CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

CITY COUNCIL AGENDA

DECEMBER 7, 2010

SYNOPSIS

PETE CONSTANT	DISTRICT 1		PIERLUIGI OLIVERIO	DISTRICT 6
ASH KALRA	DISTRICT 2		MADISON P. NGUYEN	DISTRICT 7
SAM LICCARDO	DISTRICT 3	CHUCK REED MAYOR	ROSE HERRERA	DISTRICT 8
KANSEN CHU	DISTRICT 4		JUDY CHIRCO, VICE MAYOR	DISTRICT 9
NORA CAMPOS	DISTRICT 5		NANCY PYLE	DISTRICT 10

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Office of the City Clerk

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. 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.

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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
  Absent Council Members: None.
  Vacant: District 5.

  1:35 p.m. - Regular Session, Council Chambers, City Hall
  Absent Council Members: None.

  6:18 p.m. - Evening Session, Council Chambers, City Hall
  Absent Council Members: None.

- Invocation (Mayor)

  Nils Peterson, Santa Clara County Poet Laureate, presented 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, with Ceremonial Item 1.1 dropped, Item 11.5 heard before Item 11.4 and Joint/RDA Item 8.1 opened for public testimony and continued to 12/14/10. (10-0-0. Vacant: District 5.)

- Closed Session Report

  No Report.

1. CEREMONIAL ITEMS

1.1 Presentation of a commendation to Silver Creek High School student, Crystal Vo, for her accomplishments in placing 1st at the Network for Teaching Entrepreneurship (NTFE) Bay Area Regionals and placing 3rd at the National Business Plan Competition Finals. (Herrera)

Dropped per Orders of the Day.

1.2 (a) As recommended by the Rules and Open Government Committee on December 1, 2010, appoint Xavier Campos as the District 5 Council Member to a term ending December 31, 2010. (Mayor)

Xavier Campos was appointed as the District 5 Council Member representative, term ending December 31, 2010.

(b) Administer Oath of Office to District 5 Council Member Xavier Campos. (County Supervisor George Shirakawa, Jr.)

County Supervisor George Shirakawa, Jr. administered the Oath of Office to District 5 Council Member Xavier Campos.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

There were none.

2.2 Final adoption of ordinances.

There were none.

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)

Approved.

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

Council Member Constant provided details on his trip to the National League of Cities (NLC) Congress of Cities Conference in Denver, Colorado, indicating that he represented the City of San José as an appointed member of the National League of Cities Public Safety and Crime Prevention Committee and as a voting delegate at the Annual Business Meeting for NLC.

2. CONSENT CALENDAR

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)

Resolution No. 75649 adopted.

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)

Resolution No. 75650 adopted.

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.

   Ordinance No. 28860 adopted.

(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)

Resolution No. 75651 adopted.

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

(Item continued on the next page)

2. CONSENT CALENDAR

2.9 2010-2011 Hazardous Vegetation Commencement Report (Cont'd.)

(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)

Resolution No. 75652 adopted.

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/ Info Memos that involve no approvals of any City Actions. (Public Works)

Approved.

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)]

Approved.

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)]

Approved.

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)]

Resolution No. 75653 adopted.

2. CONSENT CALENDAR

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.
(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)]
Approved.

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.
(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)]
Approved.

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.
(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)]
Approved.

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.
(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)]
Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)
City Manager Debra Figone reported on the 90M projected shortfall for Fiscal Year 2011-2012.

3.2 Actions Related to Team San José.

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.
Waived.

(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)

(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.

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

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

(f) (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 work plan 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 work plan 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/ Info Memos.

The memorandum from Mayor Reed, Council Members Liccardo, Constant and Herrera, dated December 3, 2010, was approved; the Staff recommendations from the December 2, 2010 supplemental memorandum were approved, as modified; the City's Response to the Grand Jury Report dated December 7, 2010 was accepted; and the City Manager was directed to:

(1) Submit the spending reduction plan to City Council for approval before a contract for the expansion of the Convention Center is executed, but not later than the City's Mid-Year Budget Report.

(2) Present a report in February 2011 for City Council review of the amendments to the Management Agreement.

(a) *Specific to Item (2)(c)*: The Team San José/Convention and Visitors Bureau City Council Liaison and the City Administration liaison will have full access to all information provided to the Team San José Board of Directors and will receive information at the time it is disseminated to the rest of the Board members.

(3) Prepare a work plan and schedule for issuing a new Request for Proposals (RFP) for review by the Rules and Open Government Committee at the last meeting in February 2011. Further direction includes:

(a) Presentation of the main elements of the RFP to the Public Safety, Finance and Strategic Support Committee after February 2011 and the final RFP to City Council for approval not later than June 2011.

(b) In the preparation of the RFP, Staff shall analyze existing and new models for operating the Convention and Cultural facilities and establish criteria that best demonstrates a process by which to evaluate best practices in the industry, the models and operational accountability.

3. STRATEGIC SUPPORT SERVICES

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)

Ordinance No. 28861 passed for publication.
Noes: Liccardo.

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)

Resolution No. 75654 adopted.

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)

Accepted.

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)

Accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 California High Speed Rail Project.

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.

Accepted.

(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.

6. TRANSPORTATION & AVIATION SERVICES

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

(b) (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.

Approved.

(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.

(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)

Heard First In The Evening.

Ordinance No. 28863 adopted.

The memorandum from Council Members Liccardo and Oliverio, dated December 3, 2010, approved the Staff recommendations, with the following changes:

(1) Revise Paragraph 3 to read: "Authorize the Mayor to send a letter to the CHSRA reflecting the Council's desire to urge inclusion of an underground alignment within the scope of EIR study.

(2) Amend Paragraph 2.a. to include direction to Staff to urge the CHSRA Staff to prepare, in addition to any Visual Design Guidelines, a visual, graphical depiction that is reflective of those guidelines, to the greatest extent of completion of design as allowable under CEQA.

(3) Ensure that the HST Community Working Groups include residents living within a half-mile of the project, as well as business representatives, such as the San José Downtown Association, and other Diridon area community stakeholders knowledgeable of, or participating in, the Good Neighbor Committee efforts.

6.2 Airport Living Wage Ordinance Revisions.

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.

Waived.

(Item continued on the next page)

6. TRANSPORTATION & AVIATION SERVICES

6.2 Airport Living Wage Ordinance Revisions (Cont'd.)

(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)

Ordinance No. 28862 passed for publication, as amended.

The memorandum from Mayor Reed, Vice Mayor Chirco, Council Members Pyle and Herrera, dated December 2, 2010, was approved. Staff recommendations A, B, C and H were modified effective January 1, 2011, as follows:

A. Complaint-based enforcement compensation provisions to be bolstered with annual reporting and a system of audits so that every business is audited at least every two years.

B. Violations of minimum requirements to be dealt with as follows:

i. 30-day opportunity to cure for first violation of minimum compensation requirements in any 3-year period.

ii. In a 3-year period, subsequent violations may be assessed a fine payable to the City in an amount equal to any underpayment.

C. Modify Section 25.11.520 to read: 25.11.520 - ~~Temporary~~ exemption ~~for passenger airlines~~.

A. The minimum compensation requirements of this part shall not apply to any covered employee of ~~a passenger airline~~ <u>an airport business</u>, only if the sum of the hourly wage, the employer's direct hourly contribution for the covered employee's health and medical care insurance, if any, and the employer's direct hourly contribution for the contribution of the covered employee's retirement benefits, if any, is no less than the greater of:

1. Twelve dollars and eighty-three ($12.83) per hour, or;

2. The then-current minimum compensation rate with minimum health benefits provided, as adjusted on an annual basis under this part.

(Action continued on the next page)

6. TRANSPORTATION & AVIATION SERVICES

6.2 Airport Living Wage Ordinance Revisions (Cont'd.)

C. B. The employer's direct hourly contribution shall be the rate of contribution irrevocably made by the employer to a trustee or to a third person pursuant to a fund, plan or program for the benefit of employees.

C. ~~Any exemption under this section shall expire on December 31, 2010~~.

C. If an employee is offered health insurance or benefits in good faith, but voluntarily declines to receive them, the benefits shall be deemed to have been provided to the employee. Staff directed to monitor and report back to the City Council as necessary but no later than January 2012 if businesses are abusing this provision.

Staff directed to add a provision authorizing the City Manager to enter into an amendment with the a contractor to delete the terms and conditions of the Living Wage Policy and/or Prevailing Wage Policy for the remaining term of an Airport Contract.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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)]

Approved, as amended. (Santa Clara VTA Policy Advisory Board – Silicon Valley Rapid Transit Corridor Appointments: Member: Council Member Liccardo; Alternate: Council Member Nguyen.)

- Open Forum

Ann Brownell extended an invitation to The Amanda Network Anti-Bullying Campaign Candle Light Vigil on Saturday, December 11, 2010, beginning at 4:00 p.m. in front of San José City Hall.

- Adjournment

The Council of the City of San José adjourned the afternoon session at 5:28 p.m.

10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

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
The City Council tentatively approved the proposed General Plan Amendment.

(b) **Amendment on 9.8 gross acre site located on the Northwest corner of Blossom Hill Road and Southcrest Way.**
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
The City Council tentatively approved the proposed General Plan Amendment.

END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

10. GENERAL PLAN PUBLIC HEARINGS

10.2 Text Amendment on the south side of Aborn Road between Allessandro 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
The City Council tentatively approved the proposed General Plan Amendment.

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).

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
The City Council tentatively approved the proposed General Plan Amendment. Noes: Herrera, Liccardo, Oliverio.

10.4 General Plan Text Amendment & General Plan Land Use/Transportation Diagram Amendments associated with the Evergreen East Hills area.

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
The City Council tentatively denied the proposed General Plan Amendment.

10. GENERAL PLAN PUBLIC HEARINGS

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

(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.

(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.
The City Council tentatively denied the proposed General Plan Amendment.

(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.
The City Council tentatively denied the proposed General Plan Amendment.

(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.
The City Council tentatively denied the proposed General Plan Amendment.

10. GENERAL PLAN PUBLIC HEARINGS

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

(b) (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.
The City Council tentatively denied the proposed General Plan Amendment.

(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.
The City Council tentatively denied the proposed General Plan Amendment.

(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.
The City Council tentatively denied the proposed General Plan Amendment.

(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
The City Council tentatively rejected the proposed General Plan Amendment request.

10. GENERAL PLAN PUBLIC HEARINGS

10.5 Amendment in the east side of South 10th Street approximately 350 feet north of Burke Street (2159 S. 10th 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. 10th 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
The City Council tentatively denied the proposed General Plan Amendment.

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
The City Council tentatively denied the proposed General Plan Amendment.

10.7 Amendment on a 14.23-acre site on the Northeast Corner of North King Road and Las Plumas Avenue from Light Industrial to Medium High Density Residential (12-25 DU/AC) on 8.3 acres, High Density Residential (25-50 DU/AC) on 4.0 acres, and General Commercial on 0.5 acres.

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
The City Council tentatively denied the proposed General Plan Amendment.

10. GENERAL PLAN PUBLIC HEARINGS

10.8 Amendment on the north side of Grimley Lane, approximately 1,500 feet westerly of Almaden Road (1135 Grimley Lane).

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
The City Council tentatively denied the proposed General Plan Amendment.

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)

Resolution No. 75655 adopted.
CEQA Resolution Nos. 75656, 75657 and 75658 adopted.
Noes: Oliverio.

END OF GENERAL PLAN HEARINGS

11. PUBLIC HEARINGS

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.

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 memorandum from Council Member Herrera, dated December 7, 2010, was approved, accepting the Staff recommendations with the following additions:

(1) Density should be no more than 107 residential units.

(2) Traffic: The Evergreen Area Development Policy gives flexibility regarding the location and scheduling of the planned improvements and mitigations. As part of the traffic impact fee contributions for this project, Staff should make all reasonable efforts and work with the developer to ensure all proposed transportation improvements by this project are near the project or along one of the main routes to the site and constructed as part of the development by the developer and concurrent with the project.

(3) Toxics: Toxic clean up for in-use development is a top concern and priority of the City of San José, especially for residential projects. The applicant shall work closely with the Environmental Services Department to rigorously clean up all toxics found on the site.

(4) Retail: In addition to the retail located on the southwest corner of Aborn Road and Ruby Avenue, the applicant has included a pad for approximately 2,500 square feet of retail uses which is located on Ruby Avenue adjacent to the main pedestrian access to the Lake and directly across from the Evergreen Village Square.

(5) Joint Marketing Agreement: Shapell and Summerhill shall enter into a joint marketing agreement to coordinate the place making elements including signage, landscaping and lighting.

(a) At the Planned Development Permit stage, this agreement shall be finalized and City Staff should pay particular attention to these elements to ensure the developer is providing adequate investment in the elements required to achieve this goal.

(Action continued on the next page)

11. PUBLIC HEARINGS

11.2 Rezoning Real Property located on the south side Aborn Road (Action Cont'd.)

(5) (b) At the Planned Development Permit stage, the joint marketing agreement must also be in place before the signage on Aborn Road is advanced by the City.

(c) The place making elements shall be implemented before the first phase of housing construction begins.

(6) The joint marketing agreement is in addition to the individual marketing plans. The intent is for the larger community to see this as one unified destination rather than two competing retail centers. Creating a vibrant destination in this community requires creating an unified sense of place that will be achieve through lighting, signage, landscaping and other elements of "urban furniture" along Aborn Road and Ruby Avenue.

(7) Signage: Joint signage for the Square and the Mirassou Development is critically important. Summerhill Homes and Shapell shall provide adequate signage to advertise, promote and brand the collective Evergreen village Square and Mirassou Development.

(8) Historic Buildings on Site: The historic Mirassou buildings are important to the history of Evergreen and the history of the valley. The applicant shall begin restoring the historic buildings in the first phase of construction keeping in mind these buildings are complimentary to the overall development and add to the vibrancy of this location. These buildings shall be restored with the forward planning that the City is not in the position to manage them. The City should be flexible in its future use with the ideal situation being open and accessible by the public.

(9) Pedestrian Access: The applicant shall work with Staff to identify additional pedestrian access opportunities to and from the site as well as providing a specific pedestrian connection to the existing lake area.

Ordinance No. 28864 passed for publication.
CEQA Resolution No. adopted. (See Item 10.9)

11.3 Rezoning Real Property located on the west side of S. Monroe Street.

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.

PDC10-018 – District 6

Ordinance No. 28865 passed for publication.
CEQA Resolution No. adopted. (See Item 10.9)
Noes: Oliverio.

11. PUBLIC HEARINGS

11.4 Public Hearing Ordering the Reorganization of Territory Designated as Cambrian No. 36.

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. Council District 9. CEQA: Resolution No. 65459. (Planning, Building and Code Enforcement)

Resolution No. 75659 adopted ordering the annexation.

Staff directed to:

(1) Wait to register the annexation with the County for a period of six months.

(2) Review and consider any revenue neutral proposal received during the six month period from the City of Campbell.

11.5 Rezoning real property located at/on the west side of N. Third Street.

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: 13th 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)

The memorandum from Council Member Liccardo, dated October 26, 2010, was approved, with clarification to deny the Applicant's original application and approve a Planned Development Rezoning for three units with the flexibility to designate the carriage house as one of the three units, with the conditions that:

(1) The Carriage House meets all the requirements of the Building Code;

(2) All other project conditions described in the July 31, 2008 memorandum from the Department of Public Works apply.

Ordinance No. 28866 passed for publication, as amended.

- ## 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:

Tract	Location	Council District	Developer	Lots/ Units	Type	Proposed Decision
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

There were none presented.

- ## **Adjournment**

The Council of the City of San José was adjourned at 9:58 p.m.

8. JOINT REDEVELOPMENT AGENCY 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.

Recommendation: Conduct a public hearing followed by the actions below by the City Council and Redevelopment Agency Board related to Disposition and Development Agreements (DDAs) with North San Pedro Townhomes and San Pedro Life I, LLC, for the North San Pedro Housing site:

(a) Adoption of a resolution by the Redevelopment Agency Board approving the First Amendment to the Amended and Restated Disposition and Development Agreement (DDA) with North San Pedro Townhomes LLC and authorizing the Executive Director to execute ancillary documents contemplated by the DDA, to close escrow subject to compliance with the terms of the DDA, and to negotiate and execute amendments to the DDA substantially in conformance with the intent of the DDA and as reasonably necessary to conform to lender requirements.

(b) Adoption of a resolution by the City Council approving the sale to North San Pedro Townhomes LLC of certain sites located on Agency-owned property generally located in the blocks bounded by Highway 87 to the west, West Saint James Street to the south, North Market Street to the east and a Union Pacific Railroad right of way to the north, accepting the 33433 Summary Report, and finding that the sale of the property will assist in the elimination of blight, is consistent with the Implementation Plan for the Julian-Stockton Redevelopment Project Area, and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the DDA.

(c) Adoption of a resolution by the Redevelopment Agency Board approving the First Amendment to the Amended and Restated Disposition and Development with San Pedro Life I, LLC and authorizing the Executive Director to execute ancillary documents contemplated by the DDA, to close escrow subject to compliance with the terms of the DDA, and to negotiate and execute amendments to the DDA substantially in conformance with the intent of the DDA and as reasonably necessary to conform to lender requirements.

(d) Adoption of a resolution by the City Council approving the sale to San Pedro Life I, LLC of certain sites located on Agency-owned property, generally located in the blocks bounded by Highway 87 to the west, West Saint James Street to the south, North Market Street to the east and a Union Pacific Railroad right of way to the north, accepting the 33433 Summary Report and finding that the sale of the property will assist in the elimination of blight, is consistent with the Implementation Plan for the Julian-Stockton Redevelopment Project Area and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the DDA.

CEQA: Not a Project.

The public hearing was held.

Continued to 12/14/10.