



# CITY COUNCIL AGENDA

**AUGUST 20, 2013**

## **SYNOPSIS**

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  
JOHNNY KHAMIS

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

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.

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

- **Call to Order and Roll Call**  
9:05 a.m. - Closed Session, Call to Order in Council Chambers  
**Absent Council Members: All Present.**  
  
1:30 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Members: All Present.**  
  
7:00 p.m. - Public Hearings, Council Chambers, City Hall  
**Absent Council Members: All Present.**
- **Invocation (District 7)**  
Pastor Danny Sanchez, Calvary Chapel San José provided 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 item 2.12, "Approval of a Subordination Agreement for the Boys and Girls Club of Silicon Valley," added, and Item 11.1(b) deferred to September 17, 2013.

- Closed Session Report  
None provided.

## 1. CEREMONIAL ITEMS

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- 1.1 Presentation of certification from The Greenroads Foundation to the City of San José, for the Monterey Road pavement rehabilitation and LED streetlighting project in south San José, the first Greenroads certified project in California. (Mayor)  
**Mayor Reed and Council Member Kalra commended The Greenroads Foundation for the Monterey Road pavement rehabilitation and LED streetlighting project in south San José.**
- 1.2 Presentation of a commendation recognizing Dean Sala and his small business Suntactics for perfecting solar charging technology for cellular devices and contributing to the advancement of green business practices. (Constant)  
**Mayor Reed and Council Member Constant recognized and commended Dean Sala and his small business Suntactics for perfecting solar charging technology for cellular devices and contributing to the advancement of green business practices.**
- 1.3 Presentation of a commendation recognizing the Local Agency Formation Commission of Santa Clara County for its outstanding work managing growth and encouraging the orderly formation of local agencies for 50 years. (Constant)  
**Mayor Reed and Council Member Constant recognized and commended the Local Agency Formation Commission of Santa Clara County for its outstanding work managing growth and encouraging the orderly formation of local agencies for 50 years.**
- 1.4 Presentation of commendations to the 2013 Synopsys Championship participants in recognition of their achievement and innovation in the fields of science and engineering. (Kalra)  
**Mayor Reed, Council Member Kalra and former Council Member Forrest Williams recognized and commended the 2013 Synopsys Championship participants in recognition of their achievement and innovation in the fields of science and engineering.**

## 2. CONSENT CALENDAR

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- 2.1 Approval of Minutes.  
None provided.

## 2. CONSENT CALENDAR

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### 2.2 Final Adoption of Ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 29281 - Amending Section 20.85.020 of Chapter 20.85 of Title 20 of the San José Municipal Code to clarify the maximum allowable building height within geographical employment centers including the Norman Y. Mineta San José International Airport.

**Ordinance No. 29281 adopted.**

### 2.3 Approval of Council Committee Reports.

**Recommendation:** Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of June 12, 2013. (Mayor)  
**Approved.**

### 2.4 Mayor and Council Excused Absence Requests. None provided.

### 2.5 City Council Travel Reports. No Reports.

### 2.6 Report from the Council Liaison to the Retirement Boards. No Report.

### 2.7 Agreement with Zero Waste Energy Development Company, LLC for the Zero Waste Project Ground Lease.

**Recommendation:** Adopt a resolution authorizing the City Manager to execute the First Amendment to the Zero Waste Project Ground Lease by and between the City of San José and Zero Waste Energy Development Company, LLC, permitting the tenant to sublease certain portions of the ground lease area for parking at the discretion of the City Manager. CEQA: Mitigated Negative Declaration, File No. SP09-057. Council District 4. (Environmental Services/Economic Development)  
(Deferred from 6/18/13 – Item 2.12)

**Resolution No. 76757 adopted.**

## 2. CONSENT CALENDAR

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### 2.8 Agreement with Habitat for Humanity Silicon Valley for the Environmental Innovation Center.

**Recommendation:** Adopt a resolution authorizing the City Manager to:

- (a) Execute the First Amendment to the Lease by and between the City of San José and Habitat for Humanity Silicon Valley to extend the date for delivery of the premises to no later than March 1, 2014, and to provide the tenant a right to terminate for convenience with 180 days notice; and
- (b) Negotiate and execute future amendments to the Lease to modify the dates for delivery and payment of rent in the event there are additional delays to the construction of the Environmental Innovation Center.

CEQA: Mitigated Negative Declaration, File No. PP09-138. Council District 3. (Economic Development)

**Resolution No. 76758 adopted.**

### 2.9 Agreement with ERM-West Inc. for Consulting Services.

**Recommendation:** Approve the First Amendment to the Master Agreement with ERM-West Inc. for environmental health and safety consulting services to increase the total compensation by \$300,000 for a maximum not to exceed amount of \$550,000. CEQA: Not a Project, File No. PP10-066(d), Consultant Services. Council District 4. (Environmental Services)

**Approved.**

### 2.10 Agreements with Wells Fargo Bank for WellsOne Commercial Card and Wells Fargo Supplier Analysis and Onboarding Commercial Card Conversion Service.

**Recommendation:** Adopt a resolution authorizing the Director of Finance to negotiate and execute agreements with Wells Fargo Bank for The WellsOne Commercial Card Service and Wells Fargo Supplier Analysis and Onboarding Commercial Card Conversion Service, and related documents, which enhance the vendor payment options to allow vendors to receive electronic payments in lieu of checks in a substantially shortened timeframe. CEQA: Not a Project, File No. PP10-066(a), Purchase Order/Cooperative Purchase of Supplies, Equipment & Professional Services with no changes in the physical environment. (Finance)

**Resolution No. 76759 adopted.**

### 2.11 Colombian Flag Raising.

**Recommendation:** As recommended by the Rules and Open Government Committee on August 14, 2013:

- (a) Approve the Colombian Flag Raising as a City Council sponsored Special Event; and
- (b) Approve expending funds and accepting donations from various individuals, businesses, or community groups to support the event.

CEQA: Not a Project. (Khamis)

**Approved.**

## 2. CONSENT CALENDAR

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### 2.12 Approval of a Subordination Agreement for the Boys and Girls Club of Silicon Valley.

**Recommendation:**

- (a) Council by motion waive the 10-day noticing requirement for the following item, approve its placement on the agenda, and consider the following recommendation.
- (b) Approve a Subordination Agreement to subordinate the City's existing Deed of Trust, as amended by a First Amendment to the Deed of Trust, on real property located at 2195 Cunningham Avenue, to a \$500,000 loan from Focus Bank.

CEQA: Not a Project, File No. PP10-066, Agreements for activities involving no physical changes to the environment. Council District 8. (Housing)

**REQUIRES A DETERMINATION BY A TWO-THIRDS (2/3) VOTE OF THE MEMBERS OF THE COUNCIL PRESENT AT THE MEETING, OR, IF LESS THAN TWO-THIRDS (2/3) OF THE MEMBERS OF THE COUNCIL ARE PRESENT AT THE MEETING, A UNANIMOUS VOTE OF THOSE MEMBERS PRESENT THAT THERE IS A NEED TO TAKE IMMEDIATE ACTION.**

**Council's Rules of Conduct Resolution, Rule 3(d).**

**Approved.**

## 3. STRATEGIC SUPPORT SERVICES

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

**City Manager Debra Figone provided an update on the evacuation at San José Family Camp due to the Rim Fire, adding that the evacuation advisory remains in place and an information memo will be provided to Council with further updates.**

### 3.2 Labor Negotiations Update

**Recommendation:** Accept Labor Negotiations Update.

**Accepted.**

*Note: Items 3.3 and 3.4 were heard concurrently.*

### 3.3 Rules and Open Government Referrals to the Elections Commission Regarding Campaign Contribution Limits and Voluntary Expenditure Limits, Electioneering Communication Disclosures, and Elections and Recounts.

**Recommendation:** As recommended by the Rules and Open Government Committee on August 7, 2013, discuss the Elections Commission response to the referrals from Rules and Open Government regarding the following: (1) campaign contribution limits; (2) electioneering communications disclosures; and (3) elections and recounts. CEQA: Not a project, File No. PP10-068(c), Code or Policy change that involves no physical changes to the environment. (City Clerk) [Rules Committee referral 8/7/13 – Item G(9)]

**Approved.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.4 Ethics Commission Title 12 Revisions and Revisions to Administrative Procedures.

**Recommendation:** As recommended by the Rules and Open Government Committee on August 7, 2013:

- (a) Discussion and direction relating to Title 12, Disclosure of Electioneering Communications.
- (b) Approve an ordinance amending Chapters 12.05 and 12.06 of Title 12 of the San José Municipal Code to amend Sections 12.05.040, 12.06.295, 12.06.510, 12.06.910, 12.06.915, and 12.06.1010, and adding a new section 12.06.215 relating to Elections.

**Ordinance No. 29282 passed for publication, with revisions as follows:**

- (1) **Add clarification language to 12.06.915: “Each candidate, candidate controlled committee and independent committee *for whom the City Clerk is the regular filing official* . . .”;**
  - (2) **Change Section 12.06.295 to reflect a 45-day period after the election for a candidate to deposit personal funds into their campaign account for the purpose of paying outstanding debt, but not to exceed 5% of the voluntary expenditure limit;**
  - (3) **Specify the electioneering communication size for signs is 5% of the printable height of the publication.**
- (c) Direct staff relating to amendments to Chapter 12.08, the Gift Ordinance.  
CEQA: Not a project, File No. PP10-068(c), Code or Policy change that involves no physical changes to the environment. (City Clerk)  
[Rules Committee referral 8/7/13 – Item G(10)]  
**No Action Taken**

#### 3.5 Mayor’s 2013 Biennial Ethics Review and Recommendations.

**Recommendation:** As recommended by the Rules and Open Government Committee on August 7, 2013:

- (a) Direct the City Attorney to work with the City Clerk and City Manager to draft an ordinance that codifies Open Government policies and practices previously adopted in pilot form to ensure ethical and open government. These policies include the Reed Reforms, Sunshine Reforms, and Procurement Reform;
- (b) Direct staff to draft a single procedural document (Council Resolution or Council Policy) incorporating process and procedures to provide practical guidance and ensure compliance with the purpose and goals of the Open Government Ordinance;
- (c) Direct staff to include any recommendation for modification to current policies that may be desirable to make the ordinance clear or easier to administer; and
- (d) Direct staff to work with the Rules and Open Government Committee on development of the ordinance and procedural document.

CEQA: Not a project, File No. PP10-068(c), Code or Policy change that involves no physical changes to the environment. (Mayor) [Rules Committee referral 8/7/13 –G(14)]  
**Approved.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.6 Ordinance Implementing Changes to Federated Tier 2 Retiree Health Care Benefits.

**Recommendation:** Approve an ordinance amending various sections of Chapters 3.38 and 3.49 of Title 3 of the San José Municipal Code to implement changes to retiree healthcare benefits in the Tier 2 pension plan for new employees in the Federated City Employees Retirement Plan. CEQA: Not a Project; File No. PP10-068(c), Municipal Code or Policy change that involves no changes in the physical environment. (City Attorney's Office)

(Deferred from 8/13/13 – Item 3.5)

**Ordinance No. 29283 passed for publication.**

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 5. NEIGHBORHOOD SERVICES

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#### 5.1 Audit of Graffiti Abatement.

**Recommendation:** As recommended by the Public Safety, Finance, and Strategic Support Committee on June 20, 2013, accept the Audit of Graffiti Abatement. (City Auditor)

[Public Safety, Finance, and Strategic Support Committee referral 6/20/13 – Item D(7)]

(Deferred from 8/13/13 – Item 5.3)

**Accepted.**

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 Actions Related to the Shuttle Bus Service at the Airport.

**Recommendation:** Report on Request for Proposal for Shuttle Bus Service at the Norman Y. Mineta San José International Airport and adopt a resolution authorizing the City Manager to:

- (a) Execute an agreement with Veolia Transportation Services, Inc. (Lombard, IL) to provide Airport Shuttle Bus Services, for an initial four year term ending August 31, 2017, with maximum compensation not to exceed \$3,861,541 for the period September 1, 2013 through August 31, 2014;
- (b) Adjust the maximum compensation annually consistent with the terms of the agreement, subject to changes in the Consumer Price Index, not to exceed 3% annually and subject to the appropriation of funds;
- (c) Execute amendments and change orders to the agreement to add or delete routes and schedules due to service requirements at the Airport, subject to the appropriation of funds; and
- (d) Execute up to six one-year options to extend the agreement, subject to the appropriation of funds.

CEQA: San Jose International Airport Master Plan Update EIR (File No. PP95-110), Resolution No. 67380 and SEIR (File No. PP02-226), Resolution No.71451. (Finance)  
**Deferred to 8/27/13 per Administration.**

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 Actions Related to the Issuance of Commercial Solid Waste and Recyclables Collection Franchises.

**Recommendation:**

- (a) Conduct a public hearing on the applications of ECO Box Recycling Inc., Peninsula Debris Box Service LLC, and Ta Trucking for Commercial Solid Waste and Recyclables Collection Franchises for the nonexclusive collection and transport of residential clean-out material and construction and demolition debris.  
**Public hearing held.**
- (b) Approve the ordinances granting the franchises to ECO Box Recycling Inc., Peninsula Debris Box Service LLC, and Ta Trucking.  
**Ordinance No. 29284 passed for publication.**  
**Ordinance No. 29285 passed for publication.**  
**Ordinance No. 29286 passed for publication.**

*(Item Continued on the next page)*

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 Actions Related to the Issuance of Commercial Solid Waste and Recyclables Collection Franchises (Cont'd.)

- (c) Approve the Commercial Solid Waste and Recyclables Collection Franchise Agreements with ECO Box Recycling Inc., Peninsula Debris Box Service LLC, and Ta Trucking for the non-exclusive collection and transport of residential clean-out material and construction and demolition debris for a term from November 1, 2013, to June 30, 2014, with the option of up to three, one-year extensions. CEQA: Exempt, File No. PP08-228. (Environmental Services)  
**Approved.**

### 7.2 City Energy Project Overview and Funding Opportunity.

**Recommendation:** As recommended by the Transportation and Environment Committee on August 12, 2013, provide direction to staff on potential grant application to City Energy Project for commercial building energy efficiency program. CEQA: Not a Project, File No. PP10-068(a), Grant Application.  
[Transportation and Environment Committee referral 8/12/13 – Item D(3)]  
**Accepted.**

## 8. PUBLIC SAFETY SERVICES

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## 9. REDEVELOPMENT – SUCCESSOR AGENCY

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### 9.1 Actions Related to the Merged Area Redevelopment Project Taxable Subordinate Housing Set-Aside Tax Allocation Variable Rate Bonds, Series 2010C.

- Recommendation:** It is recommended that the Successor Agency to the Redevelopment Agency of the City of San José (the “Successor Agency”), adopt a resolution:
- (a) Authorizing, subject to the approval of the Oversight Board of the Successor Agency (the “Oversight Board”) and review by the State Department of Finance (“DOF”), the execution and delivery, in substantially final form, of a First Supplement to Fiscal Agent Agreement between the Successor Agency and Wells Fargo Bank, National Association, as Fiscal Agent relating to the Redevelopment Agency of the City of San José Merged Area Redevelopment Project Taxable Subordinate Housing Set-Aside Tax Allocation Variable Rate Bonds, Series 2010C (the “2010C Bonds”);

*(Item Continued on the next page)*

## **9. REDEVELOPMENT – SUCCESSOR AGENCY**

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### **9.1 Actions Related to the Merged Area Redevelopment Project Taxable Subordinate Housing Set-Aside Tax Allocation Variable Rate Bonds, Series 2010C (Cont'd.)**

- (b) Authorizing, subject to the approval of the Oversight Board and review by DOF, the execution and delivery, in substantially final form, of an Amended and Restated Continuing Covenant Agreement with Wells Fargo Bank, National Association, as initial bondholder of the 2010C Bonds; and
- (c) Authorizing the Executive Officer and Chief Financial Officer of the Successor Agency, or their designee, to take any actions and execute any and all documents necessary to complete this transaction.

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

**Successor Agency to the Redevelopment Agency Resolution No. 7023 adopted.**

- **Open Forum**

- (1) **Mark Trout offered personal viewpoints.**
- (2) **Jesse Singh (Bay Area Taxi Company Association) criticized illegal transportation for hire operations in San José.**
- (3) **Bikram Jeet Singh (Alpha Cab/California Cab Company) requested that an extended response period be allowed to the public regarding taxi cab transportation services.**

- **Adjournment**

**The Council of the City of San José adjourned the afternoon session at 5:11 p.m.**

## **10. GENERAL PLAN PUBLIC HEARINGS**

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No General Plan Public Hearing at this time.

# 11. PUBLIC HEARINGS

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## 11.1 Public Hearings on Consent Calendar.

### **Recommendation:**

- (a) Consideration of a resolution adopting a mitigated negative declaration and an ordinance rezoning the real property located on the southeast corner of Mabury Road and Educational Park Drive from the A-Agricultural Zoning District to the A(PD) Planned Development Zoning District to allow up to 18 single-family detached residences on a 3.42 gross acre site (Sabatino Murphy A Jr Trustee & Et Al, Owner). CEQA: Mitigated Negative Declaration to be adopted. Planning Commission recommends approval (7-0-0).

PDC12-010 – District 4

**Resolution No. 76760 adopted.**

**Ordinance No. 29287 passed for publication.**

- (b) Consideration of a resolution adopting a mitigated negative declaration and an ordinance rezoning the real property located on the southwest corner of Guadalupe Mines Road and Camden Avenue (6055 Guadalupe Mines Road) from the R-1-1 Single Family Zoning District to the A(PD) Planned Development Zoning District to allow up to six (6) single-family detached homes (including one existing single-family detached residence) on a 7.2 gross acre site (Margolis Adele P Trustee, Owner). CEQA: Mitigated Negative Declaration to be adopted. Planning Commission recommends approval (7-0-0).

PDC12-024 – District 10

**Deferred to 9/17/13 per Orders of the Day.**

### **END OF PUBLIC HEARINGS ON CONSENT CALENDAR**

## 11.2 Conditional Use Permit and Determination of Public Convenience or Necessity to Allow the Off-Sale of Alcoholic Beverages within a Neighborhood Grocery Store.

**Recommendation:** Consideration of a Conditional Use Permit and Determination of Public Convenience or Necessity request to allow the off-sale of alcoholic beverages within a neighborhood grocery store (Walmart) in an existing building on a 1.061 gross acre site within the CG Commercial General Zoning District, located on the south side of Stevens Creek Blvd between Kiely Blvd and Saratoga Ave (4080 Stevens Creek Boulevard) (Smythe European Inc, Owner). CEQA: Exempt. Planning Commission recommends approval (5-2-0).

CP13-029/ABC13-003 – District 1

**Resolution No. 76761 adopted.**

**Noes: Kalra.**

# 11. PUBLIC HEARINGS

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## 11.3 Actions Related to the Real Property Located at the Southwest Corner of West San Carlos and Sunol Streets Extending to Auzerais Avenue.

### **Recommendation:**

- (a) Consideration of an ordinance rezoning the real property located at the southwest corner of West San Carlos and Sunol Street extending to Auzerais Avenue (860 West San Carlos Street) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District for a previously approved development to allow the following: (1) a change in the range of multi-family residential units from 680-800 to 600-800 units; (2) a change in the range of commercial square footage from 24,000-30,000 to 12,500-30,000 square feet; and (3) a reduction in building height on Block C from 140-150 feet to 50-80 feet, on an 8.0 gross acre site (Santa Clara County Transit District (VTA), Owner). CEQA: Ohlone Mixed Use EIR, File No. PDC08-061, Resolution No. 75192. PDC13-004 – District 6
- (b) Consideration of an ordinance approving a Development Agreement with Green Republic, LLLP, Valley Transportation Authority (VTA), Dianne Ryan Trust, 861 Auzerais Investment, Green Valley Corporation, and Carolyn Pahle Trust, to develop up to 800 multi-family attached residential units and a minimum of 14,000 square feet of ground floor commercial space on three blocks with a minimum of two tower structures and one structure with a minimum height of 70 feet, consistent with the proposed Planned Development Zoning (File No, PDC13-004), and subject to the performance by Green Republic, LLLP for the dedication of parkland, contribution of funds for public transportation improvements serving the development, accelerated construction of street and utility infrastructure, submittal of building permits for the first high rise and commencement of construction and subsequent occupancy per deadlines of performance included in this agreement, on an 8.0 gross acre site, located at the southwest corner of West San Carlos and Sunol Streets extending to Auzerais Avenue (860 W. San Carlos Street). CEQA: Ohlone Mixed Use EIR, File No. PDC08-061, Resolution No. 75192. DA13-002 – District 6

**Deferred to 9/17/13 per Administration.**

# 11. PUBLIC HEARINGS

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## 11.4 Actions Related to the Real Property Located on the North Side of The Alameda.

### **Recommendation:**

- (a) Consideration of a resolution adopting a mitigated negative declaration and an ordinance rezoning the real property located on the north side of The Alameda approximately 310 feet west of Stockton Avenue from the CG – Commercial General and LI – Light Industrial Zoning Districts to the A(PD) Planned Development Zoning District to allow up to 70 residential units and a minimum of 22,651 square feet of commercial uses on a 1.04 gross acre site.

**Resolution No. 76762 adopted.**

**Ordinance No. 29288 passed for publication.**

- (b) Consideration of adoption of a resolution approving a Planned Development Permit to allow the construction of up to 70 residential units on a minimum of 22,651 square feet of commercial uses.

CEQA: Mitigated Negative Declaration to be adopted. Planning Commission recommends approval (7-0-0).

PDC13-007/PD13-010 – District 6

**Resolution No. 76763 adopted.**

## 11.5 Conditional Use Permit and Determination of Public Convenience or Necessity to Allow the Sale of the Full Range of Alcoholic Beverages.

**Recommendation:** Consideration of a Conditional Use Permit and Determination of Public Convenience or Necessity request to allow the sale of the full range of alcoholic beverages (Type 21) for off-site consumption at an existing full-service grocery store on a 4.75 gross acres site, within the CG Commercial General Zoning District, located on the west side of Senter Road, approximately 150 feet north of Lewis Road (2889 Senter Road) (Ngu Hanh Son, Inc. Owner). CEQA: Exempt. Planning Commission recommends approval (7-0-0).

CP12-040/ABC12-012 – District 7

**Adoption of resolution continued to 9/10/13 Consent Calendar per Staff.**

**Approved.**

**Noes: Liccardo.**

- **Open Forum**

None.

- **Adjournment**

**The Council of the City of San José was adjourned at 8:30 p.m.**