



CITY COUNCIL AGENDA

MAY 17, 2011

AMENDED AGENDA

PETE CONSTANT
ASH KALRA
SAM LICCARDO
KANSEN CHU
XAVIER E. CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON NGUYEN, VICE MAYOR
ROSE HERRERA
DONALD ROCHA
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 Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at 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.

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
Open Session, Labor Negotiations Update (See Item 3.2)
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
- 7:00 p.m. - Public Hearings, Council Chambers, City Hall

- **Invocation (District 5)**

Father Eduardo Samaniego, Most Holy Trinity Church

- **Pledge of Allegiance**

- **Orders of the Day**

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

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

* ADJOURNMENT: This meeting will be adjourned in memory of Alejandra Maree Gonzales, whose vivacious approach to life and artistic expression inspired those around her, will be warmly remembered. (Campos)

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

- 1.1 Presentation of a commendation to the Piedmont Hills High School Football Team for the Division 1 CCS Football Championship. (Chu)
(Deferred from 4/19/11 – Item 1.1)
* **DROP**
- 1.2 Presentation of a commendation to Friends Helping Friends with Special Needs for their dedication to helping children with special needs and their families through integrated community involvement. (Chu)
(Deferred from 4/19/11 – Item 1.2)
TO BE HEARD IN THE EVENING
- 1.3 [Administer Oaths of Office to District 1 Youth Commissioner Sandeep Peddada, District 2 Youth Commissioner Emily To, District 4 Youth Commissioner Max Chen, District 5 Youth Commissioner Veronica Abad, District 6 Youth Commissioner Brendon Yu, District 7 Youth Commissioner Diana Le, and District 10 Youth Commissioner Layla Forooghi.](#) (City Clerk)
TO BE HEARD IN THE EVENING
- 1.4 Presentation of a proclamation declaring the week of May 15-21, 2011 as “Public Works Week” in the City of San José. (Public Works)
- 1.5 Presentation of a commendation to Junior Sharks 12 U Girls Team for capturing the USA Hockey’s Tier II Girl’s National Championship as the first national title for the Junior Sharks Program in the City of San José. (Chu)
TO BE HEARD IN THE EVENING
- 1.6 Presentation of a proclamation declaring the Month of May 2011 as “Jewish American Heritage Month” in the City of San José. (Herrera)
- 1.7 Presentation of a commendation to Jorge Zavala for his leadership as Director of TechBA, a Mexico-Silicon Valley Technology business accelerator located in San José that has supported hundreds of entrepreneurs and small businesses through its extensive services and his involvement as a Board Member of work2future. (Herrera/Economic Development)
* **RECOMMEND DEFERRAL TO 6/14/11 PER DISTRICT 8**
- 1.8 Presentation of a commendation to Rebuilding Together Silicon Valley for their dedication to safe and healthy homes for low income residents and for renovating over 1,000 homes in San José over the past 20 years. (Herrera)
* (Rules Committee referral 05/11/11)

2. CONSENT CALENDAR

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 may be removed from the Consent Calendar and considered separately.

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) [Regular Minutes of March 1, 2011.](#)
- (b) [Habitat Conservation Plan Study Session Minutes of March 3, 2011.](#)
- (c) [Regular Minutes of March 8, 2011.](#)
- (d) [Regular Minutes of March 15, 2011.](#)
- (e) [Joint Council/San Jose Financing Authority Minutes of March 15, 2011.](#)
- (f) [Regular Minutes of March 22, 2011.](#)
- (g) [Regular Minutes of March 29, 2011.](#)
- * (h) [Joint City/Diridon Development Authority Minutes of March 8, 2011.](#)

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28908 – Amending Title 6 of the San José Municipal Code to add a new Chapter 6.88 to establish regulations pertaining to medical marijuana collectives and to the individual cultivation, and use of medical marijuana.
RECOMMEND DEFERRAL TO JUNE 14, 2011 PER ADMINISTRATION

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of April 27, 2011. (Mayor)
- * (b) Rules and Open Government Committee Report of April 20, 2011. (Mayor)
[Deferred from 5/10/11 – Item 2.3(a)]
- * (c) Rules and Open Government Committee Report of April 13, 2011. (Mayor)
[Deferred from 5/3/11 – Item 2.3(a) and 5/10/11 – Item 2.3(c)]
- * (d) Rules and Open Government Committee Report of March 23, 2011. (Mayor)
[Deferred from 4/12/11 – Item 2.3(a), et al, and 5/10/11 – Item 2.3(e)]
- * (e) Rules and Open Government Committee Report of March 16, 2011. (Mayor)
[Deferred from 4/5/11 – Item 2.3(a), et al, and 5/10/11 – Item 2.3(f)]
- * (f) Rules and Open Government Committee Report of March 9, 2011. (Mayor)
[Deferred from 3/29/11 – Item 2.3(a), et al, and 5/10/11 – Item 2.3(g)]

2.4 Mayor and Council Excused Absence Requests.

2.5 City Council Travel Reports.

2. CONSENT CALENDAR

2.6 Report from the Council Liaison to the Retirement Boards.

2.7 [Amendment to the Master Agreement with HF&H Consultants for Environmental Consultant Services on the Commercial Solid Waste Redesign and Franchise Procurement.](#)

Recommendation: Approve the Fourth Amendment to the Master [Agreement](#) between the City of San José and HF&H Consultants, LLC for environmental consultant services on the commercial solid waste redesign and franchise procurement, increasing the amount of the agreement by \$75,000 from \$850,000 to an amount not to exceed \$925,000. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Environmental Services)

2.8 [Agreement with Pelican Communications for Pay-Telephone Services at the Airport.](#)

Recommendation: Approve a second amendment to the [agreement](#) with Pelican Communications, Inc., to mutually agree to an additional five-year term retroactively commencing on May 13, 2010, in the annual, ongoing amount of \$12,480, with additional one time charges of \$250 for each new pay-telephone installed to provide for installation and maintenance of pay-telephones at the Airport at no cost to the City, and installation, removal and maintenance of pay-telephones on other City-owned properties. CEQA: Exempt, File No. PP05-053. (Economic Development)

* (Deferred from 5/3/11 – Item 2.8)

2.9 [SB 184 \(Leno\) – Land Use: Zoning Regulations.](#)

Recommendation: As recommended by the Rules and Open Government Committee on May 11, 2011, approve a support position for SB 184 (Leno) – Land Use: Zoning Regulations. (Housing)

* [Rules Committee referral 5/11/11 – Item D(1)(b)]

2.10 [District 8 Senior Health Fair and Walk.](#)

Recommendation: As recommended by the Rules and Open Government Committee on May 11, 2011:

- (a) Approve the District 8 Senior Health Fair and Walk as a City Council Sponsored Special Event; and
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project. (City Clerk)

* [Rules Committee referral 5/11/11 – Item D(1)(b)]

3. STRATEGIC SUPPORT SERVICES

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

3.2 Labor Negotiations Update

[Presentation](#)

Recommendation: Accept Labor Negotiations Update.

TO BE HEARD AT 9:00 A.M.

3.3 [Council Salary Setting Commission Recommendations.](#)

- * **Recommendation:** As recommended by the Council Salary Setting Commission, approve an [ordinance](#) setting the salaries and benefits of the Mayor and City Council for the period June 26, 2011 through June 30, 2013 – Fiscal Years (FY) 2011- 2012 and FY 2012 – 2013 as follows:
- (a) For the Mayor, reduce the salary recommended by the Commission for the 2009-2011 period from \$127,000 annually to \$114,000 annually, to be effective June 26, 2011.
 - (b) For each Councilmember, reduce the salary recommended by the Commission for 2009-2011 from \$90,000 annually to \$81,000 annually, to be effective June 26, 2011.
 - (c) Retain the levels of health, dental, life insurance and other benefits through in accordance with the benefits provided to management employees in Unit 99.
 - (d) For the current Mayor and Councilmembers (meaning those in office as of July 1, 2011), maintain the City’s participation and contributions to CalPERS defined benefit or PTC 457 defined contribution plans through their terms of office.
 - (e) Direct the City Clerk and City Attorney to perform necessary research and return with recommendations for the implementation of a change in retirement plan benefits for future Councilmembers, including options available through CalPERS or other providers.
 - (f) Reduce the 2009-2011 Commission recommendation of a monthly \$600 vehicle allowance to a monthly \$350 vehicle allowance for the Mayor and each member of the City Council, to be effective June 26, 2011.
 - (g) Continue to require Councilmembers to pay \$250 for each unexcused absence at scheduled Council meetings, pursuant to City Charter Section 407.
- (City Clerk)

3. STRATEGIC SUPPORT SERVICES

3.4 Actions Related to Medical Marijuana Zoning.

Recommendation: Conduct a public hearing and consider an ordinance of the City of San José amending Title 1 of the San José Municipal Code by amending Section 1.13.050 of Chapter 1.13 to exempt a lawful Medical Marijuana Collective from the definition of a public nuisance and amending Title 20 of the San José Municipal Code by amending Section 20.10.040 of Chapter 20.10, amending Section 20.40.100 of Chapter 20.40, amending Section 20.50.100 of Chapter 20.50, amending Section 20.70.100 of Chapter 20.70, adding a new Part 9.5 to Chapter 20.80, adding a new Part 13 to Chapter 20.100, and amending Section 20.100.200 of Chapter 20.100, all to establish land use regulations pertaining to Medical Marijuana Collectives and to establish a related zoning verification certificate process. (Planning, Building and Code Enforcement/City Attorney's Office)
RECOMMEND DEFERRAL TO JUNE 14, 2011 PER ADMINISTRATION

3.5 [Actions related to Retiree Health Care Benefit Funding and Payment of Retiree Health Care Benefits.](#)

- * **Recommendation:** Consideration of an [ordinance](#) amending Title 3 of the San José Municipal Code to add a new Chapter 3.52, and to amend Sections 3.28.380, 3.28.1980, 3.28.1995, 3.28.2030 and 3.28.2045 and add a new Section 3.28.385 of Chapter 3.28 for the purposes of establishing a new trust pursuant to Section 115 of the Internal Revenue Code related to retiree health care benefit funding and payment of retiree health care benefits. (City Attorney's Office)
- * (Rules Committee referral 05/04/11)

3.6 [Continued Suspension of Supplemental Retiree Benefit Reserve Payments.](#)

Recommendation:

- (a) Approve an [ordinance](#) amending Section 3.36.580 of Part 4 of Chapter 3.36 of Title 3 of the San José Municipal Code to provide that there shall be no supplemental retiree benefit reserve distribution from the Police and Fire Department Retirement Plan during fiscal year 2011-12, upon a finding that is needed to adopt the ordinance within a time period which does not allow for a sixty day review period by Board of Administration of the Police and Fire Department Retirement Plan under San José Municipal Code Section 3.36.485.A.; and refer the ordinance to the Board for study and consideration pursuant to San José Municipal Code Section 3.36.485.B; and
- (b) Direct staff to forward for review by the Board of Administration of the Federated City Employees Retirement Plan a draft [resolution](#) amending and restating Resolution No. 75635 to provide that there shall be no supplemental retiree benefit reserve distribution from the Federated City Employees Retirement Plan during fiscal year 2011-12.

CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

- * (Rules Committee referral 05/11/11)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Review of North San Jose Residential Activity and Consideration of Potential Changes to Reservation and Allocation Process.

Attachment – Memo from Mayor Reed and Councilmember Chu

Recommendation: Accept the status report of housing unit reservation and allocation in North San José and direct staff to continue to track residential developer progress and reallocate unused units for shovel ready projects that best implement the North San José Area Development Policy criteria. CEQA: Not a Project, File No. PP10-069(a), Staff Reports/Assessments/Annual Reports/Information Memos. Council Districts 3 and 4. (Planning, Building and Code Enforcement/Housing)
(Deferred from 5/3/11 – Item 4.2 and 5/10/11 – Item 4.2)

4.2 Funding Commitment for the Taylor Oaks Apartments being Developed by For Future Housing, Inc.

Attachment – Memo from Councilmember Campos

* **Recommendation:** Adopt a resolution:

- (a) Approving a funding commitment to For the Future Housing, Inc. or its designated affiliate for up to \$5,250,000 for an acquisition, rehabilitation and permanent loan funded from the Neighborhood Stabilization Program 2 (“NSP2”); and,
- (b) Authorizing the Director of Housing to negotiate and execute an amended consortium agreement with The Housing Trust of Santa Clara County under NSP2 in an amount up to \$5,250,000 for acquisition, rehabilitation, and permanent financing of the 59-unit Taylor Oaks Apartments located at 2726-2738 Kollmar Avenue, in Council District 5.

CEQA: Exempt, File No. PP11-022. Council District 5. (Housing)

4.3 Approval of Neighborhood Housing Services Of Silicon Valley’s Plan to Address its HomeVenture Fund and Home Investment Partnership Obligations.

Recommendation:

- (a) Adopt a resolution:
 - (1) Authorizing the Director of Housing to release Neighborhood Housing Services of Silicon Valley’s (NHSSV) \$1,300,000 HomeVenture Fund restricted capital grant, allowing the use of the funds for past operating expenses. In exchange NHSSV will commit to utilize \$1,300,000 in other grant proceeds within City of San José municipal boundaries;
 - (2) Accepting NHSSV’s proposal to repay the City \$1,917 per month over five years for its \$115,000 obligation in HOME Investment Partnership (“HOME”) funds;
 - (3) Authorizing the Director of Housing to negotiate and execute all documents related to the fulfillment of the conditions of these recommendations as adopted by the Council.

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Approval of Neighborhood Housing Services Of Silicon Valley's Plan to Address its HomeVenture Fund and Home Investment Partnership Obligations. (Cont'd.)

Recommendation:

- (b) Adopt the following Appropriation Ordinance amendments in the Housing Trust Fund:
 - (1) Establish a Transfer to the Home Investment Partnership Program Fund by \$115,000; and
 - (2) Decrease the Ending Fund Balance by \$115,000.
- (c) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Home Investment Partnership Program Fund:
 - (1) Increase the revenue estimate for Transfers by \$115,000; and
 - (2) Increase the appropriation to the Housing Department for the Loans and Grants project by \$115,000.

CEQA: Not a Project, File No. PP10-067(b), Non-Project Specific Funding Mechanism, Appropriation Ordinance. (Housing/City Manager's Office)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Report on Bids and Award of Contract for the 2011 Slurry Seal Project.](#)

Recommendation: Report on bids and award of contract for the 2011 Slurry Seal Project to the low bidder, Graham Contractors, Inc. in the amount of \$1,783,896 and approval of a five percent (5%) contingency in the amount of \$89,195. CEQA: Exempt, File No. PP11-035. (Transportation)

6.2 [Report on Bids and Award of a Construction Contract for the 2011 Remove and Replace Asphalt Concrete Pavement Project.](#) [Supplemental – Memo from the Department of Transportation](#)

Recommendation: Report on bids and award of a construction contract for the 2011 Remove and Replace Asphalt Concrete Pavement Project to the low bidder, Top Grade Construction, Inc., in the amount of \$1,608,570, and approval of a five percent (5%) contingency in the amount of \$80,429. CEQA: Exempt, File No. PP11-035. (Transportation)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 [New Markets Tax Credit Financing for the Construction of the Environmental Innovation Center.](#)

[Supplemental – Memo from Environmental Services Presentation](#)

Recommendation: Adopt a [resolution](#) authorizing the City Manager:

- (a) To establish an independent Qualified Active Low-Income Community Business with nonprofit status under the Internal Revenue Code section 501c3 for the purpose of participating in the federal New Markets Tax Credit program to secure additional financing to fund the construction of the San José Environmental Innovation Center;
- (b) To appoint the five members of the Qualified Active Low-Income Community Business Board of Directors, and replace board members if any of the appointees are unable to serve through the closing of the New Markets Tax Credit transaction;
- (c) To negotiate and prepare the agreements necessary to complete the New Markets Tax Credit financing transaction for the City Council's consideration in June 2011; and
- (d) Evaluate the feasibility of Commercial Paper notes as an interim source of financing pending the close of New Markets Tax Credit financing, or alternative source of financing for a reduced project scope.

CEQA: Negative Declaration for the renovation of the EIC was adopted on December 1, 2009. File No. PP09-138. (Environmental Services)

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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

9.1 [Public Hearing on the Proposed Operating/Capital Budgets for the Fiscal Year 2011-2012, including Proposed Departmental Fees and Charges for the City of San José.](#)

[Presentation](#)
[Presentation](#)

- * **Recommendation:** Public Hearing on the City's Proposed Operating and Capital Budgets for the Fiscal Year 2011 -2012, the Proposed Five-Year Capital Improvement Program for 2012-2016, the Proposed Fees and Charges Report for the Fiscal Year 2011-2012 as well as the 2011-2012 San Jose Redevelopment Agency Operating and Capital Budgets. (City Manager's Office/Redevelopment Agency)

TO BE HEARD FIRST IN THE EVENING

- **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 7:00 p.m.**

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS

(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 at the southwest corner of Foxworthy Avenue and Almaden Expressway.](#)

Recommendation: Consideration of an [ordinance](#) rezoning the real property located at the southwest corner of Foxworthy Avenue and Almaden Expressway (1175 Hillsdale Avenue) from A(PD) Planned Development Zoning District to CN(PD) Planned Development Zoning District to modify the base zoning district and to add drive-through uses to the previously approved Planned Development Zoning allowing a range of commercial uses for up to 24,250 square feet of development on an approximately 2.17-acre portion of an approximately 10.44-acre site (Calvary Chapel San José, Owner). CEQA: Mitigated Negative Declaration and Addenda thereto. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). [PDC11-004](#) – District 9

11.3 [ADMINISTRATIVE HEARING and Consideration of an APPEAL of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity.](#)

Recommendation: Conduct an ADMINISTRATIVE HEARING and consider an appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol at a general retail/pharmacy store in an existing approximately 20,317 square-foot tenant space in a shopping center on an approximately 13.2 gross-acre site in the CG-Commercial General Zoning District located 100 feet westerly of the northwest corner of Morrill Avenue and Amberwood Lane (2105 Morrill Avenue) (Chiu Gabriel H Trustee & Et Al, Owner; Walgreens, Applicant). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial (5-0-2; Commissioners Kamkar and Platten Absent). [CP10-016/ABC10-003](#) – District 4

11. PUBLIC HEARINGS

11.4 ADMINISTRATIVE HEARING and Consideration of an APPEAL of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity.

Attachment – Memo from Councilmember Campos

Recommendation: Conduct an ADMINISTRATIVE HEARING and consider an appeal of the Planning Commission's decision to deny a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol at an existing full-service grocery store in an approximately 39,661 square-foot tenant space in a shopping center on a 14.10 gross-acre site in the CG-Commercial General Zoning District at the northeast corner of South White Road and Story Road (1070 S White road) (Mi Pueblo San José, Inc., Applicant / White Road Partners, LLC, Owner). SNI: East Valley/680 Communities. CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends the Council uphold the appeal and overturn the Planning Commission's decision to deny the permit and not grant the Determination of Public Convenience or Necessity.

CP11-017/ABC11-003 – District 5

- **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**

* This meeting will be adjourned in memory of Alejandra Maree Gonzales, whose vivacious approach to life and artistic expression inspired those around her, will be warmly remembered. (Campos)

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 discussion 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.