



CITY COUNCIL AGENDA

DECEMBER 9, 2014

SYNOPSIS

PETE CONSTANT
ASH KALRA
SAM LICCARDO
VACANT
XAVIER E. CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON NGUYEN, VICE MAYOR
ROSE HERRERA
DONALD ROCHA
JOHNNY KHAMIS

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

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

Welcome to the San José City Council meeting!

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

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

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

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.sanjoseca.gov/index.aspx?NID=3549>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

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

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

- **Call to Order and Roll Call**
 - 9:22 a.m.** - Closed Session, Call to Order in Council Chambers
Absent Council Members: All Present.
Vacant: District 4.
 - 1:30 p.m.** - Regular Session, Council Chambers, City Hall
Absent Council Members: All Present.
Vacant: District 4.
 - 7:01 p.m.** - General Plan / Public Hearings, Council Chambers, City Hall
Absent Council Members: All Present.
Vacant: District 4.
- **Invocation (Mayor)**
Reverend Rinban Kenshin Fujimoto, San Jose Buddhist Church Betsuin offered the Invocation.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.

- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved.
- **Closed Session Report**
No Report.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a commendation to recognize Harker School as the 2014 recipient of the Business Recycling Award. (Constant)
Heard in the Evening.
Mayor Reed and Council Member Constant recognized and commended Harker School.
- 1.2** Presentation of a commendation to Sakthi Ponnuswamy for her dedication as a Junior Volunteer Teacher to students at AJ Dorsa Elementary School. (Herrera/Campos/Oliverio)
Heard in the Evening.
Mayor Reed, Council Member Herrera and Council Member Campos recognized and commended Sakthi Ponnuswamy. Council Member Oliverio was not present.
- 1.3** Presentation of a commendation to Driving Industry Companies that generate the most jobs and revenues in San José. (Mayor)
Mayor Reed recognized and commended the following Driving Industry Companies in San José: Adobe, Advantest, Altera, Avago Technologies, BD, Brocade, Cadence, Canon, Cisco, Ebay, Flextronics, HGST, IBM, JABIL, Philips Lumileds, Maxim Integrated, Micrel, PayPal, Qualcomm, Samsung, Stryker, Supermicr, ThermoFisher Scientific, Tivo and Xilinx.
- 1.4** Presentation of a commendation to the Parks, Recreation and Neighborhood Services Digital Arts Program, composed of the Seven Trees Music Studio, Roosevelt Community Center’s Digital Art Troupe Academy and Alma Community Center Music Studio. (Nguyen)
Mayor Reed, Vice Mayor Nguyen and Council Member Liccardo recognized and commended the Parks, Recreation and Neighborhood Services Digital Arts Program.
- 1.5** Presentation of a commendation to MOUSE Squad members for their exemplary hard work and innovative learning. (Rocha)
Heard in the Evening.
Mayor Reed, Council Member Rocha and Council Member Liccardo recognized and commended the MOUSE Squad members.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

There were none.

2.2 Final Adoption of Ordinances.

Recommendation: Final adoption of ordinances.

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

Ordinance No. 29515 adopted.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of November 12, 2014. (Mayor)
- (b) Neighborhood Services and Education Committee Report of November 13, 2014. (Nguyen)
- (c) Community and Economic Development Committee Report of November 17, 2014. (Herrera)
- (e) Public Safety, Finance, and Strategic Support Committee Report of November 20, 2014. (Constant)
- (f) Transportation and Environment Committee Report of November 3, 2014. (Liccardo)

Approved.

- (d) Rules and Open Government Committee Report of November 19, 2014. (Mayor)
Deferred to December 16, 2014 per City Clerk.

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

Mayor Reed traveled to Washington D.C. last week to meet with the IRS to encourage them to move ahead and issue guidance to give employees a choice of benefits in retirement plans.

Council Member Constant traveled to Washington D.C. to participate in the Annual Tax and Policy Institute for newly elected State Legislators.

2. CONSENT CALENDAR

2.6 Report from the Council Liaison to the Retirement Boards.
Council Member Constant presented brief highlights from the Police and Fire Retirement Board Meeting.

2.7 Amendments to the Food & Beverage and Retail Concession Agreements to Adjust Midterm Refurbishment Dates and Other Revisions.

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

Approved.

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

Recommendation:

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

(Constant)

Approved.

2.9 Settlement in McLaughlin v. City of San José, et al.

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

Approved.

2. CONSENT CALENDAR

2.10 Agreement for Evaluator Services to the Ethics Commission.

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

Resolution No. 77231 adopted.

2.11 Approval of the Team San José Performance Measures.

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

Approved.

2.12 Report on Request for Proposal for a Learning Management System with Integrated Online Learning Content.

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

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

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

Report Accepted.

Resolution No. 77232 adopted.

2. CONSENT CALENDAR

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

Recommendation: Adopt a resolution:

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

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

Resolution No. 77233 adopted.

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

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

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

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

Ordinance No. 29518 adopted.

Resolution No. 77234 adopted.

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

Recommendation:

- (a) Approve the termination of the construction contract with Interstate Grading and Paving, Inc. for the 6405 – Coleman Soccer Fields Design-Build Rebid Project for convenience.
- (b) Adopt a resolution authorizing the Director of Public Works to:
 - (1) Re-bid the Project.

(Item Continued on the Next Page)

2. CONSENT CALENDAR

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

- (b) (2) Negotiate and execute an agreement with Bellinger Foster Steinmetz Landscape Architecture not to exceed \$300,000 to make any necessary revisions to the final plans for re-bid.

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

Deferred to December 16, 2014 per Administration.

2.16 Certification of the Results of the Run-Off and Special Municipal Elections Held November 4, 2014.

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

Resolution No. 77235 adopted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Edward Shikada (Verbal Report).

City Manager Edward K. Shikada offered an update on the Story Road Encampment Rehousing Project.

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.

Heard at 9:22 a.m.

No Report.

3.3 Facilities Maintenance Audit.

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

Accepted.

3.4 2014 Service Efforts and Accomplishments Report.

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

Report accepted, with Staff directed to return to Council in February 2015 with the 2014 Service Efforts and Accomplishments Report for discussion and for the benefit of the new Council Members.

3. STRATEGIC SUPPORT SERVICES

3.5 Civil Service Commission Interviews.

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

(a) One Attorney-at-Law representative.

(b) One Member-at-Large.

(City Clerk)

(Deferred from 11/7/14 – Item 5)

Heard no earlier than 3:00 p.m.

Erik Khoobaryian was appointed as the Attorney-at-Law Representative and

Michael Wilcoxon, Incumbent, was appointed as the Member-at-Large.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Public Hearing on the Reorganization/Annexation of Communications Hill No. 1.

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

The public hearing was held.

Resolution No. 77236 adopted.

Abstain: Khamis.

4.2 Sign Ordinance Revisions.

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

(1) **The memorandum from Mayor Reed, dated December 2, 2014 was approved, with direction to Staff to perform the environmental clearance, with revisions to the sign code as described therein and to return to Council in March 2015 (per Director of Planning, Building and Code Enforcement).**

(2) **The memorandum from Council Member Khamis, dated December 4, 2014, was approved, with direction to Staff to consider updating and/or revising the sign code as described therein and to return to Council in March 2015.**

5. NEIGHBORHOOD SERVICES

5.1 Actions Related to the Purchase and Sale Agreement with the Arcadia Development Co. for a Proposed Softball Facility.

Heard in the Evening Immediately Following Item 11.4.

Recommendation:

- (a) Adopt a resolution authorizing the City Manager or his designee to negotiate and execute a Purchase and Sale Agreement with the Arcadia Development Co., in the amount not-to-exceed \$500,000 for the purchase of approximately 14.54 gross acres of land together with all improvements, bordered by Quimby Road on the north, Capitol Expressway on the east and Chopin Avenue on the west in San José (a portion of Assessor's Parcel Numbers 670-29-020 and 670-29-017) and all other documents necessary to conclude the transaction for the development of a proposed softball facility funded by the Measure P Bond program.

Resolution No. 77238 adopted.

- (b) Adopt the following Appropriation Ordinance amendments in the Parks and Recreation Bond Projects Fund:
- (1) Decrease the Softball Complex Reserve by \$515,000.
- (2) Establish the Arcadia Softball Complex project to the Parks, Recreation and Neighborhood Services Department in the amount of \$515,000.

Ordinance No. 29520 adopted.

The memorandum from Council Member Herrera, Mayor Reed, Vice Mayor Nguyen, dated December 5, 2014, was approved, approving the Staff recommendations.

The memorandum from Council Member Rocha, dated December 8, 2014, was approved, with the following additions:

- (1) **State the Council's position that this facility is intended to be a citywide softball complex that accommodates league and tournament play, not a home field for little league baseball nor one specific little league program.**
- (2) **As part of the discussion of the operational model that will return to Council next year, direct Staff to reach out to all San José Softball Leagues, adult and youth, for the purpose of gauging their interest in using the facility for daily play, seasonal play, tournament play or any other type of play.**

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

6. TRANSPORTATION & AVIATION SERVICES

6.1 Agreement with Philips for the Installation of SmartPoles Streetlights.

Recommendation:

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

CEQA: Exempt, File No. PP14-046, Streetlight Management Plan.

(Transportation/Economic Development/City Manager)

The amended memorandum from Council Member Liccardo, dated December 8, 2014, was approved, with the following modifications:

- (1) **Negotiate to increase the number of authorized SmartPoles to 100 or more and in exchange, negotiate a higher "price" for the City, i.e. to require that Philips convert a greater number of LED streetlights than the current 15 per SmartPole.**
- (2) **Staff requested to consider a Request for Proposal to obtain the best deal and incorporate. If Staff chooses the SmartPole approach, Staff was directed to provide a public process, including a community meeting to discuss design aesthetic issues and to bring all issues back to Council.**

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

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

Recommendation: Adopt Resolutions by the Successor Agency Board:

- (a) Approving the Administrative Budget for January 1 through June 30, 2015.
SARA Resolution No. 7035 adopted.

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

CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Successor Agency)
SARA Resolution No. 7036 adopted.

- **Open Forum**
There were none.
- **Adjournment**
The Council of City of San José adjourned the afternoon session at 6:13 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

10.1 Tentative approval of General Plan Consent Calendar items.

No General Plan Consent Calendar items at this time.

10.2 General Plan Text Amendment: Modify Goal H-2 – Affordable Housing.

Recommendation: Tentative approval of a General Plan Text Amendment to modify Goal H-2 - Affordable Housing, to state that the City’s goal is that 15% or more of the new housing developed in San José be affordable to low, very low and extremely low income households and to add new policies including the Housing - Social Equity and Diversity Policy that states that the City will facilitate housing affordable to those who are employed in serving industries, and other related amendments. CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041 and addenda thereto. Planning Commission recommends approval (6-1-0). (Planning, Building and Code Enforcement) GPT14-007 - Citywide
(Deferred from 11/18/14 – Item 10.2)

The Public Hearing was held.

Continued to December 16, 2014 for Final Adoption.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 heard immediately following the Evening Ceremonials.

11.1 Public Hearings on Consent Calendar.

Recommendation:

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

Recommendation: Consideration of a Conditional Use Permit to allow after-midnight use until 2:00 a.m. for a public eating establishment, drinking establishment (for more than 250 people), and banquet facility, The Glass House, on 0.46 gross acre site in the DC Downtown Primary Commercial Zoning District, located at 84 West Santa Clara Street and 2 South Market Street (84 West LLC, Owner), and adopt a resolution setting forth the Council’s decision. CEQA: Exempt, File No. CP14-051. (Planning, Building and Code Enforcement) CP14-051 – District 3

Resolution No. 77237 adopted, approving the Conditional Use Permit.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

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

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

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

PDC07-008 – District 6

Dropped by Applicant.

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

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

PDC13-004 – District 6

Dropped.

END OF PUBLIC HEARING CONSENT CALENDAR

11. PUBLIC HEARINGS

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

Recommendation: Consideration of an ordinance rezoning the real property located on the west side of San Felipe Road, approximately 90 feet north of Fowler Road from the Agriculture Zoning District to the R-1-5 Single-Family Residence Zoning District of an approximately 0.24 gross acre property (APN 676-33-013) and the northern portion of a contiguous property to the east (APN 676-33-014) of approximately 0.17 acres. CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041 and addenda thereto. (Planning, Building and Code Enforcement)

C14-034- District 8

[Continued from 10/21/14 – Item 11.4 and 10/28/14 – Item 4.3]

The memorandum from Council Member Herrera, dated December 8, 2014, was approved:

- (1) **The rezoning was dropped, to be renoticed.**
- (2) **Staff was directed to work with the applicant to identify an appropriate rezoning to respect the unique characteristics of this site which is very close to Thompson Creek.**

11.3 Amendment to the Century Court Residential Towers Development Agreement in the North San José Area Development Policy Area.

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

DA14-001 – District 3

(Deferred from 10/21/14 – Item 11.7)

The memorandum from Council Member Rocha, dated December 8, 2014, was approved, denying an amendment to the Century Towers Development Agreement. Noes: Constant, Oliverio; Reed.

11. PUBLIC HEARINGS

11.4 Rezoning the Real Property Located on the South Side of Quimby Road, Approximately 1,200 Feet Westerly of Capitol Expressway.

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

PDC10-022 – District 8

Heard Immediately Following Item 11.1.

The memorandum from Council Member Herrera, Mayor Reed, Vice Mayor Nguyen and Council Member Rocha, dated December 5, 2014, was approved, approving the Staff recommendations.

Ordinance No. 29519 passed for publication.

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

Recommendation:

- (a) Certify the Heritage Oaks Memorial Park Environmental Impact Report, and adopt a resolution making findings concerning significant environmental impacts, mitigation measures and alternatives, adopting a mitigation monitoring and reporting program, and adopting a statement of overriding considerations, all in accordance with the California Environmental Quality Act.

Resolution No. 77239 adopted.

The memorandum from Mayor Reed and Council Members Kalra and Khamis, dated December 5, 2014, was approved, approving the Staff/Planning recommendations, with the following modifications:

- (1) Conduct preconstruction burrowing owl surveys.
 - (2) Build "wildlife friendly" fencing, as needed.
 - (3) Include "natural" burial as an option in the information provided to customers.
 - (4) Provide "natural" burial options within the project.
 - (5) Consult local experts when replacing native vegetation on the property.
- Staff was directed to continue to check in periodically with the Environmental Community and the Cemetery.**

(Action Continued on the Next Page)

11. PUBLIC HEARINGS

11.5 Rezoning the Real Property Located on the South Side of Bailey Avenue, Approximately 1,200 Feet Easterly of McKean Road. (Action Cont'd.)

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

CEQA: Heritage Oaks Memorial Park Project Environmental Impact Report (EIR) Resolution to be considered for certification and adoption. (Planning, Building and Code Enforcement) PDC13-016 – District 2

Ordinance No. 29521 passed for publication.

11.6 Actions Related to the Real Property Located on the Northeast Corner of Cottle Road and Great Oaks Parkway.

Recommendation:

- (a) Adopt a resolution adopting a Negative Declaration for the Cottle Road Chick-fil-A Project.

Resolution No. 77240 adopted.

Noes: Constant, Herrera, Khamis; Reed.

- (b) Consideration of an ordinance rezoning the real property located on the northeast corner of Cottle Road and Great Oaks Parkway from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow a drive-through at a public eating establishment.

Ordinance No. 29522 adopted.

Noes: Constant, Herrera, Khamis; Reed.

- (c) Consideration of a Planned Development Permit to allow the construction of a 4,529 square foot public eating establishment with drive-through use. Conduct the public hearing and continue this subsection (c) to the December 16, 2014 Council meeting for action after final adoption of the rezoning ordinance.

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

The memorandum from Council Member Kalra, dated December 8, 2014, was approved, approving the recommendations with the current Planned Development Zoning and CP Commercial Pedestrian Zoning Designation to disallow the drive-through use.

Resolution No. 77241 adopted.

Noes: Constant, Herrera, Khamis; Reed.

11. PUBLIC HEARINGS

11.7 Rezoning the Real Property Located at 1280, 1284 and 1288 North Capitol Avenue.

Recommendation:

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

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

PDC14-026 – District 4

Dropped by Applicant.

11.8 Actions Related to Short Term Rentals and Agreement with Airbnb, Inc.

Recommendation:

- (a) Approve an ordinance amending Sections 20.30.110 of Chapter 20.30, 20.60.030 of Chapter 20.60 and 20.200.470 of Chapter 20.200, adding new Sections 20.40.115 of Chapter 20.40, 20.70.130 of Chapter 20.70 and 20.75.230 of Chapter 20.75, amending Part 2 of Chapter 20.80, and adding a new Part 2.5 to Chapter 20.80, all of Title 20 of the San José Municipal Code, to allow and regulate transient occupancy as an incidental use of residences, to modify permitting requirements and occupancy limitations for Bed and Breakfast Inns, to amend and add long term room rental limitations and to make other technical, nonsubstantive, or formatting changes within those sections of Title 20. CEQA: Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan, EIR Resolution No. 76041 and addenda thereto (File No. PP14-084). (Planning, Building and Code Enforcement)

The memorandum from Council Member Constant, dated December 8, 2014, was approved, approving the proposed ordinance, including the following changes with modifications as recommended by the Planning Commission:

- (1) **Revise the limitation for the use from 90 days to 365 days per calendar year with a host (property owner or primary tenant) present and from 90 days to 180 days per calendar year with no host present.**
- (2) **Do not add a provision to require hosts to join a registry.**
- (3) **Provide a status report to the Council on the effectiveness of the ordinance 18 months after the ordinance is implemented.**

Ordinance No. 29523 passed for publication, as amended.

Noes: Campos, Kalra, Rocha.

(Action Continued on the Next Page)

11. PUBLIC HEARINGS

11.8 Actions Related to Short Term Rentals and Agreement with Airbnb, Inc. (Cont'd.)

- (b) Adopt a resolution authorizing the City Manager to negotiate and execute a Tax Collection Agreement with Airbnb, Inc., at no cost to the City, for the collection of the City's Transient Occupancy Tax on short term rentals, where the host (owner or primary tenant) uses a hosting platform provided by Airbnb. (Economic Development/Finance)

CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041 and addenda thereto (File No. PP14-084)

PP14-084/Title 20 – Citywide

Resolution No. 77242 adopted.

Noes: Campos, Kalra, Rocha.

11.9 Street Renaming of Atmel Way to Orchard Place.

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

Resolution No. 77243 adopted.

- **Notice of City Engineer's Pending Decision on Final Maps**

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

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
10233	Almaden Road 200' north of Fleetwood Drive.	10	Vui M. Ly	7 Lots/ 6 Units	SFD	Approve

- **Open Forum**

There were none.

- **Adjournment**

The Council of the City of San José was adjourned at 11:02 p.m.