



# CITY COUNCIL AGENDA

**OCTOBER 28, 2014**

## **SYNOPSIS**

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 or Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, 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, 2<sup>nd</sup> 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](mailto: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**  
9:40 a.m. - Closed Session, Call to Order in Council Chambers  
**Absent Council Members: All Present.**  
  
1:30 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Members: All Present.**
- **Invocation (District 9)**  
School of Rock, San José sang "Living on a Prayer" by Bon Jovi for the Invocation.
- **Pledge of Allegiance**  
Mayor Reed, accompanied by third graders from De Vargas Elementary School, led the Pledge of Allegiance.
- **Orders of the Day**  
The Orders of the Day and the Amended Agenda were approved, with Items 2.7 and 4.2 deferred to November 4, 2014 and Item 4.3 deferred to December 9, 2014 in the evening.
- **Closed Session Report**  
No Report.

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a commendation to the members of the Mayor’s Gang Prevention Task Force Tech Team. (Mayor)  
(Deferred from 9/30/14 – Item 1.1)  
**Mayor Reed, Vice Mayor Nguyen and Council Member Herrera recognized and commended the members of the Mayor’s Gang Prevention Task Force Tech Team.**
- 1.2 Presentation of a commendation to Ron Roberts for being selected as one of the official 2014 Little League World Series umpires. (Chu)  
**Mayor Reed and Council Member Chu recognized and commended Mr. Ron Roberts.**
- 1.3 Presentation of a proclamation to recognize the month of October as “Filipino History Month” in the City of San José. (Chu)  
(Rules Committee referral 10/22/14)  
**Mayor Reed and Council Members Chu, Herrera, Kalra and Campos recognized the month of October as “Filipino History Month” in San José.**

# 2. CONSENT CALENDAR

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## 2.1 Approval of Minutes.

**Recommendation:** Approval of minutes.

- (a) Regular Minutes of August 5, 2014.
- (b) Regular Minutes of August 12, 2014.
- (c) Regular Minutes of August 19, 2014.
- (d) Regular Minutes of August 26, 2014.

**Approved.**

## 2.2 Final Adoption of Ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 29507 – Rezoning certain real property of approximately 4.73 acres situated on the southeast corner of West San Carlos Street And Sunol Street (800 West San Carlos Street) from the Hi Heavy Industrial Zoning District to the RM(PD) Planned Development Zoning District. PDC14-007

**Ordinance No. 29507 adopted.**

## 2. CONSENT CALENDAR

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### 2.3 Approval of Council Committee Reports.

**Recommendation:** Approval of Council Committee Reports.

- (a) Transportation and Environment Committee Report of October 6, 2014. (Liccardo)
- (b) Rules and Open Government Committee Report of October 8, 2014. (Mayor)
- (c) Rules and Open Government Committee Report of October 1, 2014. (Mayor) [Deferred from 10/21/14 – Item 2.3(c)]

**Approved.**

### 2.4 Mayor and Council Excused Absence Requests.

**Recommendation:** Request for an excused absence for Council Member Herrera from the Regular and Evening Sessions of the City Council Meeting on October 21, 2014 due to illness. (Herrera)

(Rules Committee referral 10/22/14)

**Excused.**

### 2.5 City Council Travel Reports.

**No Report.**

### 2.6 Report from the Council Liaison to the Retirement Boards.

**No Report.**

### 2.7 Amendment to the City Pay Plan for Various Classifications.

**Recommendation:** Adopt a resolution to:

- (a) Amend the City of San José Pay Plan effective October 28, 2014, to create the following classification:
  - (1) Planner IV (4127)
- (b) Amend the City of San José Pay Plan effective October 28, 2014, to change the salary range and title for the following classification:
  - (1) Planner I/II/III (4121/4122/4125) (formerly Planner I/II)

CEQA: Not a Project, File No. PP10-068(b), Municipal Code, Title 3. (Human Resources)

**Deferred to November 4, 2014.**

## 2. CONSENT CALENDAR

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### 2.8 Relations Between the City of San José and the Government of the Socialist Republic of Vietnam.

**Recommendation:** As recommended by the Rules and Open Government Committee on October 8, 2014, adopt a resolution stating that the Mayor, City Council and City Manager in their official capacity for the City of San José shall not meet, welcome, or engage with any members of the government of the Socialist Republic of Vietnam. (Mayor/Nguyen/Liccardo)

**Renumbered to Item 3.6. See Item 3.6 for Action.**

### 2.9 Actions Related to the Intention to Annex Zone C of Maintenance District 15.

**Recommendation:**

- (a) Approve an agreement with Dal Properties, LLC to fund and perform a maintenance district annexation for the maintenance of landscape and open space improvements for an area within the Silver Creek Valley area.
- (b) Adopt the following 2014-2015 Appropriation Ordinance amendments and Funding Sources Resolution amendments in the Maintenance District No. 15 Fund:
  - (1) Increase the estimate for Earned Revenue by \$15,000.
  - (2) Establish an appropriation to the Department of Public Works for the Maintenance District No. 15 Annexation Project in the amount of \$15,000.
- (c) Adopt a resolution of intention to annex territory into existing Zone C of Maintenance District 15 (Silver Creek Valley), and directing the Director of Public Works to create and file an engineer's report.

CEQA: Exempt, File No. PP13-057. Council District 8. (Public Works/City Manager)

**Dropped.**

### 2.10 Actions Related to the Transportation Demand Management Grant Program.

**Recommendation:** Adopt a resolution:

- (a) Authorizing the City Manager or designee to submit a grant application to the Metropolitan Transportation Commission (MTC) for Congestion Mitigation and Air Quality funds for Transportation Demand Management programs in the amount of \$1,500,000 with a local match of \$270,000;
- (b) Committing the City to provide the required local match stated above and to pay for any additional cost to complete each of the projects; 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: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Transportation)

**Resolution No. 77196 adopted.**

## 2. CONSENT CALENDAR

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### 2.11 Housing and Community Development Commission Nomination.

**Recommendation:** Appoint Gary Prideaux to the District 9 Seat on the Housing and Community Development Commission to an unexpired term ending June 30, 2017. (City Clerk)

(Rules Committee referral 10/22/14)

**Approved.**

### 2.12 i6 Challenge Grant Application for the Economic Development Administration's Cluster Grant Program.

**Recommendation:** Adopt a resolution authorizing the City Manager or his designee to submit an i6 Challenge Grant application in the amount of \$500,000 under the Economic Development Administration's Cluster Grant program. CEQA: Not a Project, File No. PP10-068(a), Grant Application. (Economic Development)

(Rules Committee referral 10/22/14)

**Resolution No. 77197 adopted.**

### 2.13 Agreement with Vitol, Inc. for the Purchase of California Carbon Allowances.

**Recommendation:** Adopt a resolution authorizing the City Manager to execute an agreement between the City of San José and Vitol, Inc. for the purchase of California Carbon Allowances for the San José - Santa Clara Regional Wastewater Facility as part of the California Cap-and-Trade Program for an amount not to exceed \$306,605.25. CEQA: Not a Project, File No. No. PP10-066(d), Consultant Services. (Environmental Services)

**Resolution No. 77198 adopted.**

## 3. STRATEGIC SUPPORT SERVICES

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

**No Report.**

### 3.2 Labor Negotiations Update.

**Recommendation:** Accept Labor Negotiations Update.

**Heard At 9:40 a.m.**

**No Report.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.3 Report on Request for Proposal for Airport Baggage Handling Conveyor System Services.

**Recommendation:** Accept the report on the Request for Proposal for Airport Baggage Handling Conveyor System Services and adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute an Agreement with Vanderlande Industries Inc. (Wilmington, DE) for the operation, maintenance and repair of the Airport Baggage Handling Conveyor System in Terminals A and B, including all spare and replacement parts, for an initial five-year term ending October 31, 2019, with a maximum compensation not-to-exceed \$2,134,347 for the initial twelve months of the Agreement, and an estimated \$10,555,787 for the five year term, subject to the annual appropriation of funds.
- (b) Adjust the maximum compensation annually, not to exceed 3% annually or the percentage adjustment to the City's Living Wage/Prevailing Wage whichever is greater, subject to approval by the City and the appropriation of funds.
- (c) Execute change orders to cover any unanticipated and non-routine repairs during the initial five year term of the Agreement as may be required, not to exceed \$500,000, subject to the appropriation of funds.
- (d) Execute five one-year options to extend the term of the Agreement after the initial five year term subject to the annual appropriation of funds.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)  
(Deferred from 10/21/14 – Item 3.5)

**Report Accepted.**

**Resolution No. 77199 adopted.**

#### 3.4 Actions Related to an Initiative Ordinance Amending Title 6 and Title 20 of the San José Municipal Code Regarding Medical Marijuana Collectives.

**Recommendation:**

- (a) Accept staff's report analyzing "An Initiative Ordinance Amending Title 6 and Title 20 of the San José Municipal Code to Include Medical Marijuana Collectives As An Allowed Land Use In Agricultural, Commercial Pedestrian, Commercial Neighborhood, Industrial Park, Light Industrial and Heavy Industrial Zoning Districts, and to Establish a Registration Process and Zoning Code Verification Certificate Process" (Initiative) pursuant to California Elections Code Section 9212.

**Report Accepted.**



### 3. STRATEGIC SUPPORT SERVICES

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#### 3.4 Actions Related to an Initiative Ordinance Amending Title 6 and Title 20 of the San José Municipal Code Regarding Medical Marijuana Collectives. (Cont'd.)

- (b) Direct staff to return on November 4, 2014, to approve one of the following options:
- (1) Adopt the proposed initiative as submitted; or
  - (2) Adopt a resolution calling an election to submit the initiative to the voters at a Special Municipal Election on a date to be decided; or
  - (3) Adopt a resolution calling an election to submit the initiative to the voters at the next General Election on Tuesday, June 7, 2016.

CEQA: Not a Project, File No. PP10-069, Staff reports and informational memos. (City Manager/City Attorney/City Clerk)

**Staff was directed to return on November 4, 2014.**

#### 3.5 Amendment to the Agreements for Citywide Janitorial Services with GCA Services Group Inc.

**Recommendation:** Adopt a resolution to authorize the City Manager to negotiate and execute the First Amendment to the Agreements with GCA Services Group Inc. for custodial services to the Departments of Environmental Services, Parks, Recreation and Neighborhood Services, Public Works, and the Office of Cultural Affairs to:

- (a) Require paid time off for employees providing custodial services, pursuant to the City's Living Wage Policy (Resolution No. 76653), effective on June 4, 2013, for an estimated increase in the amount of \$47,050.
- (b) Increase compensation by 10.3%, effective with the first one-year option to extend the agreement beginning November 1, 2014 through October 31, 2015 for an estimated increase in the amount of \$365,323.
- (c) Eliminate the 3% cap on compensation increases, and index any compensation adjustments to 80% of the increase in the City's living wage rate and fluctuations in consumables usage for the remaining option term(s), subject to the appropriation of funds.
- (d) Increase compensation as required for consumables, such as paper goods and soap in restrooms, due to an unanticipated increase in consumption, for an estimated increase in the amount of \$11,750 for the first option year, effective November 1, 2014.

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

**Resolution No. 77200 adopted.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.6 Relations Between the City of San José and the Government of the Socialist Republic of Vietnam.

**Recommendation:** As recommended by the Rules and Open Government Committee on October 8, 2014, adopt a resolution stating that the Mayor, City Council and City Manager in their official capacity for the City of San José shall not meet, welcome, or engage with any members of the government of the Socialist Republic of Vietnam. (Mayor/Nguyen/Liccardo)

[Rules Committee referral 10/8/14 – Item G(2)]

**Renumbered from Item 2.8.**

**Heard Last.**

The memorandum from Mayor Reed, Vice Mayor Nguyen and Council Member Liccardo, dated October 24, 2014, was approved, a resolution regarding relations between the City of San José and the Government of the Socialist Republic of Vietnam was approved, with the following points:

- (1) The City Council does not condone, welcome or sanction high-profile visits, stopovers or drive-bys by representatives and officials of the Socialist Republic of the Vietnam government or that of any delegations affiliated with or organized by the same within the physical boundary of the City of San José. This resolution prohibits the Mayor, Council, City Manager or any of their agents from meeting with any government delegation or representatives of the Socialist Republic of Vietnam.
- (2) The City Council is opposed to the expenditure of City funds or resources in a manner that promotes or accommodates visits from any Socialist Republic of Vietnam delegation to San Jose, and the Council expects that any such expenses will be fully borne by the Vietnamese government. This policy statement does not prevent the City from taking appropriate security and public safety measures to protect our own community.
- (3) The City Council hereby directs the City Manager and Chief of Police to implement a detailed "PRIOR NOTICE" policy of requesting the US State Department and/or other outside organizers, agencies, and jurisdictions to inform on the nature, purpose, duration of visits, drive-bys, or stopovers of government delegations and affiliated groups from the Socialist Republic of Vietnam, at least fourteen (14) calendar days before such an occurrence.
- (4) The City Council further directs that the City Manager and Chief of Police at the earliest available opportunity, report to the Mayor and all Council Members of such visits, drive-bys, or stopovers, once the notification is made from the requesting organizer, agency or jurisdiction or is made known publicly.

**Resolution No. 77202 adopted.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 Rezoning the Real Property Located at the Southeast Corner of West San Carlos Street and Sunol Street.

**Recommendation:** Adopt a resolution approving Planned Development Permit, File No. PD14-012 for the approximately 4.73 gross acre site located at the southeast corner of West San Carlos Street and Sunol Street (800 West San Carlos Street) to allow the construction of up to 315 residential units and approximately 20,500 square feet of commercial uses. (Cheim, Barbara J Jr Trustee & Et Al, Owner). CEQA: Addendum to the Diridon Station Area Plan EIR. (Planning, Building and Code Enforcement)  
[Continued from 10/21/14 –Item 11.8(b)]

**Resolution No. 77201 adopted.**

### 4.2 Administrative Hearing and Consideration of an Appeal of the Planning Director's Adoption of an Addendum to the Chaboya Ranch Mitigated Negative Declaration and Richmond Ranch Final Environmental Impact Report.

**Recommendation:**

- (a) Conduct an Administrative Hearing on and consider an Appeal of the Planning Director's use of the Addendum to the Richmond Ranch Environmental Impact Report (EIR), File No. PDC91-081, and the Chaboya Ranch Mitigated Negative Declaration (MND), File No. PDC11-021, as the environmental clearance for the Director's approval of Planned Development Permit Amendments PDA94-021-01 (Richmond Ranch) and PDA13-008-01 (Chaboya Ranch), which revise the grading plan for the Chaboya Ranch project on a project site located east of San Felipe Road and west of Livery Lane, approximately 650 feet southerly of Running Springs Road.
- (b) Adopt a resolution upholding the Planning Director's use of the Addendum, adopting the Mitigation Monitoring and Reporting Program (MMRP) and finding that:
  - (1) The City Council has read and considered the Addendum to the Richmond Ranch EIR and Chaboya Ranch MND prepared in connection with Planned Development Permit Amendments PDA94-021-01 and PDA13-008-01, as well as the EIR and MND;
  - (2) The Addendum, together with the EIR and MND, has been prepared and completed in compliance with the California Environmental Quality Act (CEQA) of 1970, together with state and local implementation guidelines;
  - (3) The Addendum, together with the EIR and MND, reflects the independent judgment and analysis of the City of San José;
  - (4) Preparation of a subsequent or supplemental EIR is not required because no new environmental impacts have been identified and no new mitigation measures are required; and
  - (5) The Director of Planning shall transmit copies of the EIR, MND and Addendum to any other decision-making body of the City of San José for the project.

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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### **4.2 Administrative Hearing and Consideration of an Appeal of the Planning Director's Adoption of an Addendum to the Chaboya Ranch Mitigated Negative Declaration and Richmond Ranch Final Environmental Impact Report. (Cont'd.)**

- (c) Conduct an Administrative Hearing and consider an Appeal of the Planning Director's decision to approve the Planned Development Permit Amendments for the Chaboya Ranch grading modifications (File Nos. PDA94-021-01 and PDA13-008-01), and consider adoption of a resolution approving these Planned Development Permit Amendments.

CEQA: Addendum to the Richmond Ranch Environmental Impact Report (EIR) and the Chaboya Ranch Mitigated Negative Declaration (MND), resolution to be adopted.

(Planning, Building and Code Enforcement)

PDA94-021-01/PDA13-008-01 – District 8

**Deferred to November 4, 2014 per Orders of the Day.**

### **4.3 Rezoning the Real Property Located on the West Side of San Felipe Road, Approximately 90 Feet North of Fowler Road.**

**Recommendation:** Consideration of an ordinance rezoning the real property located on the west side of San Felipe Road, approximately 90 feet north of Fowler Road from the Agriculture Zoning District to the R-1-5 Single-Family Residence Zoning District of an approximately 0.24 gross acre property (APN 676-33-013) and the northern portion of a contiguous property to the east (APN 676-33-014) of approximately 0.17 acres. CEQA: Re-Use of Envision San José 2040 General Plan FEIR (Reso. No. 76041). (Planning, Building and Code Enforcement)

C14-034- District 8

[Continued from 10/21/14 – Item 11.4]

**Continued to December 9, 2014. To be heard in the Evening per Orders of the Day.**

## **5. NEIGHBORHOOD SERVICES**

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## **6. TRANSPORTATION & AVIATION SERVICES**

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## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 San José – Santa Clara Regional Wastewater Facility Capital Improvement Program Semi-Annual Status Report, January – June 2014.

**Recommendation:** As recommended by Transportation and Environment Committee on October 6, 2014, accept the Semi- Annual Status Report on the San José – Santa Clara Regional Wastewater Facility Capital Improvement Program for the period January through June 2014. CEQA: Not a Project, File No. PP10-069(a), Staff Report. (Environmental Services/Public Works)

[Transportation and Environment Committee referral 10/6/14 – Item D(5)]

**Accepted.**

## 8. PUBLIC SAFETY SERVICES

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## 9. REDEVELOPMENT – SUCCESSOR AGENCY

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- **Notice of City Engineer’s Pending Decision on Final Maps**  
In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10250	N/E Corner of Juliet Park Drive and Rosemar Avenue	5	Rosemar Court 7, LLC	6/6	SFD	Approve
10257	S/E Corner of McKee Road and La Pala Drive	5	Lisa Le	1/9	SFD	Approve

- **Open Forum**  
Ross Signorino recognized the San Francisco Giants and was optimistic about their chances in the World Series.
- **Adjournment**  
The Council of the City of San José was adjourned at 3:28 p.m. in memory of San José resident Lillian Gong-Guy, who passed away on September 10, 2014. Mrs. Gong-Guy founded the Chinese Historical and Cultural Project in 1987 to promote and preserve Chinese culture and history. Mrs. Gong-Guy was a devoted wife, mother, volunteer, civic leader, and philanthropist. (Nguyen)