by Council on 10/21/03.

3 STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – October 15, 2003 (Cont'd.)

Vice Mayor Dando, Chair

(g) Rules Committee Reviews, Recommendations and Approvals

The Committee directed the City Manager and the City Attorney to return to Rules Committee in two weeks with a workload assessment to develop an ordinance that would meet the requirements under Section 104 of the IRS code, which allows disability payments to be excluded from income taxes.

(h) Oral communications

None were presented.

(i) Adjournment

The meeting adjourned at 2:10 P.M.

The Rules Committee Report of October 15, 2003 was accepted.

3.3 Report of the Making Government Work Better Committee

Council Member Campos, Chair

No Report.

3.4 Approval of an agreement for an Owner Controlled Insurance Program at the Airport.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Lamberson Koster & Company, a wholly owned subsidiary of Arthur J. Gallagher & Company, dba Gallagher Construction Services, to provide insurance broker services for an Owner Controlled Insurance Program for the Airport Master Plan projects, including security improvements to be constructed at the Norman Y. Mineta San José International Airport for the upcoming three to five year period, in an amount not to exceed \$1,575,000, for a period of three years, with two one-year options for extension. CEQA: Resolution Nos. 67380 and 71451, PP03-10-317. (Finance/Airport)

Deferred to 11/4/03.

3.5 Report on results of the sealed bids and oral auction of surplus property.

Recommendation:

(a) Approval of the report on the results of the sealed bids and oral auction of nine (9) surplus City-owned properties held on Monday, October 20, 2003, accepting the high bids for each property; and

(b) Authorizing the Director of General Services to execute such documents as are necessary to complete the sales of said properties.

CEQA: Exempt, PP00-02-003. Council Districts 3, 4, 5, 6, 9 and 10. (General Services)

Dropped.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee

Council Member Chavez, Chair

No Report.

4.2 Report of the Driving a Strong Economy Committee

Council Member Williams, Chair

No Report.

4.3 Approval of actions related to the Almaden Family Apartments Development.

Recommendation: Adoption of a resolution:

- (a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Almaden Family Apartments Project) Series 2003D" in an aggregate principal amount not to exceed \$31,300,000 (the "Bonds");
- (b) Approving in substantially final form the Bonds, Trust Indenture, Financing Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, the Official Statement, Bond Purchase Agreement, Remarketing Agreement, Mortgage Note, LITHC Agreement, Assignment and Inter-creditor Agreement, Subordinate Trust Indenture, Subordinate Loan Agreement and other related documents;
- (c) Approving a loan of bond proceeds to Almaden Family Housing Partners, L.P., a California limited partnership, for financing the construction of Almaden Family Apartments to be located at 1525-1541 Almaden Road;
- (d) Authorizing the issuance of subordinate tax-exempt refunding bonds at the time of completion of the Project in an amount not-to-exceed \$5 million;
- (e) Approving in substantially final form the Subordinate Refunding Bonds, Subordinate Trust Indenture, Subordinate Loan Agreement, and the Forward Bond Purchase Agreement; and
- (f) Authorizing the Director of Finance and Director of Housing to execute and, as appropriate, to negotiate, execute, and deliver these documents and other related documents as necessary.

CEQA: Negative Declaration, PDCSH98-089. Council District 7. (Finance/ Housing)
Deferred to 11/4/03

4.4 Public Hearing on historical property contract for the Hotel Metropole.

Recommendation: PUBLIC HEARING ON HISTORICAL PROPERTY CONTRACT for the Hotel Metropole, City Landmark No. HL 88-046, located at the northwest corner of South Market and Post Streets, in the CG Commercial General Zoning District. (Florin II, LTD, Owner). CEQA: Exempt. (Planning, Building, and Code Enforcement)
MA 02-003 - District 3

Deferred to 11/18/03.

4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT

4.5 Approval of actions related to the extension and expansion of the Special Tenant Improvement Program.

Recommendation:

- (a) Approval of an ordinance:
 - (1) Amending Section 4.46.039.8 of Chapter 4.46 of Title 4 of the San José Municipal Code to extend the period during which the City suspends the collection of Building and Structure Construction Taxes imposed for the construction of special industrial use tenant improvements.
 - (2) Amending Chapter 4.46 of Title 4 of the San José Municipal Code to add a new Section 4.46.039.9 to provide for the suspension of the collection of Building and Structure Construction Taxes imposed for the construction of office use tenant improvements in the Downtown Core.

Ordinance No. 27008 passed for publication.

- (b) Direct staff to extend the Coordinated Plan Check Review process allowing for plan check fee collection deferral until permit issuance for tenant improvements for industrial and research and development uses in currently existing vacant buildings.
- (c) Direct staff to expand the Coordinated Plan Check Review process allowing for plan check fee collection deferral until permit issuance for tenant improvements for office uses in currently existing vacant buildings within the Downtown Core.

CEQA: Not a Project. (Planning, Building and Code Enforcement/Economic Development)

Approved.

5 RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair No Report.

5.2 Approval of staff's proposal for Sunday service at six library branches.

Recommendation: Approval of a pilot program to provide Sunday service at six branches during the school year. CEQA: Not a Project. (Library)

Approved.

Council approved Mayor Gonzales' memorandum, dated October 28, 2003, recommending the adoption of staff option #2 as the pilot program for Sunday Library hours and further recommendation for the pilot program to be implemented until the conclusion of the current fiscal year.

6 TRANSPORTATION SERVICES

- 6.1 Report of the Building Better Transportation Committee
Council Member Cortese, Chair
No Report.**

7 ENVIRONMENTAL & UTILITY SERVICES

8 AVIATION SERVICES

9 PUBLIC SAFETY SERVICES

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:

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—
 - (1) **Olga Burch spoke on the renaming of King Rd. issue.**
 - (2) **Ross Signorino spoke on the issue of San José being the Third Funnest City in the United States.**

- **Adjournment**

The Redevelopment Agency Board portion of the meeting adjourned at 3:48 P.M to a Joint City Council Redevelopment Agency meeting immediately following the Council meeting.

**THE FOLLOWING ACTIONS WERE TAKEN AT THE JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY MEETING ON TUESDAY, 10/7/03:**

- 7.1 Resolution No. 71803 adopted.**
- Agency Resolution No. 5445 adopted.**