



CITY COUNCIL AGENDA

JANUARY 26, 2016

SYNOPSIS AMENDED

CHAPPIE JONES
ASH KALRA
RAUL PERALEZ
MANH NGUYEN
MAGDALENA CARRASCO

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

SAM LICCARDO MAYOR

PIERLUIGI OLIVERIO
TAM NGUYEN
ROSE HERRERA VICE MAYOR
DONALD ROCHA
JOHNNY KHAMIS

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

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.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Successor Agency to the Redevelopment Agency Board. 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, the Mayor 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 Tuesday at 7 p.m. as needed, 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, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.sanjoseca.gov/index.aspx?NID=3549>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Tower 14th Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three 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, Call to Order in Council Chambers
Absent Councilmembers: All Present.

1:33 p.m. - Regular Session, Council Chambers, City Hall
Absent Councilmembers: All Present.

7:07 p.m. - Public Hearings, Council Chambers, City Hall
Absent Councilmembers: All Present.
- **Invocation (District 1)**
Rabbi Josh Berkenwald, Congregation Sinai – San José, presented the Invocation.
- **Pledge of Allegiance**
Mayor Sam Liccardo led the Pledge of Allegiance accompanied by students from De Vargas Elementary School.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 7.1 heard before Item 3.4.

- Closed Session Report
No Report.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation in honor of International Holocaust Remembrance Day. (Herrera)
Mayor Sam Liccardo and Vice Mayor Rose Herrera presented a proclamation in honor of International Holocaust Remembrance Day.
- 1.2 Presentation of a commendation to Integrated Device Technology for supporting San José's Zero Waste goal through its leadership in recycling and diversion efforts. (Kalra)
Mayor Sam Liccardo and Councilmember Ash Kalra presented a commendation to Integrated Device Technology for supporting San José's Zero Waste goal through its leadership in recycling and diversion efforts.
- 1.3 Presentation of a commendation recognizing Jake McCluskey for his efforts to raise money for youth as part of his personal battle for health. (Mayor)
Mayor Sam Liccardo recognized Jake McCluskey for his efforts to raise money for youth as part of his personal battle for health.
- 1.4 Presentation of a commendation to Simon Koski for accomplishments in the National Mathnasium TriMathlon. (Rocha)
**Mayor Sam Liccardo and Councilmember Donald Rocha recognized Simon Koski for accomplishments in the National Mathnasium TriMathlon.
Heard in the Evening.**
- 1.5 Presentation of a proclamation recognizing January 2016 as Human Trafficking Awareness Month in the City of San José. (Herrera)
**Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized January 2016 as Human Trafficking Awareness Month in the City of San José.
Heard in the Evening.**
- 1.6 Presentation of a commendation to Doña Irma Gallardo for her contributions for a stronger and healthier East San José community. (Carrasco)
**Mayor Sam Liccardo and Councilmember Magdalena Carrasco commended Doña Irma Gallardo for her contributions for a stronger and healthier East San José community.
Heard in the Evening.**

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Regular Minutes of September 1, 2015.
- (b) Regular Minutes of September 15, 2015.
- (c) Regular Minutes of September 22, 2015.
- (d) Regular Minutes of September 29, 2015.

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.

Minutes approved.

2.2 Final Adoption of Ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29678 – An ordinance of the City of San José amending Section 20.30.100 of Chapter 20.30 and Sections 20.80.810 and 20.80.820 of Chapter 20.80 of Title 20 of the San José Municipal Code to expand the number of hours and range of sites with Public/Quasi-Public uses on which outdoor vending of fresh fruits and vegetables may be allowed as a permitted use (without an administrative permit); and to reduce the restrictions on outdoor vending of fresh fruits and vegetables as a permitted use (without an administrative permit); and to make other technical, formatting or other non-substantive changes within Title 20.

Ordinance No. 29678 adopted.

2.3 Approval of Council Committee Minutes.

Recommendation: Approval of Council Committee Minutes.

- (a) Rules and Open Government Committee Minutes of December 2, 2015. (Mayor)
- (b) Transportation and Environment Committee Minutes of December 7, 2015. (Kalra)
- (c) Rules and Open Government Committee Minutes of December 9, 2015. (Mayor)
- (d) Neighborhood Services and Education Committee Minutes of December 10, 2015. (Rocha)
- (e) Public Safety, Finance, and Strategic Support Services Minutes of December 10, 2015. (Oliverio)

Council Committee Minutes approved.

2.4 Mayor and Council Excused Absence Requests.

None provided.

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2. CONSENT CALENDAR

2.7 Amendment to the Agreement with Corona Solutions for Crime and Mobile Predictive Analytics System.

Recommendation: Adopt a resolution authorizing the City Manager to execute the Third Amendment to the existing Agreement with Corona Solutions for crime analytic software and services to extend the term for six months through June 30, 2016 and increase compensation by \$24,300 for a revised maximum compensation of \$548,957, in order to allow additional time to complete the implementation and transition to a new Crime and Mobile Predictive Analytics System as previously approved by Council. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for professional services with no change in the physical environment. (Finance)

Resolution No. 77643 adopted.

2.8 Fire Station 21 Grand Opening and Dedication Celebration.

Recommendation: As recommended by the Rules and Open Government Committee on January 13, 2016:

- (a) Retroactively approve the Fire Station 21 Grand Opening and Dedication Celebration scheduled on January 23, 2016 as a City Council sponsored Special Event and retroactively approve the expenditure of funds; and
- (b) Retroactively approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Herrera)
[Rules Committee referral from 1/13/16 – Item G(1)(b)]

Approved.

2.9 Evergreen Village Square Lighting Ceremony.

Recommendation: As recommended by the Rules and Open Government Committee on January 13, 2016:

- (a) Retroactively approve the Evergreen Village Square Lighting Ceremony scheduled on January 15, 2016 as a City Council sponsored Special Event and retroactively approve the expenditure of funds; and
- (b) Retroactively approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Herrera/Khamis)
[Rules Committee referral from 1/13/16 – Item G(1)(c)]

Approved.

2. CONSENT CALENDAR

2.10 African American History Month Flag Raising Ceremony.

Recommendation: As recommended by the Rules and Open Government Committee on January 13, 2016:

- (a) Approve the African American History Month Flag Raising Ceremony and Reception scheduled on February 5, 2016 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Kalra)
[Rules Committee referral from 1/13/16 – Item G(1)(a)]

Approved.

2.11 Vinci Park Community Dumpster Day.

Recommendation: As recommended by the Rules and Open Government Committee on January 13, 2016:

- (a) Retroactively approve the Vinci Park Community Dumpster Day scheduled on January 9, 2016 as City Council sponsored Special Event and retroactively approve the expenditure of funds; and
- (b) Retroactively approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Exempt, File No. PP13-056, Activities associated with citywide litter clean-up activities. (Mayor/M. Nguyen)

[Rules Committee referral from 1/13/16 – Item G(1)(d)]

Approved.

2.12 Agreement with Santa Clara Valley Transportation Authority for the Coyote Creek Trail on Tasman Drive.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a Cooperative Agreement with the Santa Clara Valley Transportation Authority to allow for construction, maintenance and operation of the Coyote Creek Trail upon its property, generally between Highway 237 Bikeway and Tasman Drive, at no additional cost to the City. CEQA: Exempt, Guidelines Section 15304 Minor Alterations to Land, File No. PP03-230. Council District 4. (Parks, Recreation and Neighborhood Services)
Resolution No. 77644 adopted

2.13 Agreement with Knight Foundation for Parks Activation and Prototyping Fund.

Recommendation: Ratify and approve the City Manager's execution of an Agreement with Knight Foundation for receipt of grant funds to create a Parks Activation and Prototyping Fund for the period of November 10, 2015, to September 30, 2016, in an amount of \$150,000. CEQA: Not a Project, File No. PP10-066, Agreements and Contracts that involve no physical changes to the environment. Council District 3.

Approved.

2. CONSENT CALENDAR

2.14 Actions Related to the State Grant Funding Application for Housing-Related Parks Program.

Recommendation: Adopt a resolution:

- (a) Authorizing the Director of Housing, or designee, to submit grant applications in an aggregate amount up to \$600,000 to the California Department of Housing and Community Development under the Housing-Related Parks Program for the development of parkland on the Alum Rock & 31st Street property; and
- (b) Authorizing the Director of Housing, or designee, to accept Housing-Related Parks Program grant awards and conduct all negotiations, execute and submit all documents, including, but not limited to, applications, agreements, amendments, and payment requests, which may be necessary in connection with these grants, provided that the Director is not authorized to expend funds on these projects prior to receiving specific California Environmental Quality Act approval for each project.

CEQA: Not a Project, File No. PP10-068(a), Grant Application. Council District 5. (Parks, Recreation and Neighborhood Services/Housing)

Resolution No. 77645 adopted.

2.15 Amendment to the Agreement with CH2M Hill, Inc. for Various City Trail Projects.

Recommendation: Approve the Second Amendment to the Master Agreement with CH2M Hill, Inc. for various City Trail Projects extending the expiration of the agreement from January 31, 2016 to January 31, 2017 in order to provide services for the Penitencia Creek Trail Reach 1B project, at no additional cost to the City. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts for professional services with no change in the physical environment. (Public Works)

Approved.

2.16 Celebrate Cambrian Festival.

Recommendation: As recommended by the Rules and Open Government Committee on January 6, 2016:

- (a) Approve the Celebrate Cambrian Festival scheduled on August 28, 2016 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Rocha)
[Rules Committee referral from 1/6/16 – Item G(1)(a)]

Approved.

2. CONSENT CALENDAR

2.17 Grant for Branham High School to Support a School Improvement Project.

Recommendation: As recommended by the Rules and Open Government Committee on January 13, 2016, approve a council grant for Branham High School in the amount of \$1,500.00 to support a school improvement project (tree planting program) to be paid by Council District 9's Office Appropriation. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Rocha)

Approved.

2.18 Rainbow Flag Raising Ceremony.

Recommendation: As recommended by the Rules and Open Government Committee on January 20, 2016:

- (a) Approve the Rainbow Flag Raising Ceremony scheduled on June 7, 2016 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Oliverio)

Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Norberto Dueñas (Verbal Report).

City Manager Norberto Dueñas provided an update on storm preparedness measures taking place in Alviso in anticipation of El Niño.

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.

None provided.

3.3 Actions Related to Salary Setting Commission Recommendations.

Recommendation: As recommended by the Salary Setting Commission, approve an ordinance establishing the following salaries and benefits for the Mayor and City Council for the next two Fiscal Years, the period July 1, 2015 through June 30, 2017:

- (a) For the Mayor, increase the authorized salary from \$114,000 annually to \$125,000 annually.
- (b) For each Councilmember, increase the authorized salary from \$81,000 annually to \$92,000 annually.
- (c) Retain the levels of health, dental, life insurance and other benefits in accordance with the benefits provided to management employees in Unit 99.

(Item Continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.3 Actions Related to Salary Setting Commission Recommendations (Cont'd.)

- (d) Retain the current retirement benefits offered under the CalPERS Tier 2 Plan and the PTC 457 Defined Contribution Plan.
- (e) Increase the vehicle allowance from \$350 per month to \$500 per month for the Mayor and each member of the City Council.
- (f) Continue to require Councilmembers to pay \$250 for each unexcused absence at scheduled Council meetings, pursuant to City Charter Section 407.

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities that involve no approvals of any city actions. (City Clerk)

(Deferred from 5/19/15 – Item 3.3, 6/23/15 – Item 3.21, and 12/15/16 – Item 3.10)

Ordinance No. 29679 was passed for publication, with a referral to Staff to poll for a Charter Amendment which would potentially remove any future Council salary setting decisions from Council.

(8-3. Noes: Kalra, M. Nguyen, Oliverio.)

3.4 Civil Service Commission Interviews.

Recommendation: Interview applicants and consider appointments to fill two (2) Members-at-Large with terms ending November 30, 2019 on the Civil Service Commission. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities that involve no physical changes to the environment. (City Clerk)

(Deferred from 12/15/15 – Item 3.5 and 1/12/16 – Item 3.8)

Joan Smith and Roy Truitt were reappointed to the Civil Service Commission for terms ending November 30, 2019.

3.5 Actions Related to the Master Services Agreement for the Computer Aided Dispatch System.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute a Master Services Agreement (“MSA”) with Intergraph Corporation (Madison, AL) for the purchase of software maintenance and support, and as-required software upgrades and related professional services for the Computer Aided Dispatch System (CAD), for an initial five-year term ending on December 31, 2020, with a maximum compensation not-to-exceed amount of \$5,000,000 for the initial five-year term, subject to the annual appropriation of funds;
- (b) Execute amendments to the MSA to increase or decrease the maximum compensation during the initial term as may be required, subject to the annual appropriation of funds; and
- (c) Execute up to five additional one-year options to extend the term of the Agreement under the same terms and conditions after the initial five-year term through December 31, 2025, subject to the annual appropriation of funds.

CEQA: Not a Project, File No. PP10-066, Agreements and Contracts for professional services with no change in the physical environment. (Finance)

Resolution No. 77646 adopted.

3. STRATEGIC SUPPORT SERVICES

3.6 Actions Related to the Request for Proposal for Library Resource Materials.

Recommendation: Adopt a resolution to authorize the City Manager to:

- (a) Execute open purchase orders for library books, reference and resource materials, and related services with Baker & Taylor (Charlotte, NC) and Ingram (La Vergne, TN) for the term February 1, 2016 through January 31, 2017, inclusive, for a total combined compensation of \$3,000,000 for the initial term;
- (b) Approve a contingency for a total combined amount of \$500,000 in the event that there are additional requirements for library resources; and
- (c) Exercise options to extend the term with Baker & Taylor and Ingram for up to six additional one-year periods, with the final term ending January 31, 2023, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066, Agreements and Contracts for services that involve no physical changes to the environment. (Finance)

Resolution No. 77647 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Update on the Levitt Pavilion San José Steering Committee.

Recommendation:

- (a) Receive an update on the community-based Levitt Pavilion San José Steering Committee regarding its business planning, entity formation, and fundraising efforts; and
- (b) Authorize the City Manager's continued support of the development of this prospective project including environmental analysis for a pavilion in St. James Park.

CEQA: Not a Project, File No. PP10-069(a), Steering Committee assessments that involve no approvals of any City actions. Environmental clearance limited to the update of the Steering Committee described above and authorized support of the potential project. Any further actions require additional environmental review. Council District 3. (Economic Development/Parks, Recreation and Neighborhood Services)

Authorized, including the memorandum coauthored by Mayor Sam Liccardo, Vice Mayor Rose Herrera, and Councilmembers Carrasco, Peralez and Khamis, dated January 22, 2016, directing the City Manager to ensure that a full Environmental Impact Report (EIR) is completed for this project.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 2016-2017 Hazardous Vegetation Commencement Report from the Santa Clara County Consumer and Environmental Protection Agency.

Recommendation: Conduct a Public Hearing and adopt a resolution:

- (a) Overruling any and all objections to the 2016-2017 Hazardous Vegetation Commencement Report (Report); and
- (b) Directing the Santa Clara County Consumer and Environmental Protection Agency to abate the seasonal and/or recurrent public nuisances on those properties identified in the Report pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Exempt, Guidelines Section 15301 Existing Facilities, File No. PP13-097. (Planning, Building and Code Enforcement)

Public hearing held.

Resolution No. 77648 adopted.

4.3 Supergraphics.

Recommendation: As recommended by the Rules and Open Government Committee on January 20, 2016, direct the City Manager to return to Council by June 2016 with recommendations relating to prior Council direction in 2009-2010 to allow temporary Large Banner Signs/Supergraphics in the Downtown Sign Zone. CEQA: Not a Project, PP10-068(d), Preliminary direction to staff when eventual action requires Council approval. (Mayor)

[Rules Committee referral 1/20/16 – Item G(5)]

Approved, with direction to Staff to provide an update including a timeline of other items returning to Council and direction to issue an information memorandum to provide a sign code update.

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Actions Related to the 6717 – Iron Salt Feed Station Project.

Recommendation:

- (a) Report on bids and award of construction contract for 6717 – Iron Salt Feed Station Project to the low bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$5,205,000 and approve a 15 percent construction contingency in the amount of \$780,750.

Report accepted.

- (b) Adopt a resolution authorizing the Director of Public Works to execute one or more change orders in excess of \$100,000 for the remaining duration of the Project, not to exceed the total contingency amount approved for the Project.

Resolution No. 77649 adopted.

- (c) Adopt the following 2015-2016 Appropriation Ordinance Amendments in the San José-Santa Clara Treatment Plant Capital Fund:
- (1) Decrease the East Primary Rehabilitation, Seismic Retrofit, and Odor Control appropriation to the Environmental Services Department in the amount of \$1,500,000;
 - (2) Decrease the Tunnel Rehabilitation appropriation to the Environmental Services Department in the amount of \$300,000; and
 - (3) Increase the Iron Salt Feed Station appropriation to the Environmental Services Department in the amount of \$1,800,000.

CEQA: San José/Santa Clara Regional Wastewater Facility Iron Salt Feed Station Mitigated Negative Declaration, File No. PP14-098. (Environmental Services/City Manager)

Ordinance No. 29680 adopted.

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

- Notice of City Engineer’s Pending Decision on Final Maps

In accordance with Sec. 19.16.140d of the San José 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>
10348	2482 Almaden Expy.	6	Pulte Home Corp.	1/24	MFA

- **Open Forum**
 1. **Blair Beekman asked that homeless encampment sweeps of downtown be tempered and commented on technology used to advance national security.**
 2. **David Wall addressed the graffiti problem in San José and offered that there should be greater security at the City’s committee meetings.**
- **Adjournment**

The Council of City of San José adjourned the afternoon session at 4:33 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar.

- (a) **Conditional Use Permit and Determination of Public Convenience or Necessity to Allow the Off-Sale of Alcohol at an Existing Grocery Store Located at 451 East Julian Street. (DROP)**

Recommendation: Consideration of a resolution for a Conditional Use Permit and Determination of Public Convenience or Necessity to allow the off-sale of alcohol at an approximately 1,147 square foot existing grocery store (T&L Market) on an approximately 0.14 gross acre site in the CN Neighborhood Commercial Zoning District located on the northeast corner of North 10th Street and East Julian Street (451 East Julian) (Joe Amarlou, Owner). CEQA: Exempt, Guidelines Section 15301(a) Existing Facilities. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

CP15-008/ABC15-003 – Council District 3

Item 11.1(a) was dropped – to be renoticed.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 (b) Rezoning the Real Property Located at the Southeast Corner of North 4th Street and Julian Street.

Recommendation:

- (1) Adopt a resolution approving the Mitigated Negative Declaration for the Fourth Street Residential Project and related Mitigation Monitoring and Reporting Program.

Resolution No. 77650 adopted.

- (2) Consideration of an ordinance rezoning the real property located at the southeast corner of North 4th Street and Julian Street (298 North 4th Street) from the CG Commercial General District to RM (PD) Planned Development Zoning District to allow up to 12 residential units and approximately 1,403 square feet of commercial space on an approximately 0.43 acre site (Green Valley Corporation, Owner). CEQA: Fourth Street Residential Project Mitigated Negative Declaration. Planning Commission recommends approval (5-0-2) (Ballard and Bit-Badal absent). (Planning, Building and Code Enforcement)

PDC14-064 – Council District 3

Ordinance No. 29681 passed for publication.

(c) Rezoning the Real Property Located at the East Side of South Winchester Boulevard, Approximately 180 Feet North of Magliocco Drive.

Recommendation:

- (1) Adopt a resolution approving the Mitigated Negative Declaration for the 780 Winchester Boulevard Mixed Use Project and related Mitigation Monitoring and Reporting Program.

Resolution No. 77651 adopted.

- (2) Consideration of an ordinance rezoning the real property located at the east side of South Winchester Boulevard, approximately 180 feet north of Magliocco Drive (780 S. Winchester Boulevard) from the CP-Commercial Pedestrian and CG-Commercial General Districts to the CP(PD) Planned Development Zoning District, to allow a 4-story building with approximately 10,511 square feet of commercial uses and 82,036 square feet of mini storage on a 1.17 gross acre site (Dan Hudson, Owner). CEQA: 780 Winchester Boulevard Mixed Use Project Mitigated Negative Declaration. Planning Commission recommends approval (5-0-2) (Bit-Badal and Ballard absent). (Planning, Building and Code Enforcement)

PDC14-056 – Council District 1

Ordinance No. 29682 passed for publication.

END OF CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Rezoning the Real Property Located at 1707 Ringwood Avenue.

Recommendation:

- (a) Adopt a resolution approving the 1707 Ringwood Avenue Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program.

Resolution No. 77652 adopted.

- (b) Consideration of an ordinance rezoning the real property located at 1707 Ringwood Avenue from the A Agricultural Zoning District to the A(PD) Planned Development Zoning District to allow four residential units (two attached units and two detached units) on an approximately 0.29 gross acre site (JWC Investments, Inc., Owner).

CEQA: 1707 Ringwood Avenue Mitigated Negative Declaration. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

PDC14-038 – Council District 4

(Deferred from 12/8/15 – Item 11.5)

Ordinance No. 29683 passed for publication.

11.3 Rezoning and Master Planned Development Permit for Real Property Located on Both Sides of Component Drive Between North First Street and Orchard Parkway.

Recommendation:

- (a) Consider the Addendum to the North San José Policies Update Program EIR, Envision San José 2040 Program EIR and BEA Development Project EIR for the Orchard Parkway Properties Project, and adopt a revised Mitigation Monitoring and Reporting Program, all in accordance with the California Environmental Quality Act.

Approved.

- (b) Consideration of an ordinance rezoning the real property located on both sides of Component Drive, between North First Street and Orchard Parkway from the IP(PD) Planned Development Zoning District to the IP(PD) Planned Development Zoning District for the purposes of amending the development standards to eliminate the 105-foot height requirement on North First Street, for up to 2.8 million square feet of industrial uses (Apple, Inc., Owner).

Ordinance No. 29684 passed for publication.

(Item Continued on the next page)

11. PUBLIC HEARINGS

11.3 Rezoning and Master Planned Development Permit for Real Property Located on Both Sides of Component Drive Between North First Street and Orchard Parkway (Cont'd.)

- (c) Consideration of a resolution for a Master Planned Development Permit to effectuate the Planned Development Zoning (File No. PDC15-056) for up to 2.8 million square feet of industrial uses. If Council approves the rezoning ordinance in subsection (b), continue the Master Planned Development Permit for approval on the same date as the final adoption of the rezoning ordinance in accordance with Title 20 of the Municipal Code.

CEQA: Addendum to the North San José Development Policies EIR (Resolution No. 72768), Envision San José 2040 General Plan EIR (Resolution No. 76041), and BEA Development Project EIR (Resolution No. 72169). Planning Commission recommends approval 5-0-2 (Ballard and Yesney abstain). (Planning, Building and Code Enforcement)

PDC15-056/PD15-052 – Council District 4

Adoption of Resolution continued to February 2, 2016.

Note: Item 11.3 heard jointly with Item 11.4.

11.4 Amended and Restated Development Agreement with Apple Inc. Related to the Properties Located West of Orchard Parkway on Both Sides of Atmel Way and East of Orchard Parkway on Both Sides of Component Drive, and Related Site Development Permit and Tentative Map Amendments.

- (a) Consider the Addendum to the North San José Policies Update Program EIR, Envision San José 2040 Program EIR and BEA Development Project EIR for the Orchard Parkway Properties Project, and adopt a revised Mitigation Monitoring and Reporting Program, all in accordance with the California Environmental Quality Act.
Accepted.
- (b) Consideration of an ordinance to approve an amended and restated Development Agreement between Apple Inc. and the City of San José to amend and restate a Development Agreement previously entered into between BEA Systems, Inc. and the City of San José and to incorporate additional adjacent sites of approximately 43.35 acres within the scope of the Development Agreement. The Development Agreement will vest entitlements for 15 years to develop up to 4,151,350 square feet of industrial development, including office, research and development, manufacturing, and other related and supporting uses consistent with the North San José Area Development Policy, San José 2020 General Plan, and Envision San José 2040 General Plan on an approximately 86.35 gross acre site located west of Orchard Parkway on both sides of Atmel Way and east of Orchard Parkway on both sides of Component Drive The Development Agreement

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11. PUBLIC HEARINGS

11.4 Amended and Restated Development Agreement with Apple Inc. Related to the Properties Located West of Orchard Parkway on Both Sides of Atmel Way and East of Orchard Parkway on Both Sides of Component Drive, and Related Site Development Permit and Tentative Map Amendments (Cont'd.)

- (b) includes findings to recognize that the extraordinary benefit to be provided by the project includes the creation of job opportunities for existing residents and a stronger municipal tax base, the expansion into North San José of a superior local business presence whose business is particularly suited to the area, improvement of the City's jobs/housing balance, and the provision of a water well site to serve the North San José area.

Ordinance No. 29685 passed for publication.

- (c) Consideration of a resolution for a Site Development Permit Amendment to allow a permit extension for up to 15 years for Site Development Permit File No. H12-008, consistent with the term of Development Agreement File No. DA15-002, on an approximately 12.9 gross acre site located at the southwest terminus at Atmel Way, approximately 930 feet east of Orchard Parkway (Apple, Inc., Owner). If Council approves the ordinance in subsection (b), continue the Site Development Permit Amendment for approval on the same date as the final adoption of the ordinance.

Adoption of Resolution continued to February 2, 2016.

- (d) Consideration of a resolution for a Tentative Map to allow an extension for up to 15 years for Tentative Map File No. PT13-061, consistent with the term of Development Agreement File No. DA15-002, on an approximately 43 gross acre site located on the west side of North First Street on both sides of Component Drive. If Council approves the ordinance in subsection (b), continue the Tentative Map for approval on the same date as the final adoption of the ordinance.

CEQA: Addendum to the North San José Development Policies EIR (Resolution No. 72768), Envision San José 2040 General Plan EIR (Resolution No. 76041), and BEA Development Project EIR (Resolution No. 72169). Planning Commission recommends approval 5-0-2 (Ballard and Yesney abstain). (Planning, Building, and Code Enforcement)

DA15-002/HA12-008-02/PT15-066 – Council District 4

Adoption of Resolution continued to February 2, 2016.

Note: Item 11.4 heard jointly with Item 11.3.

11. PUBLIC HEARINGS

11.5 Rezoning the Real Property Located at the Northwest Corner of South Winchester Boulevard and Williams Road. *DEFERRED*

Recommendation:

- (a) Certify the Environmental Impact Report for The Reserve Apartments Mixed Use Project and adopt a resolution making certain findings concerning significant environmental impacts, mitigation measures and alternatives, adopting a mitigation monitoring and reporting program, and adopting a statement of overriding considerations, all in accordance with the California Environmental Quality Act (CEQA).
- (b) Consideration of an ordinance rezoning the real property located at the northwest corner of South Winchester Boulevard and Williams Road (881 South Winchester Boulevard) from R-M Residential Zoning District to the R-M (PD) Planned Development Zoning District to allow for the demolition of the existing 216 unit apartment complex and the development of up to 641 multi-family residential units and 8,000 square feet of commercial space on a 7.68 gross acre site (Reserve Reit, Owner).

CEQA: Reserve Residential Project EIR to be considered for certification by City Council. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

PDC14-040 – Council District 1

Deferred to 2/23/16 per Rules Committee

11.6 Appeal of the Planning Commission's Decision to Deny a Conditional Use Permit to Allow Late Night Use for a Public Drinking Establishment located on the east side of South 1st Street, approximately 400 feet southerly of East Santa Clara Street.

Recommendation: Conduct an Administrative Hearing and make a determination on the appeal of the Planning Commission's denial of a Conditional Use Permit to allow a public drinking establishment with a maximum occupancy of 250 people, and late night use until 2:00 a.m. for that drinking establishment and for a banquet facility with a maximum capacity of 549 people in an existing 8,684 square foot tenant space located on the east side of South 1st Street, approximately 400 feet southerly of East Santa Clara Street (58 So. 1st Street) in the DC Downtown Primary Commercial Zoning District.

There are two separate conditional uses proposed in this application: (1) the operation of a public drinking establishment with a maximum occupancy of 250 people; and (2) the late night operation of a public drinking establishment and a banquet facility between the hours of midnight and 2:00 a.m. (Martin Family Properties, Owner). CEQA: Exempt, Guidelines Section 15303(c) New Construction or Conversion of Small Structures. Planning Commission voted 5-0-2 (Yob and Pham absent) that the CEQA exemption is in accordance with CEQA; Planning Commission motion to deny the conditional use permit failed 3-2-2 (Ballard and Yesney opposed; Yob and Pham absent. Motions require an affirmative vote of 4 members for approval); Planning Commission voted 5-0-2 (Yob

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11. PUBLIC HEARINGS

11.6 Appeal of the Planning Commission's Decision to Deny a Conditional Use Permit to Allow Late Night Use for a Public Drinking Establishment located on the east side of South 1st Street, approximately 400 feet southerly of East Santa Clara Street (Cont'd.)

and Pham absent) to Reconsider the conditional use permit; Planning Commission voted 4-1-2 (Ballard opposed; Yob and Pham absent. Yesney changed vote from approval to denial in order to allow appeal to move forward to Council) to deny the conditional use permit. (Planning, Building and Code Enforcement) CP15-057 – Council District 3 **Resolution No. 77656 was adopted denying the Conditional Use Permit, on the basis that it does not adhere to the thirty percent maximum street frontage requirement for drinking establishments on one street.**

(6-4-1. Noes: Khamis, M. Nguyen, T. Nguyen, Rocha. Absent: Oliverio.)

11.7 Rezoning the Real Property Located on the Easterly Side of Senter Road, Approximately 560 Feet Southerly of Tully Road.

Recommendation:

- (a) Consider the Addendum to the 2500 Senter Road Residential Project Mitigated Negative Declaration, and adopt a revised Mitigation Monitoring and Reporting Program, all in accordance with the California Environmental Quality Act.

Approved.

- (b) Consideration of an ordinance rezoning the real property located on the easterly side of Senter Road, approximately 560 feet southerly of Tully Road (2500 Senter Road) from the A(PD) Planned Development Zoning District to the PQP Public/Quasi-Public Zoning District on a 2.5 gross acre site (Charities Housing, Applicant).

CEQA: Addendum to the 2500 Senter Road Residential Project Mitigated Negative Declaration (File No. PDC09-033, Ordinance No. 28815). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. (Planning, Building and Code Enforcement)

C15-060 – Council District 7

Ordinance No. 29686 passed for publication.

● Open Forum

- (1) Brian Darby expressed the concerns of fellow residents of the Winchester Mobile Home Park, and spoke to the issue of homelessness.
- (2) Gilbert Yang asked that greater efforts be made to clean up the Coyote Creek area and cited the danger to nearby residents.
- (3) Wyan Tanu asked that refugees' experiences not be equated with the homeless epidemic.

● Adjournment

The Council of the City of San José was adjourned at 11:19 p.m.