

CITY COUNCIL AGENDA

DECEMBER 9, 2014

AMENDED AGENDA

PETE CONSTANT
ASH KALRA
SAM LICCARDO
VACANT
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 (Mayor)**

- * Reverend Rinban Kenshin Fujimoto, San Jose Buddhist Church Betsuin

- **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 11.7 - APPLICANT REQUESTED ITEM TO BE DROPPED**

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 Presentation of a commendation to recognize Harker School as the 2014 recipient of the Business Recycling Award. (Constant)
TO BE HEARD IN THE EVENING
- 1.2 Presentation of a commendation to Sakthi Ponnuswamy for her dedication as a Junior Volunteer Teacher to students at AJ Dorsa Elementary School.
(Herrera/Campos/Oliverio)
TO BE HEARD IN THE EVENING
- 1.3 Presentation of a Commendation to Driving Industry Companies that generate the most jobs and revenues in San José. (Mayor)
- 1.4 Presentation of a commendation to the PRNS Digital Arts Program, composed of the Seven Trees Music Studio, Roosevelt Community Center's Digital Art Troupe Academy (D.A.T.A.) and Alma Community Center Music Studio. (Nguyen)
- 1.5 Presentation of a commendation to MOUSE Squad members for their exemplary hard work and innovative learning. (Rocha)
* **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.**
- 2.2 **Final Adoption of Ordinances.**

Recommendation: Final adoption of ordinances.

- * (a) [ORD. NO. 29515](#) – An ordinance of the City of San José renumbering and amending Section 11.72.010 of Chapter 11.72 of Title 11 of the San José Municipal Code to be included in Chapter 11.04 of Title 11, adding Section 11.04.031 to Chapter 11.04 of Title 11 To define bicycles and designated areas, adding Sections 11.72.190 and 11.72.200 to Chapter 11.72 of Title 11 to prohibit the riding of bicycles on sidewalks in designated areas, and amending Section 1.08.020 of Chapter 1.08 of Title 1 to designate a violation of Section 11.72.190 as an infraction.

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) [Rules and Open Government Committee Report of November 12, 2014.](#) (Mayor)
- (b) [Neighborhood Services and Education Committee Report of November 13, 2014.](#)
(Nguyen)
- (c) [Community and Economic Development Committee Report of November 17, 2014.](#) (Herrera)
- (d) [Rules and Open Government Committee Report of November 19, 2014.](#) (Mayor)
* **RECOMMEND DEFERRAL TO 12/16/14 PER CITY CLERK**
- (e) [Public Safety, Finance, and Strategic Support Committee Report of November 20, 2014.](#) (Constant)
- (f) [Transportation and Environment Committee Report of November 3, 2014.](#)
(Liccardo) [Supplemental](#)
[Deferred from 12/2/14 – Item 2.3(a)]

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 [Amendments to the Food & Beverage and Retail Concession Agreements to Adjust Midterm Refurbishment Dates and Other Revisions.](#)

Recommendation: Approve a [Third Amendment](#) to the AMS-SJC JV Airport Retail Concession Agreement, a [Fifth Amendment](#) to the Airport Food and Beverage Concession Agreement with Pacific Gateway Concessions, LLC, a [Third Amendment](#) to the Airport Food and Beverage Concession Agreement with Host International, Inc. and a [Fourth Amendment](#) to the WDFG North America, LLC Airport Retail Concession Agreement to grant the Director of Aviation authority to adjust the midterm refurbishment dates for each concession and to provide for the transfer of a Starbucks location from the WDFG Airport Retail Concession Agreement to the Host Airport Food and Beverage Concession Agreement. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)

2.8 Actions Related to Councilmember Constant's Travel to Washington, D.C.

Recommendation:

- (a) Approve [travel](#) by Councilmember Constant to Washington, D.C. on December 1 – 2, 2014 to speak at the 2014 Tax and Fiscal Policy Academy. Source of Funds: Reason Foundation.
- (b) Request for an [excused absence](#) for Councilmember Constant from the Executive Session and the Regular City Council Meeting on December 2, 2014 due to Authorized City Business: 2014 Tax and Fiscal Policy Academy.
(Constant)

2. CONSENT CALENDAR

2.9 [Settlement in McLaughlin v. City of San José, et al.](#)

Recommendation: Approve settlement contribution in the amount of \$65,000 in the case of *Shirli McLaughlin v. City of San José, et al.*, and authorize the City Attorney to execute a [Settlement Agreement and Release](#) with Plaintiff and co-defendant, Legacy San José Holdings, LLC. CEQA: Not a Project; File No. PP10-066(h), Settlement Agreement. (City Attorney)

2.10 [Agreement for Evaluator Services to the Ethics Commission.](#)

Recommendation: Adopt a resolution authorizing the City Attorney to negotiate and execute a First Amendment to the Agreement with Hanson Bridgett, LLP to provide legal and investigative services as the Evaluator to the San José Ethics Commission, extending the term through June 30, 2015, and increasing compensation by \$50,000, for a total amount of compensation not to exceed \$300,000. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (City Attorney)

2.11 [Approval of the Team San José Performance Measures.](#)

Recommendation: Approve the Team San José performance measures for 2014-2015. CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts. (Economic Development)

2.12 [Report on Request for Proposal for a Learning Management System with Integrated Online Learning Content.](#)

Recommendation: Accept the report on the Request for Proposal for a Learning Management System with Integrated Online Learning Content and adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute an Agreement with Saba Software, Inc. (Redwood Shores, CA) for the purchase of a Learning Management System with integrated online learning content, including software cloud subscription services, implementation, integration to the Human Resources PeopleSoft System, training and related professional services, for an initial six-year term ending February 2021, with a maximum compensation not-to-exceed \$259,008 for the initial twelve months of the Agreement, and an estimated \$1,146,508 for the six-year term, subject to the annual appropriation of funds;
- (b) Execute change orders to cover any unanticipated changes or requirements in the system design and implementation, not-to-exceed \$25,900 (10% of first year compensation) as may be required;
- (c) Execute amendments to increase maximum compensation in the event a greater number of users than estimated register for e-learning classes, subject to the appropriation of funds;

(Item continued on the next page)

2. CONSENT CALENDAR

2.12 Report on Request for Proposal for a Learning Management System with Integrated Online Learning Content. (Cont'd.)

Recommendation:

- (d) Execute one-year options to extend the term of the Agreement to provide ongoing cloud subscription and content services after the initial six-year term, subject to the annual appropriation of funds.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)

2.13 [Actions Related to the 2015-2016 Hazardous Vegetation Commencement Report from the Santa Clara County Department of Agriculture and Environmental Management.](#)

Recommendation: Adopt a [resolution](#):

- (a) Accepting the 2015-2016 Hazardous Vegetation Commencement Report compiled by the Santa Clara County Department of Agriculture and Environmental Management;
- (b) Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the report are a nuisance; and
- (c) Directing the Santa Clara County Department of Agriculture and Environmental Management to mail notices of a Public Hearing before the City Council, on January 13, 2015 at 1:30 p.m., on the report to property owners of affected real properties, pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Exempt, File No. PP13-097. (Planning, Building and Code Enforcement)

2.14 [Actions Related to the California Governor's Office of Emergency Services FY 2014 Internet Crime Against Children Award.](#)

Recommendation: Adopt the following 2014-2015 Appropriation Ordinance and the Funding Sources Resolution amendments in the General Fund:

- (a) Establish a City-wide appropriation to the Police Department for the Internet Crimes Against Children State Grant 2014-2015 in the amount of \$100,000; and
- (b) Increase the Revenue from State of California appropriation by \$100,000.

CEQA: Not a Project, File No. PP10-066(g), Grant Agreements and MOUs.
(Police/City Manager)

2. CONSENT CALENDAR

2.15 Termination of the Construction Contract with Interstate Grading and Paving, Inc. for the Coleman Soccer Fields Design-Build Rebid Project.

Recommendation:

- (a) Approve the termination of the construction contract with Interstate Grading and Paving, Inc. for the 6405 – Coleman Soccer Fields Design-Build Rebid Project for convenience.
- (b) Adopt a resolution authorizing the Director of Public Works to:
 - (1) Re-bid the Project;
 - (2) Negotiate and execute an agreement with Bellinger Foster Steinmetz Landscape Architecture not to exceed \$300,000 to make any necessary revisions to the final plans for re-bid.

CEQA: Mitigated Negative Declaration, File No. PP10-155, May 10, 2011. Council District 3. (Public Works/Parks, Recreation and Neighborhood Services)

* **DEFERRED TO 12/16/14 PER ADMINISTRATION**

2.16 [Certification of the Results of the Run-Off and Special Municipal Elections Held November 4, 2014.](#)

Recommendation: Adopt a [resolution](#) declaring the results of the November 4, 2014 Municipal Election pursuant to Elections Code Section 15400. (City Clerk)

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 [Facilities Maintenance Audit.](#)

Recommendation: As recommended by the Public Safety, Finance, and Strategic Support Committee on November 20, 2014, accept the Audit on Facilities Maintenance: Process Improvements are Possible, but a Large Deferred Maintenance Backlog Remains. (City Auditor)

[Public Safety, Finance, and Strategic Support Committee referral 11/20/14 – Item D(4)]

3.4 [2014 Service Efforts and Accomplishments Report.](#)

[Memo from Councilmember Rocha](#)

Recommendation: Accept the 2014 Service Efforts and Accomplishments Report. (City Auditor)

3. STRATEGIC SUPPORT SERVICES

3.5 Civil Service Commission Interviews.

Supplemental

Conflict of Interest

Margaret Akdeniz's Application

Michael Wilcoxon's Application

Code Review

Additional Conflict of Interest

Erik Khoobyarian's Application

Ilan Spieler's Application

Recommendation: Interview applicants and consider appointments to fill the following positions on the Civil Service Commission:

(a) One Attorney-at-Law representative; and

(b) One Member-at-Large.

(City Clerk)

(Deferred from 11/7/14 – Item 5)

* **TO BE HEARD NO EARLIER THAN 3:00 P.M.**

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Public Hearing on the Reorganization/Annexation of Communications Hill No. 1. Councilmember Khamis' Conflict of Interest

Recommendation: Conduct a Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of an approximately 299.2 gross acre portion of County territory consisting of seventeen (17) lots generally bounded by the Union Pacific Railroad tracks to the north, Old Hillsdale Avenue to the east, Hillsdale Avenue, Casselino Drive, Adeline Avenue, Altino Boulevard and Carol Drive to the south, and the Millpond Mobile Home Park to the west; and the detachment of the same from the appropriate special districts including Central Fire Protection, and Area No. 01 (Library Services) County Service (Multiple Property Owners). CEQA: Communications Hill 2 Subsequent EIR, Resolution No. 77172. Council Districts 6 & 7. (Planning, Building and Code Enforcement)

4.2 Sign Ordinance Revisions.

Memo from Mayor Reed

Memo from Councilmember Khamis

Recommendation: As recommended by the Rules and Open Government Committee on November 19, 2014, discussion and direction to staff regarding proposed revisions to the Sign Ordinance (Title 23) pending CEQA clearance. (Planning, Building and Code Enforcement)

[Rules Committee referral 11/19/14 – Item G(2)]

5. NEIGHBORHOOD SERVICES

5.1 [Actions Related to the Purchase and Sale Agreement with the Arcadia Development Co. for a Proposed Softball Facility.](#)

[Memo from Councilmember Herrera, Mayor Reed, and Vice Mayor Nguyen](#)

[Memo from Councilmember Rocha](#)

Recommendation:

- (a) Adopt a resolution authorizing the City Manager or his designee to negotiate and execute a Purchase and Sale Agreement with the Arcadia Development Co., in the amount not-to-exceed \$500,000 for the purchase of approximately 14.54 gross acres of land together with all improvements, bordered by Quimby Road on the north, Capitol Expressway on the east and Chopin Avenue on the west in San José (a portion of Assessor's Parcel Numbers 670-29-020 and 670-29-017) and all other documents necessary to conclude the transaction for the development of a proposed softball facility funded by the Measure P Bond program;
- (b) Adopt the following Appropriation Ordinance amendments in the Parks and Recreation Bond Projects Fund:
 - (1) Decrease the Softball Complex Reserve by \$515,000; and
 - (2) Establish the Arcadia Softball Complex project to the Parks, Recreation and Neighborhood Services Department in the amount of \$515,000.

CEQA: Addendum to the Final Program Environmental Impact Report ("FEIR") for the Evergreen East Hills Vision Strategy (SCH # 2005102007)," which was certified by the City Council on December 12, 2006, by Resolution No. 73570, and the Supplemental Environmental Impact Report ("SEIR") for the Revision of the Evergreen-East Hills Development Policy, certified with findings adopted by the City Council on December 16, 2008, by Resolution No. 74742 (Parks, Recreation and Neighborhood Services/City Manager)

* **TO BE HEARD IN THE EVENING IMMEDIATELY FOLLOWING ITEM 11.4**

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Agreement with Philips for the Installation of SmartPoles Streetlights.](#)

[Memo from Councilmember Liccardo](#)

[Memo from Councilmember Herrera](#)

* **Recommendation:**

- (a) Accept update and provide direction on a potential agreement with Philips regarding an unsolicited proposal for the installation of up to 50 streetlights known as SmartPoles; and
- (b) Adopt a resolution authorizing the City Manager or his designee to negotiate and execute an agreement with Philips for a term of up to 30 years consistent with the direction provided by the City Council on the agreement's terms concerning compensation to the City and payment of City's standard fees and charges.

CEQA: Exempt, File No. PP14-046, Streetlight Management Plan.
(Transportation/Economic Development/City Manager)

7. ENVIRONMENTAL & UTILITY SERVICES
8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 January - June 2015 Administrative Budget and ROPS 14-15B.

Recommendation: Adopt Resolutions by the Successor Agency Board:

- (a) Approving the Administrative Budget for January 1 through June 30, 2015; and [Resolution](#)
- (b) Approving the Recognized Obligation Payment Schedule 14-15B and authorizing payment of expenditures for items on ROPS 14-15B, which details the obligations of the Successor Agency for the period of January 1, 2015 through June 30, 2015. [Resolution](#)

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (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.)

10.1 Tentative approval of General Plan Consent Calendar items.

No General Plan Consent Calendar items at this time.

10.2 [General Plan Text Amendment: Modify Goal H-2 – Affordable Housing.](#) [Memo from Mayor Reed](#)

Recommendation: Tentative approval of a General Plan Text Amendment to modify Goal H-2 - Affordable Housing, to state that the City's goal is that 15% or more of the new housing developed in San José be affordable to low, very low and extremely low income households and to add new policies including the Housing - Social Equity and Diversity Policy that states that the City will facilitate housing affordable to those who are employed in serving industries, and other related amendments. CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041 and addenda thereto. Planning Commission recommends approval (6-1-0). (Planning, Building and Code Enforcement) [GPT14-007](#) - Citywide

(Deferred from 11/18/14 – Item 10.2)

* **OPEN HEARING AND CONTINUE TO 12/16/14 FOR FINAL ADOPTION**

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) [Consideration of a Conditional Use Permit to Allow After-Midnight Use at The Glass House.](#)

Recommendation: Consideration of a Conditional Use Permit to allow after-midnight use until 2:00 a.m. for a public eating establishment, drinking establishment (for more than 250 people), and banquet facility, The Glass House, on 0.46 gross acre site in the DC Downtown Primary Commercial Zoning District, located at 84 West Santa Clara Street and 2 South Market Street (84 West LLC, Owner), and adopt a resolution setting forth the Council's decision. CEQA: Exempt, File No. CP14-051. (Planning, Building and Code Enforcement) [Resolution](#)

[CP14-051](#) – District 3

(Item continued on the next page)

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar. (Cont'd.)

Recommendation:

- (b) **Rezoning the Real Property Located on the North Side of Broadway Avenue, Approximately 240 Feet East of Ramona Avenue.**

Recommendation: Consideration of an [ordinance](#) rezoning the real property located on the north side of Broadway Avenue, approximately 240 feet east of Ramona Avenue (1067 Broadway Avenue) from the R-1-8 Single Family Residence Zoning District to the A(PD) Planned Development Zoning District to subdivide one parcel into two lots with reduced side setbacks for single-family residences on a 0.38 gross acre site (Chen, Hongtao and Emily, Owner). CEQA: Exempt. (Planning, Building and Code Enforcement)

PDC07-008 – District 6

APPLICANT REQUESTED ITEM TO BE DROPPED

- (c) **Rezoning the Real Property Located at the Southwest Corner of West San Carlos Street and Sunol Street.**

Recommendation: Consideration of an ordinance rezoning the real property located at the southwest corner of West San Carlos Street and Sunol Street (860 West San Carlos Street) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow for specific changes to previously approved Development Standards, most notably: eliminating the minimum building height, lowering the minimum amount of commercial square footage from 24,000 to 14,000, and requiring standard conformance with the City's parkland dedication requirements, for the subject 8.0 gross acre site (Santa Clara County Transit Dist, Owner). CEQA: Ohlone Mixed Use EIR Resolution No. 09064, File No. PDC08-061. (Planning, Building and Code Enforcement)

PDC13-004 – District 6

DROP

ITEM 11.1 TO BE HEARD IN FIRST IN THE EVENING IMMEDIATELY FOLLOWING CEREMONIAL ITEMS

END OF PUBLIC HEARING CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 [Rezoning the Real Property Located on the West Side of San Felipe Road, Approximately 90 Feet North of Fowler Road.](#)

[Memo from Councilmember Herrera](#)

- * **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: Envision San José 2040 General Plan EIR, Resolution No. 76041 and addenda thereto. (Planning, Building and Code Enforcement)
[C14-034- District 8](#)
[Continued from 10/21/14 – Item 11.4 and 10/28/14 – Item 4.3]

11.3 [Amendment to the Century Court Residential Towers Development Agreement in the North San José Area Development Policy Area.](#)

[Memo from Councilmember Rocha](#)

- * **Recommendation:** Consideration of an [ordinance](#) to amend a Development Agreement with New Century Towers, LLC to develop up to 378 multi-family attached residential units and approximately 5,115 square feet of ground floor commercial space consistent with a previously approved Planned Development Rezoning (File No. PDC13-055), which allows up to 460 residential units and up to 20,000 square feet of ground floor commercial space on a 2.4 gross acre site located at the southwest corner of North First Street and Century Center Court (1729 N. First Street) in the North San José Area Development Policy area, subject to performance by the developer for payment of contributions, commencement of construction and subsequent occupancy per deadlines of performance included in the previously approved Development Agreement (File No. DA13-001). The purpose of this Development Agreement amendment is to modify the findings to recognize that the extraordinary benefit to be provided by the project includes a contribution of \$2,600,000 to be used either for affordable housing or transportation infrastructure improvements (James F. Schmidt, owner), acknowledge that New Century Towers, LLC is the successor in interest, and to make other technical or non-substantive changes. CEQA: North San José Area Development Policies Update Environmental Impact Report, Resolution No. 72768 and addenda thereto. (Planning, Building and Code Enforcement)
[DA14-001 – District 3](#)
(Deferred from 10/21/14 – Item 11.7)

11. PUBLIC HEARINGS

11.4 [Rezoning the Real Property Located on the Southside of Quimby Road, Approximately 1,200 Feet Westerly of Capitol Expressway.](#)

[Memo from Councilmember Herrera, Mayor Reed, Vice Mayor Nguyen and Councilmember Rocha](#)

Recommendation: Consideration of an [ordinance](#) rezoning the real property located on the southside of Quimby Road, approximately 1,200 feet westerly of Capitol Expressway (2218 Quimby Road) from the R-1-8 Single-Family Residence and CO Commercial Office Zoning Districts to the A(PD) Planned Development Zoning District to allow up to 344,000 square feet of commercial/retail; 250 residential dwelling units; and 17.2 acres of public parkland on an approximately 81.0 gross acre site (Arcadia Development Co., Owner). CEQA: Addendum to the Final Program Environmental Impact Report ("FEIR") for the Evergreen East Hills Vision Strategy (SCH # 2005102007)," which was certified by the City Council on December 12, 2006, by Resolution No. 73570, and the Supplemental Environmental Impact Report ("SEIR") for the Revision of the Evergreen-East Hills Development Policy, certified with findings adopted by the City Council on December 16, 2008, by Resolution No. 74742. (Planning, Building and Code Enforcement)

[PDC10-022](#) – District 8

* **TO BE HEARD IMMEDIATELY FOLLOWING ITEM 11.1.**

11.5 [Rezoning the Real Property Located on the South Side of Bailey Avenue, Approximately 1,200 Feet Easterly of McKean Road.](#)

[Memo from Mayor Reed and Councilmembers Kalra and Khamis](#)

Recommendation:

- (a) Certify the Heritage Oaks Memorial Park Environmental Impact Report, and adopt a [resolution](#) making 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.
- (b) Consideration of an [ordinance](#) rezoning the real property located on the south side of Baily Avenue, approximately 1,200 feet easterly of McKean Road, from the R-1-1(PD) Zoning District and A Agricultural Zoning Districts to the A(PD) Planned Development Zoning District, to allow a cemetery with ancillary uses (Heritage Oaks Memorial Park) on approximately 102 acres and private open space on approximately 173 acres of a 275 gross acre site (Martin Weinberg & Et Al, Owner).

CEQA: Heritage Oaks Memorial Park Project Environmental Impact Report (EIR) Resolution to be considered for certification and adoption. (Planning, Building and Code Enforcement)

[PDC13-016](#) – District 2

11. PUBLIC HEARINGS

11.6 [Actions Related to the Real Property Located on the Northeast Corner of Cottle Road and Great Oaks Parkway.](#)

[Supplemental](#)

[Memo from Councilmember Kalra](#)

* **Recommendation:**

- (a) Adopt a [resolution](#) adopting a Negative Declaration for the Cottle Road Chick-fil-A Project.
- (b) Consideration of an [ordinance](#) rezoning the real property located on the northeast corner of Cottle Road and Great Oaks Parkway from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow a drive-through at a public eating establishment; and
- (c) Consideration of a Planned Development Permit to allow the construction of a 4,529 square foot public eating establishment with drive-through use. Conduct the public hearing and continue this subsection (c) to the December 16, 2014 Council meeting for action after final adoption of the rezoning ordinance.

CEQA: Negative Declaration resolution to be considered for adoption. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)
[PDC14-024/PD14-021](#) – District 2

11.7 [Rezoning the Real Property Located at 1280, 1284 and 1288 North Capitol Avenue.](#)

* **Recommendation:**

- (a) Consider adoption of a [resolution](#) approving the Mitigated Negative Declaration for the PD Rezoning File No. PDC14-026.
- (b) Consideration of an [ordinance](#) rezoning the real property located on at 1280, 1284 and 1288 North Capitol Avenue from the R-1-8 Zoning District to A(PD) Planned Development Zoning District to allow the construction of nine single family detached homes on a 1.3 gross acre site (Scimeca Gerald R. Trustee & Et Al, Owner).

CEQA: Mitigated Negative Declaration resolution to be considered for adoption. Planning Commission recommends denial (6-1-0). (Planning, Building and Code Enforcement)

[PDC14-026](#) – District 4

APPLICANT REQUESTED ITEM TO BE DROPPED

11. PUBLIC HEARINGS

11.8 [Actions Related to Short Term Rentals and Agreement with Airbnb, Inc.](#) [Memo from Councilmember Rocha](#) [Memo from Councilmember Constant](#)

* **Recommendation:**

- (a) Approve an [ordinance](#) amending Sections 20.30.110 of Chapter 20.30, 20.60.030 of Chapter 20.60 and 20.200.470 of Chapter 20.200, adding new Sections 20.40.115 of Chapter 20.40, 20.70.130 of Chapter 20.70 and 20.75.230 of Chapter 20.75, amending Part 2 of Chapter 20.80, and adding a new Part 2.5 to Chapter 20.80, all of Title 20 of the San José Municipal Code, to allow and regulate transient occupancy as an incidental use of residences, to modify permitting requirements and occupancy limitations for Bed and Breakfast Inns, to amend and add long term room rental limitations and to make other technical, nonsubstantive, or formatting changes within those sections of Title 20. CEQA: Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan, EIR Resolution No. 76041 and addenda thereto (File No. PP14-084). (Planning, Building and Code Enforcement)
- (b) Adopt a resolution authorizing the City Manager to negotiate and execute a Tax Collection Agreement with Airbnb, Inc., at no cost to the City, for the collection of the City's Transient Occupancy Tax on short term rentals, where the host (owner or primary tenant) uses a hosting platform provided by Airbnb. (Economic Development/Finance) [Memorandum](#)

CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041 and addenda thereto (File No. PP14-084)
[PP14-084/Title 20](#) – Citywide

11.9 [Street Renaming of Atmel Way to Orchard Place.](#)

Recommendation: Adopt a [resolution](#) to rename Atmel Way to Orchard Place. CEQA: Exempt, CEQA Guidelines Section 15301. (Planning, Building and Code Enforcement)
[ST14-004](#) – District 4

● 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>
10233	Almaden Road 200' north of Fleetwood Drive.	10	Vui M. Ly	7 Lots/ 6 Units	SFD	Approve

- **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.