



# CITY COUNCIL AGENDA

**AUGUST 2, 2016**

## **SYNOPSIS**

CHAPPIE JONES  
ASH KALRA  
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 14<sup>th</sup> Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or [CityClerk@sanjoseca.gov](mailto:CityClerk@sanjoseca.gov) for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

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

- **Call to Order and Roll Call**  
9:37 a.m. - Closed Session, Call to Order in Council Chambers  
All Present.  
1:32 p.m. - Regular Session, Council Chambers, City Hall  
All Present.
- **Invocation (District 7)**  
Victoria McDowell sang the National Anthem for the Invocation.
- **Pledge of Allegiance**  
Mayor Liccardo led the Pledge of Allegiance.
- **Orders of the Day – *Heard after Ceremonial Items***  
The Orders of the Day and the Amended Agenda were approved, with Item 2.9 pulled from the Consent Calendar and to be heard after 3:30 p.m.

## **1. CEREMONIAL ITEMS**

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## 2. CONSENT CALENDAR

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### 2.1 Approval of Minutes.

None provided

### 2.2 Final Adoption of Ordinances.

**Recommendation:** Final adoption of ordinances.

(a) ORD. NO. 29765 – An ordinance of the City of San José amending Section 12.06.040 of Chapter 12.06 of Title 12 of the San José Municipal Code to align the definition of “Committee” with the California Fair Political Practices Commission definition. CEQA: Not a Project, File No. PP10-068(c), General Procedure & Policy Making, Municipal Code or Policy, Title 12.

**Ordinance No. 29765 adopted.**

(b) ORD. NO. 29768 – An ordinance of the City of San José rezoning certain real property of approximately 7.23-gross acres located at the easterly terminus of Quinn Avenue (689-699 Quinn Avenue and 2269 Will Wool Drive) from the A(PD) Planned Development Zoning District to the LI Light Industrial Zoning District. CEQA: Determination of Consistency with the Envision 2040 FEIR, adopted by City Council Resolution 76041 on November 1, 2011; and, the Envision San José Final Supplemental EIR adopted by City Council Resolution No. 77617 on December 15, 2015. (Planning, Building and Code Enforcement) C16-021

**Ordinance No. 29768 adopted.**

### 2.3 Approval of Council Committee Minutes.

None provided

### 2.4 Mayor and Council Excused Absence Requests.

None provided

### 2.5 City Council Travel Reports.

None provided

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

None provided

### 2.7 Revisions to the Regulations and Procedures of the San José Ethics Commission.

**Recommendation:** Adopt a resolution revising the regulation and procedures of the San José Ethics Commission, and repealing Council Resolution No. 76954, which sets forth the current regulations and procedures for the San José Ethics Commission’s investigations and hearings. CEQA: Not a Project, File No. PP10-069, City Administrative Activities. (City Attorney)

(Deferred from 6/21/16 – Item 2.10 and 6/28/16 – Item 2.7)

**Resolution No. 77879 adopted.**

## 2. CONSENT CALENDAR

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### 2.8 Amendments to the Concession Agreement and Lease Agreement with ALCLEAR, LLC for Security Screening Services at the Airport.

**Recommendation:** Approve the First Amendments to the Concession Agreement and the Lease Agreement between the City of San José and ALCLEAR, LLC for expedited security screening services, to extend each term for three years to expire on October 21, 2019, with combined annual revenue to the City in the amount of \$296,027. CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts, Services that involve no physical changes to the environment. (Airport)

**Approved.**

### 2.9 Certification of the Results of the Primary and Special Municipal Elections Held on June 7, 2016.

**Recommendation:** Adopt a resolution declaring the results of the June 7, 2016 Municipal Election pursuant to Elections Code Section 15400. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (City Clerk)

*Note: Heard after 3:30 p.m. per Orders of the Day.*

**Resolution No. 77880 adopted.**

**Noes: M. Nguyen, T. Nguyen.**

### 2.10 Actions Related to the Agreements with the State Board of Equalization for Implementation of the City's Transaction and Use Tax.

**Recommendation:** Adopt resolutions:

(a) Authorizing the City Manager to execute agreements with the State Board of Equalization and any other documents, as necessary, for implementation of the City's Transactions and Use Tax;

**Resolution No. 77881 adopted.**

(b) Authorizing the Director of Finance to negotiate and execute an amendment to the Agreement with MuniServices, LLC for Sales and Use Tax Audit Services to add Transactions and Use Tax audit services at no additional cost to the City; and

**Resolution No. 77882 adopted.**

(c) Authorizing MuniServices, LLC and the City Manager, City Auditor, Budget Director, and Director of Finance as well as other City officials and employees designated in writing by the City Manager to examine all Transactions and Use Tax records of the State Board of Equalization for tax collection purposes and other governmental functions.

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

**Resolution No. 77883 adopted.**

## 2. CONSENT CALENDAR

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### 2.11 Actions Related to the Independent Police Auditor’s Travel to Philadelphia, Pennsylvania.

**Recommendation:** Retroactively approve travel by the Independent Police Auditor Walter Katz to Philadelphia, Pennsylvania on July 25, 2016 to participate as a panelist during the 20/20 Leaders of America’s “Justice Forum.” Source of Funds: Independent Police Auditor’s Travel Funds. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Independent Police Auditor)

**Approved.**

### 2.12 Amendment to the Agreement with Moore, Iacofano, Goltsman, Inc. for Capital Improvement Projects.

**Recommendation:** Approve the Second Amendment to the Agreement for Consultant Services with Moore, Iacofano, Goltsman, Inc. to increase the total contract amount from \$750,000 to \$1,500,000, and to extend the term of the agreement from June 30, 2017 to June 30, 2019, which will allow continued comprehensive planning support for various Parks, Recreation and Neighborhood Services Department capital improvement projects including, but not limited to, community centers, parks, trails, and other recreational facilities. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. (Parks, Recreation and Neighborhood Services)

**Approved.**

### 2.13 League of California Cities for Vision Zero and Towards Zero Deaths Program.

**Recommendation:** Approve the submittal of a resolution for consideration at the Annual League of California Cities Conference recommending support of Vision Zero programs, policies and initiatives that prioritize transportation safety. CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (Transportation)

**Approved.**

### 2.14 Indian Flag Raising Ceremony.

**Recommendation:** As recommended by the Rules and Open Government Committee on July 27, 2016:

- (a) Approve the Indian Flag Raising Ceremony scheduled for August 12, 2016 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (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. (Kalra)

[Rules Committee referral 7/27/16 – Item G.1.a.]

**Approved.**

## 2. CONSENT CALENDAR

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### 2.15 Campton Chase Neighborhood Beautification Day.

**Recommendation:** As recommended by the Rules and Open Government Committee on July 27, 2016:

- (a) Approve Campton Chase Neighborhood Beautification Day scheduled for August 13, 2016 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (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. (Khamis)  
[Rules Committee referral 7/27/16 – Item G.1.d.]

**Approved.**

### 2.16 District 6 City Council Candidates Forum.

**Recommendation:** As recommended by the Rules and Open Government Committee on July 27, 2016:

- (a) Approve the District 6 City Council Candidates Forum tentatively scheduled for September 14, September 26 and October 17, 2016 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (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. (Oliverio)  
[Rules Committee referral 7/27/16 – Item G.1.c.]

**Approved.**

### 2.17 Jazz in the Park.

**Recommendation:** As recommended by the Rules and Open Government Committee on July 27, 2016:

- (a) Approve the Jazz in the Park scheduled for September 2016 as a City Council sponsored Special Event and approve the expenditure of funds; and
- (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. (Oliverio)  
[Rules Committee referral 7/27/16 – Item G.1.b.]

**Approved.**

### 3. STRATEGIC SUPPORT SERVICES

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**3.1 Report of the City Manager, Norberto Dueñas (Verbal Report).**  
None provided.

**3.2 Labor Negotiations Update.**

**Recommendation:** Accept Labor Negotiations Update.  
None provided.

**3.3 Potential Business Tax Modernization Measure.**

**Recommendation:**

- (a) Council discussion and consideration of City options for updating and modernizing the current Business Tax for the November 8, 2016, general election.
- (b) If Council wishes to proceed, adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on November 8, 2016, to submit to the electors of the City of San José the following measure:

**Recommendation:**

**San José Business Tax Modernization**

Shall an ordinance be adopted to modernize the 1986 San José business tax to fund essential city services such as police patrols, 911 emergency response, street repair, and parks maintenance by increasing tax rates, including base tax from \$150 to \$195, adding an inflation adjustment, raising caps, exempting certain small businesses, and expanding financial hardship exemption, providing approximately \$13 million added annual revenue, subject to existing independent financial audits?	YES	
	NO	

- (c) Council discussion and consideration of whether the full text of the proposed ordinance should be printed in the November 8, 2016, Voter’s Sample Ballot, pursuant to Elections Code 12111, to be incorporated in the resolution calling the election;
- (d) Council discussion and consideration of whether to permit rebuttal arguments and authorize the City Council or any member or members of the City Council to submit a rebuttal argument in favor of the City measure in the November 8, 2016, Voter's Sample Ballot, pursuant to Elections Code Section 9285, to be incorporated in the resolution calling the election;

**Items (b), (c) and (d) deferred to 8/9/16.**



### 3. STRATEGIC SUPPORT SERVICES

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#### 3.3 Potential Business Tax Modernization Measure. (Cont'd.)

- (e) Council discussion and consideration of whether to authorize the City Council or any member or members of the City Council to submit an argument in favor of the City measure on the November 8, 2016, Voter's Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election; and
- (f) Direct the City Clerk to take all actions necessary to place this measure for a November 8, 2016, Special Municipal Election, if needed.

CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making.  
(Finance/Economic Development)

**Recommendation A, F, and G from the Mayor's memo was approved approving staff recommendations for updating and modernizing the Business Tax, including the Policy Alternative outlining the Residential Unit Tax Rate and Employee Rate modifications, as suggested by Councilmember Rocha, with the following addition: mandate that the City authorize on-line registration and payment of business license tax; directing the City Manager to develop an educational campaign for those affected by this measure; and if the voters approve the measure on November 8, 2016, direct the City Manager to report to the Community and Economic Development Committee in December 2016 with implementation beginning in January 2017. Additional direction included returning in one year to review the possibility of raising the exemption level, and to further engage with the business community to discuss ideas for shared spending proposals. Items B, C, D, and E of the Mayor's memo was deferred to August 9, 2016 Council meeting.**

#### 3.4 Proposed Ballot Measure – Alternative Pension Reform Act.

**Recommendation:**

- (a) Council discussion and consideration of the Alternative Pension Reform Act ballot measure agreed to by the City and its bargaining units for the November 8, 2016, general election;
- (b) If the Council wishes to proceed, adopt a resolution of the City Council calling and giving notice, on its own motion, for a Special Municipal Election to be held on November 8, 2016, to submit to the electors of the City of San José, the following measure:

**(Item Continued on the Next Page)**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.4 Proposed Ballot Measure – Alternative Pension Reform Act. (Cont’d.)

**Recommendation:**  
**Alternative Pension Reform Act**

<i>Language pending</i>	YES	
	NO	

- (c) Council discussion and consideration of whether the full text of the proposed ordinance should be printed in the November 8, 2016, Voter’s Sample Ballot, pursuant to Elections Code 12111, to be incorporated in the resolution calling the election;
- (d) Council discussion and consideration of whether to permit rebuttal arguments and authorize the City Council or any member or members of the City Council to submit a rebuttal argument in favor of the City measure in the November 8, 2016, Voter’s Sample Ballot, pursuant to Elections Code Section 9285, to be incorporated in the resolution calling the election;
- (e) Council discussion and consideration of whether to authorize the City Council or any member or members of the City Council to submit an argument in favor of the City measure on the November 8, 2016, Voter’s Sample Ballot, pursuant to Elections Code Section 9282, to be incorporated in the resolution calling the election; and
- (f) Direct the City Clerk to take all actions necessary to place this measure for a November 8, 2016, Special Municipal Election, if needed.

CEQA: Not a Project, File No. PP10-068, General Procedure & Policy Making. (City Manager)

**Deferred to 8/9/16 per Administration.**

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 5. NEIGHBORHOOD SERVICES

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

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### **6.1 Reimbursable Services Agreement and Memorandum of Understanding with U.S. Customs and Border Protection for Customs Services at the Airport.**

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute a Reimbursable Services Agreement and a Memorandum of Understanding with U.S. Customs and Border Protection to provide additional customs services commencing on September 1, 2016, until terminated by either party, at an amount not to exceed \$1,100,000 in first-year compensation and subject to annual appropriation thereafter.

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

**Resolution No. 77885 adopted.**

### **6.2 Amendment to the On Demand Ground Transportation Management Agreement with Taxi San Jose, Inc.**

**Recommendation:** Approve a First Amendment to the On Demand Ground Transportation Management Agreement with Taxi San Jose, Inc. at the Norman Mineta San José International Airport to extend the period for collection of monthly trip fees by Taxi San Jose and delay the implementation of per trip fees until January 1, 2017.

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

**Approved.**

### **6.3 Actions Related to the 8255 – Mineta San José International Airport – Terminal B Exit Lane Technology.**

**Recommendation:**

(a) Reject all bids opened on July 14, 2016 for the 8255 – Mineta San José International Airport – Terminal B Exit Lane Technology project.

**Approved.**

(b) Adopt a resolution authorizing the Director of Public Works to:

(1) Determine the lowest responsive and responsible bidder, decide any bid protests, and award the construction contract for the 8255 – Mineta San José International Airport – Terminal B Exit Lane Technology Re-Bid project in an amount not to exceed \$1,500,000, contingent on the award and execution of an Airport Improvement Program grant from the Federal Aviation Administration of a minimum \$1,612,000 and the appropriation of sufficient funds;

(2) Establish a construction contingency of fifteen percent of the amount of the construction contract for the project if the Director awards a contract;

(3) Issue any change orders up to the amount of the contingency if the Director awards a construction contract for the project.

**Resolution No. 77886 adopted.**

*(Item Continued on the Next Page)*

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.3 Actions Related to the 8255 – Mineta San José International Airport – Terminal B Exit Lane Technology (Cont'd.)

**Recommendation:**

- (c) Adopt a resolution making findings that specifying specific companies and product by brand or trade name in the bid specifications for this Project is necessary for the following specific elements of this project to match other products in use at the Airport: (i) Fire Alarm and Sprinkler Controls; (ii) Door Security Access Controls; (iii) Security Cameras; and (iv) Intercom/Public Address/Paging.

CEQA: Resolution Nos. 67380 and 71451, File No. PP16-047. (Airport/Public Works)  
**Resolution No. 77887 adopted.**

### 6.4 Actions Related to the 8173 – Mineta San José International Airport – Perimeter Security Technology Infrastructure.

**Recommendation:**

- (a) Reject all bids opened on July 14, 2016 for 8173 – Norman Y. Mineta San José International Airport – Perimeter Security Technology Infrastructure.

**Approved.**

- (b) Adopt a resolution authorizing the Director of Public Works to:
- (1) Determine the lowest responsive and responsible bidder, decide any bid protests, and award the construction contract for the 8173 – Norman Y. Mineta San José International Airport – Perimeter Security Technology Infrastructure Re-Bid project in an amount no to exceed \$8,110,000, contingent on the award and execution of an Airport Improvement Program grant from the Federal Aviation Administration of a minimum amount of at least \$6,000,000 and the appropriation of sufficient funds;
  - (2) Establish a construction contingency of fifteen percent (15%) of the amount of the construction contract for the project if the Director awards a contract; and
  - (3) Issue any change orders up to the amount of the contingency if the Director awards a construction contract for the project.

**Resolution No. 77888 adopted.**

- (c) Adopt a resolution making findings that identify specific companies and product by brand or trade name in the bid specifications for this Project is necessary for the following specific elements of this project to match other products in use at the Airport: Security Access Controls.

**Resolution No. 77889 adopted.**

*(Item Continued on the Next Page)*

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.4 Actions Related to the 8173 – Mineta San José International Airport – Perimeter Security Technology Infrastructure (Cont'd.)

**Recommendation:**

- (d) Adopt the following 2016-2017 Appropriation Ordinance and Funding Sources Resolution Amendments in the Airport Capital Improvement Fund:
- (1) Increase the Perimeter Security Technology Infrastructure appropriation to the Airport Department in the amount of \$6,450,000; and
  - (2) Increase the estimate for Earned Revenue from Federal Government to the Airport Department in the amount of \$6,450,000.

**Ordinance No. 29769 adopted.**

**Resolution No. 77890 adopted.**

- (e) Adopt the following 2016-2017 Appropriation Ordinance Amendments in the Airport Renewal and Replacement Fund:
- (1) Establish a Perimeter Security Technology Infrastructure appropriation to the Airport Department in the amount of \$1,549,000; and
  - (2) Decrease the Unrestricted Ending Fund Balance by \$1,549,000.

CEQA: Resolution Nos. 67380 and 71451, File No. PP15-053. (Airport/Public Works/City Manager)

**Ordinance No. 29770 adopted.**

## 7. ENVIRONMENTAL & UTILITY SERVICES

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## 8. PUBLIC SAFETY SERVICES

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## 9. REDEVELOPMENT – SUCCESSOR AGENCY

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- Notice of City Engineer’s Pending Decision on Final Maps

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

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10371	1745 Dobbin Drive	3	Pulte Home Corp.	9	SFA

- **Open Forum**  
**Leon Dryden, representing residents of Janelle Drive in San José, complained of a blight situation in a neighboring yard, and advised that Code Enforcement should come up with regimented standards.**
- **Adjournment**  
**The Council of the City of San José adjourned at 4:43 p.m.**