

CITY COUNCIL AGENDA

DECEMBER 06, 2016

SYNOPSIS

CHAPPIE JONES
SERGIO JIMENEZ
RAUL PERALEZ
MANH NGUYEN
MAGDALENA CARRASCO

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

SAM LICCARDO MAYOR

PIERLUIGI OLIVERIO
TAM NGUYEN
ROSE HERRERA VICE MAYOR
DONALD ROCHA
JOHNNY KHAMIS

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Successor Agency to the Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, the Mayor 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, Tower 14th 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**
9:07 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: All Present.

1:30 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: All Present.

7:01 p.m. - General Plan/Public Hearings, Council Chambers, City Hall
Absent Council Members: All Present.
- **Invocation (Mayor)**
Mr. Rajinder Singh Manghar and Mr. Bob Dhillon, Sikh Gurdwara of San José, offered the Invocation.
- **Pledge of Allegiance**
Mayor Sam Liccardo, accompanied by Third Graders, Easterbrook Discovery School, led the Pledge of Allegiance.
- **Orders of the Day**
Heard following the Ceremonial Items.
The Orders of the Day and the Amended Agenda were approved, with Item 2.7 deferred to December 13, 2016 and Items 4.1 and 4.4 were heard separately.

- **Closed Session Report**
Heard following the Ceremonial Items.
No Report.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to the Mayor’s Gang Prevention Task Force Community Engagement Subcommittee members for their continued efforts in providing resources and solutions to prevent gang activities in our community. (Herrera)
Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized and commended the Mayor’s Gang Prevention Task Force Community Engagement Subcommittee members for their continued efforts.
- 1.2** Presentation of a commendation to the commissioners of the Housing & Community Development Commission for their service aiding the City Council in preserving the housing rights of San José residents. (Herrera)
Heard in the Evening.
Mayor Sam Liccardo and Vice Mayor Rose Herrera recognized the Housing & Community Development Commission for their service.
- 1.3** Presentation of a commendation to Mythri Ambatipudi for her non-profit, Woolly Warmth, and her support of residents in need in the City of San José. (Khamis)
Heard in the Evening.
Mayor Sam Liccardo and Council Member Johnny Khamis recognized Mythri Ambatipudi, sixteen-year old Entrepreneur, for her outstanding non-profit business “Woolly Warmth.”
- 1.4** Presentation of a commendation to Bob Brownstein for his many years of service and leadership in San José. (Rocha)
Mayor Sam Liccardo and Council Member Donald Rocha recognized and commended Bob Brownstein for his many years of service and leadership.
- 1.5** Presentation of a commendation to Max Soloviev and Carol Chen for their time and dedication to opening Wenzhou restaurant in the Japantown community. (Perez)
Mayor Sam Liccardo and Council Member Raul Perez recognized Max Soloviev and Carol Chen for opening Wenzhou restaurant in Japantown.
- 1.6** Presentation of a commendation to Team-M Taekwondo for promoting the art of taekwondo and training world-class athletes out of San José. (Jimenez)
Heard in the Evening.
Mayor Sam Liccardo and Council Member Sergio Jimenez recognized and commended Team-M Taekwondo.

2. CONSENT CALENDAR

2.1 Approval of City Council Minutes.

Recommendation: Approval of City Council Minutes.

(a) Regular Minutes of November 8, 2016.

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

Approved.

2.2 Final Adoption of Ordinances.

Recommendation: Final adoption of ordinances.

(a) ORD. NO. 29829 – An ordinance of the City of San José amending Sections 4.100.030 and 4.100.040 and adding Section 4.100.045 to Chapter 4.100 of Title 4 of the San José Municipal Code relating to minimum wage. CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (Economic Development)

Ordinance No. 29829 adopted.

2.3 Approval of Council Committee Minutes.

Recommendation: Approval of Council Committee Minutes.

(a) Rules and Open Government Committee Minutes of November 16, 2016. (Mayor)

(b) Public Safety, Finance and Strategic Support Committee Minutes of November 17, 2016. (Oliverio)

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

Deferred to December 13, 2016 per City Clerk.

2.4 Mayor and Council Excused Absence Requests.

There were none presented.

2.5 City Council Travel Reports.

No Report.

2.6 Report from the Council Liaison to the Retirement Boards.

No Report.

2.7 Retiree Member Appointment to the Board of Administration for Federated City Employees Retirement System.

Recommendation: Appoint Lawrence Jay Castellano to the Board of Administration for Federated City Employees Retirement System for the term December 1, 2016 to November 30, 2020. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk)

Deferred to December 13, 2016 per Orders of the Day.

2. CONSENT CALENDAR

2.8 Actions Related to the Recognition of Step Up and Power Down Award.

Recommendation: Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

- (a) Increase the estimate for Other Revenue by \$1,250,000.
- (b) Establish a City-Wide Expenses appropriation to the Environmental Services Department for San José Environmental Sustainability Programs in the amount of \$1,250,000.

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Environmental Services/City Manager)

Ordinance No. 29833 adopted.

Resolution No. 77995 adopted.

2.9 Agreement with the United States Department of Agriculture Animal and Plant Health Inspection Service Wildlife Service for Wildlife Management Services at the Airport.

Recommendation: Adopt a resolution to authorize the City Manager to:

- (a) Execute an Agreement with the United States Department of Agriculture Animal and Plant Health Inspection Service Wildlife Service (Sacramento, CA) to provide wildlife management services at the Norman Y. Mineta San José International Airport for a six-year term ending December 31, 2022, at a maximum compensation not to exceed \$114,564 for the initial twelve months of the Agreement.
- (b) After the initial twelve-month period, execute up to five one-year scopes of work/financial plan to extend the Agreement, and adjust compensation annually, as calculated by the USDA, through the term ending December 31, 2022, subject to the appropriation of funds.

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

Resolution No. 77996 adopted.

2.10 Actions Related to the Southside Community Center Restroom Renovation Project.

Recommendation: Adopt the following Appropriation Ordinance amendments in the Construction Tax & Property Conveyance Tax Fund: Parks Purposes Council District 2:

- (a) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Southside Community Center Restroom Renovation project by \$110,000.
- (b) Decrease the Ending Fund Balance by \$110,000.

CEQA: Exempt, Section 15301(e) Existing Facilities, File No. PP16-109. Council District 2. (Parks, Recreation and Neighborhood Services/City Manager)

Ordinance No. 29834 adopted.

2. CONSENT CALENDAR

2.11 “Free Use” for Events and Activities at City Hall on Saturday, March 18, 2017 for the Citywide Career Fair.

Recommendation: Adopt a resolution authorizing “Free Use” for events and activities held at City Hall on Saturday, March 18, 2017 for the Citywide Career Fair. CEQA: Not a Project, File No. PP10-069, City Administrative Activities. Council District 3. (Public Works)

Resolution No. 77997 adopted.

2.12 Naming of a New Park Site on Quimby Road.

Recommendation: As recommended by the Department of Parks, Recreation and Neighborhood Services and the Parks and Recreation Commission, name a new 14.48-acre park site located on Quimby Road, San José, Arcadia Ballpark. CEQA: Not a Project, File No. PP10-069, City Administrative Activities. (City Clerk)

Approved.

Noes: Rocha.

2.13 Amendment to the Agreement with the Faith Group for Airport Information Technology Services.

Recommendation: Approve the First Amendment to the Agreement with the Faith Group for Airport Information Technology consultant services to delete the fiscal year maximum compensation limits, with no change in maximum compensation of \$1,189,000 for the term of the agreement. CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Airport)

Approved.

2.14 Settlement of *Alemayehu v. City of San José*.

Recommendation: Approve a settlement in the amount of \$525,000, inclusive of attorney’s fees, and authorize the City Attorney to execute a Settlement Agreement to settle the case of *Alemayehu v. City of San José*. CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney)

Approved.

2.15 Public Member Appointment to the Board of Administration for Federated City Employees’ Retirement System.

Recommendation:

- (a) Waive the regular recruitment process for this vacancy.
- (b) Appoint Anurag Chandra to the Public Member seat for the term expiring November 30, 2018.

CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk)

Approved.

Noes: Khamis.

2. CONSENT CALENDAR

2.16 Fiesta Navideña Celebration.

Recommendation: As recommended by the Rules and Open Government Committee on November 30, 2016:

- (a) Approve the Fiesta Navideña Celebration scheduled on December 9, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Carrasco)
[Rules Committee referral 11/30/16 – Item G.1.a.]

Approved.

2.17 Council District 7 Community Events.

Recommendation: As recommended by the Rules and Open Government Committee on November 30, 2016:

- (a) Retroactively approve the Senter Monterey Neighborhood Association BBQ Meet & Greet on Saturday, October 1, 2016 at La Ragione Park as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Approve the Valley Palms Neighborhood Association Thanksgiving Celebration on Thursday, November 17, 2016 at Valley Palms Family Resource Center; Santee Neighborhood Association Volunteer Appreciation Reception on Friday, November 18, 2016 at the Franklin McKinley Children’s Initiative Center; Neighborhood Clean Up at Lucretia on Saturday, December 3, 2016 at the Vietnamese American Community Center; SevenTrees Neighborhood Association Volunteer Appreciation Reception on Wednesday, December 7, 2016 at SevenTrees Community Center; Valley Palms Neighborhood Association Volunteer Appreciation Reception on Friday, December 16, 2016 at Valley Palms Family Resource Center; West Evergreen Neighborhood Association Appreciation Reception on Wednesday, December 21, 2016 at O.B. Whaley Elementary School; West Evergreen Neighborhood Community Holiday Party on Wednesday, December 21, 2016 at O.B. Whaley Elementary School; Vietnamese Artist Showcase on Friday, January 20, 2017 at City Hall Rotunda; Viet Heritage Gardens Grand Re-Opening and Ribbon Cutting Ceremony on Friday, January 20, 2016 at Viet Heritage Gardens; and Vietnamese New Year Flag Raising Ceremony on Monday, January 30, 2017 at City Hall Plaza as City Council sponsored Special Events and approve the expenditure of funds.
- (c) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (T. Nguyen)
[Rules Committee referral 11/30/16 – Item G.1.b.]

Approved.

2. CONSENT CALENDAR

2.18 Interfaith Leaders Appreciation Events.

Recommendation: As recommended by the Rules and Open Government Committee meeting on November 30, 2016, retroactively approve payment and reimbursement of expenses for the District 7 Interfaith Leaders Appreciation Breakfast on October 27, 2016 and for the District 8 Interfaith Leaders Appreciation Breakfast on September 8, 2016. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk) [Rules Committee referral 11/30/16 – Item G.1.c.]

Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Norberto Dueñas (Verbal Report).

City Manager Norberto Dueñas expressed his thoughts concerning the tragic loss of thirty-six young people in the wake of the warehouse fire in Oakland.

Mayor Sam Liccardo shared that Fire Chief Curtis Jacobson and City Manager Norberto Dueñas offered the City of San José's assistance, support and heartfelt condolences to the families, the City of Oakland and the entire community.

Council Member Pierluigi Oliverio requested that City Attorney Richard Doyle issue an information memorandum determining whether the City of San José can fine State Agencies for not maintaining or cleaning property within City boundaries and whether the City may bill State agencies for these services. City Attorney Richard Doyle pointed out that a response will be circulated on Friday, December 9, 2016.

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.

Heard at 9:07 a.m.

No Report.

3. STRATEGIC SUPPORT SERVICES

3.3 First Quarter Financial Reports for Fiscal Year 2016-2017.

Recommendation: As recommended by the Public Safety, Finance and Strategic Support Committee on November 17, 2016:

- (a) Accept the First Quarter (period ending September 30, 2016) Financial Reports Fiscal Year 2016-2017 for the following programs:
- (1) Debt Management Report.
 - (2) Investment Management Report.
 - (3) Revenue Collection Report.

Accepted.

- (b) Adopt a resolution authorizing the Director of Finance to write off uncollectable debts in an amount not to exceed \$162,734.89.

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

[Public Safety, Finance & Strategic Support referral 11/17/16 – Item (c)1]

Resolution No. 77998 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Agreement with Team San José for Destination Marketing Services.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a two-year agreement with Team San José for international destination marketing services in an amount not to exceed \$850,000. CEQA: Not a Project, File No. PP10-066(e), Agreements and Contracts, Services that involve no physical changes to the environment. (Economic Development)

The memorandum from Mayor Sam Liccardo, dated December 6, 2016, was approved, with the City Manager directed to:

- (1) **Reconvene the CEO-SJC Roundtable -- under the auspices of the Silicon Valley Leadership Group joined by partners at the San José Silicon Valley Chamber of Commerce, Joint Venture-Silicon Valley and the Silicon Valley Business Travel Association -- to renew communication efforts with the Silicon Valley corporate community to build awareness and boost commitment to domestic and international air service at SJC.**
- (2) **Return to Council at the end of 2017 with Bay Area wide data reflecting awareness of SJC routes and air service among relevant decision makers, influencers and consumers such as travel agents, corporate travel offices and frequent passengers.**

Resolution No. 77999 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Actions Related to the Affordable Housing Impact Fee Program.

Recommendation:

- (a) Accept the status report on the Affordable Housing Impact Fee (AHIF) program.
- (b) Adopt a resolution that amends Resolution No. 77218 (Housing Impact Fee Resolution) to:
 - (1) Add an exemption to change the threshold size of rental projects to which the AHIF applies from three units to 20 units.
 - (2) Amend the provisions exempting for-sale projects from the AHIF to make the standard consistent with the staff report and the adopted AHIF regulations and the adopted Inclusionary Housing guidelines.

CEQA: Not a Project, File No. PP10-067, Non-Project Specific Funding Mechanism. (Housing)

* **The memorandum from Mayor Sam Liccardo, dated December 5, 2016, was approved:**

- (1) **Adopting the Staff Report recommendations, including the adoption of the posted resolution amending Resolution 77218 after deletion of the provisions that change threshold size of rental projects to which the AHIF applies from three (3) units to twenty (20) units.**

Staff recommendation: Adopt a resolution that amends Resolution No. 77218 to:

- (a) **Amend the provision exempting for-sale projects from the AHIF to make the standard consistent with the Staff Report and the adopted AHIF regulations and the adopted Inclusionary Housing Guidelines.**
- (2) **The City Attorney was directed to prepare a confidential memorandum to Council with their legal analysis of the recommendation adding an exemption to change the threshold size of rental projects to which the AHIF applies from three (3) units to twenty (20) units.**
- (3) **The City Manager was directed to return to Council within 12 months with an update, in coordination with the Office of Economic Development on mixed-use projects and their feasibility under Policy Alternative #1.**

* **Item (2) from the memorandum from Council Member Johnny Khamis and Council Member Chappie Jones, dated December 2, 2016, was approved: Staff was directed to return to Council with proposed amendments to the Affordable Housing Impact Fee Program that would allow developers to provide Below Market Rate (BMR) housing units in lieu of, and equal to a portion, or the total amount, of their required Impact Fee.**

Resolution No. 78010 adopted, as amended.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Approval of the Issuance of a Tax-Exempt Multifamily Housing Revenue Note and Loan of Note Proceeds and Related Documents for the Don De Dios Apartments, and Approval of Amended City Loan Terms for the Don De Dios Apartments.

Recommendation: Adopt a resolution:

- (a) Authorizing the issuance of a tax-exempt multifamily housing revenue note designated as “City of San José Multifamily Housing Revenue Note (Don de Dios Apartments), Series 2016A (the “Series 2016A Note”) in a principal amount not to exceed \$20,000,000.
- (b) Approving a loan of Series 2016A Note proceeds to Don de Dios L.P., a California limited partnership created by EAH, Inc., a California nonprofit public benefit corporation, to finance the acquisition and rehabilitation of the Don de Dios Apartments located at 987 Fair Avenue, in San José (the “Property”).
- (c) Approving in substantially final form the Funding Loan Agreement, Borrower Loan Agreement and Regulatory Agreement and Declaration of Restrictive Covenants (the “Series 2016A Documents”).
- (d) Authorizing and directing the City Manager, Director of Finance and Director of Housing, or their designees, to execute and, deliver the Series 2016A Documents and related Series 2016A Documents as necessary.
- (e) Authorizing the Director of Housing to negotiate and execute amendments to existing City loan documents relating to the Don de Dios Apartments consistent with the terms described in the memorandum to Council.

CEQA: Exempt, Section 15301(d), Existing Facilities, File No. PP16-120. Council District 7. (Housing/Finance)

(Deferred from 11/15/16 – Item 4.2 and 11/29/16 – Item 4.1)

Resolution No. 78000 adopted.

4.4 Audit of Team San José’s Performance 2015-2016.

Recommendation: As recommended by the Community and Economic Development Committee on November 28, 2016, accept the Audit Report on Team San José Performance 2015-2016. CEQA: Not a Project, File No. PP10-069(a), City Administrative Activities, Staff Reports. (City Auditor)
[Community and Economic Development referral 11/28/16 – Item (d)(8)]
Accepted.

5. NEIGHBORHOOD SERVICES

5.1 Actions Related to the Grant Agreement with the California Department of Parks and Recreation for Youth Sports Field Development.

Recommendation: Adopt a resolution:

- (a) Certifying that the City has or will have sufficient funds available to complete the project prior to commencement of any work on the project included in this application.
- (b) Certifying that if the project is awarded the City has or will have sufficient funds to operate and maintain the project.
- (c) Certifying that the City has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration Guide.
- (d) Delegating the authority to the City Manager to conduct all negotiations, sign and submit all documents, including, but not limited to applications, acceptance, agreements, amendments, and payment requests, which may be necessary for the completion of the Grant Scope.
- (e) Agreeing to comply with all applicable federal, state and local laws, ordinances, rules regulations and guidelines.

CEQA: Arcadia Softball Fields Addendum to the Evergreen East Hills Vision Strategy and Supplemental EIR, (Resolution No. 74742), File No. PP14-088. (Parks, Recreation and Neighborhood Services)

Resolution No. 78001 adopted.

5.2 Report on Bids and Award of Construction Contract for the 8036 - Del Monte Park Phase II Project.

Recommendation: Report on bids and award of a construction contract for 8036 - Del Monte Park Phase II to the low bidder, Goodland Landscape Construction, Inc. for the base bid in the amount of \$4,316,800 and approval of a five percent contingency in the amount of \$215,840. CEQA: Del Monte Park - Phase II Mitigated Negative Declaration, File No. PP16-023. Council District 6. (Public Work/Parks, Recreation Neighborhood Services)

Approved.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Actions Related to the Concession Agreements at the Airport.

Recommendation:

- (a) Approve the Fifth Amendment to the WDFG North America LLC (WDFG) Airport Retail Concession Agreement to add the Airport retail concession areas currently operated by AMS SJC-JV dba The Hudson Group (Hudson) through June 30, 2024, provide WDFG with storage space to support its concession operations and extend the term of the Agreement from June 30, 2020 to June 30, 2026.
- (b) Approve the Sixth Amendment to the Hudson Airport Retail Concession Agreement to terminate the Agreement upon incorporation of the Airport retail concession areas currently operated by Hudson into the WDFG Airport Retail Concession Agreement on the same terms and conditions as the current Hudson Agreement.
- (c) Adopt a resolution authorizing the Director of Aviation to amend the WDFG Airport Retail Concession Agreement at any time prior to its expiration to rebalance the two retail concession packages by revising those concession areas that will expire on either June 30, 2024 or June 30, 2026 and revise the Minimum Annual Guaranteed Concession Fee to reflect any such revisions, to maximize revenue and customer service and to provide for an equitable bidding opportunity for the future retail solicitations.

CEQA: Not a project, File No. PP10-066(e), Agreements and Contracts, Services that involve no physical changes to the environment. (Airport)

Dropped.

6.2 Update to the Council Policy 5-3 (Transportation Impact Policy) per the Envision San José 2040 General Plan.

Recommendation: Adopt a resolution updating Council Policy 5-3 (Transportation Impact Policy) per the Envision San José 2040 General Plan as follows:

- (a) Replace the “Special Planning Areas” map referenced in Council Policy 5-3 with the “Planned Growth Areas” and “Neighborhood Business Districts” diagrams from the Envision San José 2040 General Plan.
- (b) Revise the text of Council Policy 5-3 to clarify basic terminology and that intersections within Planned Growth Areas including Urban Villages are eligible to be added to the Protected Intersection List, consistent with the Envision San José 2040 General Plan.

CEQA: Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR (Resolution No. 77617). (Transportation/Planning, Building and Code Enforcement)

Heard in the Evening.

(Action Continued on the Next Page)

6. TRANSPORTATION & AVIATION SERVICES

6.2 Update to the Council Policy 5-3 (Transportation Impact Policy) per the Envision San José 2040 General Plan. (Action Cont'd.)

Item 6.2 was heard jointly with Item 10.2, Item 11.2 and 11.3.

The memorandum from Mayor Sam Liccardo, Council Member Donald Rocha and Council Member Chappie Jones, dated December 2, 2016, was approved:

- A. That the Council approve the Staff recommendations for Items 6.2, 10.2, 11.2 and 11.3 in the following sequence:
- (1) Adopt a resolution updating Council Policy 5-3 to make it consistent with the 2040 General Plan. *[Item 6.2]*
 - (2) Certify the Samaritan Medical Center Master Plan Environmental Impact Report. *[Item 10.2(a)]*
 - (3) Adopt a resolution adding the intersection of Camden and Union Avenues to the City's list of protected intersections. *[Item 10.2(b)]*
 - (4) Approve the Samaritan Medical Center Master Plan General Plan Amendment *[Item 10.2(c)]* of the action on the Agenda] along with the Planned Development Rezonings for both the Samaritan Drive site *[Item 11.2]* and the Samaritan Court site. *[Item 11.3]*
- B. In addition to approving the rezoning for the Samaritan Court site *[Item 11.3]* as recommended above, direct Administration to ensure that the Planned Development Permit for the Samaritan Court site includes the following elements:
- (1) Eighteen 36-inch box evergreen trees shall be planted along the property line of residences fronting Lost Oaks Drive and should be located such that they screen the new buildings and garage from the adjacent residential property. Existing mature trees along that property line should be preserved.
 - (2) The lighting in the parking garage should be fully-shielded, dimmable LED lights. The lights should be dimmed by at least 50% for a minimum of 6 hours overnight.
 - (3) The project shall include a masonry wall around the generator.
 - (4) Openings in the portion of the parking garage near the shared residential property line should be enclosed with an appropriate material and views from the top of the garage into the backyards of adjacent residential properties should be appropriately screened.

Resolution No. 78002 adopted.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 Review and Discuss Independent Police Auditor's 2014 Annual Report Recommendation #2(b).

Recommendation: Review and discuss the Independent Police Auditor's 2014 Annual Report Recommendation #2(b) that would require independent civilian oversight of all Police Department-Initiated Investigations. CEQA: Not a Project, File No. PP10-069(a), City Organizational & Administrative Activities, Annual Reports. (Independent Police Auditor/Police)

(Deferred from 10/25/16 – Item 8.1 and 11/15/16 – Item 8.1)

Deferred to January 24, 2017 Per Administration.

9. REDEVELOPMENT – SUCCESSOR AGENCY

There were no items.

- **Open Forum**
There was no public testimony from the floor.
- **Adjournment**
Mayor Sam Liccardo adjourned the Afternoon Council Session at 5:14 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

10.1 Tentative approval of General Plan Consent Calendar items.

No General Plan Consent Calendar items.

10.2 General Plan Amendment: Land Use/Transportation Diagram Amendment on the North Side of Samaritan Drive, Approximately 700 feet east of South Bascom Avenue and Samaritan Drive.

Please see Item 6.2 for additional detailed actions as described in the approved memorandum from Mayor Sam Liccardo, Council Member Donald Rocha and Council Member Chappie Jones, dated December 2, 2016.

Recommendation:

- (a) Subject to City Council approval of Item 6.2 above, adopt a resolution approving the Samaritan Medical Center Master Plan Project Environmental Impact Report making certain findings concerning significant impacts, mitigation measures, and alternatives, and adopting a statement of overriding consideration and mitigation monitoring and reporting program, all in accordance with the California Environmental Quality Act of 1970, as amended. (File No. GP15-014, PDC15-028, and PDC15-029).

Resolution No. 78003 was tentatively adopted.

- (b) Adopt a resolution amending City Council Policy 5-3 (Transportation Impact Policy) to add the intersection of Union Avenue and Camden Avenue to the Protected Intersection list.

Resolution No. 78004 was tentatively adopted.

- (c) Tentative approval of the General Plan Amendment to change the Land Use/Transportation Diagram designation from Neighborhood/Community Commercial to Regional Commercial on a 9.3 gross acre site located on the north side of Samaritan Drive, approximately 700 feet east of the intersection of South Bascom Avenue and Samaritan Drive (2505-2577 Samaritan Drive) (Samaritan Properties LLC, Owner).

CEQA: Samaritan Medical Center Master Plan Project Environmental Impact Report, File Nos. GP15-014, PDC15-028, and PDC15-029. Planning Commission (5-0-2) (Allen and Yesney absent) recommend approval. (Planning, Building and Code Enforcement)

GP15-014 – Council District 9

(Deferred from 11/15/16 – Item 10.5)

Heard Jointly: Item 6.2, Item 10.2, Item 11.2 and 11.3.

The General Plan Amendment was tentatively approved.

10. GENERAL PLAN PUBLIC HEARINGS

10.3 General Plan Text Amendment: Alviso Master Plan Height Restriction.

Recommendation:

- (a) Adopt a resolution adopting the TopGolf @ Terra Project Mitigated Negative Declaration, for which an initial study was prepared, all in accordance with the California Environmental Quality Act, as amended, and adopting a related Mitigation Monitoring and Reporting Program.
- (b) Tentative approval of the General Plan Text Amendment to the Alviso Master Plan to modify the height restriction for a portion of area within the “Village Area” from 45 feet to 65 feet for buildings and allow non-structural uses such as energy saving devices, wireless communication antennae, net poles, and other associated structures to a maximum height of 170 feet.

CEQA: Topgolf @ Terra Project Mitigated Negative Declaration, File Nos. GPT16-001 and PDC16-013. Planning Commission recommended approval (3-2-2, Bit-Badal & Vora absent; Ballard & Yesney opposed). (Planning, Building and Code Enforcement)

GPT16-001 – Council District 4

To Be Heard With Item 11.5.

Deferred to December 13, 2016 Per Administration.

10.4 General Plan Amendment: Land Use/Transportation Diagram Amendment Located at 6100 Winfield Boulevard.

Recommendation: Denial of the General Plan Amendment to the Land Use/Transportation Diagram from the Open Space, Parklands, and Habitat designation to the Residential Neighborhood designation on a 2.28 gross acre site located at 6100 Winfield Boulevard (Valley Christian Schools, Owner). CEQA: Winfield Boulevard Residential General Plan Amendment Negative Declaration, File No. GP16-003. Planning Commission recommended approval of the Initial Study/Negative Declaration (5-0-2, Bit-Badal & Vora absent) and Denial of the General Plan Amendment (5-0-2, Bit-Badal & Vora absent). (Planning, Building and Code Enforcement)

GP16-003 – Council District 10

Deferred to December 13, 2016 Per Administration.

10.5 General Plan Amendment: General Plan Amendment to Change the Envision San José 2040 General Plan Land Use/Transportation Diagram Land Use Designation.

Recommendation: Tentative approval of the City-Initiated General Plan Amendment to change the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Public/Quasi-Public to Lower Hillside of a 3.2 gross acre site, located at the east side of Dove Road, approximately 500ft north of Hassler Parkway (4200 Dove Hill Road) (Kuehne Stanislaus and Eleanore Trustee & Et, Owner). CEQA: Dovehill Lower Hillside Initial Study/Negative Declaration, File No. GP14-008. (Planning, Building and Code Enforcement)

GP14-008 – Council District 8

Dropped.

10. GENERAL PLAN PUBLIC HEARINGS

10.6 General Plan Text Amendment: Revisions to Urban Villages Design Policy CD-7.9.

Recommendation:

- (a) Consideration of determination of consistency with Envision San José 2040 General Plan EIR, Resolution No. 76041, and Supplemental General Plan EIR, Resolution No. 77617.
- (b) Tentative approval of the City-initiated General Plan Text Amendment to revise Urban Villages Design Policy CD-7.9 to allow more flexibility in building height step down in Urban Villages adjacent to single-family residential sites.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617), File No. GPT16-007. Planning Commission recommends approval (7-0-0). (Planning, Building and Code Enforcement)

GPT16-007 – Citywide

[Deferred from 11/15/16 – Item 10.1(d)]

Renumbered from Item 10.1(a).

Heard First in General Plan Hearings.

The General Plan Amendments were tentatively approved.

10.7 Continue General Plan Hearing to December 13, 2016 for Final Adoption. Continued to December 13, 2016.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar.

No Public Hearings on Consent.

11.2 Planned Development Conforming Rezoning of Real Property Located on the North Side of the Samaritan Drive (2505-2577 Samaritan Drive).

Please see Item 6.2 for additional detailed actions as described in the approved memorandum from Mayor Sam Liccardo, Council Member Donald Rocha and Council Member Chappie Jones, dated December 2, 2016.

Recommendation: Consideration of an ordinance of the City of San José rezoning certain real property on a 9.3 acres site located on the north side of Samaritan Drive (2505-2577 Samaritan Drive) from the A(PD) Planned Development and CP Commercial Pedestrian Zoning Districts to the CO(PD) Planned Development Zoning District to allow up to 360,000 square feet of commercial space and 353,700 square feet of parking structure (Samaritan Medical LLC, Owner).

CEQA: Samaritan Medical Center Master Plan Project EIR, File No. GP15-014, PDC15-028 and PDC15-029. Planning Commission recommended approval (5-0-2, Allen & Yesney absent). (Planning, Building and Code Enforcement)

PDC15-028 – Council District 9

(Deferred from 11/15/16 – Item 10.5)

Heard Jointly: Item 6.2, Item 10.2, Item 11.2 and 11.3.

Ordinance No. 29835 passed for publication.

11.3 Planned Development Conforming Rezoning of Real Property Located on the South Side of the Terminus of Samaritan Court (2506-2515 Samaritan Court).

Please see Item 6.2 for additional detailed actions as described in the approved memorandum from Mayor Sam Liccardo, Council Member Donald Rocha and Council Member Chappie Jones, dated December 2, 2016.

Recommendation: Consideration of an ordinance of the City of San José rezoning certain real property on an 3.7 acres site located on the south side of the terminus of Samaritan Court (2506-2515 Samaritan Court) from the CP Commercial Pedestrian Zoning District to the CO(PD) Planned Development Zoning District to allow up to 115,250 square feet of commercial space and 141,040 square foot parking structure (Samaritan Medical LLC, Owner). CEQA: Samaritan Medical Center Master Plan Project EIR, File No. GP15-014, PDC15-028, and PDC15-029. Planning Commission recommends approval (5-0-2, Allen & Yesney absent). (Planning, Building and Code Enforcement)

PDC15-029 – Council District 9

(Deferred from 11/15/16 – Item 11.3)

Heard Jointly: Item 6.2, Item 10.2, Item 11.2 and 11.3.

Ordinance No. 29836 passed for publication.

11. PUBLIC HEARINGS

11.4 Street Renaming of a Portion of Murillo Avenue Between Quimby Road and Aborn Road to Gurdwara Avenue.

Recommendation: Adopt a resolution denying the request to change the name of approximately 4,000-foot long portion of Murillo Avenue between Quimby Road and Aborn Road to be named Gurdwara Avenue. CEQA: Exempt, Section 15270 Projects which are disapproved, File No. ST14-005. Director of Planning, Building and Code Enforcement recommends denial of street renaming request. (Planning, Building and Code Enforcement)

ST14-005 – Council District 8

Heard Last in the Evening.

The memorandum from Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Member Johnny Khamis, dated December 2, 2016 and the memorandum from Council Member Magdalena Carrasco, Council Member Manh Nguyen, Council Member Donald Rocha and Council Member Sergio Jimenez, dated November 29, 2016, were approved, approving the street renaming of an approximately 4,000-foot long portion of Murillo Avenue between Quimby Avenue and Aborn Road to Gurdwara Avenue.

Resolution No. 78009 adopted, granting the street name change to Gurdwara Avenue.

11.5 Planned Development Rezoning of Real Property Located at the Southeasterly Corner of North First Street and Liberty Street (4701 North First Street and 1561 & 1537 Liberty Street).

Recommendation: Consideration of an ordinance of the City of San José rezoning certain real property on a 39.9 gross acre site, located at the southeasterly corner of North First Street and Liberty Street (4701 North First Street and 1561 & 1537 Liberty Street) from the CN Commercial Neighborhood and RM Multi-Family Residence Zoning Districts to the CIC(PD) Planned Development Zoning District, to allow up to 72,000 square feet indoor/outdoor recreation and entertainment use (Topgolf), a 200-room hotel, and up to 110,000 square feet of commercial/retail space (Sainte Claire Corp., Owner). CEQA: Topgolf @ Terra Project Mitigated Negative Declaration, File No. GPT16-001 and PDC16-013. Planning Commission recommended approval (3-2-2, Bit-Badal & Vora absent; Ballard & Yesney opposed). (Planning, Building and Code Enforcement)

PDC16-013 – Council District 4

To Be Heard With Item 10.3.

Deferred to December 13, 2016 Per Administration.

11. PUBLIC HEARINGS

11.6 Site Development Permit, Development Variance Permit and Vesting Tentative Map Located on the Northeast Corner of South Market Street and East William Street (APNs: 264-30-089, 264-30-090, and 264-30-114).

Recommendation:

- (a) Adopt a resolution certifying the Gateway Tower Mixed Use Development Project Supplemental Environmental Impact Report to the Downtown Strategy 2000 Plan Environmental Impact Report and making certain findings concerning significant impacts, mitigation measures and alternatives, and adopting a mitigation monitoring and reporting program, all in accordance with the California Environmental Quality Act, as amended.

Resolution No. 78005 adopted.

- (b) Adopt a resolution approving Vesting Tentative Map No. T15-052, subject to conditions, to merge three parcels into one parcel on an approximately 0.5 gross acres site and to subdivide the one parcel into no more than 300 residential condominiums units.

Resolution No. 78006 adopted.

- (c) Adopt a resolution approving a Site Development Permit, Development Variance, Demolition Permit, and Tree Removal Permit, subject to conditions, to allow partial demolition a Structure of Merit “Hegerich & Kemling Auto Sales” building and full demolition of one non-historic building to construct a new 25-story mixed use building with up to 300 residential condominium units and approximately 5,000 square feet of commercial space and the removal of one ordinance sized tree and development variance to allow for approximately 105 of uniform sized parking spaces and approximately 180 of small sized parking spaces (Core Gateway II LLC, Owner).

CEQA: Gateway Towers Mixed-Use Project Supplemental EIR, File No. H15-047, HP15-003 and T15-052. Planning Commission recommends approval (5-0-2) (Bit-Bidal and Vora absent). (Planning, Building and Code Enforcement)

H15-047, T15-052 & V16-005 – Council District 3

Resolution No. 78007 adopted.

11. PUBLIC HEARINGS

11.7 Planned Development Conforming Rezoning and Planned Development Permit and Tentative Condominium Map for Real Property Located at 641 N. Capitol Avenue.

Recommendation:

- (a) Adopt a resolution adopting the 641 North Capitol Avenue Mixed-Use Project Mitigated Negative Declaration, for which an Initial Study was prepared, all in accordance with the California Environmental Quality Act, as amended, and adopting a related Mitigation Monitoring and Reporting Program.
- (b) Consideration of an ordinance of the City of San José rezoning certain real property on an approximately 10.6 gross acre site, at the southwest corner of North Capitol Avenue and Gimelli Way (641 N. Capitol Avenue), within the North Capitol/McKee Road Urban Village, (Krass Deborah Trustee, Owner) from the RM Multiple Residence Zoning District to the CP(PD) Planned Development Zoning District to allow two development scenarios: (1) up to 188 residential units, a minimum of 108,000 square feet of commercial space, and an approximately 43,583 square feet publically accessible park or (2) should the North Capitol/McKee Road Urban Village be amended by Council to reduce the amount of required jobs in the Urban Village for which the site is located then allow up to 493 residential units, a minimum of 38,360 square feet of commercial space, and an approximately 43,583 square feet of publically accessible park (Krass Deborah Trustee, Owner).
- (c) Adopt a resolution approving Vesting Tentative Map PT16-035, subject to conditions, to subdivide one parcel into six parcels to allow the construction of a total of 188 residential condominium units and commercial space.
- (d) Adopt a resolution approving a Planned Development Permit, subject to conditions, to allow the construction of up to 188 residential units and a minimum of 108,000 square feet of commercial space.

CEQA: 641 North Capitol Avenue Mixed-Use Project Mitigated Negative Declaration to be adopted. (Planning, Building and Code Enforcement)

PDC16-002, PD16-025, & PT16-035 – Council District 5

Deferred to January 10, 2017 per Applicant.

11. PUBLIC HEARINGS

11.8 Planned Development Conforming Rezoning, Planned Development Permit and Determination of Public Convenience or Necessity for the Real Property Located at 2202 Stevens Creek Boulevard.

Recommendation:

- (a) Consideration of an ordinance of the City of San José rezoning certain real property on an approximately 0.64 gross acre site, located at the southwesterly corner of Stevens Creek Boulevard and South Bascom Avenue (2202 Stevens Creek Boulevard) from the CP Commercial Pedestrian Zoning District to CP(PD) Planned Development Zoning District to allow up to 10,000 square feet of commercial use (SKW Jan José LLC, Owner).

Ordinance No. 29837 passed for publication.

Noes: Carrasco; Liccardo.

- (b) Adopt a resolution approving a Planned Development Permit and Determination of Public Convenience or Necessity, subject to conditions, to allow the demolition of an existing commercial building, construction of one single-story commercial building with a total of approximately 8,300 square feet of commercial/retail space, off-sale of beer and wine, and late night use.

CEQA: Exempt per CEQA Guidelines Section 15303(c), for New Construction or Conversion of Small Structures. Planning Commission recommends approval (4-1-2) (Ballard opposed; Bit-Bidal and Vora absent). (Planning, Building and Code Enforcement)

PDC15-009, PD15-009, & ABC16-005 – Council District 6

Resolution No. 78008 adopted.

Noes: Carrasco; Liccardo.

- **Open Forum**

There was no public testimony from the floor.

- **Adjournment**

The Council of the City of San José was adjourned at 12:15 p.m. in memory of Douglas Andreen who passed away on November 10, 2016. Doug was a City of San José employee for over nine years and a member of the Public Works Department for the last five years.

City Manager Norberto Dueñas and Director of Public Works Barry Ng shared their thoughts and reminiscences of Doug Andreen. (City Manager)