



# CITY COUNCIL AGENDA

**DECEMBER 7, 2010**

**AMENDED AGENDA**

PETE CONSTANT  
ASH KALRA  
SAM LICCARDO  
KANSEN CHU  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO  
MADISON P. NGUYEN  
ROSE HERRERA  
JUDY CHIRCO, VICE MAYOR  
NANCY PYLE

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.

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 during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or 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, 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 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, Staff Reports and some associated documents for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.asp](http://www.sanjoseca.gov/clerk/agenda.asp). Council Meetings are televised live and rebroadcast on Channel 26.

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

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**

- 9:00 a.m. - Closed Session, Call to Order in Council Chambers  
Adjourn to Closed Session in Council Chambers Conference Room, W133

- [See Separate Agenda](#)   [See RDA Agenda](#)

- 1:30 p.m. - Regular Session, Council Chambers, City Hall

- 6:00 p.m. - Evening Session, Council Chambers, City Hall

- 7:00 p.m. - Public Hearings, Council Chambers, City Hall

- General Plan Hearings, Council Chambers, City Hall

- **Invocation (Mayor)**

- \* Nils Peterson, Santa Clara County Poet Laureate

- **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.**

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

- **Closed Session Report**

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a commendation to Silver Creek High School student, Crystal Vo, for her accomplishments in placing 1<sup>st</sup> at the Network for Teaching Entrepreneurship (NTFE) Bay Area Regionals and placing 3<sup>rd</sup> at the National Business Plan Competition Finals. (Herrera)
- 1.2 (a) [As recommended by the Rules and Open Government Committee on December 1, 2010](#), appoint Xavier Campos as the District 5 Councilmember to a term ending December 31, 2010. (Mayor)
- \* [Rules Committee referral 12/1/10 – Item H(3)]
- (b) Administer Oath of Office to District 5 Councilmember Xavier Campos. (County Supervisor George Shirakawa, Jr.)

# 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.**
- 2.2 **Final adoption of ordinances.**
- 2.3 **Approval of Council Committee Reports.**
- Recommendation:** Approval of Council Committee Reports.
- (a) [Rules and Open Government Committee Report of November 17, 2010](#). (Mayor)
- (b) [Public Safety, Finance and Strategic Support Committee Report of November 22, 2010](#). (Nguyen)
- 2.4 **Mayor and Council Excused Absence Requests.**
- 2.5 **City Council Travel Reports.**
- 2.6 [Certification of Election Results – November 2, 2010](#).

**Recommendation:** Adopt a [resolution](#) declaring the results of the November 2, 2010 Municipal Election pursuant to Elections Code Section 15400. (City Clerk)

## 2. CONSENT CALENDAR

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### 2.7 [Agreement with GlobalFluency for National and International Public Relations Services.](#)

**Recommendation:** Adopt a resolution authorizing the City Manager to negotiate and execute a continuation and fourth amendment agreement with GlobalFluency for national and international public relations services, extending the expired term from September 1, 2010 through August 31, 2011, amending the scope of services, and increasing the compensation by \$110,000 for a total contract amount of \$680,000 over five fiscal years since FY 2006-2007. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Economic Development)

### 2.8 [Actions Related to Expenditures of Emergency Shelter Grant Program Funds.](#)

**Recommendation:**

- (a) Adopt the following Appropriation Ordinance amendments in the Housing Trust Fund:
  - (1) Increase the appropriation to the Housing Department in the Housing and Homeless Projects by \$110,790.
  - (2) Decrease the Ending Fund Balance by \$110,790.
- (b) Adopt a [resolution](#) to authorize the Director of Housing to forward to the U.S. Department of Housing and Urban Development \$114,110 as repayment for ineligible expenditures of Emergency Shelter Grant program funds.

CEQA: Not a Project, File No. PP10-066(e), Agreements/Contracts. (Housing/City Manager's Office)

### 2.9 [2010-2011 Hazardous Vegetation Commencement Report.](#)

**Recommendation:** Adopt a [resolution](#):

- (a) Accepting the 2010-2011 Hazardous Vegetation Commencement Report compiled by the Santa Clara County Department of Agriculture and Resource 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; and
- (c) Directing the Santa Clara County Department of Agriculture and Resource Management to mail notices of a public hearing before the City Council, on January 11, 2011 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. PP06-196. (Planning, Building and Code Enforcement)

## 2. CONSENT CALENDAR

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### 2.10 [Annual Report Regarding 2009 – 2010 In-Lieu Fees Collected for Construction of Public Improvements.](#)

**Recommendation:** Review of the Annual Report regarding the 2009 – 2010 in-lieu fees collected by the City from developers in lieu of construction of public improvements. CEQA: Not a Project, File No. PP10-069(a), Staff Reports / Assessments / Annual Reports / Informational Memos that involve no approvals of any City Actions. (Public Works)

### 2.11 [Appointments and Re-appointments to Boards, Commissions and Committees.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on December 1, 2010:

- (a) Appoint Alice Salee and re-appoint Brian Darrow to the Housing and Community Development Advisory Commission for terms ending December 31, 2013. (Nguyen)
- (b) Re-appoint Jacquie Irene Heffner to the Mobile Home Advisory Commission for a term ending December 31, 2013. (Nguyen)

\* [Rules Committee referral 12/1/10 – Items G(1)(a) and G(1)(b)]

### 2.12 [Re-appointments to the Appeals Hearing Board.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on December 1, 2010, re-appoint Judy Jones, Troy Overton, and Susan Ruscigno to the Appeals Hearing Board for terms ending December 31, 2013. (City Clerk)

\* [Rules Committee referral 12/1/10 – Item G(3)(a)]

### 2.13 [City Clerk Compensation Package.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on December 1, 2010, adopt a [resolution](#) approving a compensation package for Dennis Hawkins for services as City Clerk. (Mayor)

\* [Rules Committee referral 12/1/10 – Item H(2)]

### 2.14 [Operation Prom Dress.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on December 1, 2010:

- (a) Approve Operation Prom Dress as a City Council sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support Operation Prom Dress. (City Clerk)

\* [Rules Committee referral 12/1/10 – Item H(4)]

## 2. CONSENT CALENDAR

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### 2.15 [District 4 Breakfast with Santa.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on December 1, 2010:

- (a) Approve the District 4 Breakfast with Santa as a City Council sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the District 4 Breakfast with Santa.

(City Clerk)

\* [Rules Committee referral 12/1/10 – Item H(5)]

### 2.16 [District 4 Volunteer Appreciation Event.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on December 1, 2010:

- (a) Approve the District 4 Volunteer Appreciation Event as a City Council sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the District 4 Volunteer Appreciation Event.

(City Clerk)

\* [Rules Committee referral 12/1/10 – Item H(6)]

### 2.17 [District 9 Farewell Community Appreciation Reception.](#)

**Recommendation:** As recommended by the Rules and Open Government Committee on December 1, 2010:

- (a) Approve the District 9 Farewell Community Appreciation Event as a City Council sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the District 9 Farewell Community Appreciation Event.

(City Clerk)

\* [Rules Committee referral 12/1/10 – Item H(7)]

## 3. STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the City Manager, Debra Figone (Verbal Report)

### 3.2 Actions Related to Team San José.

[Supplemental - Memo from the City Manager](#)

[Attachment – Memo from Mayor Reed and Councilmembers Constant, Liccardo and Herrera](#)

\* **Recommendation:**

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

*(Item continued on the next page)*

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.2 Actions Related to Team San José. (Cont'd.)

**Recommendation:**

- (b) [Accept the Annual Performance Audit for 2009-2010 of Team San José's](#) Management of the City's Convention and Cultural Facilities. (City Auditor)
- (c) [Accept the Independent Accountant's Report on Applying Agreed-Upon](#) Procedures for the Management of the San José Convention Center and Cultural Facilities for the fiscal year ended June 30, 2010 and direct staff to develop a Corrective Action Plan to address report findings. (Finance)  
[Attachment – Team San Jose's Management Response](#)
- (d) [Accept the staff response to the Civil Grand Jury Report: "Should the City](#) Council Continue to Subsidize Team San José's Increasing Losses?" (Economic Development)
- (e) Direct staff to forward results of City's caused audits of Team San José to the Santa Clara County Civil Grand Jury when they are completed. (Economic Development)
- (f)
  - (1) Direct the City Manager and Team San Jose (TSJ) to prepare a spending reduction plan to restore the 2009-2010 Fund Balance in Fund 536 from the over expenditure and to maintain the convention center expansion "Plan of Finance," to be submitted to the City Council for approval no later than the City's Mid-Year Budget report.
  - (2) Direct the City Manager to negotiate with TSJ to amend the Management Agreement to achieve the following:
    - (a) Ensure that City funds are excluded from the calculation of Gross Operating Revenue and Return on Investment.
    - (b) Align performance and incentive targets as well as the management and incentive fee structure; such that incentive payments only apply when budgeted performance is exceeded.
    - (c) Strengthen formal communication between the City and TSJ, including a City Administration liaison to the TSJ Board of Directors.
    - (d) Require TSJ notification to the City in advance of business decisions likely to result in a fiscal impact of \$250,000 or greater.
  - (3) Request that the TSJ Board provide the following:
    - (a) The results of renegotiation with Nederlander, in order to reduce TSJ's financial risks, and ultimately the City's risks, under the existing agreement.
    - (b) Monthly financial reports to the PSFSS Committee, including a 3rd Quarter Report on actual spending year-to-date.
  - (4) Direct the City Manager to prepare a workplan for issuing a new Request for Proposals (RFP) for management of the City's Convention and Cultural Facilities, for review by the Rules and Open Government Committee in February 2011. This workplan will recommend next steps toward a new management agreement, including identification of key business model elements.

CEQA: Not a Project, File No. PP10-069(a), Staff Reports/Assessments/Annual Reports/Information Memos.

**3. STRATEGIC SUPPORT SERVICES**

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**3.3 [Proposed Revisions to Chapter 12.06 of the San José Municipal Code related to the City’s Campaign Finance Regulations.](#)**

**Recommendation:** As recommended by the Elections Commission, City Attorney and City Clerk, approve an [ordinance](#) amending parts of Chapter 12.06 of the San José Municipal Code related to campaign finance. (City Attorney/City Clerk)  
*Please note: Approval of this item requires 8 or more affirmative votes (2/3).*

**3.4 [Revisions to the Conflict of Interest Code for the City of San José.](#)**

**Recommendation:** Adopt a [resolution](#) amending the Conflict of Interest Code for the City of San José. (City Clerk)

**3.5 [Comprehensive Annual Financial Report \(CAFR\).](#)**

**Recommendation:** Accept the Comprehensive Annual Financial Report containing audited financial statements for the fiscal year. (Finance)

\* (Deferred from 11/30 – Item 3.2)

**3.6 [Comprehensive Annual Debt Report \(CADR\).](#)**

**Recommendation:** Accept the Report on Fourth Quarter Debt Issuance and Debt Management activities. (Finance)

\* (Deferred from 11/30 – Item 3.3)

**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 [California High Speed Rail Project.](#)  
[Attachment – Memo from Councilmembers Liccardo and Oliverio](#)**

**Recommendation:**  
(a) Receive update on the California High-Speed Train (HST) project addressing new information since the September 14, 2010 City Council meeting related to community outreach, project funding, and the draft Cooperation Agreement with the California High-Speed Rail Authority (CHSRA) concerning the visual design elements of the project.

*(Item continued on the next page)*

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 California High Speed Rail Project. (Cont'd.)

#### **Recommendation:**

- (b) Provide staff the following direction related to development of the HST project in San Jose:
- (1) Work with CHSRA to prepare Visual Design Guidelines for HSR facilities along the entire HST corridor in San Jose based on alignment options under active consideration by CHSRA and with a goal of completing the Visual Design Guidelines for Council consideration by June 2011 and prior to the release of draft environmental documents for San Jose project segments.
  - (2) Defer consideration of approving a Cooperative Agreement with CHSRA until after Visual Design Guidelines are completed and considered by the City Council and after draft environmental documents are released for San Jose project segments.
  - (3) Form two “HST Community Working Groups” to assist CHSRA and City staff in developing Visual Design Guidelines and addressing other project issues, generally covering the greater Downtown area (from Tamien Station north) and the Monterey Highway area (from Tamien Station south).
  - (4) Proceed with plans to hire a team of consultants with expertise in engineering, urban design, and architecture to serve as advisors to City for the preparation of Visual Design Guidelines, in an amount not to exceed \$100,000.
  - (5) Continue to collaborate with CHSRA on: developing conceptual design plans for HST facilities in the Monterey Highway corridor; identifying environmental issues; performing community outreach; developing Diridon Station expansion plan; developing an off-site parking plan; and coordinating on land use planning in Diridon Station area.
  - (6) Authorize the Mayor to send a letter to the CHSRA clarifying San Jose’s continued interest in CHSRA considering both an aerial and tunnel option for the Downtown San Jose area and with the City’s preference being determined only after further information is available on the aerial option regarding visual design and noise impacts, and following release of draft environmental documents for San Jose project segments.
  - (7) In response to the federal allocation of initial HST funding for the Central Valley segment of the project, work with the Metropolitan Transportation Commission and other Bay Area HST stakeholders to advocate for early implementation of a HST connection between the Central Valley and Silicon Valley.
- (c) Adoption of the following Appropriation Ordinance amendments in the Building and Structure Construction Tax Fund:
- (1) Increase the appropriation to the Department of Transportation for High Speed Rail project in the amount of \$200,000.

*(Item continued on the next page)*

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 California High Speed Rail Project. (Cont'd.)

**Recommendation:**

(c) (2) Decrease the Ending Fund Balance by \$200,000.

CEQA: Not a Project, File No. PP10-066(e), agreement involving no physical change to the environment. The recommended actions are advisory to the CHSRA. The CHSRA is in the process of preparing an EIR for the High-Speed Train project. (Transportation)

\* **TO BE HEARD FIRST IN THE EVENING AT 6:00 P.M.**

### 6.2 [Airport Living Wage Ordinance Revisions.](#)

[Attachment – Memo from Mayor Reed, Vice Mayor Chirco and Councilmembers Pyle and Herrera](#)

[Supplemental – Memo from the City Attorney](#)

\* **Recommendation:**

(a) Council by motion waive the 10-day noticing requirement for posting of the legal document for the following item, and consider the following recommendation.

(b) Approve an [ordinance](#) amending Chapter 25.11 of Title 25 of the San José Municipal Code to:

- (1) Discontinue proactive enforcement of the Airport Living Wage Ordinance and begin complaint-based enforcement, supported by random audits, to enforce compensation provisions.
- (2) Allow at least 30 days to “cure” an identified violation.
- (3) Allow the exemption for the passenger airlines to expire.
- (4) Require all Airport businesses to provide a minimum of 12 paid days off per year to covered employees.
- (5) Require all Airport businesses to provide a minimum of 10 unpaid days off per year to covered employees.
- (6) Establish a minimum Airport Living Wage health benefits cost of at least \$2.58 per hour.
- (7) Establish Airport Living Wage Rates at \$11.65 per hour with health benefits and \$14.23 per hour without health benefits.
- (8) Adjust Airport Living Wage Rates by the Consumer Price Index for All Urban Consumers (CPI-U) for San Francisco-Oakland-San José.

CEQA: Not a Project, File No. PP10-068(b), Municipal Code/Policy. (Airport)

\* **TO BE HEARD NO EARLIER THAN 3:00 P.M.**

## 7. ENVIRONMENTAL & UTILITY SERVICES

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## 8. PUBLIC SAFETY SERVICES

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## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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- \* *See Item 8.1 “Approval of Amendments to DDAs with North San Pedro Townhomes and San Pedro Life I, LLC, for the North San Pedro Housing site” on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.*

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

#### 9.1 City Council and Redevelopment Agency Committee Appointments.

**Recommendation:** As recommended by the Rules and Open Government Committee of December 1, 2010, approve City Council and Redevelopment Agency Committee appointments. (Mayor)

- \* [Rules Committee referral 12/1/10 – Item H(9)]

- **Open Forum**  
*Members of the Public are invited to speak on any item that does not appear on today’s Agenda and that is within the subject matter jurisdiction of the City Council or Redevelopment Agency Board.*
- **Continue RDA Board Meeting**
- **Council will recess until 6:00 p.m.**

## 10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

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(To be heard by the City Council at 6:00 p.m.)

**Notice to the public:** There will be no separate discussion of General Plan Consent Calendar (Item 10.1) 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 General Plan Consent Calendar (Item 10.1) and considered separately.

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

#### **Recommendation:**

- \* (a) **[Amendment on 13.7 acres of the 27.4 acre subject site located at the southwest corner of E. Brokaw Road and Old Oakland Road \(1040, 1060, & 1080 E. Brokaw Road\).](#)**  
Tentative approval of a General Plan Amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram land use designation from Neighborhood/Community Commercial and High Density Residential (25-50 DU/AC) to General Commercial on 13.7 acres and Medium High Density Residential (12-25 DU/AC) 13.7 acres of the 27.4 acre subject site located at the southwest corner of E. Brokaw Road and Old Oakland Road (1040, 1060, & 1080 E. Brokaw Road)(Fox Properties/Markovits & Fox, Inc. Owner). CEQA: Fox Property General Plan Amendment Environmental Impact Report (EIR) Addendum, Resolution No. 73578. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Platten absent) recommend approval.  
GP10-04-01 – District 4
  
- \* (b) **[Amendment on 9.8 gross acre site located on the Northwest corner of Blossom Hill Road and Southcrest Way.](#)**  
[Attachment – Memo from Councilmember Pyle](#)  
Tentative approval of a General Plan Amendment request to change the San José 2020 General Plan Land-Use/Transportation Diagram land use designation from Public Park and Open Space to Medium Density Residential (8-16 dwelling units per acre) on the subject 9.8 gross acre site, located on the Northwest corner of Blossom Hill Road and Southcrest Way (Lester, Walter C., Owner). CEQA: Mitigated Negative Declaration, Resolution to be adopted with Item 10.9. Director of Planning, Building and Code Enforcement and Planning Commission (5-1-1, Cahan opposed and Platten absent) recommend approval.  
GP10-10-01 – District 10

**END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR**

## 10. GENERAL PLAN PUBLIC HEARINGS

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### 10.2 [Text Amendment on the south side of Aborn Road between Alessandro Drive and Ruby Avenue, \(3000 Aborn Road\).](#)

- \* **Recommendation:** Tentative approval of a General Plan Amendment request change the San José 2020 General Plan Land Use/Transportation Diagram designation from Village Center on 8.0 acres and Public Park and Open Space on 7.0 acres to Village Center on 15.0 acres and associated text changes to the Evergreen Specific Plan. CEQA: Mirassou Mixed Use Development Environmental Impact Report (EIR), Resolution to be adopted with Item 10.9. Director of Planning, Building and Code Enforcement and Planning Commission (7-0) recommend approval.

[GPT09-08-05/GP09-08-05](#) – District 8 [CEQA Resolution](#)

### 10.3 [Amendment on the west side of S. Monroe Street, approximately 400 feet north from Tisch Way & between Dudley and S. Baywood Avenues north of Tisch Way \(485 S. Monroe Street\).](#)

[Attachment – Staff Report](#)

- \* **Recommendation:** Tentative approval of a General Plan Amendment request to change the San José 2020 General Plan Land Use/Transportation Diagram designation from Office to Medium High Density Residential (12-25 DU/AC) on 5.16 acres of a 7.8 gross acre site. CEQA: Mitigated Negative Declaration for GP10-06-01/PDC10-018, Resolution to be adopted with Item 10.9. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Kamkar absent) recommend approval.

[GP10-06-01](#) – District 6

### 10.4 [General Plan Text Amendment & General Plan Land Use/Transportation Diagram Amendments associated with the Evergreen\\*East Hills area.](#)

[Attachment – Memo from the Director of Planning, Building and Code Enforcement](#)

[Attachment – Memo from the Planning Commission](#)

[Attachment – Memo from Councilmember Herrera](#)

- \* **Recommendation:**

- (a) Tentative denial of an inactive General Plan Text Amendment application for various text revisions to address changes proposed through the Evergreen\*East Hills Vision Strategy (EEHVS) process, including associated changes to the Evergreen Development Policy and General Plan Amendment applications (File Nos. GP05-08-01A through F). CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Kamkar absent) recommend denial.

[GPT05-08-01](#) – Districts 5, 7 and 8

[Attachment – Memo from Councilmember Herrera](#)

- (b) Tentative denial of inactive General Plan Amendment applications because they are inconsistent with the San José 2020 General Plan, and also inconsistent with the proposed goals and policies of the Envision San José 2040 General Plan Update, including the Council-accepted “Preferred Land Use Scenario” and the City Concepts of the proposed Envision Draft Plan. Council District 8. CEQA: Incomplete.

*(Item continued on the next page)*

## 10. GENERAL PLAN PUBLIC HEARINGS

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### 10.4 General Plan Text Amendment & General Plan Land Use/Transportation Diagram Amendments associated with the Evergreen\*East Hills area. (Cont'd.)

#### Recommendation:

- (b) (1) GP05-08-01A (Arcadia): Application to change the Land Use/Transportation Diagram designation from Medium Low Density Residential (8.0 DU/AC), Industrial Park, Office, Public/Quasi-Public, and Public Park and Open Space with Mixed Use Overlay to Mixed Use with No Underlying Land Use Designation (up to 1,875 dwelling units, up to 150,000 square feet of commercial, and 12 to 18 acres of Public Park and Open Space) on an 81-acre site located on the south side of Quimby Road, 1,000-feet westerly of Capitol Expressway. (Arcadia Homes, Inc and Pepper Land-Quimby LLC Owner/Applicant). Council District 8. CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Kamkar absent) recommend denial.
- (2) GP05-08-01B (Pleasant Hills Golf Course): Application to change the Land Use/Transportation Diagram designation from Private Recreation to Medium Density Residential (8-16 DU/AC), Public Park and Open Space, and Public/Quasi-Public on a 114-acre site at the northeast corner of Tully and South White Roads. (Duino Family Partners – Owner / KB Home South Bay, Inc – Applicant). Council District 8. CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Kamkar absent) recommend denial.
- (3) GP05-08-01C (Campus Industrial - Berg): Application to change the Land Use/Transportation Diagram designation from Campus Industrial to Medium Density Residential (8-16 DU/AC), Medium Low Density Residential (8 DU/AC) or Low Density Residential (5 DU/AC) and Public Park and Open Space on 175 acres at the southeast corner of Fowler and Yerba Buena Roads. (Mission West Props – Owner / Berg & Berg Developers – Applicant). Council District 8. CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Kamkar absent) recommend denial.
- (4) GP05-08-01D (Campus Industrial – IDS): Application to change the Land Use/Transportation Diagram designation from Campus Industrial to Medium Density Residential (8-16 DU/AC) or Medium Low Density Residential (8 DU/AC) and Public Park/Open Space on a 24 acre site on the east side of Yerba Buena Road opposite Verona Road. Council District 8. CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Kamkar absent) recommend denial.

*(Item continued on the next page)*

## 10. GENERAL PLAN PUBLIC HEARINGS

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### 10.4 General Plan Text Amendment & General Plan Land Use/Transportation Diagram Amendments associated with the Evergreen\*East Hills area. (Cont'd.)

#### Recommendation:

- (b) (5) GP05-08-01E (Campus Industrial – Legacy): Application to change the Land Use/Transportation Diagram designation from Campus Industrial to Medium Density Residential (8-16 DU/AC) or Medium Low Density Residential and Public Park/Open Space on a 120 acre site located at the northeast corner of Yerba Buena and Old Yerba Buena Roads. Council District 8. CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Kamkar absent) recommend denial.
- (6) GP05-08-01F (Evergreen Valley College): Application to change the Land Use/Transportation Diagram designation from Public/Quasi-Public to Mixed Use with No Underlying Land Use Designation (up to 500 dwelling units, up to 100,000 square feet of commercial, up to 95,000 square feet of office, and 0-2 acres for Public/Quasi-Public use) on a 27-acre site located at the north side of Yerba Buena Road, 350 feet easterly of San Felipe Road. (San José Evergreen Comm College Dist – Owner/Applicant). Council District 8. CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Kamkar absent) recommend denial.  
[Attachment – Memo from Councilmember Herrera](#)
- (c) Reject the request to convert the Evergreen Industrial area to residential use in the Envision San José 2040 General Plan on two sites, one located at the southeast corner of Fowler and Yerba Buena Roads (175 acres) (see GP05-08-01C) and the other located on the east side of Yerba Buena Road, opposite Verona Road (24 acres) (see GP05-08-01D). CEQA: Incomplete.  
ESJ2040-006 (Campus Industrial – Berg and IDS) – District 8  
[Attachment – Memo from Councilmember Herrera](#)

### 10.5 [Amendment in the east side of South 10th Street approximately 350 feet north of Burke Street \(2159 S. 10<sup>th</sup> Street\)](#)

- \* **Recommendation:** Tentative denial of a General Plan Amendment request to change the Land Use/Transportation Diagram designation to add Mixed Industrial Overlay to an existing Heavy Industrial land use designation on a 3.95 gross-acre site, located on the east side of South 10th Street approximately 350 feet north of Burke Street (2159 S. 10<sup>th</sup> Street). (Provident Holdings & Investments LLC, Owner). CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Platten absent) recommend denial.  
GP09-07-02 – District 7

## 10. GENERAL PLAN PUBLIC HEARINGS

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### 10.6 [Amendment on the South side of Campbell Avenue, approximately 215 feet northwesterly of O'Brien Court \(1185 Campbell Avenue\).](#)

- \* **Recommendation:** Tentative denial of a General Plan Amendment Land Use/Transportation Diagram designation from Light Industrial to Transit Corridor Residential (30+ DU/AC) on a 7.08-acre site. (Green Valley Corp., Owner/Barry Swenson Builder, Applicant), located on the South side of Campbell Avenue, approximately 215 feet northwesterly of O'Brien Court (1185 Campbell Avenue) (GVC Owens LLC, Owner). CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Platten absent) recommend denial. [GP05-06-03](#) – District 6

### 10.7 [Amendment on a 14.23-acre site from Light Industrial to Medium High Density Residential \(12-25 DU/AC\) on 8.5 acres, High Density Residential \(25-50 DU/AC\) on 4.0 acres, and General Commercial on 0.5 acre.](#)

- \* **Recommendation:** Tentative denial of a General Plan Amendment Land Use/Transportation Diagram request to change the Land Use/Transportation Diagram designation on a 14.23-acre site from Light Industrial to Medium High Density Residential (12-25 DU/AC) on 8.5 acres, High Density Residential (25-50 DU/AC) on 4.0 acres, and General Commercial on 0.5 acre. A portion of the former railroad spur consisting of approximately 1.23 acres would remain unchanged. CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Platten absent) recommend denial. [GP05-03-07](#) – District 3

### 10.8 [Amendment on the north side of Grimley Lane, approximately 1,500 feet westerly of Almaden Road \(1135 Grimley Lane\).](#) [Attachment – Memo from Councilmember Pyle](#)

- \* **Recommendation:** Tentative denial of a General Plan Amendment request to change the Land Use/Transportation Diagram designation from Very Low Density Residential (2 DU/AC) to Low Density Residential (5 DU/AC) on a 1.48-acre site, located on the north side of Grimley Lane, approximately 1,500 feet westerly of Almaden Road (1135 Grimley Lane) (Patel Amrat K & Kuverji Madhu C Trustee, Owner). CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Platten absent) recommend denial. [GP07-10-02](#) – District 10

### 10.9 **Adopt a resolution approving all General Plan amendment actions on December 7, 2010.**

- **Recommendation:** Adopt a [resolution](#) approving all of the General Plan amendment actions taken on December 7, 2010, and adopt related CEQA resolutions. (Planning, Building and Code Enforcement)  
[10.1b CEQA Resolution](#) [10.2 CEQA Resolution](#) [10.3/11.3CEQA Resolution](#)

# 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.

No Public Hearings on Consent Calendar at this time.

## 11.2 [Rezoning Real Property located on the south side Aborn Road.](#)

[Attachment – Mirrasou project development standards](#)

- \* **Recommendation:** Consideration of an [ordinance](#) rezoning the real property located on the south side of Aborn Road between Allessandro Drive and Ruby Avenue (3000 Aborn Road) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District to allow for a mixed use development: (1) up to 107 residential units, (2) up to 7,500 square feet of commercial retail uses, the preservation of the historic Mirassou Winery building, and (3) up to 25,000 square feet of office uses (Lambie Richard H Trustee, Owner). CEQA: Mirassou Mixed Use Project Environment Impact Report (EIR), Resolution to be adopted with Item 10.9. Director of Planning, Building and Code Enforcement and Planning Commission (7-0) recommend approval. [PDC10-001](#) – District 8

- \* **THE CITY COUNCIL MAY CHOOSE TO TAKE PUBLIC TESTIMONY ON THIS ITEM WITH ITEM 10.2**

## 11.3 [Rezoning Real Property located on the west side of S. Monroe Street.](#)

[Attachment – Staff Report](#)

- \* **Recommendation:** Consideration of an [ordinance](#) rezoning the real property located on the west side of S. Monroe Street, approximately 400 feet north from Tisch Way (785 S. Monroe Street) from R-M Multiple Residence District and CG Commercial General District to A(PD) Planned Development Zoning District to allow for the development of up to 104 single-family attached residential units and 89,342 square feet of office on a 7.8 gross acre site (Pacific Bell, Owner). CEQA: Mitigated Negative Declaration for GP10-06-01/PDC10-018, Resolution to be adopted with Item 10.9. . Director of Planning, Building and Code Enforcement and Planning Commission (6-0-1, Kamkar absent) recommend approval. [CEQA Resolution](#) [PDC10-018](#) – District 6

- \* **THE CITY COUNCIL MAY CHOOSE TO TAKE PUBLIC TESTIMONY ON THIS ITEM WITH ITEM 10.3**

# 11. PUBLIC HEARINGS

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## 11.4 [Public Hearing Ordering the Reorganization of Territory Designated as Cambrian No. 36.](#)

[Supplemental – Memo from the Director of Planning, Building and Code Enforcement Attachment – Memo from the City Attorney](#)

**Recommendation:** Adopt a [resolution](#) ordering the reorganization of territory designated as Cambrian No. 36, resulting in (1) the annexation to the City of San José of approximately 103 gross acres of land generally bounded by Central Park Drive to the north, State Highway 17 to the west, Camden Avenue to the south and Union Avenue to the east; (2) the detachment of the same from the appropriate special districts, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service; and (3) the retention of the area within the Central Fire District of the Santa Clara County Fire Department. CEQA: Resolution No. 65459. (Planning, Building and Code Enforcement)

## 11.5 [Rezoning real property located at/on the west side of N. Third Street.](#)

[Attachment – Staff Report](#)

[Attachment – Memo from Councilmember Liccardo Presentation](#)

**Recommendation:** Consideration of an [ordinance](#) rezoning the real property located at/on the west side of N. Third Street, 340 feet south of Hensley Street (405 N Third Street) in the Hensley Historic District from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow up to six residential units within the existing structure(s) on a 0.17 gross acre site (Layne Sharon J, Owner; Bill Priest, Developer). SNI: 13<sup>th</sup> Street. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends denial and Planning Commission recommends approval of 4 units only (5-2-0, Do and Jensen opposed).

[PDC08-033 – District 3](#)

(Continued from 4/27/10 – Item 11.2, et al and 10/26/10 – Item 11.2)

- 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>
1009	East side of N. White Road, approximately 100 feet southerly of Kentridge Drive	5	The Timothy Chen Revocable Trust	8/7	SFD	Approve

- Open Forum

*Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council or Redevelopment Agency Board.*

- **Adjournment**

## **CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

### **1. Public Meeting Decorum:**

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

### **2. Signs, Objects or Symbolic Material:**

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
  - No objects will be larger than 2 feet by 3 feet.
  - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
  - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN  
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:
- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
  - b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
  - c) Speakers should discuss topics related to City business on the agenda.
  - d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
  - e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
  - f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
  - g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.