

# CITY COUNCIL AGENDA

**SEPTEMBER 20, 2005**

**AMENDED AGENDA**

LINDA J. LE ZOTTE  
FORREST WILLIAMS  
CINDY CHAVEZ, VICE MAYOR  
CHUCK REED  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER  
VACANT  
DAVID D. CORTESE  
JUDY CHIRCO  
NANCY PYLE

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

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.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. 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 Gonzales 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 every first and third Tuesday at 7 p.m., 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 and Staff Reports for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.asp](http://www.sanjoseca.gov/clerk/agenda.asp)

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 998-5299 (TTY) at least two business days before the meeting.

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

- **Call to Order and Roll Call**  
9:30 a.m. - Closed Session, City Hall Tower, 18<sup>th</sup> Floor, City Hall  
[See Separate Agenda](#)  
1:30 p.m. - Regular Session, Council Chambers, City Hall  
7:00 p.m. - Public Hearings, Council Chambers, City Hall

- **Invocation (District 8)**  
Pastor John K. Helveston from East Valley Church

- **Pledge of Allegiance**
- **Orders of the Day**

Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

**ITEM 9.1 IS TO BE CONSIDERED IN A JOINT CITY COUNCIL/REDEVELOPMENT AGENCY BOARD SESSION.**

ADJOURNMENT: This meeting will be adjourned in memory of Andrea Naomi Leiderman, Director of Government and Corporate Relations, Kaiser Permanente, South Bay Public Affairs.

**Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.**

## **1. CEREMONIAL ITEMS**

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- 1.1 Presentation of a proclamation to the American Lung Association. (Chavez)  
**TO BE HEARD IN THE EVENING**
- 1.2 Swearing-In ceremony for the City-Wide Youth Commissioner, Shanna Cook. (City Clerk)  
**TO BE HEARD IN THE EVENING**
- \* **TO BE HEARD IN THE EVENING**

# 1. CEREMONIAL ITEMS

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1.3 Presentation of a proclamation recognizing September 2005 as “National 5 A Day Month”, urging all citizens to join in promoting public health messages and policies that support healthy nutrition and increased physical activity. (Mayor/Chavez)

\* (Rules Committee referral 9/14/05)

1.4 Presentation of a proclamation recognizing September 21, 2005 as the “International Day of Peace in the City of San José. (Cortese)

\* (Rules Committee referral 9/14/05)

1.5 Presentation of a commendation to recognize the outstanding dedication and contributions of Dan Erceg to the North Willow Glen and Greater Gardner Communities. (Chavez/Yeager)

## TO BE HEARD IN THE EVENING

\* (Rules Committee referral 9/14/05)

1.6 Presentation of a commendation to St. Martin of Tours School in recognition of its 50<sup>th</sup> anniversary. (Yeager)

\* (Rules Committee referral 9/14/05)

# 2. CONSENT CALENDAR

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**Notice to the public:** There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

## 2.1 Approval of Minutes.

\* **Recommendation:** Approval of Minutes.

(a) Regular Minutes of March 1, 2005

(b) Regular Minutes of March 8, 2005

(c) Regular Minutes of March 15, 2005

(d) Regular Minutes of March 22, 2005

(e) Joint Council/Redevelopment Agency Minutes of March 22, 2005

(f) Regular Minutes of March 29, 2005

## 2.2 Final adoption of ordinances.

## 2.3 [Approval to extend the lease for United Parcel Service on Airport Boulevard.](#)

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute a fifth amendment to extend the United Parcel Service, Inc. lease for premises located at 1277 Airport Boulevard from October 1, 2005 through September 30, 2010, with annual revenue to the City of \$115,047. CEQA: Resolution Nos. 67380 and 71451, PP 05-166. (Airport)

## 2. CONSENT CALENDAR

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### 2.4 [Acceptance of the Public Art Workplan for Public Safety Bond Projects.](#)

**Recommendation:** Acceptance of the Public Art Workplan for Public Safety Bond Projects. CEQA: Not a Project. (Economic Development)

### 2.5 [Approval of actions regarding the Bureau of Justice Assistance Grant.](#)

**Recommendation:** Approval of actions regarding the Bureau of Justice Assistance (BJA) grant:

- (a) Adoption of a resolution accepting the FY 2005 Human Trafficking Prevention Grant in the amount of \$225,000 and authorizing the City Manager to execute the grant agreement and all related documents.
- (b) Adoption of amendments to the annual appropriation ordinance and the funding sources resolution in the General Fund as follows:
  - (1) Establish a City-wide appropriation to the Police Department for the FY 2005 Human Trafficking Prevention Grant in the amount of \$75,000;
  - (2) Increase the Earned Revenue Estimate from Federal Government by \$75,000.

CEQA: Not a Project. (Police/City Manager's Office)

### 2.6 [Approval to award a contract for the Animal Care Center Landscape Improvements Project.](#)

**Recommendation:** Report on bids and award of contract for the Animal Care Center Landscape Improvements Phase II Project to the low bidder, Planned Environments, Inc. to include the base bid and Add Alternate No.1, in the amount of \$335,390, and approval of a contingency in the amount of \$30,000. CEQA: Mitigated Negative Declaration, H01-01-003. (Public Works/Parks, Recreation and Neighborhood Services)

### 2.7 [Approval of Council Member Williams' travel request.](#)

- \* **Recommendation:** Approval of Council Member Williams' travel to Dallas, Texas, September 24-29, 2005, to attend the American Public Transportation Agency Conference. Funding: Santa Clara Valley Transportation Agency. (Williams)  
(Rules Committee referral 9/14/05)

### 2.8 [Approval of an amendment to the grant agreement with San José Stage Company.](#)

- \* **Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the grant agreement with San José Stage Company for an additional amount not to exceed \$68,279, increasing the total amount from \$74,560 to a total not to exceed amount of \$142,839 for the two year term of the grant agreement. CEQA: Not a Project. Council District 3. (Economic Development)  
(Rules Committee referral 9/14/05)

### **3. STRATEGIC SUPPORT SERVICES**

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#### **3.1 Report of the Study Session Mayor Gonzales, Chair**

#### **3.2 [Report of the Rules Committee – September 7, 2005](#)**

##### **Vice Mayor Chavez, Chair**

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (1) Review September 20, 2005 Council Agenda
  - (2) Add New Items to September 13, 2005 Agenda
  - (3) List of Reports Outstanding
- (c) Legislative Update
  - (1) State
    - (a) 2005 League of California Cities Voting Delegate at the Annual Business Meeting
  - (2) Federal
- (d) Meeting Schedules
  - (1) Getting Families Back to Work Study Session
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Payment/Performance Bond Program for Small Business Contractors Workload Assessment
  - (2) Approval of Travel by Mayor Gonzales to Long Beach, California, September 21-24, 2005, to attend the United States Conference of Mayors – Mayors’ National Education Summit; and the United States Conference of Mayors – 2005 Fall Leadership Meeting. Source of Funds: Mayor and Council Travel Fund
  - (3) Approval of Travel by Mayor Gonzales to San Antonio, Texas, September 25-28, 2005, to attend the National League of Cities – Institute for Youth, Education and Families – 2005 National Summit on Your City’s Families Education Summit. Source of Funds: Mayor and Council Travel Fund
  - (4) Megan’s Law Discussion
- (h) Oral Communications
- (i) Adjournment

#### **3.3 Report of the Making Government Work Better Committee Council Member Reed, Chair**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.4 [Consideration of a proposed amendment to the Municipal Code, as it relates to campaign contributions.](#)

##### [Attachment 1](#)

**Recommendation:** Discussion and direction to staff of a proposed amendment to the Municipal Code which would provide that payments by an employer to an employee who works on municipal political campaigns, are to be treated as campaign contributions, subject to the City's campaign contribution limits and disclosure requirements. (City Attorney's Office)

(Rules Committee referral 8/31/05)

(Deferred from 8/16/05 – Item 2.14 and 9/13/05 – Item 3.6)

#### 3.5 [Approval to ratify final expenditures in various appropriations for 2004-2005.](#)

**Recommendation:** Adoption of an ordinance ratifying the final 2004-2005 appropriation increases in various funds. CEQA: Not a Project. (City Manager's Office)

#### 3.6 [Approval of fiscal actions for Redevelopment Agency Capital Projects.](#)

##### **Recommendation:**

(a) Adoption of the following 2005-2006 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):

(1) Establish an appropriation to the Office of the City Manager for the Improvements at the San José Center for the Performing Arts Project in the amount of \$600,000.

(2) Increase the estimate for Earned Revenue by \$600,000.

(b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Improvements at the San José Center for the Performing Arts Project, as more specifically described in the memorandum from the Redevelopment Agency, dated August 4, 2005.

CEQA: Not a Project. (City Manager's Office)

#### 3.7 [Approval of an agreement with the Confidential Employees' Organization \(CEO\) AFSCME Local No. 101, AFL-CIO.](#)

\* **Recommendation:** Adoption of a resolution approving the terms of a Memorandum of Agreement with the Confidential Employees' Organization (CEO), and authorizing the City Manager to execute the agreement, subject to ratification of the CEO membership. (City Manager's Office)

### 3. STRATEGIC SUPPORT SERVICES

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3.8 [Adoption of a resolution urging Governor Arnold Schwarzenegger to sign Assembly Bill 849.](#)

**Recommendation:** Adoption of a resolution urging Governor Arnold Schwarzenegger to sign Assembly Bill 849, The Religious Freedom and Civil Marriage Protection Act. (Yeager)

\* (Rules Committee referral 9/14/05)

3.9 [Appointment and swearing in of Council Member Elect Madison Nguyen to the City Council.](#)

**Recommendation:** Appointment and swearing in of Council Member Elect Madison Nguyen to the City Council to fill the vacancy for the unexpired term ending December 31, 2006 in Council District 7. (Mayor)

\* (Rules Committee referral 9/14/05)

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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4.1 **Report of the Building Strong Neighborhoods Committee  
Council Member Chirco, Chair**

4.2 **Report of the Driving a Strong Economy Committee  
Council Member Williams, Chair**

4.3 **Approval of revisions to the Teacher Homebuyer Program.**

**Recommendation:** Adoption of a resolution modifying the Teacher Homebuyer Program adopted by the City Council on April 4, 2000, and amended on December 16, 2003, as follows:

- (a) Increase the maximum loan amount from \$25,000 to \$40,000 for teacher households earning between 90% and 120% of Area Median Income.
- (b) Increase the maximum loan amount from \$40,000 to \$65,000 for teacher households earning less than 90% of Area Median Income.

CEQA: Not a Project. (Housing)  
(Rules Committee referral 8/31/05)  
(Deferred from 9/13/05 – Item 4.4)

4.4 [Approval of the 2004-2005 Consolidated Annual Performance Evaluation Report.](#)

[Supplemental 1](#)  
[Supplemental 2](#)

**Recommendation:** Approval of the 2004-2005 Consolidated Annual Performance Evaluation Report (CAPER). CEQA: Not a Project. (Housing/Parks, Recreation and Neighborhood Services)

## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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### **4.5 [Approval of actions related to the Boys and Girls Clubs of Silicon Valley.](#)**

**\* Recommendation:**

- (a) Adoption of a resolution to authorize the City Manager to negotiate and execute an amendment with the Boys and Girls Clubs of Silicon Valley to carry out the Eastside Clubhouse Capital Project to increase the funding of \$750,000 by \$125,000 for a new amount not to exceed \$875,000, and continue and extend the Community Development Block Grant (CDBG) funding (Project F85) term from December 31, 2004 to June 30, 2006.
- (b) Adoption of the following appropriation ordinance amendments in the Council District 8 Construction and Conveyance Tax Fund (Fund 386).
  - (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$125,000 for the Eastside Clubhouse Capital Project.
  - (2) Decrease the Ending Fund Balance by \$125,000.

CEQA: Exempt, PP03-10-324. Council District 8. (Parks, Recreation and Neighborhood Services/City Manager's Office)

## **5. NEIGHBORHOOD SERVICES**

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### **5.1 [Report of the All Children Achieve Committee – September 8, 2005](#)**

**Council Member Yeager, Chair**

- (a) Discuss PRNS Multi-Service Delivery System Impact on Schools
- (b) Review and Recommend Changes to Youth Commission Workplan
- (c) Discuss San José After School Program Delivery Model and Impact on Student Performance
- (d) Oral Petitions
- (e) Adjournment

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

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### **6.1 Report of the Building Better Transportation Committee Council Member Campos, Chair**

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 Approval of actions related to cooperative efforts with the Santa Clara Valley Water District.

**Recommendation:**

- (a) Acceptance of the Status Report on cooperative efforts between the City of San José and the Santa Clara Valley Water District relating to:
  - (1) Water Resources Protection Collaborative.
  - (2) Parks, Trails and Open Space Partnership.
  - (3) Water Supply for New Developments.
  - (4) Coyote Valley Specific Plan Coordination.
  - (5) Santa Clara Valley Habitat Conservation Plan and Natural Community Conservation Plan.
  - (6) Guadalupe Watershed Flood Protection Projects.
  - (7) Trash Removal from Creeks.
  - (8) South Bay Water Recycling Collaborative.
- (b) Adoption of a resolution supporting the work of the Water Resources Protection Collaborative on Proposed Guidelines and Standards and direction to the Administration to:
  - (1) Develop and bring appropriate recommendations to Council, by February 2007, for incorporation of the Proposed Guidelines and Standards and the Proposed Implementing Tools into City land use processes.
  - (2) Participate in the Adaptive Management Process as appropriate to facilitate implementation of Council action on the Guidelines and Standards.
  - (3) Continue to work with the District to ensure early consultation on projects that affect the District.
  - (4) Continue participation in the Water Resources Protection Collaborative through February 2007.
- (c) Adoption of a resolution authorizing the City Manager to negotiate and execute a Continuation Agreement, to continue the term of the agreement between the City and the Santa Clara Valley Water District South Bay Water Recycling Cost Reimbursement through June 30, 2007.

CEQA: Trash Removal - Exempt, PP04-248; Water Recycling Program - Exempt, PP04-249. (Environmental Services/Public Works/Planning, Building and Code Enforcement/Parks, Recreation and Neighborhood Services)

### 7.2 Public Hearing on Commercial Solid Waste and Recyclables Collection Franchise.

- \* **Recommendation:** Public Hearing and approval of an ordinance granting a Commercial Solid Waste and Recyclables Collection Franchise to Pacific Coast Recycling, Inc. and approval of a Commercial Solid Waste and Recyclables Collection Franchise Agreement with Pacific Coast Recycling Inc. for a term of seven months from November 4, 2005 to June 30, 2006. CEQA: Negative Declaration, PP92-11-308. (Environmental Services)

## 8. PUBLIC SAFETY SERVICES

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### 8.1 [Approval of actions related to the Hurricane Katrina Disaster.](#)

\* **Recommendation:**

- (a) Acceptance of staff report on initial cost assessments to send additional public safety personnel as requested by FEMA to assist with rescue and recovery efforts in the Gulf Coast Region, and to provide leave time for City Employees skilled to respond and assist with recovery and rebuilding efforts in the Gulf.
- (b) Adoption of a resolution extending the current City of San Jose enhanced military leave program related to terrorist attacks to City employees who are called to active military duty to provide services for Hurricane Katrina relief and recovery efforts.
- (c) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Santa Clara Valley Red Cross in an amount not to exceed \$500,000 to support relief and recovery assistance as a result of Hurricane Katrina.
- (d) Adoption of the following 2005-2006 appropriation ordinance amendments in the General Fund:
  - (1) Establish an appropriation in City-Wide to the City-Manager for Santa Clara Valley Red Cross Hurricane Katrina Relief in the amount of \$500,000.
  - (2) Decrease the Contingency Reserve by \$500,000.(Employee Relations/Fire/City Manager's Office)  
(Referred from 9/13/05 – Item 9.4)

## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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### CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEM 9.1 IN A JOINT SESSION

### 9.1 [Approval of actions related to the 4th Street Parking Garage evening parking rates.](#)

[Memo from Mayor and Vice Mayor](#)

- \* **Recommendation:** Adoption of a resolution to update the Master Parking Rate Schedule for Municipal On and Off Street Parking Facilities by establishing evening parking rates after 6:00 p.m. from Monday through Thursday at the 4th Street Parking Garage of \$0.75 for every 20 minutes, up to a maximum amount of \$5.00 per space beginning October 11, 2005, and to repeal Resolution No. 72639.  
(Rules Committee referral 8/31/05)  
(Deferred from 9/13/05 – Item 9.3)

### ADJOURN REDEVELOPMENT AGENCY BOARD PORTION OF THE MEETING

- Closed Session Report
- Notice of City Engineer's Pending Decision on Final Maps
- Open Forum—To be heard jointly with Redevelopment Agency Public Discussion. Following Open Forum, Council will recess until 7:00 p.m.

## 10. GENERAL PLAN PUBLIC HEARINGS

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No General Plan Public Hearing at this time.

## 11. PUBLIC HEARINGS

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(To be heard by the City Council at 7:00 p.m.)

**Notice to the public:** There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Public Hearings Consent Calendar (Item 11.1) and considered separately.

### 11.1 Public Hearings on Consent Calendar.

**Recommendation:**

- \* (a) [Public Hearing on and consideration of approval of an ordinance](#) on Planned Development Rezoning from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District Rezoning to allow six single-family attached residences in an existing building on a gross 0.17 acre site, located on the east side of 10<sup>th</sup> Street, approximately 150 feet south of San Salvador Street (422 S. 10<sup>th</sup> Street) (José and Patricia Amaya, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-2). SNI: University. CEQA: Exempt.  
[PDC05-025](#) - District 3  
[Continued from 8/16/05 – Item 11.5 and 8/30/05 – Item 11.1(a)]  
[Memo #2](#)
- (b) [Public Hearing on and consideration of approval of an ordinance](#) on Planned Development Rezoning from R-M Multiple Family Residence to A(PD) Planned Development Zoning District to allow up to 59 single-room occupancy (SRO) housing units on a 0.34 gross acre site, located on the west side of South 9<sup>th</sup> Street approximately 90 feet southerly of East William Street (525 S. 9<sup>th</sup> St.) (City of San José A Muni Corp, Owner; First Community Housing, Jeff Oberdorfer, Developer). SNI: University. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).  
[PDC05-020](#) - District 3

# 11. PUBLIC HEARINGS

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

### Recommendation:

- \* (c) Public Hearing on and consideration of approval of an ordinance on a Conforming Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow setback modification for Lot 57, one single-family detached residential unit on a 0.095 gross acre site (part of a previously approved Planned Development Zoning consisting of up to 112 single-family detached residences on a 13.7 gross acre site), located on the southwest corner of Rock Avenue and Oakland Road (9618 Tract) (Orchard Property, LLC, Owner; Taylor Woodrow Homes, Developer). CEQA: Reuse of a Final EIR, titled, "BFI Properties Residential Project". Director of Planning, Building and Code Enforcement and Planning Commission recommend approval No Planning Commission action required. CEQA: Resolution No. 72045.  
PDC05-085 – District 4

- Open Forum

- Adjournment

This meeting will be adjourned in memory of Andrea Naomi Leiderman, Director of Government and Corporate Relations, Kaiser Permanente, South Bay Public Affairs.