



## **PLANNING COMMISSION AGENDA**

**Wednesday, December 3, 2008**

**6:30 p.m. Regular Meeting**

**Council Chambers**  
First Floor, City Hall Wing

200 East Santa Clara Street  
San José, California

**Jim Zito, Chair**  
**Matt Kamkar, Vice-Chair**

**Xavier Campos**                      **Thang Do**  
**Lisa Jensen**                      **Christopher Platten**  
**Vacant**

**Joseph Horwedel, Director**  
**Planning, Building and Code Enforcement**

## NOTE

To request an accommodation for City-sponsored meetings or events or an alternative format for printed materials, please call Dawn Lehman at 408-535-7811 or 408-294-9337 (TTY) as soon as possible, but at least three business days before any meeting or event. If you requested such an accommodation, please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

## NOTICE TO THE PUBLIC

Good evening, my name is **Jim Zito** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of ***Wednesday, December 3, 2008***. Please remember to turn off your cell phones. Parking ticket validation machine for the garage under City Hall is located at the rear of the Chambers.

If you want to address the Commission, **fill out a speaker card (located on the table by the door, on the parking validation table at the back, and at the bottom of the stairs near the Audio-Visual Technician. Deposit the completed card in the basket near the Planning Technician. Please include the agenda item number (not the file number) for reference. Example: 4.a., not PD06-023.**

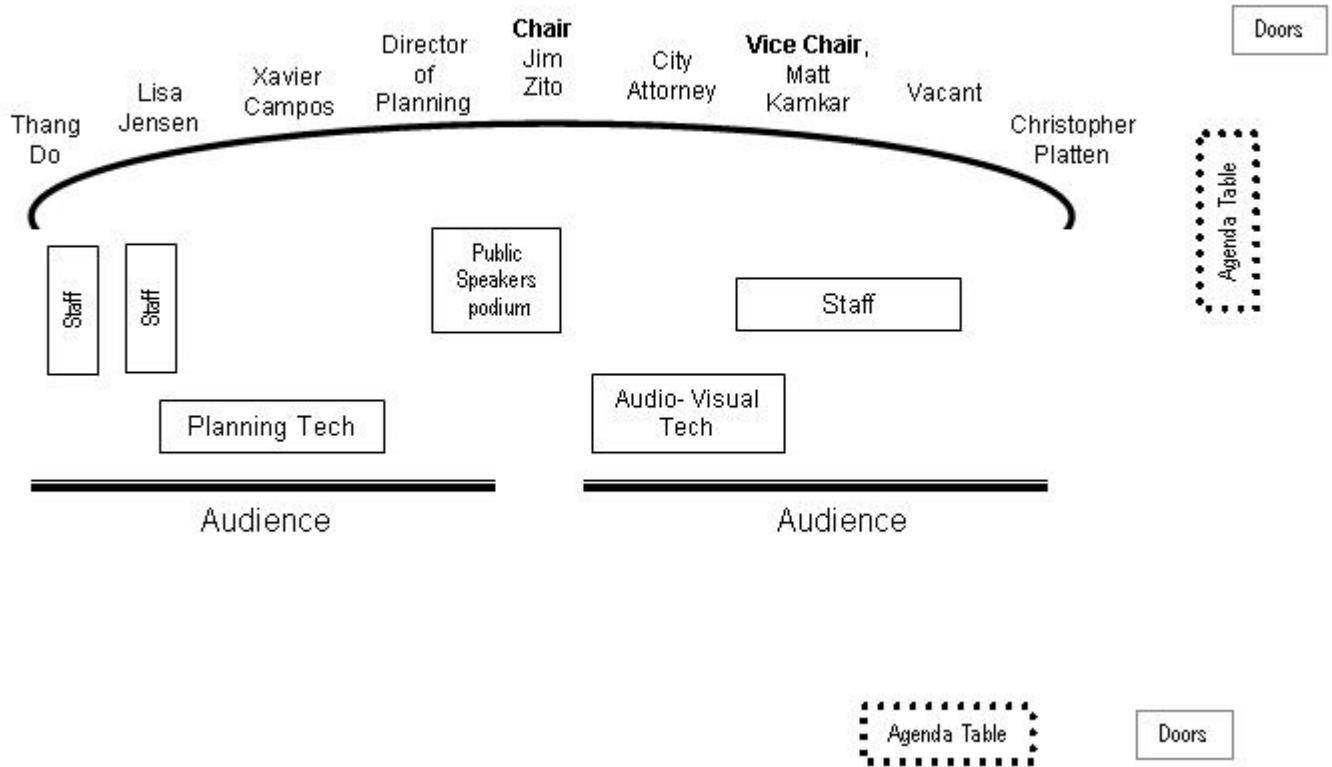
The procedure for this hearing is as follows:

- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. Response to Commissioner questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

**If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.**

**The Planning Commission's action on rezoning, prezonings, General Plan Amendments and Code Amendments is only advisory to the City Council. The City Council will hold public hearings on these items.** Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezoning and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

The Planning Commission is a seven-member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San José Planning Commission generally meets every 2<sup>nd</sup> and 4<sup>th</sup> Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at [http://www.sanjoseca.gov/planning/hearings/planning\\_com.asp](http://www.sanjoseca.gov/planning/hearings/planning_com.asp)

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 Planning, Building and Code Enforcement at San José City Hall, 200 E. Santa Clara Street, 3<sup>rd</sup> Floor Tower, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

Audio for the Planning Commission hearings are recorded and broadcasted live. To listen to live audio broadcast or to listen to past hearing recordings go to the Internet website: [http://sanjose.granicus.com/ViewPublisher.php?view\\_id=17](http://sanjose.granicus.com/ViewPublisher.php?view_id=17)

If you have any questions, please direct them to the Planning staff at (408) 535-7800. If you have any agenda questions, please contact Dawn Lehman at (408) 535-7811 or email [dawn.lehman@sanjoseca.gov](mailto:dawn.lehman@sanjoseca.gov) Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

**AGENDA**  
**ORDER OF BUSINESS**

**ROLL CALL**

**1. DEFERRALS**

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Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table.

Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time.

To effectively manage the Planning Commission Agenda, and to be sensitive to concerns regarding the length of public hearing, the Planning Commission may determine either:

- To proceed with remaining agendized items past 11:00 p.m.;
- To continue this hearing to a later date;
- Or to defer remaining items to the next regularly scheduled Planning Commission meeting date.

Decision on how to proceed will be heard by the Planning Commission no later than 11:00 p.m.

- a. **CP07-082**. Conditional Use Permit for off-sale of alcoholic beverages at an existing convenience store on a 0.83 gross acres site in the CN Neighborhood Commercial Zoning District, located at northeast corner between Branham Lane and Lizzie Avenue (1191 Branham Ln.)(Billiet Family, LLC). Council District 9. SNI: None. CEQA: Exempt. *PROJECT MANAGER, S. DO*

**Staff Recommendation:** Defer to 1/14/2009 per staff request.

*The matter of Deferrals is now closed*

## 2. CONSENT CALENDAR

### NOTICE TO THE PUBLIC

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time.

- a. [CPA03-047-01](#). Conditional Use Permit Amendment to allow renewal of an existing 60 foot tall monopole with associated equipment cabinets on a 22.8 gross acre site in the R-1-8 Single-Family Residence Zoning District, located on the northerly side of Dana Avenue approximately 180 feet southeasterly of Naglee Avenue (604 DANA AV)(San Jose Unified S D, Owner). Council District 6. SNI: None. CEQA: Exempt. Deferred from 11/19/08. *PROJECT MANAGER, S.SAHA*

**Staff Recommendation:** Approve a Conditional Use Permit Amendment to allow renewal of an existing 60 foot tall monopole with associated equipment cabinets on a 22.8 gross acre site in the R-1-8 Single-Family Residence Zoning District, as recommended by staff.

- b. [SP08-040](#). RESOLUTION upholding the appeal of the Planning Director's decision to deny and approving Special Use Permit for late night use until 3:00 a.m. for an existing restaurant on a 0.09 gross acre site, in the DC Downtown Primary Commercial Zoning District, located at the southeast corner of South 3rd Street and San Carlos Street (304 S. 3<sup>rd</sup> St. – Hoagie's Steak Out) (SHAHIDI MASOUD, Owner). Council District 3. SNI: None. CEQA: Exempt. *Continued from 11/19/08 for the preparation of Resolution. PROJECT MANAGER, E.SAMONSKY*

**Staff Recommendation:** Adopt a resolution upholding the appeal of the Director's Decision to deny and approving a Special Use Permit, for late night use until 3:00 a.m. for an existing restaurant on a 0.09 gross acre site, in the DC Downtown Primary Commercial Zoning District, as recommended by staff.

- c. [CP08-062](#). Conditional Use Permit to allow a 899 square foot addition to a mini-mart and site improvements for an existing gasoline service station on a 0.58 gross acre site in the CP Pedestrian Commercial Zoning District, located at the northeast corner of Foxworthy Avenue and Meridian Avenue (1645 Foxworthy Avenue)(Foxworthy Gas/Sukhdev Singh and Rajwinder K. Rai, Owner). Council District 9. SNI: None. CEQA: Exempt. *PROJECT MANAGER, S. DO*

**Staff Recommendation:** Approve a Conditional Use Permit to allow a 899 square foot addition to a mini-mart and site improvements for an existing gasoline service station on a 0.58 gross acre site in the CP Pedestrian Commercial Zoning District, as recommended by staff.

The following items are considered individually.

### 3. PUBLIC HEARING

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#### NOTICE TO THE PUBLIC

Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

- a. [DA08-003](#). Ordinance approving a Development Agreement Amendment #2 to the Cisco Alviso Development Agreement for the area generally bounded by Highway 237, N. First Street, Grand Boulevard and Disk Drive to amend Ordinance 26136, adopted on June 20, 2000, and amended in June 2008 to extend by six months a certain project occupancy date to December 31, 2008 between the City and Cisco Technology, Inc. relative to the development of property in North San Jose, and to accept job growth at the North San Jose Campus to fulfill that certain occupancy Subsequent Condition C. (1) and authorizing the City Clerk to execute the Amended Development Agreement. (Cisco Technologies, Owner/Applicant). CEQA: EIR Resolution No. 69636.

**Staff Recommendation:** Consider the Environmental Impact Report in accordance with CEQA. Recommend to the City Council approval of an ordinance approving a Second Amendment to the Cisco Alviso Development Agreement for the area generally bounded by Highway 237, N. First Street, Grand Boulevard, and Disk Drive, as recommended by staff.

- b. [CP08-036](#). Conditional Use Permit to allow the renewal and continued use of an existing wireless communications monopole with associated ancillary equipment cabinets on a 5.96 gross acre site in the A(PD) Planned Development Zoning District, located on the north side of Dobbin Drive approximately 1,000 feet easterly of King Road (1855 DOBBIN DR)(R & C Brown Associates L.P., Owner; Verizon Wireless, Developer). Council District 3. SNI: None. CEQA: Exempt. Deferred from 09/10/08, 10/08/08, & 11/19/08. *PROJECT MANAGER, S.SAHA*

**Staff Recommendation:** Approve a Conditional Use Permit to allow the renewal and continued use of an existing a wireless communications monopole with associated ancillary equipment cabinets on a 5.96 gross acre site in the A(PD) Planned Development Zoning District, as recommended by staff.

- c. [PDC08-038](#). Planned Development Rezoning from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 84 attached residential units on a 1.92 gross acres site, located on the south side of East San Antonio Street, approximately 950 feet east of South 24th Street (1338 E San Antonio St.)(Neighborhood Housing Services Silicon Valley, Owner). Council District 3. SNI: Five Wounds/Brookwood Terrace. CEQA: Mitigated Negative Declaration. *PROJECT MANAGER, L.McMORROW*

**Staff Recommendation:** Consider the Mitigated Negative Declaration in accordance with CEQA. Recommend approval to City Council a Planned Development Rezoning from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 84 attached residential units on a 1.92 gross acres site.

d. **EVERGREEN-EAST HILLS DEVELOPMENT POLICY**. Public Hearing on the following items related to the Evergreen-East Hills Development Policy update. The Evergreen-East Hills Development Policy area is defined as the land within San Jose's Urban Service Area Boundary, south of Story Road, east of U.S. Highway 101 and the area generally north of the intersection of U.S. Highway 101 and Hellyer Avenue, where the northern boundary of the Edenvale Development Policy Area ends. SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. Council Districts: 5, 7, and 8. CEQA: Resolution to be adopted.

- (1) PUBLIC HEARING ON THE CERTIFICATION OF THE FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SEIR) for an update to the Evergreen-East Hills Development Policy to allow an additional 500 residential units, 500,000 square feet of commercial retail, and 75,000 square feet of office development of the EEHDP area which is defined as the land within San Jose's Urban Service Area Boundary, south of Story Road, east of U.S. Highway 101, and the area generally north of the intersection of U.S. Highway 101 and Hellyer Avenue, where the northern boundary of the Edenvale Development Policy Area ends. CEQA: Resolution to be adopted.

**Staff Recommendation:** Certify the Supplemental Environmental Impact Report and find it in compliance with CEQA.

- (2) PUBLIC HEARING ON THE PROPOSED UPDATE TO THE EVERGREEN-EAST HILLS DEVELOPMENT POLICY including the consideration of: A resolution updating to the Evergreen-East Hills Development Policy to a) authorize up to an additional 500 residential units, 500,000 square feet of commercial development, and 75,000 square feet of office development in the development policy area; and b) authorize a decreased level of service at four intersections – (Capital Expressway and Nieman Blvd, San Felipe Rd and Yerbe Buena Ave-North, San Felipe Rd and Delta Rd, and Evergreen Commons and Tully Road);
  - (a) The acceptance of the prepared traffic impact study and associated transportation improvements; and
  - (b) The adoption of an ordinance establishing the Evergreen-East Hills Traffic Impact Fee.

**Staff Recommendation:** Consider the Environmental Impact Report and find it in compliance with CEQA. Recommend to the City Council: 1) adoption of the proposed Evergreen-East Hills Development Policy; 2) acceptance of the prepared traffic study and associated improvements; and 3) approval of an ordinance establishing the Evergreen-East Hills Traffic Impact Fee, as recommended by staff.

e. **PLANNING COMMISSION BYLAWS**. Adoption of a resolution amending Planning Commission Resolution No. 64-1 to update and amend the Planning Commission By-Laws to amend the term for officers, to make the language of the By-Laws gender neutral, to provide for meeting procedures, and to make other nonsubstantive, technical clarifications and corrections.

## **4. PETITIONS AND COMMUNICATIONS**

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Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:

- Responding to statements made or questions posed by members of the public; or
- Requesting staff to report back on a matter at a subsequent meeting; or
- Directing staff to place the item on a future agenda.

## **5. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES**

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## **6. GOOD AND WELFARE**

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- a. Report from City Council
- b. Commissioners' Report from Committees:
  - (1) Norman Y. Mineta San José International Airport Noise Advisory Committee (Campos).
  - (2) Envision San José 2040 General Plan Update Process (Kamkar).
- c. Review of [Synopsis from 11/19/08](#).
- d. Consider Study Session dates and/or topics.

## **ADJOURNMENT**

## 2008 PLANNING COMMISSION MEETING SCHEDULE

<u>Date</u>	<u>Time</u>	<u>Type of Meeting</u>	<u>Location</u>
January 16	6:30 p.m.	Regular Meeting	Council Chambers
January 30	6:30 p.m.	Regular Meeting	W118 & W119
February 13	5:00 p.m.	Study Session <i>Review &amp; Comment: Planning Department Website</i>	Room T-332
February 13	6:30 p.m.	Regular Meeting	Council Chambers
February 27	5:00 p.m.	Study Session <i>CEQA: Reviewing Environmental Impact Reports</i>	Room T-332
February 27	6:30 p.m.	Regular Meeting	Council Chambers
March 12	5:00 p.m.	Study Session <i>North San José</i>	Room T-332
March 12	6:30 p.m.	Regular Meeting	Council Chambers
March 26	5:00 p.m.	Study Session <i>Green Vision/Develop City Policy</i>	Room T-332
March 26	6:30 p.m.	Regular Meeting/General Plan	Council Chambers
April 9	5:00 p.m.	Study Session <i>Riparian Corridor Policy</i>	Room T-332
April 9	6:30 p.m.	Regular Meeting/General Plan	Council Chambers
April 21 (Monday)	5:00 p.m.	Study Session <i>Inclusionary Housing &amp; Housing Element</i>	Room T-332
April 21 (Monday)	6:30 p.m.	Regular Meeting/General Plan	Council Chambers
May 7	5:00 p.m.	Study Session <i>Capital Improvement Program</i>	Room T-1654
May 7	6:30 p.m.	Regular Meeting	Council Chambers
May 14	6:30 p.m.	Regular Meeting	Council Chambers
May 28	6:30 p.m.	Regular Meeting	Council Chambers
June 11	5:00 p.m.	Study Session <i>Planning Commission By-Laws</i>	Room T-332
June 11	6:30 p.m.	Regular Meeting	Council Chambers
June 25	5:00 p.m.	CANCELLED Study Session <i>Riparian Corridor Policy</i>	CANCELLED
June 25	6:30 p.m.	Regular Meeting	Council Chambers
July 16	6:30 p.m.	Regular Meeting	W-118, W-119, W-120
August 6	5:00 p.m.	Study Session <i>Riparian Corridor Policy</i>	Room T-332
August 6	6:30 p.m.	Regular Meeting	Council Chambers
August 20	6:30 p.m.	Regular Meeting	Council Chambers
September 10	6:30 p.m.	Regular Meeting	Council Chambers
September 24	5:00 p.m.	Study Session <i>Joint Study Session with Parks Commission</i>	Council Chambers
September 24	6:30 p.m.	Regular Meeting	Council Chambers
September 25	8:30 a.m.	Annual Retreat - <b>CANCELLED</b>	Room T-1654
October 8	5:00 p.m.	Study Session <i>County Island Annexation Program</i>	Room T-332
October 8	6:30 p.m.	Regular Meeting	Council Chambers
October 22	6:30 p.m.	Regular Meeting	Council Chambers
November 5	5:00 p.m.	Study Session - <b>CANCELLED</b> <i>Planned Development Processes</i>	Room T-332
November 5	6:30 p.m.	Regular Meeting/General Plan	Council Chambers
November 6	8:30 a.m.	Annual Retreat	Room T-1654
November 19	6:30 p.m.	Regular Meeting/General Plan	Council Chambers
December 3	6:30 p.m.	Regular Meeting	Council Chambers
December 10	6:30 p.m.	Regular Meeting	Council Chambers

## **2009 PLANNING COMMISSION MEETING SCHEDULE**

<b><u>Date</u></b>	<b><u>Time</u></b>	<b><u>Type of Meeting</u></b>	<b><u>Location</u></b>
January 14	6:30 p.m.	Regular	Council Chambers
January 28	6:30 p.m.	Regular	Council Chambers
February 11	6:30 p.m.	Regular	Council Chambers
February 25	6:30 p.m.	Regular	Council Chambers
March 11	6:30 p.m.	Regular	Council Chambers
March 25	6:30 p.m.	Regular	Council Chambers
April 8	6:30 p.m.	Regular	Council Chambers
April 22	6:30 p.m.	Regular	Council Chambers
May 6	6:30 p.m.	Regular	Council Chambers
May 13	6:30 p.m.	Regular	Council Chambers
May 27	6:30 p.m.	Regular	Council Chambers
June 10	6:30 p.m.	Regular	Council Chambers
June 24	6:30 p.m.	Regular	Council Chambers
July 8	6:30 p.m.	Regular	Council Chambers
July 22	6:30 p.m.	Regular	Council Chambers
August 12	6:30 p.m.	Regular	Council Chambers
August 26	6:30 p.m.	Regular	Council Chambers
September 9	6:30 p.m.	Regular	Council Chambers
September 23	6:30 p.m.	Regular	Council Chambers
October 14	6:30 p.m.	Regular	Council Chambers
October 28	6:30 p.m.	Regular	Council Chambers
November 4	6:30 p.m.	Regular	Council Chambers
November 18	6:30 p.m.	Regular	Council Chambers
December 2	6:30 p.m.	Regular	Council Chambers
December 9	6:30 p.m.	Regular	Council Chambers

## **CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

### **1. Public Meeting Decorum:**

- a) Persons in the audience will refrain from behavior, which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

### **2. Signs, Objects or Symbolic Material:**

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
  - No objects will be larger than 2 feet by 3 feet.
  - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
  - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN  
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:
- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
  - b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
  - c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
  - d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners, or Staff in conversation will not be honored. Abusive language is inappropriate.
  - e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
  - f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
  - g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.