

CITY COUNCIL AGENDA

AUGUST 23, 2005

AMENDED AGENDA

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ, VICE MAYOR
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER
VACANT
DAVID D. CORTESE
JUDY CHIRCO
NANCY PYLE

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.
- ***Community & Economic 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.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for 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 9 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:

- 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.
- When the Council reaches your item on the agenda, Mayor 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.
- 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.
- To assist you in tracking your speaking time, there is a display on 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.asp

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (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, City Hall Tower, 18th Floor, City Hall
[See Separate Agenda](#)
1:30 p.m. - Regular Session, Council Chambers, City Hall
- **Invocation (District 7)**
Father Dominic Dinh Do, Parochial Vicar of St. Maria Goretti Church
- **Pledge of Allegiance**
- **Orders of the Day**

Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

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

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to Victor Arranaga Jr. for his dedicated service to the City as the Chair of San José Sports Authority Board. (LeZotte)
(Deferred from 8/9/05 – Item 1.1)
- 1.2** Presentation of a commendation to the San José Youth Symphony for representing the City of San José as musical ambassadors to the international community. (Williams)
* (Rules Committee referral 8/17/05)
- 1.3** Presentation of a commendation to the Neil A. Christie Living Center in recognition of its invaluable outreach and service to people living with HIV/AIDS in the community.
(Yeager)
* (Rules Committee referral 8/17/05)

1. CEREMONIAL ITEMS

- *1.4 Presentation of a commendation to Software Business Cluster and Environmental Business Cluster recognizing its 10 years of supporting entrepreneurship in San José. (Mayor)

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

2.1 Approval of Minutes.

2.2 Final adoption of ordinances.

- * **Recommendation:** Final adoption of ordinances.
 - (a) [ORD. NO. 27492](#) – Approving a development agreement between the City of San José and Hitachi Global Storage Technologies, Inc. relative to the development of certain property located within the City of San José, California.
 - (b) [ORD. NO. 27511](#) – Repealing Ordinance Nos. 26659 and 26660 to remove 31 acres bounded generally by Santa Clara Street to the south, Julian Street to the north, Third Street to the east and Market Street to the west from the Century Center Redevelopment Project Area and from the San José Merged Area Redevelopment Project.
 - (c) [ORD. NO. 27512](#) – Amending Section 4.78.020 of Chapter 4.78 of Title 4 of the San José Municipal Code to revise the definition of “Cover Material” for purposes of the Disposal Facility Tax.

2.3 [Approval of an ordinance to implement benefits for domestic partners.](#)

Recommendation:

- (a) Approval of an ordinance amending Chapter 3.28 of Title 3 of the San José Municipal Code (Federated City Employees’ Retirement System) to implement state law regarding benefits for registered domestic partners and to add provisions relating to plan-approved domestic relations orders and amending Section 3.44.010 of Chapter 3.44 of Title 3 of the San José Municipal Code to implement cost-of-living adjustments for surviving registered domestic partners; and
- (b) Adoption of a resolution amending the Federated Supplemental Retiree Benefit Reserve resolution to include surviving registered domestic partners on the same basis as surviving spouses.

CEQA: Not a Project. (Board of Administration for the Federated City Employees’ Retirement System)

2. CONSENT CALENDAR

2.4 [Approval of fiscal actions for Redevelopment Agency Capital Projects.](#)

Recommendation: Adoption of the following 2005-2006 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):

(a) Establish an appropriation to the Department of Public Works for the Children's Discovery Museum Fountain Renovation Project (PSM 414) in the amount of \$40,000.

(b) Increase the estimate for Beginning Fund Balance by \$40,000.

CEQA: Exempt, File No. PP05-069. Council District 3. (City Manager's Office)

2.5 [Approval of an agreement for public artwork at Emma Prusch Memorial Park.](#)

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with artist Gloria Bornstein for the fabrication and installation of a public artwork at Emma Prusch Memorial Park, in an amount not to exceed \$168,160. CEQA: Exempt, PP01-09-163. (Economic Development)

2.6 [Approval to amend an ordinance related to employees returning from military service.](#)

Recommendation: Approval of an ordinance amending the City of San José Deferred Compensation Plan (Municipal Code Chapter 3.48) and the PTC 457 Plan (Municipal Code Chapter 3.50) to implement a special catch-up deferral provision for employees returning from military service and to include provisions relating to excess deferrals. CEQA: Not a Project. (Employee Services)

2.7 [Approval of an agreement for water conservation programs.](#)

[Supplemental](#)

Recommendation: Approval of an agreement with the Santa Clara Valley Water District for cost sharing associated with implementation of water conservation programs in FY 2005-2006, under which the City will receive an amount not to exceed \$280,000 from the District and the District will be paid an amount not to exceed \$460,136 by the City, for a net cost to the City of \$180,136. CEQA: Not a Project. (Environmental Services)

* **DROP**

2.8 [Approval of a lease agreement for office space for the Police Department.](#)

Recommendation: Approval of a lease agreement with La Familia, LLP for 3,206 square feet of office space located on the 6th floor of 777 North First Street for the Police Department's Office of Internal Affairs at a cost of \$5,386.08 per month during the first year of the lease, \$5,547.67 per month during the second year, \$5,714.10 per month during the third year, \$5,885.53 during the fourth year and \$6,062.10 during the fifth year of the lease's five year term. CEQA: Not a Project. (General Services)

2. CONSENT CALENDAR

2.9 [Approval to award a contract for the Capitol Park Neighborhood Center Project.](#)

Recommendation: Report on bids and take appropriate action based on the evaluation of bids for the Capitol Park Neighborhood Center Project, and approval of a five percent contingency. CEQA: Exempt, PP03-08-267. Council District 5. SNI: East Valley/680 Communities. (Public Works/Parks, Recreation and Neighborhood Services)

* **RECOMMEND DEFERRAL TO 8/30/05**

2.10 **Approval of two nominations to the WIN Board of Directors.**

Recommendation: Approval of two nominations to the WIN Board of Directors.
(Mayor)

(Rules Committee referral 8/10/05)

* (Deferred from 8/16/05 – Item 2.13)

2.11 [Approval of recommended changes to the Bail Schedule and to the list of infractions.](#)

* **Recommendation:**

(a) Approval of recommended changes to the City of San José Bail Schedule and direction to the City Attorney to submit the recommended changes in the Bail Schedule to the Superior Court Bail Committee.

(b) Approval of an ordinance amending Section 1.08.200 of Chapter 1.08 of Title 1 of the San José Municipal Code to update the list of infractions. CEQA: Not a Project.

(City Attorney's Office)

3. STRATEGIC SUPPORT SERVICES

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

3.2 **Report of the Rules Committee – August 10, 2005** **Vice Mayor Chavez, Chair**

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

(b) City Council

(1) Review August 23, 2005 Council Agenda

(a) Discussion of why City swimming pools have been closed and what it will take to get the pools reopened.

(2) Add New Items to August 16, 2005 Agenda

(3) List of Reports Outstanding

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – August 10, 2005 (Cont'd.)

Vice Mayor Chavez, Chair

- (c) Legislative Update
 - (1) State
 - (a) Acceptance of August 5 State Legislative Bill Matrix
 - (2) Federal
 - (a) Federal Affordable Housing Legislation
 - (b) Federal Transportation Funding Bill
- (d) Meeting Schedules
 - (1) Approval of a Redevelopment Agency Budget Study Session date and time.
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approval of travel by Council Member Cortese to Denver, Colorado, October 13-14, 2005, to attend the San José Silicon Valley Chamber of Commerce City Trip 2005. Source of Funds: Mayor and Council Travel Fund.
 - (2) Approval of travel by Council Member Campos to Charlotte, North Carolina, December 6-10, 2005, to attend the National League of Cities – 2005 Congress of Cities & Exposition. Source of Funds: Mayor and Council Travel Fund.
 - (3) Approval of travel by Council Member Campos to Monterey, California, July 28-29, 2005, to attend the League of California Cities Board of Directors Meeting. Source of Funds: Mayor and Council Travel Fund.
 - (4) Approve Council Committee Workplans.
 - (a) All Children Achieve
 - (b) Building Better Transportation
 - (c) Building Strong Neighborhoods
 - (d) Driving a Strong Economy
 - (e) Making Government Work Better
- (h) Oral Communications
- (i) Adjournment

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

3.4 [Acceptance of the response to the Civil Grand Jury report on Procurements.](#)

Recommendation: Acceptance of the City's response to the Santa Clara County Civil Grand Jury report titled "City of San José Procurement Policies, Procedures, and Practices" dated June 22, 2005. CEQA: Not a Project. (Finance)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 **Report of the Building Strong Neighborhoods Committee**
Council Member Chirco, Chair

4.2 **Report of the Driving a Strong Economy Committee**
Council Member Williams, Chair

4.3 **[Approval of actions related to Corde Terra Family Apartments Project.](#)**

Recommendation: Adoption of a resolution approving the change in authorized borrower from the Housing Authority of the County of Santa Clara to ROEM Development Corporation, or a designated affiliate, for the \$8,378,250 loan approved on April 13, 2004, for the 130-unit Corde Terra Family Apartments Project (formerly known as Fairgrounds Family Housing) located at 350 Tully Road, resulting in a combined project of 300 units and a combined loan in an amount up to \$21,187,440. CEQA: Resolution No. 71359, PDC02-040. Council District 7. (Housing)

4.4 **Approval of actions related to the San José Medical Center.**

* **Recommendation:** Acceptance of the staff report and provide direction to staff to either:

- (a) Proceed with negotiations with the Gardner Family Health Network and Cornerstone Affiliates/Greystone Communities/American Baptist Homes of the West to create a joint development plan for a facility providing comprehensive outpatient health services, and a state of the art continuing care retirement community; or
- (b) Prepare a work plan for a stakeholder based community planning process for the San José Medical Center site and surrounding properties on East Santa Clara Street to be brought back to City Council for approval in ninety days.

CEQA. Not a Project. (Economic Development)

(Deferred from 8/16/05 – Item 4.3)

TO BE HEARD IN THE EVENING

RECOMMEND DEFERRAL TO 8/30/05

5. NEIGHBORHOOD SERVICES

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

5. NEIGHBORHOOD SERVICES

5.2 Approval to award a contract for the West San José Community Center Project.

Supplemental

* **Recommendation:**

- (a) Report on bids and award of contact for the West San José Community Center Project (Rebid) to the low bidder, Garden City Construction, Inc., to include the base bid and Add Alternates No. 1, 3, 4, and 5 in the amount of \$2,093,903, and approval of a contingency in the amount of \$209,390.
- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):
 - (1) Increase the appropriation to the Public Works Department for the West San José Community Center Project in the amount of \$1,244,445;
 - (2) Increase the estimate for Earned Revenue by \$870,945; and
 - (3) Increase the Beginning Fund Balance estimate by \$373,500.
- (c) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Neighborhood Security Bond Fund (Fund 475):
 - (1) Increase the appropriation to the Police Department for the West San José Community Policing Center Project by \$282,800;
 - (2) Decrease the Contingency Reserve by \$263,800.
 - (3) Increase the Beginning Fund Balance estimate by \$19,000
- (d) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Tax and Property Conveyance Tax, Council District #1 (Fund 377):
 - (1) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the West Community Joint Facility by \$226,000;
 - (2) Decrease the Ending Fund Balance by \$19,000;
 - (3) Increase the Beginning Fund Balance estimate by \$207,000.

CEQA: Exempt, PP04-03-090. Council District: 1. SNI Area: Blackford. (Public Works/Parks, Recreation and Neighborhood Services/Police/City Manager's Office)

6. TRANSPORTATION & AVIATION SERVICES

6.1 **Report of the Building Better Transportation Committee Council Member Campos, Chair**

6. TRANSPORTATION & AVIATION SERVICES

6.2 [Approval to award a contract for the Greater Gardner Street Reconstruction Project.](#)

[Supplemental](#)

* **Recommendation:**

- (a) Report on bids and award of contract for the Greater Gardner Street Reconstruction - Spencer Avenue Project from Willow Street to Atlanta Avenue to the low bidder, Joseph J. Albanese, Inc., to include the base bid and Add Alternate No. 1 in the amount of \$807,626.65, and approval of a contingency in the amount of \$40,000.
- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):
 - (1) Increase the appropriation to the Department of Public Works for the Greater Gardner Street Improvements project by \$406,700.
 - (2) Increase the estimate for Earned Revenue by \$406,700.

CEQA: Exempt, PP04-07-215. Council District: 6. SNI Area: Greater Gardner. (Public Works/City Manager's Office)

6.3 **Approval of actions related to ground transportation taxi services.**

Recommendation:

- (a) Approval of an ordinance to temporarily limit until April 30, 2006, both:
 - (1) The total number of taxicabs all taxicab company licensees are authorized to operate under their licenses pursuant to Part 4 of Chapter 6.64 of the San José Municipal Code to an outstanding number of 572; and
 - (2) The total number of taxicab driver permits issued pursuant to Part 4 of Chapter 6.64 of the San José Municipal Code to an outstanding number of 571.

CEQA: Not a Project. (Transportation)

- (b) Adoption of the revised Taxicab Rate Resolution, repealing Resolution No. 71336, which will allow taxicab companies to offer:
 - (1) Discount coupons of up to 20% off their standard fares for trips not originating at the Airport; and
 - (2) Flat rates below the standard fare for all business account trips and to the general public for trips that conclude outside of Santa Clara County not originating at the Airport unless pre-arranged.

CEQA: Not a Project. (Transportation)

(Deferred from 5/24/05 – Item 6.2)

* **DROP**

6. TRANSPORTATION & AVIATION SERVICES

6.4 Approval of agreements to provide ground transportation service at the Airport.

Supplemental

- * **Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute agreements with commercial ground transportation operators, including taxi and door-to-door shuttle companies, to provide on-demand service at the Airport for a term from September 7, 2005 to September 30, 2007. CEQA: Resolutions No. 67380 and 71451, PP 05-154. (Airport)

6.5 Approval to amend agreements for on-Airport rental car operations.

- * **Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute:
 - (a) Approval of Fifth amendments to the On-Airport Rental Car Operations Agreement and Leases with Enterprise Rent-A-Car Company Of San Francisco, Fox Rent A Car, Inc., KRH Enterprises, Inc. dba Payless Rent A Car, and Thrifty Rent-A-Car System, Inc., to implement Living Wage effective January 1, 2006 and to extend the term of the agreements on the same terms and conditions from August 30, 2005 to February 1, 2007.
 - (b) Approval of Fifth amendments to the Amended and Restated On-Airport Rental Car Operations Agreement and Leases with Avis Rent A Car System, Inc., Vanguard Car Rental, USA, Inc. dba Alamo/National, Budget Rent-A-Car Systems, Inc., DTG Operations, Inc d/b/a Dollar Rent A Car, and The Hertz Corporation, Inc. to implement Living Wage effective January 1, 2006 and to extend the term of the agreements on the same terms and conditions from August 30, 2005 to February 1, 2007.
 - (c) Approval of Second amendments to the Rental Car Storage Ground Leases with Enterprise Rent-A-Car Company Of San Francisco, Fox Rent A Car, Inc., KRH Enterprises, Inc. dba Payless Rent A Car, and Thrifty Rent-A-Car System, Inc., to extend the term of the agreements on the same terms and conditions from August 30, 2005 to February 1, 2007, or the beneficial occupancy of the Second Interim Rental Car Facility.
 - (d) Approval of Eighth amendments to the Rental Car Service Center Ground Lease with Avis Rent A Car System, Inc., Vanguard Car Rental, USA, Inc. dba Alamo/National, Budget Rent-A-Car Systems, Inc., DTG Operations, Inc d/b/a Dollar Rent A Car, and The Hertz Corporation, Inc. to extend the term of the agreements on the same terms and conditions from August 30, 2005 to February 1, 2007.
- CEQA: Resolution Nos. 67380 and 71451, PP 05-038. (Airport)

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 [Acceptance of the response to the Civil Grand Jury's report on the CAD System.](#)

Recommendation: Review and acceptance of the City's response to the 2004-2005 Santa Clara County Civil Grand Jury's report entitled, "Problems Implementing the San José Police Computer Aided Dispatch System." CEQA: Not a Project.
(Police/Fire/Information Technology/Public Works)

9. 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 receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9719	E/S Mission Springs Court	4	Silicon Valley Habitat for Humanity Inc.	6 Units	SFD
9683	SW corner of Lundy Ave. and McKay Dr.	4	Toll Bros Inc.	198 Units	SFA
9694	NW corner King Rd. and Mabury Rd.	4	KB Home South Bay	91 Units	SFA
9720	West side of San Pedro N/O St. James St.	3	City Heights LLC	124 Units	SFA

- Notice of City Engineer’s Pending Decision on Final Maps (Cont’d.)

* 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>
9668	N/E Corner The Alameda & Morrison Avenue	6	Green Valley Corporation	1 Lot	Condo	Approve

- Open Forum—To be heard jointly with Redevelopment Agency Public Discussion.
- Adjournment