



# CITY COUNCIL AGENDA

**NOVEMBER 5, 2013**

## 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. 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 [www.sanjoseca.gov/clerk/agenda.asp](http://www.sanjoseca.gov/clerk/agenda.asp). 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**  
9:34 a.m. - Closed Session, Call to Order in Council Chambers  
**Absent Council Members: All Present.**  
  
1:36 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Members: All Present.**  
  
7:02 p.m. - Public Hearings, Council Chambers, City Hall  
**Absent Council Members: All Present.**
- **Invocation (District 10)**  
Brad Abley, Pastor, South Hills Community Church offered the Invocation.
- **Pledge of Allegiance**  
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**  
The Orders of the Day and the Amended Agenda were approved.

Council recessed to Closed Session in Room W133 at 1:45 p.m. and reconvened at 3:44 p.m. in the Council Chambers.

- **Closed Session Report**  
City Attorney Richard Doyle disclosed the following Closed Session actions of November 5, 2013:

**A. Public Employee Appointment Pursuant to Government Code Section 54957:**

**Title:** City Manager  
**Name:** Edward K. Shikada

**Council Vote:**

**Ayes:** Chu, Constant, Herrera, Khamis, Liccardo, Nguyen, Oliverio; Reed.  
**Noes:** Campos, Kalra, Rocha.  
**Abstain:** None.  
**Not Present:** None.

## **1. CEREMONIAL ITEMS**

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There were none presented.

## **2. CONSENT CALENDAR**

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### **2.1 Approval of Minutes.**

**Recommendation:** Approval of minutes.

- (a) Regular Minutes of June 4, 2013
- (b) Special Minutes of June 10, 2013
- (c) Regular Minutes of June 11, 2013
- (d) Regular Minutes of June 18, 2013
- (e) Joint Council/San José Diridon Development Authority/Successor Agency to the Redevelopment Agency Minutes of June 18, 2013

**Approved.**

## 2. CONSENT CALENDAR

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### 2.2 Final Adoption of Ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 29324 - Amending Title 23 of the San José Municipal Code by adding new Sections 23.02.125 and 23.02.494 and amending Section 23.04.020 to add a new type of allowable sign on corner buildings of large shopping center sites and to allow additional attached signs for second-story retail tenant spaces within certain buildings on large shopping center sites; adding Section 23.02.805 (authority for Title 23); amending Section 23.02.1370 to establish provisions for sign variances for signs on historic buildings; amending Section 23.02.870 to clarify the city departments with administrative authority for implementation of sign regulations; amending Sections 23.02.920 and 23.04.120 to delete references to time and temperature signs; amending definitions in Sections 23.02.160 (Erection of a Sign), 23.02.410 (Programmable Electronic Sign), 23.02.460 (Relocation of a Sign), and 23.02.560 (Traffic Control Device); adding definitions in new Sections 23.02.502 (Sign Area) and 23.02.505 (Sign Ordinance); repealing Section 23.02.1130 (Master Sign Program); and making other nonsubstantive, ministerial, technical, or typographical changes to Title 23 of the San José Municipal Code.

**Ordinance No. 29324 adopted.**

- (b) ORD. NO. 29327 – Rezoning certain real property situated on the southwest corner of Guadalupe Mines Road and Camden Avenue, from R-1-1 single-family residence zoning district to the A(PD) Planned Development Zoning District.

**Ordinance No. 29327 adopted.**

- (c) ORD. NO. 29328 – Rezoning certain real property situated on the easterly side of Camden Avenue, approximately 210 feet northerly of Kooser Road, from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District.

**Ordinance No. 29328 adopted.**

- (d) ORD. NO. 29329 – Rezoning certain real property of approximately 72 acres situated on both sides of Alum Rock Avenue, between King Road and Highway 680 From A(PD) Planned Development, CG Commercial General, CP Commercial Pedestrian, LI Light Industrial, and HI Heavy Industrial Zoning Districts to the MS – C Main Street Commercial and MS – G Main Street Ground Floor Commercial Zoning Districts.

**Ordinance No. 29329 adopted.**

## 2. CONSENT CALENDAR

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### 2.3 Approval of Council Committee Reports.

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

- (a) Rules and Open Government Committee Report of October 16, 2013. (Mayor)
- (b) Public Safety, Finance, and Strategic Support Committee Report of October 17, 2013. (Constant)

**Approved.**

### 2.4 Mayor and Council Excused Absence Requests.

**There were none.**

### 2.5 City Council Travel Reports.

**There were none.**

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

**There were none.**

### 2.7 Ordinance Requiring Employee Contributions to Police and Fire Retirement Plan while Receiving Supplemental Military Pay.

**Recommendation:** Approve an ordinance amending various Sections of Chapter 3.36 of Title 3 of the San José Municipal Code (the 1961 Police and Fire Retirement Plan) to require members to pay the employee's share of contributions when receiving supplemental military pay from the City during military service and to make changes in compliance with federal laws. CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy. (City Attorney's Office)

**Ordinance No. 29332 passed for publication.**

**Noes: Chu.**

### 2.8 Amendment to the Agreement with Systems Technology Associates for Maintenance and Support on the Storage Area Network.

**Recommendation:** Adopt a resolution authorizing the City Manager to execute the Second Amendment to the Storage Area Network Agreement with Systems Technology Associates of Tustin, CA, to extend the term of the agreement by twelve months from November 4, 2013 to November 3, 2014, an amount not to exceed \$282,119, from \$1,984,262 to \$2,266,381 in order to provide maintenance and support on the City's Storage Area Network. CEQA: Not a project, File No. PP10-066(a), Agreements and Contracts. (Finance)

**Resolution No. 76835 adopted.**

## 2. CONSENT CALENDAR

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### 2.9 Actions Related to the Response to the State of California’s Request for Proposals with the Santa Clara Unified School District for the Joint Purchase of the Agnews Property.

**Recommendation:**

- (a) Adopt a resolution:
  - (1) Approving the partnership with Santa Clara Unified School District (“SCUSD”) to submit a response to the State of California’s Request for Proposals for a joint purchase of 81 acres of land located at 3500 Zanker Road. Santa Clara County Assessor parcel numbers 097-04-028 and 097-04-040.
  - (2) Authorizing the City Manager or designee to execute the purchase agreement and all other documents needed to conclude the transaction with the State of California if this joint proposal is selected by the State.
  - (3) Authorizing the City Manager or designee to commence discussions with SCUSD staff regarding the potential joint use of the Agnews property in the event that the joint proposal is selected by the State.

**Resolution No. 76836 adopted.**

- (b) Adopt the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund:
  - (1) Decrease the Future PDO / PIO Projects Reserve by \$150,000.
  - (2) Establish the Agnews Property Preliminary Studies appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$150,000.

CEQA: Not a Project, File No. PP10-069(a), Staff Reports. Council District 4. (Parks, Recreation and Neighborhood Services/City Manager’s Office)

**Ordinance No. 29333 adopted.**

### 2.10 Vacation of a Portion of Hoppe Street.

**Recommendation:** Adopt a resolution summarily vacating a portion of Hoppe Street adjacent to Assessor’s Parcel Number 015-03-013. CEQA: Exempt, File No. PP12-086. Council District 4. (Public Works)

**Resolution No. 76837 adopted.**

### 2.11 Westfield Oakridge Winter Walk.

**Recommendation:** As recommended by the Rules and Open Government Committee on October 30, 2013:

- (a) Approve the Westfield Oakridge Winter Walk (WOWW) as a City Council sponsored Special Event.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project. (Rocha)

**Approved.**

## 2. CONSENT CALENDAR

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### 2.12 Campaign Contribution Limits and Voluntary Expenditure Limits.

**Recommendation:** As recommended by the Rules and Open Government Committee on October 30, 2013, adopt the following resolutions:

- (a) A resolution approving the updated campaign contribution limits in accordance with San José Municipal Code 12.06.210 C.

**Resolution No. 76838 adopted.**

- (b) A resolution approving the updated voluntary campaign expenditure limits in accordance with San José Municipal Code 12.06.530 D.

(City Clerk)

[Rules Committee referral 10/30/13 – Item G(3)]

**Resolution No. 76839 adopted.**

## 3. STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the City Manager, Debra Figone (Verbal Report) No Report.

### 3.2 Labor Negotiations Update

**Recommendation:** Accept Labor Negotiations Update.

**Accepted.**

### 3.3 2012-2013 Annual Performance Audit of Team San José Management of the City Convention and Cultural Facilities.

**Recommendation:** As recommended by the Public Safety, Finance, and Strategic Support Committee on October 17, 2013, accept the 2012 Annual Performance Audit of Team San José Management of the City's Convention and Cultural Facilities. (City Auditor)

[Public Safety, Finance and Strategic Support Committee referral 10/17/13 – Item D(7)]

**Deferred to December 03, 2013 per Administration.**



### 3. STRATEGIC SUPPORT SERVICES

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#### 3.4 Report on Request for Proposal For Fuel and Petroleum Products.

**Recommendation:** Report on Request for Proposal for Various Fuels; and adopt a resolution authorizing the City Manager to:

- (a) Issue Purchase Orders for the purchase of fuel and petroleum products for a total aggregate amount not to exceed \$6,000,000 for the period August 1, 2013 through July 31, 2014 with the following vendors:
  - (1) Western States Oil (San José, CA) not to exceed \$5,000,000
  - (2) Golden Gate Petroleum (Martinez, CA), not to exceed \$500,000
  - (3) Valley Oil (Mountain View, CA), not to exceed \$500,000
- (b) Amend the not-to exceed amount for each Purchase Order as required based on the City's demand and the volatility in fuel prices, subject to the appropriation of funds.
- (c) Repeal Resolution No. 67770, and issue subsequent Purchase Orders for fuel and petroleum products after the initial period in a manner consistent with the process as described herein, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(a), Purchase order of supplies, equipment and professional services with no changes to the physical environment. (Finance)

**Resolution No. 76840 adopted.**

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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#### 4.1 Ordinance Implementing 2013 California Building and Fire Code Standards.

**Recommendation:**

- (a) As recommended by the Public Safety, Finance, and Strategic Support Committee on September 19, 2013 and the Community and Economic Development Committee on September 23, 2013, approve an ordinance amending Title 24 of the San José Municipal Code to:
  - (1) Adopt the 2013 editions of the California Building Code (CBC), California Residential Code (CRC), California Electrical Code (CEC), California Mechanical Code (CMC), California Plumbing Code (CPC), California Historical Building Code (CHBC), California Existing Building Code (CEBC), California Green Building Standards Code (CALGreen) and the 2012 edition of the International Existing Building Code Appendix Chapters A2, A3 and A4.
  - (2) Adopt local amendments regarding certain structural design requirements, fire sprinkler regulations, and other building and fire safety requirements.

CEQA: Exempt, File No. PP13-082.

**Ordinance No. 29334 passed for publication.**

**Noes: Liccardo, Oliverio; Reed.**

*(Action Continued on the Next Page)*

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 Ordinance Implementing 2013 California Building and Fire Code Standards. (Cont'd.)

- (b) As recommended by Community and Economic Development on September 23, 2013 and referred by the Public Safety, Finance, and Strategic Support Committee on October 17, 2013 without a recommendation, approve an ordinance amending Chapter 17.12 of the San José Municipal Code to:
- (1) Adopt the 2013 edition of the California Fire Code (CFC), and the Standards referenced in 2013 CFC.
  - (2) Approve an ordinance to adopt the 2013 California Fire Code with the local amendments regarding fire suppression and alarm requirements, firefighter breathing air replenishment system/elevator requirements for high-rise buildings, and the requirements relating to the design and installation of fire protection and special systems and hazardous material systems.

CEQA: Not a Project.

(Planning, Building and Code Enforcement/Fire)

**The memorandum from Council Members Herrera, Campos, Khamis and Chu, dated November 1, 2013, was approved; the Staff recommendations were approved with the following amendments:**

- (1) **Adopt Item 4.1 Ordinance Implementing 2013 California Building and Fire Code Standards requiring a Firefighter Air Replenishment System in addition to the requirements for the Fire Service Access Elevators for all high rise buildings in San José.**
- (2) **Remove exception language in Section 901.4.4.1.1 subsection 1 and under General in Section 901.4.4.2.1 respectively, as follows: ~~“Exception: Where Firefighter designated elevator is provided per Section 901.4.4.2 or as required by the California Building Code Section 403.6.1” and “Except where required elsewhere in this Code, a designated firefighter elevator may be installed in lieu of a firefighter breathing air replenishment system as required in Section 901.4.4.1 of California Fire Code”.~~ and ~~When a Firefighter Elevator is installed according to this section, the building will be considered to meet the Fire Service Access Elevator requirement of the California Building Code.~~**
- (3) **Explore opportunities to partner with a manufacturer to install a Firefighter Air Replenishment System in the City of San José Fire Training Facility at no cost to the City of San José and institute a comprehensive training program.**
- (4) **Staff directed to return with the findings related to the State Fire Code for buildings 75 feet to 120 feet which require either the air replenishment system or an elevator; for buildings above 120 feet State Fire Code requires a minimum of two elevators. Additional findings must be made with respect to local climatic, geological or topographical conditions that affect the health and welfare of the citizenry and require an additional system.**
- (5) **Staff directed to explore opportunities for incentives to help building owners develop and adopt the requirements.**

**Ordinance approved, as amended. To return on November 19, 2013 for First Reading. Noes: Liccardo, Oliverio; Reed.**

## **5. NEIGHBORHOOD SERVICES**

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### **5.1 Bond Funded Softball Facility Update.**

#### **Recommendation:**

- (a) Accept the Measure P Bond funded Softball Facility Site Selection Study (“Study”).
- (b) Direct staff to proceed with next steps toward implementing recommendations outlined in the Study as follows:
  - (1) Pursue negotiations with the owners of the Arcadia site for the development of a softball facility at that site with a minimum of three adult sized lighted softball fields.
  - (2) Return to the City Council in 2014 with recommendations on how to use any remaining reserves in the park bond funds.

CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (Parks, Recreation and Neighborhood Services)

#### **Heard First in the Evening.**

**The memorandum from Council Members Khamis and Constant, dated October 31, 2013, was approved including the following direction to Staff:**

- (1) Action on Item 5.1 on the November 05, 2013 Agenda was deferred.**
- (2) Staff was directed to explore the option of locating a softball complex at the Santa Clara Fairgrounds location.**
- (3) Agendize Item 5.1 upon completion of an evaluation of the Santa Clara County Fairgrounds location.**
- (4) Provide clear Council direction that, regardless of which site is ultimately selected, the softball complex constructed should have at least six softball fields.**
- (5) Staff directed to report back to Council by February 1, 2014.**

**Noes: Herrera, Kalra, Liccardo, Nguyen; Reed.**

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

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## **7. ENVIRONMENTAL & UTILITY SERVICES**

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## **8. PUBLIC SAFETY SERVICES**

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### **8.1 Urgency Ordinance Amending Section 10.32.010 of the San José Municipal Code Pertaining to Shooting of Firearms Prohibited - Exceptions.**

**Recommendation:** Consideration by the City Council of an urgency ordinance and regular ordinance to amend Section 10.32.010 of the San José Municipal Code to exclude any person authorized by the California Department of Fish and Wildlife pursuant to a depredation permit from the prohibition of the shooting of firearm in the City of San José. (Khamis/Constant)

(Rules Committee referral 10/30/13)

*Please note: Approval of this item requires 8 or more affirmative votes (2/3).*

**Urgency Ordinance No. 29336 adopted, with an expiration date of February 4, 2014.**

**Ordinance No. 29337 was not used.**

**Noes: Herrera, Kalra, Rocha.**

## **9. REDEVELOPMENT – SUCCESSOR AGENCY**

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- **Open Forum**

**Richard Calhoun expressed grave concerns that a 75 year old woman, resident of San José, was overcharged \$15,000 by the Office of the Public Guardian.**

**Mayor Reed referred Mr. Calhoun to speak with Assistant City Manager Edward K. Shikada after the Council Meeting.**

- **Adjournment**

**The Council of the City of San José adjourned the afternoon session at 5:59 p.m.**

## **10. GENERAL PLAN PUBLIC HEARINGS**

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No General Plan Public Hearing at this time.

## **11. PUBLIC HEARINGS ON CONSENT CALENDAR**

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### **11.1 Public Hearings on Consent Calendar.**

#### **Recommendation:**

- (a) Consideration of an ordinance rezoning the real property located at the northeast corner of Klein Road and Groesbeck Hill Drive (2560 Klein Road) from A Agricultural to R-1-5 Zoning District to allow residential use on a .562 gross acre site (Nguyen Dylan Hung T, Owner). CEQA: Envision San José 2040 General Plan Update EIR, Resolution Number 76041. (Planning, Building and Code Enforcement)

C13-029 – District 8

**Ordinance No. 29338 passed for publication.**

- (b) Consideration of an ordinance rezoning of a property located on the southeast corner of the intersection of Race Street and Parkmoor Avenue (1290 Parkmoor Avenue) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow private elementary and secondary school and ancillary uses, subject to a Planned Development Permit, until such time that the property redevelops (Parkmoor Investors LLC, Owner). CEQA: Addendum to the Final Program EIR for the Race Street General Plan Amendments and Planned Development Rezoning, File No. PDC13-021. (Planning, Building and Code Enforcement)

PDC13-021 – District 6

**Ordinance No. 29339 passed for publication.**

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

# 11. PUBLIC HEARINGS

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## 11.2 Actions Related to the Real Property Located at the Southwest Corner of West San Carlos and Sunol Streets Extending to Auzerais Avenue.

### Recommendation:

- (a) Consideration of an ordinance rezoning the real property located at the southwest corner of West San Carlos and Sunol Streets extending to Auzerais Avenue (860 West San Carlos Street) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District for a previously approved development to allow the following: (1) a change in the range of multi-family residential units from 680-800 to 600-800 units; (2) a change in the range of commercial square footage from 24,000-30,000 to 12,500-30,000 square feet; and (3) a reduction in building height on Block C from 140-150 feet to 50-80 feet, on an 8.0 gross acre site [Santa Clara County Transit District (VTA), Owner]. CEQA: Ohlone Mixed Use EIR, File No. PDC08-061, Resolution No. 75192. PDC13-004 – District 6
- (b) Consideration of an ordinance approving a Development Agreement with Green Republic, LLLP, Valley Transportation Authority (VTA), Dianne Ryan Trust, 861 Auzerais Investment, Green Valley Corporation, and Carolyn Pahle Trust, to develop up to 800 multi-family attached residential units and a minimum of 14,000 square feet of ground floor commercial space on three blocks with a minimum of two tower structures and one structure with a minimum height of 70 feet, consistent with the proposed Planned Development Zoning (File No, PDC13-004), and subject to the performance by Green Republic, LLLP for the dedication of parkland, contribution of funds for public transportation improvements serving the development, accelerated construction of street and utility infrastructure, submittal of building permits for the first high rise and commencement of construction and subsequent occupancy per deadlines of performance included in this agreement, on an 8.0 gross acre site, located at the southwest corner of West San Carlos and Sunol Streets extending to Auzerais Avenue (860 W. San Carlos Street). CEQA: Ohlone Mixed Use EIR, File No. PDC08-061, Resolution No. 75192. DA13-002 – District 6

(Planning, Building and Code Enforcement)

(Deferred from 8/20/13 – Item 11.3, 9/17/13 – Item 11.2 and 10/22/13 – Item 11.5)

**Deferred to December 10, 2013 per Administration.**

## 11. PUBLIC HEARINGS

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### 11.3 Actions Related to the Real Property Located at the Northwest Corner of Fallingtree Drive and North Capitol Avenue.

**Recommendation:** The projects being considered are located on an approximately 0.79 gross acre site at the northwest corner of Fallingtree Drive and North Capitol Avenue (2577 Fallingtree Drive), in the A(PD) Planned Development Zoning District (Escobar Nunes Emily Trustee, Owner).

- (a) Adopt a resolution adopting the Mitigated Negative Declaration prepared for the Planned Development Zoning at Capitol and Falling Tree (File No. PDC13-005) as having been completed in compliance with the California Environmental Quality Act (CEQA) and reflecting the City's independent judgment and analysis, and adopting a mitigation monitoring and reporting program.  
**CEQA Resolution No. 76841 adopted.**
- (b) Consideration of an ordinance to rezone the real property from A(PD) to A(PD) to allow up to seven (7) single-family detached residential units.  
**Ordinance No. 29340 passed for publication.**
- (c) Consideration of a resolution approving the Planned Development Permit to allow the demolition of three (3) existing buildings and construction of seven (7) single-family detached residential units.  
**Resolution No. 76842 adopted.**
- (d) Consideration of a resolution approving a Tentative Map to subdivide one (1) parcel into seven (7) lots to allow seven (7) single-family detached residential units.  
CEQA: Mitigated Negative Declaration Resolution to be adopted. (Planning, Building and Code Enforcement)  
PDC13-005/PD13-029/PT13-040 – District 4  
**Resolution No. 76843 adopted.**

### 11.4 Rezoning the Real Property Located on the Northeast Corner of South De Anza Boulevard and Via Vico.

**Recommendation:** Consideration of an ordinance rezoning the real property located on the northeast corner of South De Anza Boulevard and Via Vico (1090 South De Anza Boulevard) from CP (PD) to CP (PD) to replace an existing gasoline service station with approximately 2,929 square foot retail store (convenience store) in conjunction with an existing carwash structure on a 0.61 gross acre site (Rubnitz James E And Teresa P, Owner). CEQA: Exempt. (Planning, Building and Code Enforcement)

PDC13-022 – District 1

**Ordinance No. 29341 passed for publication.**

## 11. PUBLIC HEARINGS

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### 11.5 Conditional Use Permit and Determination of Public Convenience or Necessary to Allow Off-sale of Alcoholic Beverages at an Existing Neighborhood Market.

**Recommendation:** Consideration of a Conditional Use Permit and Determination of Public Convenience or Necessary request to all allow off-sale of the full range of alcoholic beverages at an existing neighborhood market (Walmart) situated within a retail center (Westgate Mall) on a nine (9) gross acre site in CG Commercial General Zoning District and located on the north-east corner of Saratoga Avenue and West Campbell Avenue (1600 Saratoga Avenue) (FR Westgate Mall LLC, Owner). CEQA: Exempt. Planning Commission recommends approval (6-1-0). (Planning, Building and Code Enforcement)

CP13-036/ABC13-004 – District 1

**Resolution No. 76844 adopted.**

**Noes: Kalra.**

### 11.6 Conditional Use Permit and Determination of Public Convenience or Necessity to Allow the Off-Sale of Alcoholic Beverages at an Existing Specialty Retail Food Store.

**Recommendation:** Consideration of a Conditional Use Permit and Determination of Public Convenience or Necessity request to allow the off-sale of alcoholic beverages (beer and wine) at an existing specialty retail food store (Tana Market) in the CP Commercial Pedestrian Zoning District on a 0.21 gross acre site, located on the east side of South Winchester Boulevard, approximately 650 feet southerly of Payne Avenue (1358 S. Winchester Blvd.) (Johnson Faye T Trustee, Owner). CEQA: Exempt. (Planning, Building and Code Enforcement)

CP11-010/ABC13-010 – District 1

**Dropped per Administration.**

### 11.7 Administrative Hearing and Consideration of an Appeal of the Director of Planning's Decision to Deny a Tentative Map Application.

**Recommendation:** Conduct an Administrative Hearing and consider an Appeal of the Director of Planning's decision to deny a Tentative Map Application to subdivide one 10.85 gross acres lot into three lots for church and public/quasi-public uses within the R-1-8 Zoning District, the R-1-8 Single-Family Residence Zoning District, located at/on the West side of McLaughlin Avenue, approximately 110 feet northerly of Algiers Avenue (1523 McLaughlin Avenue) (Roman Catholic Bishop of San José, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends denial. (Planning, Building and Code Enforcement)

T13-010 – District 7

**Dropped per Administration.**



- **Open Forum**

**Bill Adams described the problems he has encountered with the Building Department related to obtaining an inspection fee refund.**

**Mayor Reed directed Mr. Adams to speak with Director of Planning, Building and Code Enforcement Joseph Horwedel following the Council meeting.**

- **Adjournment**

**The Council of the City of San José was adjourned at 9:56 p.m. in memory of Philip J. Ringenberg, a City employee since 1996. Phil passed away peacefully on Wednesday, September 18, 2013 leaving a large void with his family, friends and colleagues in the City of San José. (Parks, Recreation and Neighborhood Services/ Public Works)**