



# CITY COUNCIL AGENDA

**NOVEMBER 19, 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.

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On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**

**9:08 a.m.** - Closed Session, Call to Order in Council Chambers  
**Absent Council Members: All Present.**

**1:35 p.m.** - Regular Session, Council Chambers, City Hall  
**Absent Council Members: All Present.**

**7:02 p.m.** - General Plan Hearings, Council Chambers, City Hall  
- Public Hearings, Council Chambers, City Hall  
**Absent Council Members: All Present.**

- **Invocation (District 1)**

Father Demosthenes Paraskevaidis, Saint Nicholas Greek Orthodox Church, offered the Invocation.

- **Pledge of Allegiance**

Mayor Reed, accompanied by the Third Graders, Queen of the Apostles Catholic School, led the Pledge of Allegiance.

- **Orders of the Day**  
The Orders of the Day and the Amended were approved, with Item 5.2, CALEMA Grant Application for San José Family Camp added to the Agenda and Item 5.1, Motion for Reconsideration Relating to Item 5.1 on Council Agenda 11-5-13 (Bond Funded Softball Facility Update) heard last in the afternoon.
- **Closed Session**  
No Report.

## **1. CEREMONIAL ITEMS**

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- 1.1** Presentation of a commendation to the Ramirez family for their selection as this year’s La Familia Award recipients. (Campos)  
**Mayor Reed and Council Member Campos recognized and commended the Ramirez Family for being selected as this year’s La Familia Award recipients.**
- 1.2** Presentation of a proclamation declaring the month of November as “Sikh Awareness Month” in the City of San José. (Kalra)  
**Heard in the Evening.**  
**Mayor Reed and Council Member Kalra recognized the month of November as “Sikh Awareness Month” in San José and recognized and commended the Coyote Creek Troop 600 Sikh Boy Scout Troop. Troop 600 is the only Sikh Troop in the United States.**
- 1.3** Presentation of a proclamation in support of the Shop San José Campaign to Women Impacting Public Policy and representatives of San José’s neighborhood business associations declaring November 30, 2013 as “Small Business Saturday” in the City of San José. (Herrera/Economic Development)  
(Rules Committee referral 11/13/13)  
**Mayor Reed and Council Member Herrera recognized November 30, 2013 as “Small Business Saturday” in San José.**

## **2. CONSENT CALENDAR**

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

**Recommendation:**

- (a) Regular Minutes of August 13, 2013
- (b) Minutes of the Joint Council/Successor Agency to the Redevelopment Agency/Diridon Development Authority of August 13, 2013
- (c) Regular Minutes of August 20, 2013
- (d) Regular Minutes of August 27, 2013

**Approved.**

## 2. CONSENT CALENDAR

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### 2.2 Final Adoption of Ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 29331 – Rezoning certain real property situated on the southeast corner of South Bascom Avenue and Woodard Road on a 0.73 gross-acre site (3702 South Bascom Avenue) from the CP Commercial Pedestrian Zoning District to the CN Commercial Neighborhood Zoning District.  
**Ordinance No. 29331 adopted.**
- (b) ORD. NO. 29332 – Amending Sections 3.36.610, 3.36.620 and 3.36.1600 of Chapter 3.36, the 1961 Police and Fire Retirement Plan, of Title 3 of the San José Municipal Code to require members to pay the member’s share of contributions when receiving supplemental military pay from the city.  
**Ordinance No. 29332 adopted.**  
**Noes: Chu.**
- (c) ORD. NO. 29334 – Amending various sections of Title 24 of the San José Municipal Code to adopt the 2013 California Building, Residential, Plumbing, Mechanical, Electrical Codes, California Existing Building Code, California Historical Building Code, California Green Building Standards Code and 2012 International Existing Building Code with certain exceptions, modifications and additions.  
**Ordinance No. 29334 adopted.**
- (d) ORD. NO. 29338 – Rezoning certain real property situated on the northeast corner of Klein Road and Groesbeck Hill Drive on a 0.56 gross-acre site (2560 Klein Road) to the R-1-5 single-family residence zoning district.  
**Ordinance No. 29338 adopted.**
- (e) ORD. NO. 29339 – Rezoning certain real property situated on the southeast corner of Race Street and Parkmoor Avenue (APN: 264-06-096), from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District.  
**Ordinance No. 29339 adopted.**
- (f) ORD. NO. 29340 – Rezoning certain real property situated on the northwest corner of Fallingtree Drive and North Capitol Avenue (APN: 24439042), from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District.  
**Ordinance No. 29340 adopted.**
- (g) ORD. NO. 29341 – Rezoning certain real property situated at the north east corner of South De Anza Boulevard and Via Vico (1090 South De Anza Boulevard); (APN: 37225015), to CP(PD) Planned Development Zoning District.  
**Ordinance No. 29341 adopted.**

## 2. CONSENT CALENDAR

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### 2.3 Approval of Council Committee Reports.

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

- (a) Airport Competitiveness Committee Report of September 16, 2013. (Mayor)
- (b) Rules and Open Government Committee Report of October 23, 2013. (Mayor)
- (d) Rules and Open Government Committee Report of October 30, 2013. (Mayor)
- (e) Transportation and Environment Committee Report of November 4, 2013. (Liccardo)

**Approved.**

- (c) Community and Economic Development Committee Report of October 28, 2013. (Herrera)  
**Deferred to December 03, 2013 per City Clerk.**

### 2.4 Mayor and Council Excused Absence Requests.

**There were none.**

### 2.5 City Council Travel Reports.

**Council Member Constant presented highlights of his trip with the League of California Cities to Southern California on November 6 and 7, 2013, to attend the Leaders' Workshop in order to prepare the 2014 work plan for the Public Safety Committee that he serves on, as Vice Chairman. Council Member Constant will be serving as Chairman in 2014.**

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

**There were none.**

### 2.7 Purchase Order with Capstone Fire Management Systems for Confined Space Rescue and Emergency Services.

**Recommendation:** Authorize the City Manager to:

- (a) Execute an Open Purchase Order with Capstone Fire Management Systems, Inc. (San Diego, CA) for confined space rescue and emergency services at the San José-Santa Clara Regional Wastewater Facility for the period of November 22, 2013 through November 21, 2014, in an amount not-to-exceed \$400,000.
- (b) Exercise four additional one-year options to renew the Purchase Order, subject to the annual appropriation of funds.

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

**Approved.**

### 2.8 Affordability Restriction with Habitat for Humanity East Bay/Silicon Valley on Humboldt Street.

**Recommendation:** Adopt a resolution authorizing the Director of Housing to execute a 45 year affordability restriction delegating monitoring to Habitat for Humanity East Bay/Silicon Valley that will be recorded on Habitat's property at 260 West Humboldt Street.

CEQA: Exempt, File No. PP13-094. (Housing)

**Resolution No. 76845 adopted.**

## 2. CONSENT CALENDAR

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### 2.9 Amendments to the City Pay Plan for Various Classifications.

**Recommendation:** Adopt a resolution to:

- (a) Amend the City of San José Pay Plan effective November 19, 2013, to create the following classifications:
  - (1) Public Information Manager (1675)
  - (2) Department Information Technology Manager (1372)
- (b) Amend the City of San José Pay Plan effective November 19, 2013, to delete the following obsolete classes:
  - (1) Plant Shift Supervisor I/II (3614/3618)
  - (2) Senior Plant Operator I/II (3613/3655)

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

**Resolution No. 76846 adopted.**

### 2.10 Initiate Proceedings for Annexation of Moorpark No. 22.

**Recommendation:** Adopt a resolution initiating proceedings and setting January 14, 2014 at 1:30 p.m. for Council consideration of the reorganization of territory designated as Moorpark No. 22, which involves the annexation to the City of San José of approximately 1.137 gross acre of land located at the west side of Thornton Way, approximately 260 feet north of Maywood Avenue and the detachment of the same from the appropriate special districts including West Valley Sanitation, Co Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Mitigated Negative Declaration, Resolution to be adopted with Item 10.6. Council District 6. (Planning, Building and Code Enforcement)

**Resolution No. 76847 adopted.**

### 2.11 Actions Related to the Gun Buy Back Program.

**Recommendation:** Adopt the following Appropriation Ordinance amendments in the Federal Drug Forfeiture Fund:

- (a) Increase the Police Department's Non-Personal/Equipment appropriation for the San José Gun Buy Program in the amount of \$20,000.
- (b) Decrease the Ending Fund Balance by \$20,000.

CEQA: Not a Project, File No. PP10-067, Non-Project Specific Funding Mechanism. (Police/City Manager's Office)

**Ordinance No. 29342 adopted.**

## 2. CONSENT CALENDAR

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### 2.12 Actions Related to the Agreement with City and County of San Francisco for the 2013 Urban Areas Security Initiative Grant Funds.

**Recommendation:**

- (a) Adopt a resolution authorizing the City Manager to execute an Agreement between the City of San José and the City and County of San Francisco, acting as fiscal agent for the Bay Area Urban Areas Security Initiative (UASI), to accept the 2013 UASI grant allocation in the amount of \$983,000 and to negotiate and execute additional amendments and related documents without further Council action.

**Resolution No. 76848 adopted.**

- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:
- (1) Establish a City-Wide Expenses appropriation to the Police Department for the Urban Areas Security Initiative Grant - Police 2013 in the amount of \$354,000.
  - (2) Establish a City-Wide Expenses appropriation to the Fire Department for the Urban Areas Security Initiative Grant - Fire 2013 in the amount of \$420,000.
  - (3) Increase the estimate for Revenue from the Federal Government by \$774,000.

CEQA: Not a Project, File No. PP10-066(g), Memorandum of Understanding. (Police/Fire/City Manager's Office)

**Ordinance No. 29343 adopted.**

**Resolution No. 76849 adopted.**

### 2.13 Vacation of South Baywood Avenue.

**Recommendation:** Adopt a resolution summarily vacating a portion of South Baywood Avenue, north of Tisch Way. CEQA: Mitigated Negative Declaration, File No. PDC10-018. Council District 6. (Public Works)

**Resolution No. 76850 adopted.**

### 2.14 Property-Based Business Improvement District Financial Report.

**Recommendation:** Approval of the Downtown San José Property-Based Business Improvement District Annual Financial Report for FY 2012-13. The report provides information to the public and the property owners in the District regarding the use of the assessments and the management and operations of the District. CEQA: Exempt, File No. PP12-053. (Transportation)

**Approved.**



## 2. CONSENT CALENDAR

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### 2.15 Commodore Park Grand Opening.

**Recommendation:** As recommended by the Rules and Open Government Committee on November 6, 2013:

- (a) Approve the Commodore Park Grand Opening 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. (Chu)

[Rules Committee referral 11/6/13 – Item G(2)]

**Approved.**

### 2.16 Policy for Distribution of Tickets or Passes to City/Agency Officials.

**Recommendation:** As recommended by the Rules and Open Government Committee on November 6, 2013, adopt a resolution approving revisions to Council Policy 9-11, “Policy for Distribution of Tickets or Passes to City/Agency Officials.” CEQA: Not a Project, File No. PP10-068(c), Code or policy change that involves no physical changes to the environment. (City Attorney)

[Rules Committee referral 11/6/13 – Item G(3)]

**Resolution No. 76851 adopted, as amended, with Staff directed to include an explicit reference to the portions of the gift policy that relate to the acceptance of tickets.**

### 2.17 City Manager Compensation Package.

**Recommendation:** Adopt a resolution:

- (a) Approving the terms of compensation increasing the salary and reducing the deferred compensation for the City Manager, Ed Shikada, effective December 21, 2013.
- (b) Amending the City of San Jose Pay Plan effective December 21, 2013, to increase the compensation for the position of City Manager from \$227,975 to \$250,000.
- (c) Authorizing the City Clerk to execute an employment agreement between the City of San Jose and Ed Shikada in accordance with the general terms of compensation described in the memorandum to the Rules and open Government Committee from Mayor Chuck Reed, dated November 5, 2013.

(Mayor)

(Rules Committee referral 11/13/13)

**Resolution No. 76852 adopted.**

**Noes: Kalra, Rocha.**

### 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.

**Heard at 9:00 a.m.**

**No Report.**

3.3 **Ordinance Related to Officeholder/Candidate Legal Defense Funds.**

**Recommendation:** As recommended by the Rules and Open Government Committee on October 30, 2013, approve an ordinance amending Chapter 12.06 of Title 12 of the San José Municipal Code to amend Section 12.06.810 and to add a new Part 11 related to Officeholder/Candidate Legal Defense Funds. CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy. (City Attorney)

[Rules Committee referral 10/30/13 – Item G(4)]

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

3.4 **Retirement Board Governance.**

**Recommendation:** Acceptance of report and presentation on retirement board governance and direction to City staff on possible actions related to the report. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

**Heard No Earlier Than 2:00 p.m.**

**Report and presentation were accepted.**

**The City Attorney and City Manager were directed to:**

- (1) **Work towards developing a recommendation to implement the changes contemplated in the Cortex Applied Research Inc. Report as a package, including working with outside Retirement Counsel (Pension and Retirement for City Council).**
- (2) **Return to the Rules and Open Government Committee with a work plan of the items that are necessary to accomplish, which includes the stakeholder outreach, and to have a final product on a Council Agenda in time for either the June or November Election in 2014, and to ask that each of the Boards weigh in on the issue of whether they support the Cortex recommendations as a package, that is implemented in one step.**
- (3) **Including, specific direction to the City Attorney and the City Manager that the Cortex response to the concerns will be forwarded by the Administration to each Council Member. The issue of any potential changes in stipends or pay, the Council will expressly state that they will deal with those as part of the final formation of this package and not take it as a separate agenda item and that it will be incorporated into the final recommendations for the ballot (or not).**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.5 Terms of an Agreement with the Association of Building, Mechanical and Electrical Inspectors (ABMEI).

**Recommendation:** Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the Association of Building, Mechanical and Electrical Inspectors, and authorize the City Manager to execute an agreement with a term of July 1, 2013, to June 30, 2014. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

(Rules Committee referral 11/13/13)

**Resolution No. 76853 adopted.**

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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#### 4.1 Ordinance Implementing 2013 Fire Code Standards.

**Recommendation:** Approve an ordinance amending Chapter 17.12 of the San José Municipal Code to:

- (a) Adopt the 2013 edition of the California Fire Code (CFC), and the Standards referenced in 2013 CFC.
- (b) 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 for high-rise buildings, and the requirements relating to the design and installation of fire protection and special systems and hazardous material systems.

CEQA: Exempt, File No. PP13-082. (Planning, Building and Code Enforcement/Fire)  
[Community and Economic Development Committee referral 9/23/13 – Item d(6)(2) and  
Public Safety, Finance, and Strategic Support Committee referral 10/17/13 – Item d(4)]  
[Deferred from 11/5/13 – Item 4.1(b)]

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

#### 4.2 Vacation of a Portion of Sixth Street.

**Recommendation:** Conduct a public hearing and adopt a resolution vacating a portion of Sixth Street between Virginia Street and Martha Street and reserving a public service easement over the entire area being vacated. CEQA: Mitigated Negative Declaration, File No. PDC07-035. Council District 3. (Public Works)

**The Public Hearing was held.**

**Resolution No. 76854 adopted.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.3 Report on Bids and Award of Construction Contract for the 5065-West Evergreen Park Project.

**Recommendation:** Report on bids and award of a construction contract for 5065-West Evergreen Park to the low bidder, Star Construction, Inc., for the base bid and two Add Alternates in the total amount of \$1,200,000, and approval of a five percent contingency in the amount of \$60,000. CEQA: Exempt, File No. PP07-159. Council District 7. (Public Works)  
**Approved.**

## 5. NEIGHBORHOOD SERVICES

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### 5.1 Motion for Reconsideration Relating to Item 5.1 on Council Agenda 11-5-13 (Bond Funded Softball Facility Update).

**Recommendation:**

- (a) Consider a motion to reconsider Council Action on November 5, 2013 regarding Item 5.1 Bond Funded Softball Facility Update. (Oliverio)

**Motion To Reconsider Council Action Was Not Approved.**

**(5-6. Noes: Campos, Chu, Constant, Kalra, Khamis, Rocha.)**

- (b) If the motion for reconsideration is approved:
- (1) Accept the Measure P Bond funded Softball Facility Site Selection Study (“Study”).
  - (2) Direct staff to proceed with next steps toward implementing recommendations outlined in the Study as follows:
    - (a) 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.
    - (b) 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)

(Rules Committee referral 11/13/13)

**To Be Heard last in the Afternoon.**

**Not Heard.**

## **5. NEIGHBORHOOD SERVICES**

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### **5.2 CALEMA Grant Application for San José Family Camp.**

**Recommendation:**

- (a) Council by motion waive the 10-day noticing requirement for the following item, approve its placement on the agenda, and consider the following recommendation.

**Waived. The recommendation was considered.**

- (b) Adopt a resolution authorizing the City Manager or her designee to execute the California Emergency Management Agency (CALEMA) application and all related documents pertaining to damages at San Jose Family Camp as a result of the Yosemite Rim Fire.

CEQA: Not a Project; File No. PP10-068(a), Grant Application. (Parks, Recreation and Neighborhood Services)

**Resolution No. 76855 adopted.**

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

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

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## **8. PUBLIC SAFETY SERVICES**

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

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- **Open Forum**  
**None Presented.**
- **Adjournment**  
**The Council of the City of San José adjourned the afternoon session at 4:53 p.m.**

## 10. GENERAL PLAN PUBLIC HEARINGS

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### 10.1 Tentative approval of General Plan Consent Calendar items.

No General Plan Consent Calendar items at this time.

### 10.2 Amendment on a 1.4 Gross Acre Site Located on the South East Corner of Goodyear Street and Pepitone Avenue.

**Recommendation:** Tentative approval of General Plan Amendment to change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation from Open Space, Parklands and Habitat to Public/Quasi-Public to allow a public elementary school on a 1.4 gross acres site located on the south east corner of Goodyear Street and Pepitone Avenue (1197 Lick Avenue) (City of San José, Owner). CEQA: Mitigated Negative Declaration, File No. PP12-091. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-0-1, Commissioner O'Halloran abstained) recommended approval. (Planning, Building and Code Enforcement)

GP13-003 – District 3

(Deferred from 10/22/13 – Item 10.2)

**Heard Jointly With Items 11.2 And 11.3**

**Motion to approve failed for lack of majority. (5-5-0-1. Noes: Campos, Chu, Kalra, Oliverio, Rocha. Abstain: Liccardo.)**

**Hearing Continued to August 2014. (10-0-0-1. Abstain: Liccardo.)**

### 10.3 San José/Santa Clara Regional Wastewater Facility General Plan Amendment.

**Recommendation:** Tentative approval of a General Plan amendment to change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation of a 308-acre portion of the San José/Santa Clara Water Pollution Control Plant from Public/Quasi-Public to Industrial Park (81 acres), Light Industrial (31 acres), Neighborhood Community Commercial (5 acres), Combined industrial/Commercial (11 acres) and Open Space, Parklands and Habitat (80 acres) located at the southern end of the San Francisco Bay within the northernmost portion of the City of San José immediately north of State Route 237, west of Interstate 880 (700 Los Esteros Road, APN 015-31-024+). (Cities of San José and Santa Clara, Owner). CEQA: San José/Santa Clara Water Pollution Control Plant Master Plan EIR, File No. PP11-043 - Resolution to be adopted with Item 11.4. Director of Planning, Building and Code Enforcement recommends approval and Planning Commission (5-0-2, Abelite and Bit-Badal absent) recommends approval with the Nortech Parkway extension moved to the south of the designated Open Space, Parklands and Habitat Area. (Planning, Building and Code Enforcement)

GP13-020 – District 4

**Heard Jointly With Item 11.4**

*(Action Continued on the Next Page)*

## 10. GENERAL PLAN PUBLIC HEARINGS

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### 10.3 San José/Santa Clara Regional Wastewater Facility General Plan Amendment. (Action Cont'd.)

The City Council tentatively approved the proposed General Plan Amendment, the memorandum from Mayor Reed, Vice Mayor Nguyen and Council Members Herrera and Rocha, dated November 15, 2013, tentatively approving the Planning/Staff recommendations to:

- (1) Adopt the Final Environmental Impact Report (FEIR) for the Plant Master Plan.
- (2) Adopt the Plant Master Plan with 1,173 acres designated for habitat, including 180 acres for burrowing owls.
- (3) Approve a General Plan Amendment as recommended in the Staff report.

The memorandum from Council Members Liccardo and Kalra, dated November 15, 2013, was tentatively approved, as amended:

- (1) At the project level review and analysis, look at alternatives to the current proposed alignment of the Nortech Parkway.
- (2) Reconfigure Plan to ensure that solar power development does not occur within or adjacent to wetlands or designated open space.

(8-3. Noes: Chu, Kalra, Liccardo.)

*Note: See Item 11.4 for other actions taken.*

### 10.4 Five Wounds Urban Village Plans: Roosevelt Park, Five Wounds, Twenty Fourth and William Street, and Little Portugal.

**Recommendation:** Adoption of Four (4) Urban Village Plans to implement the Urban Village strategy of the Envision San José 2040 General Plan, including the following minor General Plan land use designation and Village Boundary line changes:

- (a) **Roosevelt Park Urban Village Plan**: Approval of a General Plan amendment to change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation on a 0.71 acre portion of the Urban Village area located on the south side of East Santa Clara Street, approximately 240 feet west of US Highway 101 from Urban Village to Neighborhood/Community Commercial.
- (b) **Five Wounds Urban Village Plan**: Approval of a General Plan amendment to expand the Plan area boundary in the Envision San José 2040 General Plan Land Use/Transportation Diagram in one (1) location on the east side of North 26<sup>th</sup> Street, approximately 130 feet north of East Santa Clara Street to include two (2) parcels that are 0.12 and 0.23 acres in size.
- (c) **24th and William Street Urban Village Plan**: Approval of a General Plan amendment to expand the Plan Area boundary in the Envision San José 2040 General Plan Land Use/Transportation Diagram in one (1) location that includes three (3) parcels that are 1.37, 0.66, and 1.07 acres in size and located on both sides of McLaughlin Avenue, approximately 340 feet south of William Street.

*(Item Continued on the Next Page)*

## 10. GENERAL PLAN PUBLIC HEARINGS

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### 10.4 Five Wounds Urban Village Plans: Roosevelt Park, Five Wounds, Twenty Fourth and William Street, and Little Portugal. (Cont'd.)

#### Recommendation: (Cont'd.)

- (d) **Little Portugal Urban Village Plan:** Approval of a General Plan amendment to:
- (1) Expand the Plan boundary in the Envision San José 2040 General Plan Land Use/Transportation Diagram in the following three (3) locations:
    - (a) The east side of South 33rd Street, south of Alum Rock Avenue;
    - (b) The east side of North 34th Street, north of Alum Rock Avenue; and
    - (c) The north side of Alum Rock Avenue between Highway 101 and North 33rd Street;
  - (2) Change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation on each of the three locations subject to the Plan boundary change in 4(a)(i)-(iii) above from Residential Neighborhood to Urban Village; and
  - (3) Change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation on a 2 acre portion of the Urban Village Plan area located on the north and south side of Alum Rock Avenue, approximately 210 feet to the east from US Highway 101, from Urban Village to Neighborhood/Community Commercial.

CEQA: Envision San José 2040 General Plan Final Program EIR, Resolution No. 76041. Director of Planning, Building and Code Enforcement and Planning Commission (7-0-0) recommend approval of all four (4) Urban Village Plans and related General Plan Amendments specified above. Districts 3 and 5.

(Continued from 10/22/13 – Item 10.4)

**The City Council tentatively approved the proposed General Plan Amendment and the memorandum from Council Member Liccardo dated November 15, 2013, as amended:**

- (i) **Item (i) was deleted per Council Member Liccardo verbally at the Council Meeting: *Revise Building Height Policy 4, on Page 19 of the Roosevelt Park Urban Village Plan to read: “New development in Area D, the former Empire Lumber site, located on the south side of East Santa Clara Street, shall be designed such that view of the Five Wounds Portuguese National Church will be maintained for a majority of the neighborhood located to the south and southwest of the site, to the same extent that the view-shed would have been preserved for street-level pedestrians with development at a height of 55 feet”.***
- (ii) **Revise A. Urban Plazas, on Page 36 of Roosevelt Park Urban Village Plan, to clarify that the urban plaza may be constructed within the footprint of the VTA-owned right-of-way property as part of the future development of the Five Wounds rail-to-rail, so long as the street-level design of the adjacent Area D development appropriately supports and accommodates the development of that plaza.**

*(Action Continued on the Next Page)*



## 10. GENERAL PLAN PUBLIC HEARINGS

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### 10.4 Five Wounds Urban Village Plans: Roosevelt Park, Five Wounds, Twenty Fourth and William Street, and Little Portugal. (Action Cont'd.)

- (iii) Modify the “Implementation Strategies, Action 2” portion of each Plan to specify that housing development agreements shall not be approved prior to the Council approval of an Urban Village Implementation Finance Strategy for the entire plan area.
- (iv) If, by January 1, 2017, the Federal Transit Administration has not approved a full-funding grant agreement for the construction of a “Phase II” of the Silicon Valley Rapid Transit (BART) extension that includes the station with the Five Wounds Area Urban Village Plans area, the City Manager shall place these Village Plans on the Council agenda to reexamine the feasibility of development according to these plans.

## 10. GENERAL PLAN PUBLIC HEARINGS

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### 10.5 Amendment on a 1.0 Gross Acre Site Located on the West Side of Thornton Way, Approximately 260 feet Northerly of Maywood Avenue.

**Recommendation:** Tentative approval of a General Plan Amendment to change the Envision San José 2040 General Plan Land Use/Transportation Diagram designation from Residential Neighborhood to Mixed-Use Neighborhood on 1.0 gross acre site, located on the west side of Thornton Way, approximately 260 feet northerly of Maywood Avenue. (Plaza III, Owner). CEQA: Mitigated Negative Declaration, Resolution to be adopted with Item 10.6. Director of Planning, Building and Code Enforcement and Planning Commission (6-1, Commissioner Cahan opposed) recommended approval.

GP13-006 – District 6

(Deferred from 10/22/13 – Item 10.3)

**To Be Heard Jointly With Item 11.5**

**The City Council tentatively approved the proposed General Plan Amendment.**

*Note: See Item 11.5 for other actions taken.*

### 10.6 Adopt a Resolution Approving All General Plan Amendment Actions and adopting the Five Wounds Urban Village Plan Actions on October 22, 2013 and November 19, 2013.

**Recommendation:** Adopt a resolution approving all of the General Plan amendment actions and adopting the Five Wounds Urban Village Plan actions taken on October 22, 2013 and November 19, 2013, and adopt all related CEQA resolutions. (Planning, Building and Code Enforcement)

(Continued from 10/22/13 – Item 10.5)

**Resolution No. 76856 adopted.**

**END OF GENERAL PLAN HEARINGS**

# 11. PUBLIC HEARINGS ON CONSENT CALENDAR

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## 11.1 Public Hearings on Consent Calendar.

### Recommendation:

- (a) Consideration of an ordinance conforming conventional zoning of properties located on the northwest corner of Race Street and Parkmoor Avenue (529, 581 and 691 Race Street) from HI Heavy Industrial to IP Industrial Parking Zoning District on an approximately 4.29 gross acre site (Green Valley Corporation, Owner). CEQA: Envision San José 2040 General Plan Final Program EIR, Resolution No. 76041. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. (Planning, Building and Code Enforcement) CP13-036 – District 6

**Ordinance No. 29344 passed for publication.**

- (b) Consideration of an ordinance conforming conventional rezoning of a real property located on the south side of East Brokaw Road, between North First Street and Bering Drive, from the IP Industrial Park, LI Light Industrial, CG Commercial General, R-2 Two-Family Residence, and IP(PD) Zoning Districts to the TEC Transit Employment Center Zoning District on a 31.09 gross site (Peery-Arrillaga, Owner). CEQA: Envision San José 2040 General Plan Final Program EIR, Resolution No. 76041. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. (Planning, Building and Code Enforcement) CP13-045 – District 3

**Ordinance No. 29345 passed for publication.**

- (c) Consideration of an ordinance conforming rezoning of a real property located on the south side of West Hedding Street, approximately 330 feet easterly of Spring Street (360 W. Hedding Street) from the CO Commercial Office Zoning District to the LI Light Industrial Zoning District on a 0.24 gross acre site (Orlando Nunes, Owner). CEQA: Envision San José 2040 General Plan Final Program EIR, Resolution No. 76041. (Planning, Building and Code Enforcement) C13-040 – District 3

**Deferred to January 14, 2014 per Administration.**

**END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## 11. PUBLIC HEARINGS

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### 11.2 Conventional Rezoning Real Property Located on the South East Corner of Goodyear Street and Pepitone Avenue.

**Recommendation:** Consideration of an ordinance to rezone from LI Light Industrial Zoning District to R-M Multiple Residence Zoning District, on a 1.4 gross acres site located on the south east corner of Goodyear Street and Pepitone Avenue (1197 Lick Avenue) (City Of San José, Owner). CEQA: Mitigated Negative Declaration, File No. PP12-091. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Commissioner O'Halloran recused) recommended approval. (Planning, Building and Code Enforcement)

C13-013 - District 3

(Deferred from 10/22/13 – Item 11.2)

**Heard Jointly With Items 10.2 and 11.3**

**Motion to approve failed for lack of majority. (5-5-0-1. Noes: Campos, Chu, Kalra, Oliverio, Rocha. Abstain: Liccardo.)**

**Hearing Continued to August 2014. (10-0-0-1. Abstain: Liccardo.)**

### 11.3 Agreement with Launchpad Development Company for Construction of Rocketship Tamien Public School.

**Recommendation:** Approve a revised Purchase and Sale Agreement between the City of San José and Launchpad Development Company, a California non-profit corporation, for the sale of approximately 26,528 square feet (0.6 acres) of real property in the amount of \$848,896 to facilitate the construction of Rocketship Tamien Public School #8, with the understanding that the acquired property will be transferred to Launchpad Development Nine, LLC, a California limited liability company. CEQA: Mitigated Negative Declaration, File No. PP12-091. Council District 3. (Parks, Recreation and Neighborhood Services) (Deferred from 10/22/13 – Item 11.3)

**Heard Jointly With Items 10.2 and 11.2**

**Motion to approve failed for lack of majority. (5-5-0-1. Noes: Campos, Chu, Kalra, Oliverio, Rocha. Abstain: Liccardo.)**

**Hearing Continued to August 2014. (10-0-0-1. Abstain: Liccardo.)**

# 11. PUBLIC HEARINGS

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## 11.4 San José/Santa Clara Regional Wastewater Facility Master Plan and General Plan Amendment.

### **Recommendation:**

- (a) Conduct an Administrative Hearing and consider an Appeal of the Planning Commission's certification of the Environmental Impact Report (EIR) for the proposed project, the San José/Santa Clara Water Pollution Control Plant Master Plan. In addition, consider adoption of a resolution to uphold the Planning Commission's certification of the EIR and certify that:
- (1) The City Council has read and considered the EIR.
  - (2) The EIR has been completed in compliance with the California Environmental Quality Act (CEQA).
  - (3) The EIR represents the independent judgment and analysis of the City of San José.
  - (4) The Director of Planning, Building and Code Enforcement shall transmit copies of the EIR to any other decision-making body of the City of San José for the project.

**The Administrative Hearing was held.**

**Resolution No. 76857 adopted.**

**Noes: Chu, Kalra, Liccardo**

- (b) Adopt a resolution making certain findings concerning significant environmental impacts, mitigation measures and alternatives, adopting a mitigation and monitoring and reporting program, and adopting a statement of overriding considerations in accordance with CEQA for the San José/Santa Clara Water Pollution Control Plant Master Plan.

PP11-043/GP13-020- District 4

**Resolution No. 76858 adopted.**

**Noes: Chu, Kalra, Liccardo.**

- (c) As recommended by the Transportation and Environment Committee on October 7, 2013, approve the San José/Santa Clara Water Pollution Control Plant Master Plan, with modifications to the Land Use Component consistent with staff recommendations.

[Transportation and Environment referral 10/7/13 – Item d(2)]

(Planning, Building and Code Enforcement/Environmental)

**Heard Jointly With Item 10.3**

**Approved.**

**Noes: Chu, Kalra, Liccardo.**

*Note: See Item 10.3 for other actions taken.*

## 11. PUBLIC HEARINGS

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### 11.5 **Prezoning Real Property Located on the West Side of Thornton Way.**

**Recommendation:** Consideration of an ordinance to Pre-Zone from County to R-M, Multiple Residence Zoning District on a 1.0 gross acre site, located on the west side of Thornton Way, approximately 260 feet northerly of Maywood Avenue. (Plaza III, Owner). CEQA: Mitigated Negative Declaration, to be adopted under Item 10.6. Director of Planning, Building and Code Enforcement and Planning Commission (6-1, Commissioner Cahan opposed) recommended approval. (Planning, Building and Code Enforcement) C13-026 - District 6

(Deferred from 10/22/13 – Item 11.4)

**Heard Jointly With Item 10.5**

**Ordinance No. 29346 passed for publication.**

*Note: See Item 10.5 for other actions taken.*

### 11.6 **Rezoning the Real Property Located at/on the Easterly Terminus of Skyway Drive, East of Monterey Road, Near the Southeast Corner of the Football Field.**

**Recommendation:** Consideration of an ordinance rezoning the real property located at/on the easterly terminus of Skyway Drive, East of Monterey Road, near the southeast corner of the football field (100 Skyway Drive) from A(PD) Zoning District to the A(PD) Zoning District to allow: (1) increase student population from 1,300 to 2,300 students; (2) allow inbound school bus access on Diamond Heights Drive; (3) remove a requirement for a transportation mitigation measure at Skyway Drive and Monterey Road; and (4) modify Santa Clara Valley dudleya plant mitigation measures on a 56.2 gross acres site (Valley Christian Schools, Owner). CEQA: Valley Christian Schools EIR. (Planning, Building and Code Enforcement)

PDC12-012 – District 2

**Dropped. To Be Renoticed.**

### 11.7 **Administrative Hearing and Consideration of an Appeal of the Planning Commission's Decision to Approve a Conditional Use Permit Renewal.**

**Recommendation:** Conduct an Administrative Hearing and consideration of an Appeal of the Planning Commission's decision to approve a Conditional Use Permit renewal to allow the continued operation of a drinking establishment (Club Caribe) with late night use until 2:00 a.m. daily on a 0.52 gross acre site, in the CP Commercial Pedestrian Zoning District, located on the southwest corner of South 1<sup>st</sup> Street and Willow Street (1009 S. 1<sup>st</sup> Street) (Avanessian Sandra G, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends denial. (Planning, Building and Code Enforcement)

CP13-037 – District 3

*(Action Continued on the Next Page)*

# 11. PUBLIC HEARINGS

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## 11.7 Administrative Hearing and Consideration of an Appeal of the Planning Commission’s Decision to Approve a Conditional Use Permit Renewal. (Action Cont’d.)

**Resolution No. 76859 adopted, approving a Conditional Use Permit.**

**The memorandum from Council Member Liccardo, dated November 2013, was approved, with the following modifications to the Conditional Use Permit conditions:**

- (1) Condition 13, Hours of Operation.** Add to this condition that the service of alcohol will stop at 1:30 a.m. and that no new patrons will be allowed into the premises after 1:00 a.m.
- (2) Condition 14, Security.** Change the condition from one (1) security officer for every fifty (50) to two (2) security officers for every fifty (50) patrons.
- (3) Condition 15, Loitering Prohibited.**
  - (a)** Change the second sentence to read: **The permittee shall proactively work to clear this area (500 foot radius of the doors of the premises) half an hour prior to and after closure of their operation on all days of the week.**
  - (b)** Add to this condition: **The permittee shall proactively monitor the area within a 500 foot radius of the premises to discourage loitering and nuisance activities of patrons during all hours of operation.**
- (4) Condition 19, Anti Litter.** Add to this condition a. that at least once a month the sidewalks along the project’s boundaries will be power washed.
- ❖ **The City Manager was requested to submit a referral to the Police Department pointing out that the crime statistics may not be reflected accurately to the actual level of crime activity in this area.**

- **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>
10169	S/E corner of Berryessa Rd and N Jackson Ave	4	Pulte Home Corporation	22 Lots / 66 Units	SFA	Approval

- **Open Forum**

**Jon Max Reger presented his own comments about working at the speed of business.**

- **Adjournment**

**The Council of the City of San José was adjourned at 12:51 a.m. in memory of Sergeant Ronald Sebastian Bondi, who retired from the San José Police Department in 1997 after 29 years of service. Sergeant Bondi, a San José native, graduated from San José High School before serving the Santa Clara County Sherriff’s Department and San José Police Department in Intelligence, Personnel and Street Crimes. (Rocha)**