



# CITY COUNCIL AGENDA

**DECEMBER 3, 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 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.

You may speak to the City Council about any discussion 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](http://www.sanjoseca.gov/clerk/agenda.asp). Council Meetings are televised live and rebroadcast on Channel 26.

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

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

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

- **Call to Order and Roll Call**  
9:32 a.m. - Closed Session, Call to Order in Council Chambers  
**Absent Council Members: Constant. (Excused)**  
  
1:31 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Members: Constant. (Excused)**
- **Invocation (Mayor)**  
Fred Ferrer, CEO of The Health Trust, 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 Items 3.3 and 3.8 to be heard together.
- **Closed Session Report**  
No Report.

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of proclamation declaring the week of December 9 – 15, 2013 as “Computer Science Week” in the City of San José. (Liccardo)  
**Mayor Reed and Council Member Liccardo recognized the week of December 9 – 15, 2013 as “Computer Science Week” in the City of San José.**

# 2. CONSENT CALENDAR

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- 2.1 **Approval of Minutes.**  
**None.**

- 2.2 **Final Adoption of Ordinances.**

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 29344 – Rezoning certain real property situated on the northwest corner of Race Street and Parkmoor Avenue (529, 581 and 691 Race Street) from the HI-Heavy Industrial Zoning District to the IP – Industrial Park Zoning District.

**Ordinance No. 29344 passed for publication.**

- (b) ORD. NO. 29345 – Rezoning certain real property situated westerly of Bering Drive between East Brokaw Road and Crane Court on a 31.09 gross-acre site (APNS 237-16-071, 237-16-072, 237-16-073) from the IP Industrial Park, LI Light Industrial, CG Commercial General, R-2 two-family residence, and IP(PD) Zoning Districts to the TEC Transit Employment Center Zoning District.

**Ordinance No. 29345 passed for publication.**

- (c) ORD. NO. 29346 – Prezoning certain real property situated on the west side of Thornton Way approximately 260 feet northerly of Maywood Avenue from County of Santa Clara to the R-M Multiple Family Residence Zoning District.

**Ordinance No. 29346 passed for publication.**

- 2.3 **Approval of Council Committee Reports.**

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

- (a) Community and Economic Development Committee Report of October 28, 2013. (Herrera)

[Deferred from 11/19/13 – Item 2.3(c)]

- (b) Rules and Open Government Committee Report of November 6, 2013. (Mayor)  
**Approved.**

*(Item Continued on the next page)*

## 2. CONSENT CALENDAR

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### 2.3 Approval of Council Committee Reports (Cont'd.)

- (c) Neighborhood Services and Education Committee Report of November 14, 2013. (Nguyen)
- (d) Community and Economic Development Committee Report of November 18, 2013. (Herrera)

**Deferred to 12/10/13 per the City Clerk.**

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

### 2.5 City Council Travel Reports.

**Recommendation:**

- (a) Travel Report from Council Member Chu. (Chu)  
**Accepted.**

### 2.6 Report from the Council Liaison to the Retirement Boards. None.

### 2.7 Council Member Chu's Travel to Newport Beach, CA.

**Recommendation:** Approve travel by Council Member Chu to Newport Beach, CA on November 6-8, 2013, to attend the League of California Cities League Leaders Strategic Planning Workshop and Board of Director's Meeting. Source of Funds: League of California Cities. (Chu)

**Approved.**

### 2.8 Amendment to the Agreement for Parking Access Revenue Control and Automatic Vehicle Identification System.

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

- (a) Negotiate and execute the Seventh Amendment to the Agreement with ACS Transport Solutions, Inc. (Dallas, Texas) to restate the Maintenance and Service Scope of Services to meet current operational needs, extend the term through July 31, 2016, add two one-year options to extend the Agreement, and increase maximum compensation by \$164,614 not to exceed \$644,843 for the initial twelve months;
- (b) Exercise up to two additional one-year options to extend the Agreement subject to appropriation of funds; and

*(Item Continued on the next page)*

## 2. CONSENT CALENDAR

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### 2.8 Amendment to the Agreement for Parking Access Revenue Control and Automatic Vehicle Identification System (Cont'd.)

- (c) Approve a contingency amount of \$100,000 in the event that additional services are required, or there are unanticipated material and repair costs not covered by the scope of services.

CEQA: Not a project, File No. PP10-066(a), Purchase Order/Cooperative Purchase of Supplies, Equipment and Professional Services with no changes in the physical environment. (Finance)

**Resolution No. 76860 adopted.**

### 2.9 Agreement with AON Consulting, Inc. dba AON Hewitt for Health and Welfare Consultant Services.

#### **Recommendation:**

- (a) Approve an Agreement for Consultant Services with AON Consulting, Inc. dba AON Hewitt related to City's health and welfare plans and actuarial services, for the initial term of January 1, 2014 through June 30, 2014, including up to three one-year and one six-month extension options, in an initial amount not to exceed \$92,500, and a maximum amount not to exceed \$781,898, subject to the appropriation of funds by the City Council; and  
**Approved.**

- (b) Adopt a resolution authorizing the City Manager to exercise the City's option to extend the Agreement for Consultant Services with AON Consulting, Inc. dba AON Hewitt related to City's health and welfare plans and actuarial services for up to three one-year terms and one six-month term through December 31, 2017, subject to the appropriation of funds by the City Council.

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Human Resources)

**Resolution No. 76861 adopted.**

### 2.10 Urban Areas Security Initiative Governance Memorandum of Understanding.

**Recommendation:** Adopt a resolution authorizing the City Manager to execute a joint four-year Memorandum of Understanding (Updated Governance MOU) between the Bay Area Urban jurisdictions, which is comprised of: City of Oakland, City of San José, City and County of San Francisco, County of Alameda, County of Contra Costa, County of Marin, County of Monterey, County of San Mateo, County of Santa Clara, and County of Sonoma as partners in the Bay Area Urban Areas Security Initiative grant program with an effective date retroactive to December 1, 2013 to December 1, 2017. CEQA: Not a Project, File No. PP10-066(g.), Grant Agreements and Memorandum of Understandings. (Police/Fire)

**Resolution No. 76862 adopted.**

## 2. CONSENT CALENDAR

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### 2.11 Vacation of a Portion of Rio Hondo Drive for Public Service Easement.

**Recommendation:** Adopt a resolution summarily vacating a portion of a Public Service Easement within a private property located at 1284 Rio Hondo Drive (APN 581-02-003). CEQA: Exempt, File No. PP13-091. Council District 10. (Public Works)

**Resolution No. 76863 adopted.**

### 2.12 Agreement with Kimley-Horn and Associates, Inc. for the Signal Retiming Project.

**Recommendation:** Approve a consultant agreement with Kimley-Horn and Associates, Inc. for the Vehicle Registration Fee San José Signal Retiming Project in a total amount not to exceed \$291,450 with a term ending June 30, 2014, with an option for the Director of Transportation to extend the term for an additional six months, if necessary. CEQA: Resolution No. 76041, File No. PP13-099. Council Districts 1, 2, 3, 5, 7, and 10. (Transportation)

**Approved.**

### 2.13 Operation Prom Dress.

**Recommendation:** As recommended by the Rules and Open Government Committee on November 20, 2013:

- (a) Approve the Operation Prom Dress as a City Council sponsored Special Event authorizing the expenditure of funds;
- (b) Approve and accept of donations from various individuals, businesses or community groups to support Operation Prom Dress; and
- (c) Approve retroactive expenses related to the 2013 Operation Prom Dress, a City Council sponsored special event.

CEQA: Not a Project. (Nguyen)

[Rules Committee referral 11/20/13 – Item G(2)]

**Approved.**

## 3. STRATEGIC SUPPORT SERVICES

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

**City Manager Debra Figone announced that the Police Officers' Association has ratified the tentative agreement that it reached two weeks ago with the City. The agreement will be returned before Council on December 10, 2013 for consideration.**

### 3.2 Labor Negotiations Update

**Recommendation:** Accept Labor Negotiations Update.  
**None provided.**

### 3. STRATEGIC SUPPORT SERVICES

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*Note: Items Item 3.3 and 3.8 were heard together*

#### 3.3 2012-2013 Annual Performance Audit of Team San José Management of the City Convention and Cultural Facilities.

**Recommendation:** As recommended by the Public Safety, Finance, and Strategic Support Committee on October 17, 2013, accept the 2012 Annual Performance Audit of Team San José Management of the City’s Convention and Cultural Facilities. (City Auditor)

[Public Safety, Finance and Strategic Support Committee referral 10/17/13 – Item D(7)]  
**Accepted.**

#### 3.4 Ordinance Related to Officeholder/Candidate Legal Defense Funds.

**Recommendation:** As recommended by the Rules and Open Government Committee on October 30, 2013, approve an ordinance amending Chapter 12.06 of Title 12 of the San José Municipal Code to amend Section 12.06.810 and to add a new Part 11 related to Officeholder/Candidate Legal Defense Funds. CEQA: Not a Project, File No. PP10-068(b), Municipal Code or Policy. (City Attorney)

[Rules Committee referral 10/30/13 – Item G(4)]

(Deferred from 11/19/13 – Item 3.3)

**Deferred to 12/10/13 per Administration**

#### 3.5 Appeals Hearing Board Interviews.

**Recommendation:**

- (a) Interview applicants for appointment to the Appeals Hearing Board;
- (b) Appoint two (2) members to the Appeals Hearing Board; and
- (c) If no appointment is made, direct the City Clerk to continue recruitment efforts and bring additional applicants forward for consideration within 90-days.

(City Clerk)

**Rajwant Bains (Incumbent) and Ronald Cabanayan were appointed to the Appeals Hearing Board for terms expiring December 31, 2017.**

#### 3.6 Civil Service Commission Interviews.

**Recommendation:**

- (a) Acknowledge receipt of the Certification by the City Clerk of results of elections conducted among employees for the nomination of an employee representative to the Civil Service Commission.
- (b) At the Council’s discretion appoint a member of the Civil Service Commission to a term expiring November 30, 2017.

(City Clerk)

**Bill Brill was appointed to the Civil Service Commission for a term expiring November 30, 2017.**

**Noes: Liccardo.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.7 Police and Fire Retirement Plan Board of Administration and Federated City Employees Retirement System Board of Administration Interviews.

**Recommendation:**

- (a) Acknowledge receipt of the following:
  - (1) The Certification by the City Clerk of results of elections conducted among active Police Department employees for the nomination of a Police Department employee representative to the Board of Administration of the Police and Fire Department Retirement Plan.
  - (2) The Certification by the City Clerk of results of elections conducted among employee members of the Federated Retirement System for the nomination of an employee representative to the Board of Administration of the Federated City Employees' Retirement System.

**Received.**

- (b) At the Council's discretion:
  - (1) Appoint one active Police Department employee to the Board of Administration of the Police and Fire Department Retirement Plan to a term expiring November 30, 2017.
  - (2) Appoint one active employee member to the Board of Administration of the Federated City Employees' Retirement System (FCERS) to a term expiring November 30, 2017. (City Clerk)

**Lisa C. Taitano was appointed Employee Representative, Federated City Employees' Retirement System to a term expiring November 30, 2017.**

**James R. Mason was appointed Police Representative, Police and Fire Retirement Plan to a term expiring November 30, 2017.**

#### 3.8 Actions Related to the 2013-2014 Performance Measures of Team San José Management of the City Convention and Cultural Facilities.

**Recommendation:**

- (a) Approve the Team San José performance measure for 2013-2014.

**Approved.**

- (b) Adopt the following 2013-2014 Appropriation Ordinance amendments in the Convention and Cultural Affairs Fund:
  - (1) Decrease the Ending Fund Balance by \$150,000; and
  - (2) Increase the Office of Economic Development's appropriation for Team San José Incentive Fee by \$150,000.

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. Council District 3. (City Manager's Office)

**Ordinance No. 29347 adopted.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.9 Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2013.

**Recommendation:** As recommended by the Public Safety, Finance, and Strategic Support Committee on November 21, 2013, accept the Fiscal Year 2012-2013 Comprehensive Annual Financial Report for the City of San José. CEQA: Not a Project, File No. PP10-69(a) Annual Reports. (Finance)  
[Public Safety, Finance, and Strategic Support Committee referral 11/21/13 –Item d(8)]  
**Accepted.**

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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#### 4.1 Ordinance Implementing 2013 Fire Code Standards.

**Recommendation:** Approve an ordinance amending Chapter 17.12 of the San José Municipal Code to:

- (a) Adopt the 2013 edition of the California Fire Code (CFC), and the Standards referenced in 2013 CFC;
- (b) Approve an ordinance to adopt the 2013 California Fire Code with the local amendments regarding fire suppression and alarm requirements, firefighter breathing air replenishment system for high-rise buildings, and the requirements relating to the design and installation of fire protection and special systems and hazardous material systems.

CEQA: Exempt, File No. PP13-082. (Planning, Building and Code Enforcement/Fire)  
[Community and Economic Development Committee referral 9/23/13 – Item D(6)(2) and Public Safety, Finance, and Strategic Support Committee referral 10/17/13 – Item D(4)]  
[Deferred from 11/5/13 – Item 4.1(b) and from 11/19/13 – Item 4.1]

**4.1(a) was adopted. Action on 4.1(b) regarding installation of a firefighter breathing air replenishment system for high-rise buildings was deferred until Council has an opportunity for further review. Staff directed to return with an update before the Rules and Open Government Committee within 90 days for further discussion, with particular emphasis on the use of a proprietary system and with input from the Fire Fighter’s Union Local 230.**

**Ordinance No. 29349 passed for publication, as amended.**

**Noes: Kalra, Nguyen.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.2 Lease Renewal for the San José Municipal Stadium.

**Recommendation:**

- (a) Approve the amended and restated lease between the City of San José and the San José Giants, dba., Baseball Acquisition Company, Inc., regarding the San José Municipal Stadium located at 588 E. Alma Avenue, in order to extend the existing lease for five years, with a new expiration date of December 31, 2018; and
- (b) Approve a memorandum of understanding between the City, San José Giants and Sharks Ice regarding the roles and responsibilities for the management of the Municipal Stadium parking lot.

CEQA: Exempt, File No. PP07-217. Council District 7. (Economic Development)

**Deferred to 12/17/13 per Administration**

### 4.3 Agreement with Bayscape Landscape Management, Inc. for Landscape Management Services in General Fund and Special District Landscape Areas.

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

- (a) Execute an agreement with Bayscape Landscape Management, Inc. (San José, CA) for Landscape Management and Maintenance Services for Public Right-of-Way locations in three General Fund and three Special District landscape areas, for an initial two-year term ending December 3, 2015, with maximum compensation not to exceed \$1,251,200;
- (b) Execute five one-year options to renew the agreement, subject to the appropriations of funds; and
- (c) Execute change orders as required to add or delete sites, or change service levels due to seasonal changes or budget constraints, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)

**Resolution No. 76864 adopted.**

### 4.4 Levitt Pavilions and St. James Park.

**Recommendation:** As recommended by Rules and Open Government Committee on November 13, 2013: authorize the City Manager to participate in a community-led process to explore a partnership with the national nonprofit Levitt Pavilions, such that the City would:

- (a) Designate a representative to sit on the “Friends of Levitt San José” Exploratory Committee, to assess the feasibility of a Levitt Pavilion in St. James Park. The duties of the Committee would include:
  - (1) Engaging the community to generate broad input concerning the implementation, location and design of a pavilion;
  - (2) Researching existing Levitt Pavilions to understand best practices in other cities;

*(Item Continued on the next page)*

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.4 Levitt Pavilions and St. James Park (Cont'd.)

- (a)
  - (3) Exploring potential sites within St. James Park for a pavilion with local residents and city staff;
  - (4) Formulating a business plan for Friends of Levitt San José;
  - (5) Identifying and recruiting individuals to form a Friends of Levitt Board of Directors;
  - (6) If City and Levitt approval appears likely, beginning donor identification for a future capital campaign and operating support; and
  - (7) Communicating regularly with Levitt Pavilions regarding the exploratory process.
- (b) Designate the Exploratory Committee an official city-sponsored event for fundraising purposes;
- (c) Bring the activities and ultimate recommendation of the Exploratory Committee before the appropriate City Boards and Commissions prior to Council approval, including the Arts Commission, Parks Commission and Historic Landmarks Commission;
- (d) Define a geographically- define district in the blocks surround St. James Park (“District”) within which to identify sources of future fees or assessments to fund the construction, operations, and maintenance of a Levitt Pavilion and other potential park improvement; and
- (e) Facilitate the Exploratory Committee’s effort to construct a potential funding plan that may include the use of any of the following tools:
  - (1) Development agreements with developers of nearby projects;
  - (2) Benefit assessment districts;
  - (3) Property-bases improvements districts;
  - (4) Infrastructure-based tax-increment financing;
  - (5) Dedication of park fees where a developer voluntarily chooses to contribute equal or greater funds;
  - (6) Establishment of a maintenance trust;
  - (7) Use of park fees for an “establishment period”, until other revenues emerge; and
  - (8) Use of the San José Downtown Association’s Community Development Corporation.

(Liccardo)

[Rules Committee referral 11/13/13 –Item G(2)]

**Approved, with Staff directed to return to the Community & Economic Development Committee in April 2014 with more information, including how issues such as crime and blight were addressed in the successful revitalization of other urban parks and with extensive outreach to the neighboring community before returning to Council.**

**Noes: Oliverio.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.5 Historical Landmark Nomination for the "Stevens Ranch Fruit Barn".

**Recommendation:** Conduct a public hearing and adopt a resolution designating the Stevens Ranch Fruit Barn (City Landmark No. HL13-210), located at History Park (1650 Senter Road), as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature (City of San José, Owner). CEQA: Exempt. (Planning, Building and Code Enforcement)

HL13-210 – District 7

**Public hearing held.**

**Resolution No. 76865 adopted.**

### 4.6 Historical Landmark Nomination and Mills Act Historical Property Contract for the "Dr. Kapp House".

**Recommendation:** Consider a Historic Landmark Nomination and Mills Act Historic Property Contract for the "Dr. Kapp House" located at 197 South 13th Street (City Landmark No. HL13-211 and California Mills Act No. MA13-003).

- (a) Conduct a public hearing and adopt a resolution designating the "Dr. Kapp House" as a landmark of special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature; and

**Public hearing held.**

**Resolution No. 76866 adopted.**

- (b) Conduct a public hearing on the Historic Property contract (California Mills Act) between the City of San José and the property owner of the "Dr. Kapp House" (Kim Aldridge, Owner) and adopt a resolution approving a contract.

HL13-211/MA13-003 – District 3

**Public hearing held.**

**Resolution No. 76867 adopted.**

### 4.7 Amendment to Title 20 of the San José Municipal Code (the Zoning Ordinance).

**Recommendation:** Consideration of an ordinance amending Title 20 of the San José Municipal Code (the Zoning Ordinance) as follows:

- (a) Amending Chapter 20.10 (Zoning Districts Established) to add the PQP Public/Quasi-Public Zoning District to Table 20-10;
- (b) Amending Chapter 20.20 (Open Space & Agricultural Zoning Districts) to change the requirement from a Conditional to a Special Use Permit for exceedance of decibel levels in Table 20-45;
- (c) Amending Chapter 20.40 (Commercial Zoning Districts) to add land uses applicable to Urban Villages to the purposes of the CP Commercial Pedestrian Zoning District, to establish the PQP Public/Quasi-Public Zoning District and enumerate allowed uses, and to add enumerated uses applicable to the Commercial Zoning Districts including:

*(Item Continued on the next page)*

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

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### **4.7 Amendment to Title 20 of the San José Municipal Code (the Zoning Ordinance). (Cont'd.)**

- (c)
  - (1) Adding Permit Requirements for Conditional Uses requiring City Council approval as the initial decision-making body,
  - (2) Adding Aquaculture/Aquaponics as a Special Use,
  - (3) Adding “auction” and “stadiums” as Conditional Uses,
  - (4) Adding Neighborhood Agriculture and “fuel cells” as Permitted Uses,
  - (5) Adding Plant Nursery as a Permitted Use in the CO Commercial Office and PQP Public/Quasi-Public Zoning Districts;
  - (6) Allowing animal grooming and animal boarding as Permitted Uses incidental to Neighborhood Agriculture in the CO Commercial Office and in the PQP Public/Quasi-Public Zoning Districts.
  - (7) Changing Bail Bond Establishment from a Permitted Use to a Special Use in the CP Commercial Pedestrian Zoning District where located within an Urban Village;
  - (8) Adding construction/corporation yard and Utility Facilities including corporation yards as Conditional Uses in the PQP Public/Quasi-Public Zoning District;
  - (9) Adding Common Carrier as a Conditional Use and Common Carrier Depot as a Special Use in the PQP Public/Quasi-Public Zoning District;
  - (10) Changing Mixed Use residential/commercial from a Conditional Use to a Special Use in the CP Commercial Pedestrian Zoning District where located within an Urban Village;
  - (11) Changing Payday Lending Establishment from a Restricted Use to a Prohibited Use in the CP Commercial Pedestrian Zoning District where located within an Urban Village;
  - (12) Changing accessory installation, sale or lease of commercial vehicles, and tires, batteries, oil change and smog check servicing from Prohibited Uses to Conditional Uses in the CP Commercial Pedestrian Zoning District,
  - (13) Changing sale of vehicle parts from a Conditional Use to a Special Use in the CP Commercial Pedestrian Zoning District,
  - (14) Amending Section 20.40.120 to allow outdoor animal care as an incidental use to Neighborhood Agriculture;
- (d) Amending Section 20.40.200 (Development Standards) to establish development standards for the PQP Public/Quasi-Public Zoning District and to modify development standards in the CP Commercial Pedestrian Zoning District where located within an Urban Village;
- (e) Amending Section 20.40.250 (Front Setback – Exception, Streets with Residence Districts) to exempt Lots in the CP Commercial Pedestrian Zoning District and PQP Public/Quasi-Public Zoning District from the provisions of this Section, amending Section 20.40.400 (Setback Regulations) to clarify that allowances for minor projections into Setback areas of up to twenty (20) percent of Building length apply independently and not cumulatively to Subsections B and D of this Section and to add provisions for Short-term Bicycle Parking Facilities in Setback Areas;

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.7 Amendment to Title 20 of the San José Municipal Code (the Zoning Ordinance). (Cont'd.)

#### **Recommendation:**

- (f) Amending Section 20.40.600 (Performance Standards) to change the requirement from a Conditional to a Special Use Permit for exceedance of decibel levels in Table 20-135 and to add performance standards for the PQP Public/Quasi-Public Zoning District,
- (g) Amending Section 20.40.520 (Outdoor Uses Within 150 Feet of Residentially Zoned Property) to add a provision for exempting Neighborhood Agriculture from the requirements of this Section;
- (h) Amending Chapter 20.80 Specific Use Regulations, Part 18 Temporary Trailers to allow temporary antennae while permitted alterations of existing Wireless Communication Antennae are being constructed, to change the requirement from a Conditional Use Permit to a Special Use Permit when Administrative Permit requirements cannot be met, and to lengthen the allowable duration of the Temporary Antenna Trailer operation;
- (i) Amending Section 20.100.220 of Chapter 20.100 to add provisions for Director of Planning as the Initial Decision Making Body and Council as the Appeal Decision Making Body for Special Use Permits for school, church/religious assembly, and privately-operated museum, library, park, playground and community center uses in the PQP Public/Quasi-Public Zoning District;
- (j) Amending Chapter 20.120 to amend Section 20.120.110 to add the PQP Public/Quasi-Public Zoning District to Table 20-170 and identify the PQP Zoning District as the conforming zoning district for the Public/Quasi-Public land use designation in the General Plan;
- (k) Amending Chapter 20.200 Definitions, to add definitions for “Fuel Cell” and “Signature Project” and to amend definitions of “Business Support,” “Co-generation Facility,” “Downtown Core Area,” and “Solar Photovoltaic Power System”; and
- (l) Make other technical, non-substantive, or formatting changes within those sections of Title 20.

CEQA: Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan, EIR Resolution No. 76041 and addenda thereto (File No. PP13-101). Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the Envision San José 2040 General Plan Program approved previously. The Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan entitled, “Envision San José 2040 General Plan,” for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011, adequately describes the activity for the purposes of CEQA. The project does not involve new significant effects beyond those analyzed in this Final EIR. Therefore, the City of San José may take action on the project as being within the scope of the Final EIR, File No. PP13-101. (Planning, Building and Code Enforcement)

**Deferred to 1/14/14 per Administration**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.8 Amendment to Title 20 of the San José Municipal Code (the Zoning Ordinance) Building Height within the Airport Jurisdiction.

**Recommendation:** Consideration of an ordinance of the City of San José amending Title 20 of the San José Municipal Code (the Zoning Ordinance) by amending Section 20.85.020 of Chapter 20.85 to clarify the maximum allowable Building Height within geographical employment centers including the Norman Y. Mineta San José International Airport. CEQA: Airport Master Plan EIR, Resolution Nos. 67380 and 71451, and addenda thereto, including Addendum File No. PP13-100. Council District 3. (Planning, Building and Code Enforcement)

**Ordinance No. 29348 passed for publication.**

*Heard Jointly with Item 6.1*

**Noes: Oliverio.**

### 4.9 Report on Bids and Award of Construction Contract for the 5939 - Del Monte Park Project.

**Recommendation:** Report on bids and take appropriate action based on the evaluation of bids for the Del Monte Park Project. CEQA: Exempt, File No. PP08-094. Council District 6. (Public Works)

**Deferred to 12/10/13 per Administration**

## 5. NEIGHBORHOOD SERVICES

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### 5.1 Community Center Reuse Update Report.

**Recommendation:** As recommended by the Neighborhood Services and Education Committee on November 11, 2013:

- (a) Accept the Community Center Reuse Update Report;  
**Accepted.**
- (b) Adopt a resolution authorizing the following:
  - (1) The Director of Parks, Recreation and Neighborhood Services (PRNS) to extend the current Reuse contracts through the completion of the solicitation period to minimize service impacts at Reuse sites; and
  - (2) The revising of Council Policy 7-12 to extend the temporary suspension of the competitive solicitation process for unique services through Fiscal Year 2019-2020 with an option for the Director of PRNS to extend this solicitation process for an additional year.

*(Item Continued on the next page)*

## 5. NEIGHBORHOOD SERVICES

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### 5.1 Community Center Reuse Update Report (Cont'd.)

CEQA: Not a Project, File No. PP10-066(e)m Services that involve no physical change to the environment. (Parks, Recreation and Neighborhood Services)  
[Neighborhood Services and Education referral 11/14/13 – Item d(3)]

**Resolution No. 76868 adopted, including amendments as outlined in Council Member Rocha's memorandum of December 2, 2013, as revised:**

- 1. Accept the Community Center Reuse Update Report.**
- 2. Direct Staff to report to the Neighborhood Services and Education Committee with a plan to evaluate sites on an annual basis for reactivation of any kind, and include that information in the annual budget process**
- ~~3. Do not enter in Reuse agreements for any time after June 31, 2016~~**
- 4. Return to Council with the results of the community process in FY 2015-2016, for a discussion about the future of the Reuse program.**

**And with further direction to staff to explore the option of meeting with nonprofit service providers to consider collaboration between the City and nonprofits for utilizing and supplementing services that the nonprofits have been providing.**

**Noes: Oliverio.**

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 Ground Lease and Operating Agreement with Signature Flight Support and BCH San José LLC for Construction and Operating of Fixed Based Operation.

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

- (a) Execute a ground lease and operating agreement with Signature Flight Support for the construction and operation of a Fixed Based Operation on approximately 29 acres at the west side of the Airport for a fifty-year term from the date of execution by the City and with interim construction ground rent commencing upon the date of execution by the City, in the amount of \$1,319,084 until the earlier of the twenty-fifth month from the date of execution by the City or the date a certificate of occupancy is issued for the use and occupancy of the leasehold improvements, and subsequent annual ground rent in the amount of \$2,638,168, subject to annual Consumer Price Index increases, and subject to increase by appraisal every five years during the term of the lease; and

*(Item Continued on the next page)*

## 6. TRANSPORTATION & AVIATION SERVICES

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### 6.1 Ground Lease and Operating Agreement with Signature Flight Support and BCH San José LLC for Construction and Operating of Fixed Based Operation.

- (b) Execute a Non-Disturbance, Consent, Estoppel and Subordination Agreement with Signature Flight Support Corporation and BCH San José LLC to provide for the continued use and occupancy of approximately nineteen acres of the leasehold by BCH San José LLC pursuant to the terms of a new ground lease and operating agreement between the City and BCH San José LLC on the same terms and conditions as the ground lease and operating agreement with Signature Flight Support Corporation, in the event that the lease with Signature is rejected in bankruptcy, terminated or otherwise cancelled at any time prior to the end of its fifty year term.

CEQA: Airport Master Plan EIR, Resolution Nos. 67380 and 71451, and addenda thereto, including Addendum File No. PP13-100. (Airport)

*Heard Jointly with Item 4.8*

**Resolution No. 76869 adopted.**

**Noes: Oliverio.**

## 7.1 ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 Update on Property Assessed Clean Energy Financing Program.

**Recommendation:** Forwarded to Council without a recommendation from the Transportation and Environment Committee on November 4, 2013:

- (a) (1) Adopt a resolution authorizing the City of San José to become a member of the Western Riverside Council of Governments joint powers authority (“WRCOG”) and consenting to the inclusion of certain properties within the City of San José in the California HERO Program provided through WRCOG for the financing of renewable energy distributed generation sources and energy and water efficiency improvements, subject to the negotiation and execution of an agreement with the administrator of the California HERO program to indemnify the City;  
**Resolution No. 76870 adopted.**

- (2) Adopt a resolution and consenting to the inclusion of certain properties with the City of San José in the Figtree Property Assessed Clean Energy and Job Creation Program (“Figtree PACE”), provided through the California Enterprise Development Authority, for the financing of renewable energy distributed generation sources and energy and water efficiency improvements, subject to the negotiation and execution of an agreement with the administrator of the Figtree PACE program to indemnify the City;  
**Resolution No. 76871 adopted.**

*(Item Continued on the next page)*

## **7.1 ENVIRONMENTAL & UTILITY SERVICES**

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### **7.1 Update on Property Assessed Clean Energy Financing Program.**

- (3) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Renewable Funding, the administrator of the California Statewide Community Development Authority joint powers authority's property assessed clean energy program known as the CaliforniaFIRST program for the indemnification of the City; and  
**Resolution No. 76872 adopted.**

- (b) Approve staff recommendation to participate in the Property Assessed Clean Energy Program offered through joint powers authorities.  
CEQA: Not a Project, File No. PP10-067, Non-Project Specific Funding Mechanism.  
(Environmental Services)  
[Transportation and Environmental referral 11/4/13 – Item D(4)]  
**Approved.**

## **8. PUBLIC SAFETY SERVICES**

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

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### Notice of City Engineer's Pending Decision on Final Maps

None provided.

### Open Forum

- (1) Mark Trout expressed religious convictions.  
(2) Jon Max Reger offered points of conflict regarding a labor-related case.

### Adjournment

The Council of the City of San José adjourned at 6:25 p.m. in memory Ray O'Flaherty who passed away on October 12, 2013. Ray dedicated himself to developing business and cultural ties between Ireland and San José over the past 27 years. (Liccardo)