



CITY COUNCIL AGENDA

MAY 20, 2014

AMENDED AGENDA

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
XAVIER E. CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON NGUYEN, VICE MAYOR
ROSE HERRERA
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. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed 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, Council Wing, 2nd 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**
 - * 9:00 a.m. - Closed Session, Call to Order in Council Chambers
Open Session, Labor Negotiations Update (See Item 3.2)
Adjourn to Closed Session in Council Chambers Conference Room, W133
See [Separate Agenda](#)
 - 1:30 p.m. - Regular Session, Council Chambers, City Hall
 - 7:00 p.m. - General Plan Hearings, Council Chambers, City Hall
 - 7:00 p.m. - Public Hearings, Council Chambers, City Hall

- **Invocation (District 5)**
Alum Rock Jazz

- **Pledge of Allegiance**

- **Orders of the Day**
 - * Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.
 - * **ITEM 3.4 RENUMBERED TO 2.16**
 - * **ITEM 4.7 RENUMBERED TO 2.17**

- Orders of the Day (Cont'd.)

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

- Closed Session Report

1. CEREMONIAL ITEMS

- 1.1** Administer Oaths of Office to newly appointed Youth Commissioners. (City Clerk)
TO BE HEARD IN THE EVENING
- 1.2** Presentation of a proclamation declaring the Month of May 2014 as “Asian Pacific American Heritage Month” in the City of San José. (Chu)
(Deferred from 5/6/14 – Item 1.1)
TO BE HEARD IN THE EVENING
- 1.3** Presentation of a proclamation declaring May 19th through 23rd as “Affordable Housing Week” in the City of San José. (Herrera)
- 1.4** Presentation of a proclamation declaring the week of May 18 - 24, 2014 as Public Works Week. (Public Works)
- 1.5** Presentation of a proclamation proclaiming the “San José – Okayama Sister City Youth” as Honorary Ambassadors of the City of San José. (Khamis)
(Rules Committee referral 5/14/14)
* **TO BE HEARD IN THE EVENING**
- 1.6** Presentation of a commendation to Irene Dalis for her thirty years at Opera San José. (Liccardo/Oliverio)
* (Rules Committee referral 5/14/14)
- 1.7** Presentation of commendations to Sartorette and Cherrywood Elementary Schools Safety Patrol Programs for providing school safety services and education to the Sartorette and Cherrywood communities. (Rocha/Chu)
(Rules Committee referral 5/14/14)
* **TO BE HEARD IN THE EVENING**

2. CONSENT CALENDAR

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

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) [Regular Minutes of February 4, 2014.](#)
- (b) [Study Session Minutes of February 10, 2014 on 2014-2015 Budget Planning.](#)
- (c) [Regular Minutes of February 11, 2014.](#)
- (d) [Regular Minutes of February 25, 2014.](#)

2.2 Final Adoption of Ordinances.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) [Rules and Open Government Committee Report of April 30, 2014.](#) (Mayor)

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 [Ordinance on Small Model Warships.](#)

Recommendation: Approve an [ordinance](#) amending Section 10.32.140 of Chapter 10.32 of Title 10 and Section 13.44.200 of Chapter 13.44 of Title 13 of the San José Municipal Code to permit the operation of model warships armed with low-velocity gas or compressed-air projectile launchers at times and locations designated by the City.

CEQA: Exempt, File No. PP14-032. (City Attorney)

(Deferred from 4/15/14 – Item 2.7)

* **DEFERRED TO 8/19/14 PER ADMINISTRATION**

2.8 [Actions Related to the Team San José 2013-2014 Budget Adjustments.](#)

* **Recommendation:** Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Convention and Cultural Affairs Fund:

- (a) Increase the estimate for Earned Revenue by \$1,600,000; and
- (b) Increase the Convention Facilities Operations appropriation to the Office of Economic Development in the amount of \$1,600,000.

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. Council District 3. (Economic Development/City Manager)

2. CONSENT CALENDAR

2.9 [Report on Bids and Award of Contract for the Training Trailer Replacement Project.](#)

[Supplemental](#)

Recommendation:

(a) Award of a construction contract for the 7249 - Training Trailer Replacement to the low bidder, Newton Construction and Management, Inc., in the amount of \$513,874; and

(b) Approve a contingency in the amount of \$51,400.

CEQA: Exempt, File No. PP13-045. (Environmental Services)

2.10 [Agreement with Langham Consulting Services Inc. for Project Management Services.](#)

Recommendation: Approve a [Master Service Agreement](#) with Langham Consulting Services, Inc. for professional services to support implementation of new Utility and Business Tax System billing solutions for the term of May 20, 2014 to May 20, 2016, with a not-to-exceed amount of \$1,100,000. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Environmental Services/Finance)

2.11 [Set a Public Hearing on the Report on the Cost of Sidewalk Repairs.](#)

* **Recommendation:** Adopt a [resolution](#) setting a Public Hearing on Tuesday, June 17, 2014, at 1:30 p.m. for the approval of the report from the Director of Finance for the cost of sidewalk repairs. CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Finance)

2.12 [Work2Future Board of Directors Appointment.](#)

Recommendation: As recommended by the Rules and Open Government Committee on May 7, 2014, approve the appointment of Stephen Wymer as a representative on the work2future Board of Directors. (Mayor)

[Rules Committee referral 5/7/14 – Item F(1)(a)]

2.13 [District 7 Mid-Autumn Festival and Resource Fair.](#)

Recommendation: As recommended by Rules and Open Government Committee on May 7, 2014:

(a) Approval of the Mid-Autumn Festival and Resource Fair as a City Council sponsored Special Event and approving the expenditure of funds;

(b) Approval and acceptance of donations from various individuals, businesses or community groups to support the Mid-Autumn Festival and Resource Fair; and

(c) Approve the expenditure of donations and City funds to provide incentives for children participants.

CEQA: Not a Project. (Nguyen)

[Rules Committee referral 5/7/14 – Item G(3)]

2. CONSENT CALENDAR

2.14 [Report on Bids and Award of Contract for the 2014 Remove and Replace Asphalt Concrete Pavement Project.](#)

Recommendation: Report on bids and award of a construction contract for the 2014 Remove and Replace Asphalt Concrete Pavement Project to the low bidder, MCK Services, Inc., in the amount of \$2,777,655, and approval of a ten percent (10%) contingency in the amount of \$277,765. CEQA: Exempt, File No. PP11-035. (Transportation)

2.15 [Actions Related to the Metropolitan Transportation Commission Grant Program.](#)

Recommendation: Adopt a [resolution](#):

- (a) Authorizing the City Manager or designee to submit a request to the Metropolitan Transportation Commission (MTC) for the allocation of Fiscal Year 2014-2015 Transportation Development Act, Article 3 State grant funding in the amount of \$1,094,695 for Citywide Bicycle and Pedestrian projects;
- (b) Making the certifications and assurances required under the grant program as explained in this memorandum; and
- (c) Authorizing the City Manager or designee to accept any grant funding awarded from MTC and to negotiate and execute any grant documents to effectuate the grant.

CEQA: Exempt, File No. PP13-037. (Transportation)

2.16 [Youth Commission Appointments.](#) [Supplemental](#)

Recommendation: Approve appointments to the Youth Commission. (City Clerk)

* **RENUMBERED FROM 3.4**

2.17 [Actions Related to the Lower Guadalupe River Trail-Tasman Undercrossing.](#)

Recommendation:

- (a) Report on bids and award of contract for the 6470-Lower Guadalupe River Trail-Tasman Under-Crossing to the low bidder, Con-Quest Contractors, Inc., in the amount of \$527,650, and approval of a contingency in the amount of \$53,000;
- (b) Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 4 Fund:
 - (1) Decrease the Ending Fund Balance by \$520,000; and
 - (2) Establish the Trail: Guadalupe River Under-Crossing (Tasman Drive) appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$520,000;

(Item continued on the next page)

2. CONSENT CALENDAR

2.17 Actions Related to the Lower Guadalupe River Trail-Tasman Undercrossing. (Cont'd.)

Recommendation:

(c) Adopt the following Appropriation Ordinance amendments in the Construction Excise Tax Fund:

- (1) Decrease the North San José Traffic Impact Fees Reserve by \$260,000; and
- (2) Establish the Trail: Guadalupe River/Tasman Under-Crossing appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$260,000.

CEQA: Mitigated Negative Declaration, File No. PP04-323 (Resolution Number 72742, adopted 6/21/2005). Council District 4. (Public Works/Parks, Recreation and Neighborhood Services/Transportation/City Manager)

* **RENUMBERED FROM 4.7**

2.18 [Mayor Reed's Travel to Denver, CO and Colorado Springs, CO.](#)

Recommendation: Approve travel by Mayor Reed to Denver, CO and Colorado Springs, CO on May 15 -16, 2014 to attend the Colorado Pension Project and the United States Air Force Academy Lunch and Learn. Source of Funds: Mayor's Office Budget. (Mayor)

* (Rules Committee referral 5/14/14)

2.19 [Mayor Reed's Travel to New York, NY.](#)

Recommendation: Approve travel by Mayor Reed to New York, NY on June 4 – 6, 2014 to attend the Citi Pension Conference. Source of Funds: Mayor's Office Budget. (Mayor)

* (Rules Committee referral 5/14/14)

2.20 [Councilmember Constant's Travel to New York, NY.](#)

Recommendation: Approve travel by Councilmember Constant to New York, NY on September 16 – 19, 2014 to attend the San José/Silicone Valley Chamber of Commerce Study Mission (City-to-City Trip). Source of Funds: Mayor & Travel Fund. (Constant)

* (Rules Committee referral 5/14/14)

2.21 [SB 1151 \(Cannella\) – Vehicles: School Zone Fines.](#)

Recommendation: As recommended by the Rules and Open Government Committee on May 14, 2014, adopt a position of support if amended for SB 1151 (Cannella). (Transportation)

* [Rules Committee referral 5/14/14 – Item G(2)]

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Edward Shikada (Verbal Report).

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.

* **TO BE HEARD AT 9:00 A.M.**

3.3 Actions Related to the Agreement with Google Fiber for Future Installation of Google Fiber Network.

Recommendation:

- (a) Accept status report on the City's efforts to submit information requested by Google Fiber for its consideration of selecting San José for the future installation of a Google Fiber network; and
- (b) Adopt a resolution authorizing the City Manager or his designee to execute a master Network Hut License Agreement with Google Fiber, and to execute Network Hut Site Terms thereunder for individual sites following City Council approval of such individual sites.

CEQA: Not a Project, File No. PP10-066, Agreements and Contracts. (City Manager)
(Deferred from 4/29/14 – Item 3.4, 5/6/14 – Item 3.3 and 5/13/14 – Item 3.3)

* **DEFERRED TO 6/3/14 PER ADMINISTRATION**

3.4 [Youth Commission Appointments.](#) [Supplemental](#)

Recommendation: Approve appointments to the Youth Commission. (City Clerk)

* **RENUMBERED TO 2.16**

3.5 [Agreement with Vander-Bend Manufacturing for the Facilities Relocation to San José.](#)

* **Recommendation:**

- (a) Conduct a Public Hearing regarding an economic subsidy in connection with a [Capital Equipment and Assistance Agreement](#) with Vander-Bend Manufacturing, pursuant to California Government Code Section 53083; and
- (b) Adopt a resolution authorizing the City Manager to execute a Capital Equipment and Assistance Agreement with Vander-Bend Manufacturing in which the City will provide an amount not to exceed \$100,000 for the acquisition of production and assembly equipment at Vander-Bend's new headquarters and production facilities in San José.

CEQA: Exempt, File No. PP14-044. (Economic Development)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [Special Event Ordinance.](#)

[Supplemental from Community and Economic Development Committee 4/28/14](#)

- * **Recommendation:** As recommended by the Community and Economic Development Committee on April 28, 2014, of the two proposed Special Events ordinances, adopt the revised community special events ordinance that would add Chapter 13.14, repeal Chapters 13.12, 13.16, and 13.22, and amend Chapter 13.44 of Title 13 of the San José Municipal Code, in order to establish a comprehensive permit process for outdoor special events on at City streets, parks, paseos and plaza. CEQA: Not a Project, File No. PP10-068(c), Municipal Code amendments involving no changes to the physical environment. (City Attorney/Economic Development)

[Limited Regulation Ordinance](#) [Revised Special Events Ordinance](#)

[Community and Economic Development Committee referral 4/28/14 – Item D(4)]

- * **DEFERRED TO 6/3/14 PER ADMINISTRATION**

4.2 [Agreement with Banc of America Public Capital Corp. for Energy Services Company Equipment \(ESCO\).](#)

Recommendation:

- (a) Adopt a [resolution](#) authorizing the execution and delivery of a [master equipment lease/purchase agreement](#) with Banc of America Public Capital Corp, as lessor, and separate schedules thereto for the acquisition, purchase, financing and leasing of certain equipment that constitutes an energy conservation facility in a principal amount not to exceed \$30,000,000; authorizing the execution and delivery of other documents required in connection therewith; and authorizing the taking of all other actions related thereto;
- (b) Adopt a resolution authorizing the Director of Public Works to negotiate and execute an amendment to the Energy Services Agreement with Chevron Energy Solutions increasing the maximum compensation from \$21,093,029 to \$23,482,781 to accommodate the conversion of 3,127 additional streetlights to LED technologies; and
- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund for 2013-2014:
 - (1) Increase the revenue estimate for Other Revenue by \$27,063,135; and
 - (2) Establish a City-wide appropriation to the Public Works Department for the Energy and Utility Conservation Measures Program in the amount of \$27,063,135

CEQA: Streetlight conversions from low-pressure sodium to LED lighting: Exempt, File No. PP11-002; and Building Energy Upgrades: Exempt, File Nos. PP13-111 through PP13-117, PP14-003, and PP14-004. (Finance/Public Works)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 [Actions Related to the Creekview Inn Apartments Rehabilitation Project.](#)

Recommendation: Adopt a [resolution](#):

- (a) Approving a funding commitment to King Road Associates, a California Limited Partnership, for a conditional grant of up to \$920,984 for the rehabilitation of Creekview Inn Apartments, located at 965 Lundy Avenue, to provide ten studio apartments for extremely low-income homeless individuals referred by the City;
- (b) Authorizing the Director of Housing, or designee, to set the specific business terms and negotiate and execute all documents necessary to implement the rehabilitation, Project-Based Rental Assistance and operating subsidy, including, but not limited to, applications, agreements, amendments, and payment requests, which may be necessary in connection with the rehabilitation grant, rental assistance, and operating subsidy.

CEQA: Exempt, File No. PP13-108. Council District 4. (Housing)

4.4 [Update of Cultural Connection Two-Year Workplan.](#)

- * **Recommendation:** As recommended by the Community and Economic Development Committee on April 28, 2014, adopt the 2014 -2016 Prioritized Workplan to implement *Cultural Connection: San José Cultural Plan for 2011 – 2020*. (Office of Cultural Affairs/Economic Development)

[Community and Economic Development Committee referral 4/28/14 – Item D(2)]

DEFERRED TO 6/10/14 PER ADMINISTRATION

4.5 [Actions Related to the Design Build Project Delivery Method for the United States Patent and Trademark Office Project.](#)

Recommendation: Adopt a [resolution](#) by the City Council doing the following in accordance with San José Municipal Code Section 14.07.310:

- (a) Finding that the cost of the proposed design-build contract for the United States Patent and Trademark Office Project (“Project”) is likely to exceed \$5,000,000, and the use of a design-build delivery method process is likely to save money and/or result in faster Project completion than if the City used the traditional design-bid-build method of Project delivery;
- (b) Approving a Request for Proposals and the criteria and process by which the City shall select a design-build entity for the Project; and
- (c) Authorizing the Director of Public Works to issue addenda to the Request for Proposals to add any additional requirements of the United States Patent and Trademark Office and to make such other revisions to the Request for Proposals that are consistent with the scope and selection criteria as approved by Council.

CEQA: Exempt, File No. PP14-031. Council District 3. (Public Works)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.6 Agreement with the Earthquakes Stadium, LLC for Sanitary Sewer Main Improvement.

- * **Recommendation:** Adopt a resolution authorizing the Director of Public Works to negotiate and execute a Construction Agreement with Earthquakes Stadium, LLC (“Developer”) for public improvements to upsize a sanitary sewer main which runs adjacent to the Guadalupe River and within Trimble Road with a reimbursement to the Developer of an amount not to exceed \$1,792,000. CEQA: Addendum to the Envision San José 2040 General Plan EIR, PP12-076. Council Districts 3 and 4. (Public Works)

4.7 Actions Related to the Lower Guadalupe River Trail-Tasman Undercrossing.

Recommendation:

- (a) Report on bids and award of contract for the 6470-Lower Guadalupe River Trail-Tasman Under-Crossing to the low bidder, Con-Quest Contractors, Inc., in the amount of \$527,650, and approval of a contingency in the amount of \$53,000;
- (b) Adopt the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District 4 Fund:
 - (1) Decrease the Ending Fund Balance by \$520,000; and
 - (2) Establish the Trail: Guadalupe River Under-Crossing (Tasman Drive) appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$520,000;
- (c) Adopt the following Appropriation Ordinance amendments in the Construction Excise Tax Fund:
 - (1) Decrease the North San José Traffic Impact Fees Reserve by \$260,000; and
 - (2) Establish the Trail: Guadalupe River/Tasman Under-Crossing appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$260,000.

CEQA: Mitigated Negative Declaration, File No. PP04-323 (Resolution Number 72742, adopted 6/21/2005). Council District 4. (Public Works/Parks, Recreation and Neighborhood Services/Transportation/City Manager)

- * **RENUMBERED TO 2.17**

5. NEIGHBORHOOD SERVICES

5.1 [Report on Request for Proposal for the Senior Nutrition Program.](#)

Recommendation:

- (a) Accept the report on Request for Proposal for Senior Nutrition Program;
- (b) Adopt a resolution authorizing the City Manager to:
 - (1) Negotiate and execute an agreement with Compass Group USA, Inc. (Bateman) to provide Citywide Senior Nutrition Services for an initial one-year term beginning October 1, 2014, through September 30, 2015, with a maximum compensation amount not to exceed \$1,400,000 subject to City Council appropriation of funds; and
 - (2) Execute five one (1) year options to renew the agreement, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Parks, Recreation and Neighborhood Services)

* **DEFERRED TO 6/10/14 PER ADMINISTRATION**

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Status Report on Deferred Maintenance and Infrastructure Backlog.](#) [Supplemental](#)

Recommendation:

- (a) As recommended by the Transportation and Environment Committee on May 5, 2014, accept status report on the City's Deferred Maintenance and Infrastructure Backlog; and
- (b) Accept staff report and provide policy direction on San José priorities for a possible new countywide transportation tax measure..

CEQA: Not a Project; File No. PP10-069(a). (Public Works)

[Transportation and Environment Committee referral 5/5/14 – Item D(2)]

* **TO BE HEARD NO EARLIER THAN 3PM**

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [Service Agreements for Environmental Review and Permitting Services for the San José-Santa Clara Regional Wastewater Facility.](#) [Supplemental](#)

Recommendation: Approve the master agreements between the City of San José and the following firms for environmental review and permitting services for the San José-Santa Clara Regional Wastewater Facility and various other City projects and programs for a term through June 30, 2019, subject to the appropriation of funds:

- (a) [Environmental Science Associates](#) in an amount not to exceed \$2,125,000;

(Item continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Service Agreements for Environmental Review and Permitting Services for the San José-Santa Clara Regional Wastewater Facility. (Cont'd.)

Recommendation:

- (b) [CH2M Hill Engineers, Inc.](#) in an amount not to exceed \$500,000; and
 - (c) [David J. Powers & Associates, Inc.](#) in an amount not to exceed \$375,000.
- CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Environmental Services)

7.2 [Report on Bids and Award of Contract for 7100 - Digester Gas Compressor Upgrade Project.](#) [Supplemental](#)

Recommendation:

- (a) Report on bids and award of a construction contract for 7100 – Digester Gas Compressor Upgrade Project to the low bidder, Anderson Pacific Engineering and Construction, Inc., for the base bid in the amount of \$11,316,000, and approval of a ten percent contingency in the amount of \$1,131,600.
- (b) Adopt the following 2013-2014 Appropriation Ordinance Amendments in the San José-Santa Clara Treatment Plant Capital Fund:
 - (1) Decrease the Energy Generation Improvements appropriation to the Environmental Services Department in the amount of \$5,200,000; and
 - (2) Increase the Combined Heat and Power Equipment Repair and Rehabilitation appropriation to the Environmental Services Department in the amount of \$5,200,000.

CEQA: Exempt, File No. PP13-060. (Environmental Services/City Manager)

7.3 [Setting Commercial Solid Waste Customer Service Rates.](#)

- * **Recommendation:** Adopt a [resolution](#) setting Maximum Commercial Solid Waste Services Rates in the City of San José pursuant to the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreements between the City of San José and Allied Waste Services of North America, LLC, dba Republic Services, including the total processing costs for organic processing services. CEQA: Not a Project, File No. PP10-067(a), Increase or Adjustment to Fees, Rates & Fares. (Environmental Services)

8. PUBLIC SAFETY SERVICES

8.1 [Revisions to Title 16 \(Gaming\).](#)

[Supplemental](#)

[Memo from Councilmember Liccardo](#)

[Memo from Mayor Reed](#)

Recommendation:

- (a) Approve an [ordinance](#) amending various sections of Title 16 of the San José Municipal Code to provide for the City Attorney to respond to requests for advisory opinions regarding Title 16 within thirty days; provide non-key employees the option of applying for dual State and City work permits; incorporate a process for the utilization of an enforcement advisor to participate in several of the regulatory processes described in Title 16; establish a schedule for providing notice of a final decision to impose a monetary penalty for a minor violation and notice of regulatory action; provide that the name(s) of the person(s) who committed violations leading to monetary fines and regulatory actions be disclosed; incorporate revisions recommended by WhiteSand Gaming; substitute use of the term “business day” for “work day” and provide a definition of “business day;” eliminate the twenty-one day waiting period for recommendations regarding specified key employee licenses to become final; and make minor corrections; and
- (b) Accept the Administration’s report regarding alternate-level gaming, occupancy for non-gaming related events and civilianization of the Division of Gaming Control.

CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 16. (City Manager/City Attorney)

(Deferred from 4/29/14 – Item 8.1)

8. PUBLIC SAFETY SERVICES

- 8.2 [Continuation of Amendments to Title 20 and to Title 6 to Establish Medical Marijuana Regulations.](#)
[Memo from the Planning Commission](#)
[Supplemental from the City Manager's Office](#)
[Supplemental from the City Clerk](#)
[Supplemental from the City Attorney](#)
[Memo from Mayor Reed, Vice Mayor Nguyen, and Councilmembers Liccardo and Oliverio about Title 6](#)
[Memo from Mayor Reed, Vice Mayor Nguyen, and Councilmembers Liccardo and Oliverio about Title 20](#)
[Memo from Councilmember Rocha](#)
[Memo from Mayor Reed](#)
[Memo from Councilmember Herrera \(1\)](#)
[Memo from Councilmember Herrera \(2\)](#)
[Memo from Councilmember Liccardo](#)
[May 20, 2014 Presentation](#)
[Planning Maps 1](#)
[List of Top 25 Collectives](#)
[Matrix of Proposed Regulations vs Initiative Measures](#)
[List of 78 Collectives](#)
[Planning Maps 2](#)

****NO ADDITIONAL PUBLIC TESTIMONY WILL BE TAKEN UNDER ITEM 8.2**

Recommendation:

- (a) Approve an [ordinance](#) of the City of San José repealing suspended ordinance no. 28958 except for those Sections of Title 20 of the San José Municipal Code related to Zoning Code Verification Certificates previously unsuspending by Ordinance No. 29089, and amending Title 20 by amending Section 20.10.040 of Chapter 20.10, amending Section 20.40.100 of Chapter 20.40; amending Section 20.50.100 of Chapter 20.50, amending Section 20.70.100 of Chapter 20.70, adding a new Part 9.75 to Chapter 20.80, and adding new Sections 20.100.1530, 20.100.1535 and 20.100.1540 to Part 13 of Chapter 20.100, all to establish Land Use regulations pertaining to medical marijuana collectives;
- (b) Approve an [ordinance](#) of the City of San José amending Title 6 of the San José Municipal Code to add a new Chapter 6.88 to establish a registration process pertaining to medical marijuana collectives; and, to establish regulations pertaining to medical marijuana collectives and to the individual cultivation and use of medical marijuana; and

(Item continued on the next page)

8. PUBLIC SAFETY SERVICES

8.2 Continuation of Amendments to Title 20 and to Title 6 to Establish Medical Marijuana Regulations. (Cont'd.)

Recommendation:

(c) Discussion of regulating campaign contributions by medical marijuana establishments, and other regulated businesses, to political candidates.

CEQA: Addendum to Negative Declaration File No. PP11-039 as previously addended; File No. PP14-030. Planning Commission recommends approval with modifications described in the transmittal memo. (City Manager/Planning, Building and Code Enforcement/Police)

(Continued from 5/13/14 – Item 8.1)

** *Public testimony was taken at the May 13, 2014 City Council meeting. A motion was made and tabled for continued action on the May 20, 2014 agenda. No future public testimony will be taken.*

* **TO BE HEARD LAST IN THE AFTERNOON**

9. REDEVELOPMENT – SUCCESSOR AGENCY

- **Open Forum**

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.

- **Council will recess until 7:00 p.m.**

10. GENERAL PLAN PUBLIC HEARINGS

(To be heard by the City Council at 7:00 p.m.)

Notice to the public: There will be no separate discussion of General Plan Consent Calendar (Item 10.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the General Plan Consent Calendar (Item 10.1) and considered separately.

10.1 Tentative approval of General Plan Consent Calendar items.

Recommendation:

(a) [General Plan Amendment for Dove Hill Road.](#)

As recommended by the Rules and Open Government Committee on April 23, 2014, direct staff to bring forward a City-initiated General Plan amendment for GP08-08-03 to change the land use designation back to Non-Urban Hillside from Public/Quasi-Public. (Herrera)

[Rules Committee referral 4/23/14 – Item G(2)]

END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

10.2 [Diridon Station Area Plan and General Plan Amendment.](#)

[Memo from the Planning Commission](#)

[Planning Commission Staff Report](#)

[Diridon Station Area Plan](#)

[Implementation Strategy Report – April 2014](#)

[Art Master Plan](#)

[Plan 10-Year Horizon Analysis – April 2014](#)

[Draft Environmental Impact Report](#)

[First Amendment to the Draft Program Environmental Impact Report](#)

* **Recommendation:** Conduct a Public Hearing to consider taking the following actions:

- (a) Certify the Environmental Impact Report for the Diridon Station Area Plan, 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) Approve the Diridon Station Area Plan, Implementation Strategy Report and Art Master Plan to provide a framework for transforming the Diridon Station area into a regional transportation hub and a regional employment and entertainment destination;
- (c) Adopt a [resolution](#) to approve the addition of the Park Avenue/Naglee Avenue, The Alameda/Naglee Avenue, and Lincoln Avenue/San Carlos Street intersections to the protected intersections list pursuant to the provisions of the City's Transportation Impact Policy (City Policy 5-3);

(Item continued on the next page)

10. GENERAL PLAN PUBLIC HEARINGS

10.2 Diridon Station Area Plan and General Plan Amendment. (Cont'd.)

Recommendation:

- (d) Adopt a [resolution](#) approving text amendments to the Envision San José 2040 General Plan to incorporate the Diridon Station Area Plan into the General Plan and designate it as an Urban Village, and to make the following General Plan Land Use/Transportation Diagram changes:
- (1) General Plan Amendment to change the Land Use/Transportation Diagram land use designation on a 6.06 gross acre site generally bounded by West Julian Street to the north, Stockton Avenue to the east, The Alameda to the south, and to the west approximately 180 feet from Rhodes Court, from Mixed Use Commercial to Urban Village.
 - (2) General Plan Amendment to change the Land Use/Transportation Diagram land use designation on a 6.5 gross acre site generally located on both side of West San Carlos Street between Bird and Delmas Avenues, from Neighborhood/Community Commercial to Downtown.
 - (3) General Plan Amendment to change the Land Use/Transportation Diagram land use designation on a 0.36 gross acre site generally at the northeast corner of Park and Gifford Avenues, from Neighborhood/Community Commercial to Downtown.
 - (4) General Plan Amendment to change the Land Use/Transportation Diagram land use designation on a 0.14 gross acre site generally located on the east side of Josefa Street at the terminus of Columbia Avenue, approximately 200 feet south of West San Carlos Street, from Residential Neighborhood to Downtown.
 - (5) General Plan Amendment to change the Land Use/Transportation Diagram land use designation on a 0.14 gross acre site generally located on the west side of Gifford Avenue, approximately 90 feet south of West San Carlos Street, from Residential Neighborhood to Downtown.
 - (6) General Plan Amendment to change the Land Use/Transportation Diagram land use designation on a 0.38 gross acre site generally located at the northwest corner of Auzerais and Delmas Avenues, from Neighborhood/Community Commercial on 0.13 acres and Residential Neighborhood on 0.25 acres to Downtown.
- (e) Accept the Diridon Station Area Plan 10–Year Horizon Analysis as a guide to assess the parking needs of near term development in the Central Zone of the Plan area, to identify opportunities for shared parking, and to ensure that the provisions in the City of San José – San José Arena Management agreement continue to be met.

CEQA: Diridon Station Area Plan Environmental Impact Report (File No. PP09-163). Planning Commission recommends approval (5-0-2). (Planning, Building and Code Enforcement)

10.3 Continuance of all General Plan Amendment Actions from May 20, 2014 to June 3, 2014.

- * **Recommendation:** Continuance of all General Plan amendment actions from May 20, 2014 to June 3, 2014. (Planning, Building and Code Enforcement)

11. PUBLIC HEARINGS ON CONSENT CALENDAR

(To be heard by the City Council at 7:00 p.m.)

Notice to the public: There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Public Hearings Consent Calendar (Item 11.1) and considered separately.

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Adopt a [resolution](#) initiating proceedings and setting June 3, 2014 at 1:30 p.m. for Council consideration of the reorganization of territory designated as Evergreen No. 203, which involves the annexation to the City of San José of approximately 1.57 gross acre of land located at the east side of San Felipe Road, approximately 550 feet northerly of Scenic Meadow Lane and the detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. CEQA: Envision San José 2040 General Plan EIR Resolution No. 76041 (Related approved Rezoning File No. C13-039). (Planning, Building and Code Enforcement)
[EVERGREEN No. 203](#) – District 8

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11.2 [Proposed Override of a Determination by the Santa Clara County Airport Land Use Commission and Rezoning the Real Property Located on the South Side of Balbach Street, 100 Feet East of Almaden Avenue.](#)

[Memo from the Planning Department regarding Item 11.2\(a\)](#)

[Supplemental](#)

[Memo from Councilmember Liccardo](#)

Recommendation:

- (a) Adopt a [resolution](#) making certain findings and overriding the action of the Santa Clara County Airport Land Use Commission related to the subject Planned Development Rezoning described below; and
- (b) Consider an [ordinance](#) rezoning the real property located on the south side of Balbach Street, 100 feet east of Almaden Avenue (110, 120, 150, 158, 160, 166, 172 and 180 Balbach Street) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow a mixed-use development with 101 multi-family residential units, a 1405 square foot retail space, and an underground parking facility on an approximately 1.5 gross acre site (Balbach Street Properties LLC, Owner).

CEQA: Addendum to Downtown Strategy 2000 EIR, Resolution No. 72767. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)
[PDC13-027](#) – District 3

(Deferred from 3/18/14 – Item 11.3 and 4/15/14 – Item 11.4)

11. PUBLIC HEARINGS

11.3 Historic Landmark Designation for “Century 21 Theatre”.

Recommendation: Conduct a Public Hearing and adopt a resolution designating the “Century 21 Theatre” located on the south side of Olsen Drive, approximately 500 feet west of Winchester Boulevard (3161 Olsen Drive), as a City Landmark of special historic, architectural, cultural, aesthetic or engineering interest, or value of a historic nature. CEQA: Exempt; File No. HL14-212. (Planning, Building and Code Enforcement)

HL14-212 – District 1

* **DROP – TO BE RENOTICED**

11.4 [Rezoning the Real Property Located on the North Side of Huff Avenue, Approximately 350 Feet West of South Baywood Avenue.](#)

Recommendation:

- (a) Adopt a [resolution](#) adopting the Mitigated Negative Declaration for the Huff Avenue Rezoning Project and a related Mitigation Monitoring and Reporting Program; and
- (b) Consideration of an [ordinance](#) rezoning the real property located on the north side of Huff Avenue, approximately 350 feet west of South Baywood Avenue (2979 Huff Ave.) from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow up to 16 attached multi-family residential units on a 0.42 gross acre site (Strei LLC, Owner).

CEQA: Mitigated Negative Declaration Resolution to be adopted. Planning Commission recommends approval (6-0-1). (Planning, Building and Code Enforcement)
PDC13-011 – District 1

- **Open Forum**

Members of the Public are invited to speak on any item that does not appear on today’s Agenda and that is within the subject matter jurisdiction of the City Council.

- **Adjournment**

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

3. Addressing the Council, 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 discussion 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.
- 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.