



**AMENDED**

**PLANNING COMMISSION AGENDA**

**Wednesday, March 22, 2017**

**Regular Hearing**

**Commencing at 6:30 p.m.**

**Council Chambers**

First Floor, City Hall Wing  
200 East Santa Clara Street  
San Jose, California

**Ed Abelite, Chair**

**Nick Pham, Vice Chair**

**Peter Allen**

**Edesa Bit-Badal**

**Shiloh Ballard**

**Namrata Vora**

**Michelle Yesney**

**Harry Freitas, Director**

**Planning, Building & Code Enforcement**

### **NOTE**

To request an accommodation for City-sponsored meetings or events or an alternative format for printed materials, please call Support Staff at 408-535-3505 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.

### **SUMMARY OF HEARING PROCEDURES**

If you want to address the Commission, please fill out a speaker card located on the table near the Audio Visual Technician and deposit the completed card in the basket. There are also speaker cards in the back of the Chambers and at the side entrance.

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. Speakers using a translator will have four 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 rezonings, 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 rezonings and prezonings. The Planning Commission's action on Conditional Use Permits 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.

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

**WELCOME**

Welcome to the Planning Commission Meeting. Please remember to turn off your cell phones. The parking validation machine for the garage under City Hall is located at the rear of the Chambers.

**SALUTE TO THE FLAG**

**ROLL CALL**

**SUMMARY OF HEARING PROCEDURES**

**1. PUBLIC COMMENT**

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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.

**2. DEFERRALS AND REMOVALS FROM CALENDAR**

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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.

- a. **CP16-029.** Conditional Use Permit to allow the construction of an approximately 91,714 square foot, 94-unit residential care facility located on a 4.9 gross acre site, in the CN Commercial Neighborhood Zoning District at 3550 San Felipe Road (Poston, Shirley A Trustee, Owner). Council District 8. CEQA: Mitigated Negative Declaration for Oakmont of Evergreen Assisted Living Facility.

*PROJECT MANAGER, EMILY LIPOMA*

**Staff Recommendation:**

1. Defer to the April 26, 2017 Planning Commission meeting per Staff request.

### 3. CONSENT CALENDAR

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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. **CP16-040 (Administrative Hearing).** Conditional Use Permit to allow the operation of a 2,330-square foot drinking establishment (bar/tasting/tap room) in conjunction with a distillery and a brewery within an existing 10,619-square foot industrial building, including a 650-square foot public eating establishment (restaurant) and the off-sale of a full-range of alcoholic beverages, on a 7.23-gross acre site in the LI Light Industrial Zoning District located at 695C Quinn Avenue (Gradeway Associates VI, Owner). Council District: 7. CEQA: Exempt under CEQA Guidelines Section 15303 for New Construction or Conversion of Small Structures.

*PROJECT MANAGER, RINA SHAH*

**Staff Recommendation:**

1. Consider the Exemption in accordance with CEQA.
2. Approve a Conditional Use Permit Resolution as described above

- b. **CP16-048 (Administrative Hearing).** Conditional Use Permit to allow a 126-bed psychiatric hospital (approximately 80,000 square feet) and associated site improvements, including the removal of 25 ordinance-size trees, on a vacant 5.6-gross acre site located in the IP Industrial Park Zoning District located at northwest side of Enzo Drive and Eden Park Place. (Pepper Lane-Ferrari & Raby, Owner). Council District: 2. CEQA: Addendum to the Edenvale Redevelopment Project Final Environmental Impact Report, as supplemented (Resolution Nos. 69699 and 70021), and the Envision San José 2040 General Plan Environmental Impact Report, as supplemented (Resolution Nos. 76041 and 77617).

*PROJECT MANAGER, RINA SHAH*

**Staff Recommendation:**

1. Consider the Addendum to the Edenvale Redevelopment Project Final Environmental Impact Report, as supplemented (Resolution Nos. 69699 and 70021), and the Envision San José 2040 General Plan Environmental Impact Report, as supplemented (Resolution Nos. 76041 and 77617) in accordance with CEQA.
2. Approve a Conditional Use Permit Resolution as described above.

- c. **CPA09-040-01 (Administrative Hearing).** Conditional Use Permit Amendment to legalize the unlawful expansion of an existing parking area, installation of sidewalks, fencing, gates and tot lot without a permit, and also to modify the HVAC system and allow the maximum allowable noise level at residential property lines to be exceeded by up to 20 decibels, at an existing private elementary school on a 10.8-gross acre site in the R-1-8 Single-Family Residence Zoning District located on the southeast corner of the intersection of Camina Escuela and Blackford Avenue (730 Camina Escuela) (Moreland School District, Owner). Council District: 1. CEQA: Exempt per CEQA Guidelines Section 15311 for Accessory Structures.

*PROJECT MANAGER, EDWARD SCHREINER*

**Staff Recommendation:**

1. Consider the Exemption in accordance with CEQA.
2. Approve a Conditional Use Permit Amendment Resolution as described above.

- d. [CPA15-044-01 \(Administrative Hearing\)](#). Conditional Use Permit Amendment to allow an increase in the number of students, staff, and leasable square footage used by a post-secondary school (Northeastern University) in an existing 89,247 square foot industrial office building on a 3.9 gross acre site in the IP Industrial Park Zoning District, located at 2064 Silver Creek Valley Road. (Owners: IDT, Inc.). Council District: 2. CEQA: Exempt per CEQA Guidelines Section 15301(a) for Existing Facilities.

*PROJECT MANAGER, LEA SIMVOULAKIS*

**Staff Recommendation:**

1. Consider the Exemption in accordance with CEQA.
2. Approve a Conditional Use Permit Amendment Resolution as described above.

#### **4. PUBLIC HEARING**

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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. The projects being considered are located on a 0.13-gross acre site in the R-M Multiple Residence Zoning District located on the west side of North 13<sup>th</sup> Street, approximately 200 feet north of Washington Street (421 North 13<sup>th</sup> Street) (John and Betty Licking, Owners). Council District 3. CEQA: Exempt per CEQA Guidelines Section 15301(a) for Existing Facilities. *Deferred from 9/28/16; Dropped and re-noticed from 10/12/16, Continued from 12/14/16, Dropped and re-noticed from 1/25/17.*

*PROJECT MANAGER, PATRICK KELLY*

[CP15-073 \(Administrative Hearing\)](#). Conditional Use Permit to allow a 25-bed Residential Care Facility (23 client beds and two resident manager beds) within an existing 3,089-square foot single-family residence.

[RA16-002 \(Administrative Hearing\)](#). Request for Reasonable Accommodation to allow reduced parking for a 25-bed Residential Care Facility (23 client beds and two resident manager beds) located within an existing 3,089-square foot single-family residence.

**Staff Recommendation:**

1. Consider the Exemption in accordance with CEQA.
2. Approve a Conditional Use Permit and Request for Reasonable Accommodation Resolution as described above.

- b. The following projects are proposed for the 1.25 acre site located at the northwest corner of North Seventh Street and Empire Street (535 North Seventh Street) (Cohen, Richard M, Trustee, Owner). Council District 3. CEQA: Mitigated Negative Declaration for 7<sup>th</sup> & Empire Residential Project.

*PROJECT MANAGER, EMILY LIPOMA*

**PDC16-028.** Planned Development Rezoning from the HI Heavy Industrial Zoning District to the R-M(PD) Planned Development Zoning District to allow up to 97 multi-family residences and up to 1,000 square feet of commercial space.

**PD16-026.** Planned Development Permit to demolish six commercial/industrial buildings, remove 20 ordinance-sized trees, and construct 97 residential units and up to 1,000 square feet of commercial space.

**PT16-034.** Vesting Tentative Map to combine six lots into one lot totaling approximately 1.25 gross acres, and the creation of 97 residential condominiums one commercial condominium.

**Staff Recommendation:**

1. Consider the Mitigated Negative Declaration for 7<sup>th</sup> & Empire Residential Project in accordance with CEQA.
2. Recommend the City Council to adopt a resolution to approve the Mitigated Declaration and to approve a Planned Development Rezoning Ordinance, Planned Development Permit Resolution and a Vesting Tentative Map Resolution as described above.

- c. **PP17-023.** Consider recommending to the City Council the adoption of ordinances adding and amending various provisions in the San José Municipal Code Title 20 (the Zoning Code) and the adoption of a Resolution amending Council Policy 6-33 entitled “Conversion of Mobilehome Parks to Other Uses,” in order to provide for a more comprehensive review of zoning and land use permit applications for the conversion of use of sites with existing mobilehome parks or multi-family housing.

*PROJECT MANAGER, JENNY NUSBAUM*

**Staff Recommendation:**

Staff recommends that the Planning Commission recommend to the City Council the following actions:

1. Consider the Exemption in accordance with CEQA.
2. Adopt an ordinance adding a new Part 5 to Chapter 20.180 regarding Mobilehome Park Closure Projects to Title 20 of the San José Municipal Code (the Zoning Code).
3. Adopt an ordinance amending Chapter 20.120 entitled “Zoning Changes and Amendments;” and amending Section 20.80.460 relating to the evaluation of permit applications for the demolition, removal, or relocation of a building within those sections of the Zoning Code in order to provide a more comprehensive review of zoning and land use permit applications for the conversion of use of sites with mobilehome parks and existing multi-family housing and to make technical, formatting and other non-substantive changes to those sections of the Zoning Code.
4. Adopt a resolution amending Council Resolution No. 77673 for revisions to City Council Policy 6-33 “Conversion of Mobilehome Parks to Other Uses” (“the Policy”), to change and add provisions for consideration of mobilehome park conversions to other uses to facilitate implementation of the requirements in the Zoning Ordinance regarding mobilehome park conversions to another use including:
  - a. Defining the term “sufficient information” in Section 1.d. of the Policy to ensure that Designated Resident Organizations (DRO) can make a well-informed assessment of the mobilehome park’s value and/or what procedures can be established for a DRO to get access to that information;

- b. Providing clarifying language in Section 1.e. of the Policy; and
- c. Provide additional scenarios for selecting appraisers and consultants under Sections 2.a. and 2.c. of the Policy.

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

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*No Items*

## **6. GOOD AND WELFARE**

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- a. Report from City Council
- b. Review and Approve Action Minutes from [3/8/17](#)
- c. Subcommittee Formation, Reports, and Outstanding Business
- d. Commission Calendar and Study Sessions
- e. The Public Record

## **ADJOURNMENT**

## 2017 PLANNING COMMISSION MEETING SCHEDULE

<u>Date</u>	<u>Time</u>	<u>Type of Meeting</u>	<u>Location</u>
January 11	6:30 p.m.	<u>Cancelled:</u> Regular	Council Chambers
January 25	6:30 p.m.	<u>Cancelled:</u> Regular	Council Chambers
February 8	6:30 p.m.	Regular	Council Chambers
February 15	6:30 p.m.	Regular & General Plan	Council Chambers
March 8	6:30 p.m.	Regular	Council Chambers
March 22	6:30 p.m.	Regular	Council Chambers
April 12	6:30 p.m.	Regular	Council Chambers
April 26	6:30 p.m.	Regular	Council Chambers
May 3	6:30 p.m.	Regular	Council Chambers
May 10	6:30 p.m.	Regular	Wing Room 118, 119 & 120
May 24	6:30 p.m.	Regular	Council Chambers
June 14	6:30 p.m.	Regular	Council Chambers
June 28	6:30 p.m.	Regular	Council Chambers
July 12	6:30 p.m.	Regular	Council Chambers
July 26	6:30 p.m.	Regular	Council Chambers
August 9	6:30 p.m.	Regular	Council Chambers
August 23	6:30 p.m.	Regular	Council Chambers
September 13	6:30 p.m.	Regular	Council Chambers
September 27	6:30 p.m.	Regular	Council Chambers
October 11	6:30 p.m.	Regular	Council Chambers
October 25	6:30 p.m.	Regular	Council Chambers
November 8	6:30 p.m.	Regular	Council Chambers
November 15	6:30 p.m.	Regular	Council Chambers
December 6	6:30 p.m.	Regular	Council Chambers
December 13	6:30 p.m.	Regular	Council Chambers



## ABOUT THE PLANNING COMMISSION

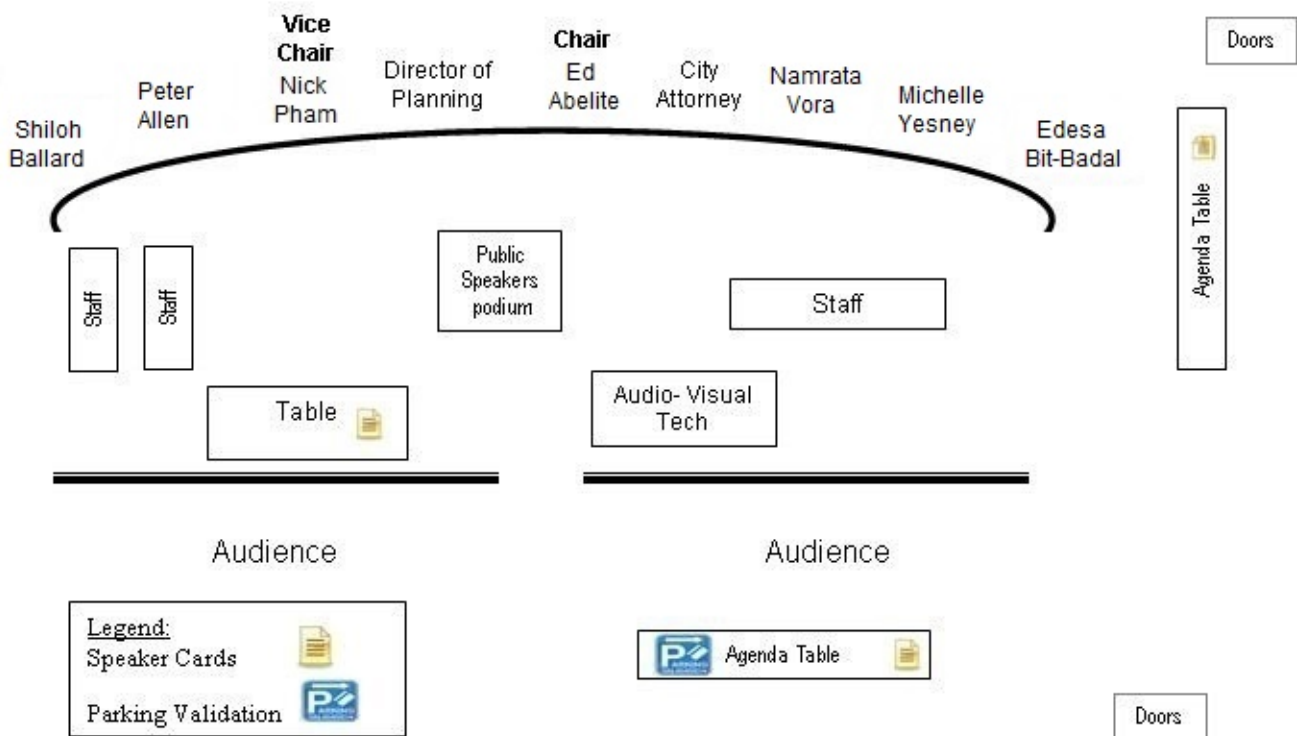
The Planning Commission is a seven-member body, appointed by the City Council, which performs two types of actions:

- One type is “Quasi-Legislative” in nature in which the Planning Commission makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, Zoning Code provisions, or regulations related to the land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs.
- The second type of action is “Quasi-Judicial” in nature in which the Planning Commission applies previously adopted legislation to particular applications and acts as a decision-making or appellate body. Examples of these types of actions include Commission decisions on Conditional Use Permits, appeals of the Planning Director’s decisions on certain land use permits, and the certification of Environmental Impact Reports.

A notation of “Administrative Hearing” for an agenda item indicates that the item is a Quasi-Judicial action of the Commission in order to assist the public in understanding the role of the Planning Commission on a particular item.

To effectively manage the Planning Commission Agenda, and to be sensitive to concerns regarding the length of public hearing, the Planning Commission may determine to proceed with remaining agendized items past 11:00 p.m., or to continue this hearing to a later date, or to defer remaining items to the next regularly scheduled Planning Commission meeting date. The decision on how to proceed will be heard by the Planning Commission no later than 11:00 p.m.

### Seating Chart within the City Council Chambers:



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/index.aspx?nid=1764>

**The City of San Jose 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. The City Code of Ethics may be viewed on-line at <http://www.sanjoseca.gov/DocumentCenter/View/3818>**

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, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

Planning Commission hearings are video recorded and broadcasted live. To view the live broadcast or past hearing recordings go to the Internet website: <http://www.sanjoseca.gov/index.aspx?nid=3431>

If you have any agenda questions, please contact Support Staff at (408) 535-5695 or email. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

### **FREQUENTLY USED ABBREVIATIONS**

- CEQA** California Environmental Quality Act
- CP** Conditional Use Permit
- DA** Development Agreement
- PD** Planned Development Permit
- PDC** Planned Development Zoning

## **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.