

# CITY COUNCIL AGENDA

**MARCH 9, 2004**

# SYNOPSIS

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

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER  
TERRY O. GREGORY  
DAVID D. CORTESE  
JUDY CHIRCO  
PAT DANDO, VICE MAYOR

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

Agendas and Staff Reports for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.htm](http://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**  
9:31 a.m. - Closed Session, Room 600, City Hall  
**Absent Council Members: Dando, Williams. (Excused)**  
  
1:36 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Members: Dando, Williams. (Excused)**
- **Invocation (District 3)**  
Rudy Medina commemorated the life, work, and legacy of César Chavez, reciting from the “Prayer of the Farm Workers’ Struggle”.
- **Pledge of Allegiance**  
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**  
The Orders of the Day and the Amended Agenda were approved.

## **1 CEREMONIAL ITEMS**

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There were none.

## **2 CONSENT CALENDAR**

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- 2.1 **Approval of Minutes.**  
There were none.
- 2.2 **Final adoption of ordinances.**  
There were none.

## 2 CONSENT CALENDAR

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### 2.3 Approval to purchase a fire station alert system.

**Recommendation:** Report on a Request for Proposal (RFP) and adoption of a resolution authorizing the Director of General Services to:

- (a) Execute an agreement with Mobile Radio Engineers LLC, d.b.a. Day Wireless Systems for the purchase of a fire station alert system, for a total cost of \$129,024.44, including delivery, installation, training, tax, and one year of maintenance and support; and
- (b) Execute change orders in an amount not to exceed a 5% contingency to cover unanticipated changes in the system design and/or installation. CEQA: Not a project.

(General Services)

**Resolution No. 71978 adopted.**

### 2.4 Approval to donate a Chevrolet Suburban Utility Vehicle to the Santa Clara County Black Fire Fighters Association.

**Recommendation:** Adoption of a resolution authorizing the Director of General Services to execute all documents necessary for the donation of one Chevrolet Suburban Utility Vehicle with a total estimated value of \$5,100 to the Santa Clara County Black Fire Fighters Association. CEQA: Not a Project. (General Services)

**Resolution No. 71979 adopted.**

### 2.5 Approval to submit a grant application for Proposition 40 funds for the Coyote Creek Trail Development.

**Recommendation:** Adoption of a resolution authorizing the City Manager to submit a grant application, in an amount up to \$370,000, for Coyote Creek Trail, and negotiate and execute all necessary documents for Proposition 40 funds: The California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002. CEQA: Not a Project. Council District 7. SNI: Spartan/Keyes. (Parks, Recreation and Neighborhood Services)

**Resolution No. 71980 adopted.**

### 2.6 Approval of various actions related to a Historic Landmark initiation.

**Recommendation:** Adoption of a resolution to:

- (a) Initiate proceedings to consider the Nevills-Campisi House (84 S. Sixth Street) a landmark of special historic, architectural, cultural, aesthetic, or engineering interest or value of a historic nature, HL03-149.
- (b) Set a public hearing on April 27, 2004 at 1:30 p.m.
- (c) Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.

CEQA: Exempt, File No. HL03-149. Council District 3. SNI: 13<sup>th</sup> Street. (Planning, Building and Code Enforcement)

**Resolution No. 71981 adopted.**

## 2 CONSENT CALENDAR

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### 2.7 Approval of purchase agreements for the City's right-of-way along North White Road between McKee and Mabury Roads.

**Recommendation:** Approval of 14 purchase agreements for real property along North White Road between McKee and Mabury Roads, together with immediate rights of entry on each of the 13 properties, for a total amount of \$383,550, and authorization for the Director of Public Works to execute any additional documents necessary to complete these transactions. CEQA: Negative Declaration, PP03-11-355. Council District 5. (Public Works)

**Approved.**

### 2.8 Approval of an agreement for the purchase of land located at the River Oaks Reach of the Coyote Creek Trail.

**Recommendation:** Adoption of a resolution authorizing the Director of Public Works to approve and execute an agreement with the State of California for the purchase of an easement over a portion of land located at the River Oaks Reach of the Coyote Creek Trail between State Route 237 and the Montague Expressway in the amount of \$22,000, and to execute any additional documents necessary to complete the transaction. CEQA: Exempt, PP03-07-230. Council District 4. (Public Works)

**Deferred to 3/23/04.**

### 2.9 Approval to summarily vacate a portion of Palmilla Drive and the Public Service Easement on both sides of Palmilla Drive between Rio Robles East and Descanso Drive.

**Recommendation:** Adoption of a resolution summarily vacating a portion of Palmilla Drive and the Public Service Easement (PSE) on both sides of Palmilla Drive between Rio Robles East and Descanso Drive. CEQA: Resolution No. 68667 and Addenda hereto, PDC03-043. Council District 4. (Public Works)

**Resolution No. 71982 adopted.**

### 2.10 Acceptance of the Office of the City Auditor's monthly reports.

**Recommendation:**

- (a) Acceptance of the Office of the City Auditor's monthly *Report of Activities and Findings through February 15, 2004.*
- (b) Acceptance of the findings reports from Kafoury, Armstrong, & Company, LLP for the quarter ending September 30, 2003, relating to the Bay 101 Conditional Approval of Stock Transfer.

(City Auditor)

(Rules Committee referral 3/3/04)

**Reports Accepted.**

## 2 CONSENT CALENDAR

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### 2.11 Approval of a continuation agreement for legal services with Bingham McCutchen.

**Recommendation:**

- (a) Adoption of a resolution authorizing the City Attorney to negotiate and execute a continuation agreement with Bingham McCutchen LLP (formerly McCutchen, Doyle, Brown & Enersen, LLP) for litigation support services related to the development of the North Coyote Valley Industrial Campus Area, extending the total amount not to exceed \$652,272.46, with all funds paid by the developer.

**Resolution No. 71983 adopted.**

- (b) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Construction Excise Tax Fund:

- (1) Increase the appropriation to the Department of Public Works for the Cisco: North Coyote Valley Improvements Project in the amount of \$152,273.
- (2) Increase the estimate for Earned Revenue by \$152,273.

CEQA: Not a Project. Council District 2.

(City Attorney's Office/City Manager's Office)

(Rules Committee referral 3/3/04)

**Ordinance No. 27083 adopted.**

**Resolution No. 71984 adopted.**

### 2.12 Approval of actions related to a grant application for the Tully-Senter School Hub Project.

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute a Memorandum of Understanding (MOU) setting forth the proposed form of lease agreement the City would propose to enter into with the Franklin-McKinley School District for a term of at least 20 years. CEQA: Exempt, PP03-12-370. Council District 7. SNI: Tully-Senter. (Parks, Recreation and Neighborhood Services)

(Rules Committee referral 3/3/04)

**Resolution No. 71985 adopted.**

### 3 SUPPORT SERVICES

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#### 3.1 Report of the Study Session

Mayor Gonzales, Chair

No Report.

#### 3.2 Report of the Rules Committee – February 25, 2004

Vice Mayor Dando, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review March 9, 2004 Draft Agenda  
**The Committee recommended approval of the March 9, 2004 City Council agenda.**
  - (2) Add New Items to March 2, 2004 Amended Agenda
    - Mayor and Council Member Requests
    - City Manager Requests
    - City Attorney Requests
    - City Clerk Requests**There were no changes made to the March 2, 2004 City Council agenda.**
  - (3) List of Reports Outstanding  
**There are no reports outstanding for the March 2, 2004 City Council meeting.**
- (c) Legislative Update
  - (1) State
    - (a) Report on Proposed State Bills Pertaining to Megan’s Law  
**This item was reported during the March 2, 2004 Council meeting.**
  - (2) Federal  
**There was no report.**
- (d) Meeting Schedules  
**The Committee recommended deferral of the Public Hearing and Approval of the Mayor’s March Budget Message from March 16, 2004 to March 23, 2004.**

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee – February 25, 2004 (Cont'd.) Vice Mayor Dando, Chair

- (e) The Public Record  
**There was no Public Record filed.**
- (f) Appointment to Boards, Commissions and Committees  
**There were none.**
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) City Attorney's response to Council Member Cortese's request to expand the role of Project Diversity Screening Committee and request for Proposition 209 history  
**The Committee directed the City Manager to return to Rules Committee on March 17, 2004 with both a written report and a short oral presentation on the following:**
    - (a) **Current selection process for all appointments under his purview, using the recent searches for the Police Chief and Fire Chief positions as case studies;**
    - (b) **Examples of practices employed by other jurisdictions; and**
    - (c) **An analysis of the potential value of establishing a standing citizen-based task force to perform post-selection evaluations on appointees.**
- (h) Oral communications  
**None were presented.**
- (i) Adjournment  
**The meeting was adjourned at 2:35 p.m.**

**The Rules Committee Report, and the Actions of February 25, 2004, were accepted.**

#### 3.3 Report of the Making Government Work Better Committee Council Member Campos, Chair **No Report.**

### **3 STRATEGIC SUPPORT SERVICES**

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#### **3.4 Direction to the City Attorney to draft an implementing ordinance for Measure D.**

**Recommendation:** Direct the City Attorney to draft an implementing ordinance for Measure D. (Mayor/Reed)

(Rules Committee referral 3/3/04)

**Approved, with City Attorney directed to:**

- (1) Draft an implementation ordinance for Council consideration to implement the voters will as expressed in the passage of the Charter Amendment known as Measure D;**
- (2) Include provisions for competitive selection per Council direction in December 2003 when the matter was placed before voters. Those provisions shall reflect our current standards and practices for open and competitive selection for professional services, including:**
  - (a) Requests for Proposals shall be approved by the Mayor and City Council.**
  - (b) Criteria for contractor selection shall be approved by the Mayor and City Council.**
  - (c) Scores of the competitors against the criteria shall be made public.**
  - (d) The selection of a contractor to negotiate with shall be approved by the Mayor and City Council.**
  - (e) The award of a contract shall be approved by the Mayor and City Council.**
- (3) Ensure that the implementation of the Design-Build Procurement Process complies with all City and State labor laws and provisions.**
- (4) The Staff group formed by the City Attorney's and the City Manager's Office shall incorporate input obtained from the American Institute of Architects (AIA), the Building Trades Council, and representatives from the General Contractors and Subcontractors.**
- (5) Return with criteria including cost and quality issues, selection process for the Contractor, and criteria used for choosing design-build over other strategies.**

#### **3.5 Employment benefits and certification of same sex marriages by other jurisdictions.**

**Recommendation:** Approval of:

- (a) Recognize all marriages of our City employees certified by other jurisdictions.
- (b) Direction to staff to make any necessary changes to our benefits policies to ensure that all marriages of our City employees certified by other jurisdictions are treated equally and fairly.

(Mayor/Yeager)

(Rules Committee referral 3/3/04)

**Memorandum from Mayor Gonzales, and Council Member Yeager, dated March 4, 2004, was approved.**

**Noes: Reed.**

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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- 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 – February 23, 2004  
Council Member Williams, Chair**

- (a) Report on the Workforce Investment Network  
**The Committee accepted the Staff Report.**
- (b) Oral communications  
**There were none.**
- (c) Adjournment  
**The meeting was adjourned at 3:24 p.m.**

**The Driving a Strong Economy Committee Report, and the Actions of February 23, 2004, were accepted.**

- 4.3 Approval of actions for the Ice Centre of San José (Logitech Ice). (Economic Development Strategy Initiative)**

**Recommendation:**

- (a) Approval of an Expansion Agreement with San José Arena Management LLP, regarding the construction and financing of the second expansion to the Ice Centre of San José (Logitech Ice).
- (b) Approval of the Amended and Restated Lease and Management Agreement with San Jose Arena Management LLP for the operations and management of the Ice Centre of San José (Logitech Ice).

(Economic Development)

**Deferred to 3/23/04.**

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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### **4.4 Approval of actions related to an acquisition of property located on Story Road.**

**Recommendation:** Adoption of a resolution:

- (a) Determining that public use and necessity require the acquisition of a portion of the property located at 888 Story Road, owned by Dennis K. Nazloo and Tony A. Gevergiz.
- (b) Finding that:
  - (1) The property to be taken is necessary for the completion of the Story Road Widening Project (Senter Road to McLaughlin Avenue);
  - (2) The proposed project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;
  - (3) City staff established an amount of just compensation not less than the approved appraisal of the fair market value;
  - (4) City staff presented an offer to the owners for the full appraised amount; and
  - (5) The proposed taking and use are authorized by law.
- (c) Directing the City Attorney to file an eminent domain action to acquire the above property interests.

CEQA: Exempt, PP02-11-333. Council District 7. (Public Works)

**Item 4.4 was dropped.**

### **4.5 Acceptance of the workplan related to the procurement of technology, furniture, equipment, and relocation services for the New Civic Center.**

**Recommendation:** Acceptance of the workplan for implementation of City Council direction to pursue savings in the procurement of technology, furniture, equipment, and relocation services for the New Civic Center. CEQA: New Civic Center project: Resolution No. 68905; CEQA: New Civic Center Parking Garage: Resolution No. 71743. (City Manager's Office/Public Works/Information Technology/Finance/General Services)

(Council referral 2/3/04 – Item 4.3)

**Workplan Accepted.**

## **5 RECREATION & CULTURAL SERVICES**

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

## **6 TRANSPORTATION SERVICES**

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

## **7 ENVIRONMENTAL & UTILITY SERVICES**

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## **8 AVIATION SERVICES**

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## **9 PUBLIC SAFETY SERVICES**

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

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The Redevelopment Agency Board convened to consider Items 10.1 and 10.2 in a Joint Session.

### **10.1 Acceptance of the quarterly CIP and SNI status reports.**

**Recommendation:** Acceptance of the quarterly report on the Citywide Capital Improvement Program (CIP), including park, library, public safety bond projects, and Strong Neighborhoods Initiative (SNI) Projects. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)

**Reports Accepted.**

- (1) Staff requested to correct on the Quarterly Status Report, Page 54, Item 27, the Gregory Street Bridge is not in District 1, it is in District 6; and Page 61, Item 109, Traffic Signals - LRT Retiming, there are no lightrails in District 1.
- (2) Staff requested to forward the project construction schedule, including community centers.

### **10.2 Acceptance of the status report regarding Getting Families Back to Work.**

**Recommendation:**

- (a) Acceptance of the status report on Getting Families Back to Work efforts, and acceptance of the "One List" as a tracking method for progress of the City's work related to Getting Families Back to Work directives and the Economic Development Strategy.
- (b) Acceptance of the estimates of the financial impact of the Getting Families Back to Work directives.

(City Manager's Office)

(Council referral 12/16/03 – Item 4.4)

**Report Accepted.**

The Redevelopment Agency Board portion of the Meeting was adjourned at 6:55 p.m.

- **Closed Session Report**  
**No 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) Daniel McCall spoke on societal issues.**

- **Adjournment**

**The Council of the City of San José was adjourned in memory of Clair Normandin, long-time San Jose business owner; and in memory of Barbara Jensen, mother of Peter Jensen, employee in the City Manager's Office.**

**The Council of the City of San José was adjourned at 6:58 p.m.**

## **7 JOINT REDEVELOPMENT AGENCY/COUNCIL**

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**The Council of the City of San José convened at 7:01 p.m. to hear Item 7.1 in a Joint Session with the Redevelopment Agency.**

### **7.1 Approval of an agreement with Hexagon Transportation Consultants (Getting Families Back to Work Directive)**

**Recommendation:** Approval of an agreement with Hexagon Transportation Consultants, in the amount of \$200,000, for consultant services associated with a traffic study for proposed high density land use development scenarios on the North First Street Corridor in the Rincon de Los Esteros Redevelopment Project Area. [RINCON DE LOS ESTEROS] (Deferred 2/24/04, Item 7.1)

**Approved.**