



CITY COUNCIL AGENDA

DECEMBER 10, 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. 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**
9:32 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: All Present.

1:32 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: All Present.

7:01 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: All Present.
- **Invocation (Mayor)**
Pat Mitchell, Executive Director, Silicon Valley FACES, presented the Invocation.
- **Pledge of Allegiance**
Mayor Reed led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 2.9 dropped.

- Closed Session Report

City Attorney Richard Doyle disclosed the following Closed Session actions of December 10, 2013:

A. Public Employee Appointment Pursuant to Government Code Section 54957:

(1) Title: Chief of Police
Name: Larry Esquivel

Council Vote:

Ayes: Campos, Chu, Constant, Herrera, Kalra, Khamis, Liccardo, Nguyen, Oliverio, Rocha; Reed.

Noes: None.

Abstain: None.

Not Present: None.

1. CEREMONIAL ITEMS

1.1 Presentation of a commendation to the “Santa Visits Alviso Foundation” in recognition of their commitment to serving the Alviso community for the past 30 years through its annual holiday program, scholarship program, and support of community events. (Chu)
(Rules Committee referral 12/4/13)

Mayor Reed and Council Member Chu recognized and commended the “Santa Visits Alviso Foundation” for their dedication to serving the Alviso community for the past 30 years.

1.2 Presentation of a commendation to Michael Burns for his dedicated service as the general manager of the Santa Clara Valley Transportation Authority. (Kalra)
(Rules Committee referral 12/4/13)

Heard in the Evening.

Mayor Reed and Council Member Kalra recognized and commended Michael Burns for his exemplary service.

1.3 Presentation of a commendation to Ken and Farrell Podgorsek for their work in organizing the annual Bark in the Park festival, one of the largest outdoor celebrations dedicated to dogs in the Bay Area, and raising funds for the Campus Community Association, the Humane Society of Santa Clara Valley and the San Jose Animal Care Center. (Liccardo)

(Rules Committee referral 12/4/13)

Mayor Reed and Council Member Liccardo recognized and commended Ken and Farrell Podgorsek for their dedication.

1. CEREMONIAL ITEMS

- 1.4 Presentation of a commendation to Katrina Loera and Steve Gordy for organizing the 13th Street Chalk Art festival, thereby contributing to a vibrant and thriving City while promoting and assisting in raising funds for art programs in our public schools. (Liccardo) (Rules Committee referral 12/4/13)

Heard in the Evening.

Mayor Reed and Council Member Liccardo recognized and commended Katrina Loera and Steve Gordy for their outstanding contributions.

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes.

- (a) Study Session Minutes on Service Restoration and Revenue Measures of September 03, 2013
- (b) Regular Minutes of September 10, 2013
- (c) Minutes of the Joint Council/Successor Agency to the Redevelopment Agency of September 10, 2013
- (d) Regular Minutes of September 17, 2013
- (e) Regular Minutes of September 24, 2013

Approved.

2.2 Final Adoption of Ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 29348 - Amending Section 20.85.020 of Chapter 20.85 of Title 20 of the San José Municipal Code to adopt maximum allowable building height restrictions within geographical employment centers including the Norman Y. Mineta San José International Airport, and to make other technical, non-substantive or formatting changes.

Ordinance No. 29348 adopted.

- (b) ORD. NO. 29349 - Amending Chapter 17.12 of Title 17 of the San José Municipal Code to adopt the 2013 California Fire Code with local amendments relating to fire flow, sprinkler and fire alarm systems and standards, access control devices, large battery charging systems and continuous gas detection systems and to maintain existing fire protection and regulatory authority.

Ordinance No. 29349 adopted.

2. CONSENT CALENDAR

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of November 13, 2013. (Mayor)
Approved.
- (b) Neighborhood Services and Education Committee Report of November 14, 2013.
(Nguyen)
- (c) Community and Economic Development Committee of November 18, 2013. (Herrera)
Deferred to December 17, 2013 per City Clerk.

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) Request for an excused absence for Council Member Constant from the Closed Session and Regular Meeting of the City Council on December 3, 2013 and the Regular Meeting of the Rules and Open Government Committee on December 4, 2013, due to the death of a close family member. (Constant)
(Rules Committee referral 12/4/13)
Excused.

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 City Manager Designee's Travel to Fort Lauderdale, Florida.

Recommendation: Authorize City Manager Designee Ed Shikada's travel to Fort Lauderdale, Florida on January 16 – 17, 2014, to participate in the Large Cities Executive Forum. City Manager's Non Personal Services Appropriation. (City Manager's Office)

Approved.

2. CONSENT CALENDAR

2.8 Actions Related to the 2014-2015 Hazardous Vegetation Commencement Report.

Recommendation: Adopt a resolution:

- (a) Accepting the 2014-2015 Hazardous Vegetation Commencement Report compiled by the Santa Clara County Department of Agriculture and Environmental Management.
- (b) Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the report are a nuisance.
- (c) Directing the Santa Clara County Department of Agriculture and Environmental Management to mail notices of a public hearing before the City Council, on January 14, 2014 at 1:30 p.m., on the report to property owners of affected real properties, pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Exempt, File No. PP13-097. (Planning, Building and Code Enforcement)

Resolution No. 76875 adopted.

2.9 Beautiful Neighborhoods Initiative

Recommendation: As recommended by the Rules and Open Government Committee on December 4, 2013:

- (a) Approve the District 10 Beautiful Neighborhoods Initiative as a City Council sponsored Special Event and authoring expenditure of City Funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project. (Khamis)

Dropped per Orders of the Day.

2.10 Satellite Housing Inc. Loans for the Development of the Willow Glen Woods Affordable Housing Site Located At 2900 Evans Lane.

Recommendation: Adopt a resolution approving forgiveness of predevelopment loans totaling \$100,000 made to Satellite Housing Inc. for the development of the Willow Glen Woods affordable housing site owned by the City, located at 2900 Evans Lane. CEQA: Not a Project, File No. PP10-066, Contracts/Agreements. Council District 6. (Housing)
Renumbered From Item 4.3.

Resolution No. 76876 adopted.

Noes: Constant, Khamis, Oliverio.

3. STRATEGIC SUPPORT SERVICES

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

City Manager Debra Figone reported that during the Combined Shared Giving Campaign City employees contributed \$104,186.76 and 723 volunteer hours which will provide benefits to social services and nonprofit agencies.

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.

Heard at 9:32 a.m.

No Report.

3.3 Audit of Indirect Cost Allocation.

Recommendation: As recommended by Public Safety, Finance, and Strategic Support Committee on November 21, 2013, accept the Audit of Indirect Cost Allocation. CEQA: Not a Project, File No. PP10-069(a), Staff Reports. (City Auditor)

[Public Safety, Finance, and Strategic Support Committee referral 11/21/13 – Item d(4)]

Accepted.

3.4 Terms of an Agreement with the San José Police Officers' Association.

Recommendation: Approve the following actions:

- (a) Adopt a resolution to approve the terms of a tentative agreement between the City and the San José Police Officers' Association (POA), and authorizing the City Manager to execute an agreement with a term of July 1, 2013, through December 31, 2015.

Resolution No. 76877 adopted.

- (b) Adopt the following Appropriation Ordinance amendments in the General Fund:
- (1) Increase the Police Department Personal Services appropriation in the amount of \$6,507,777.
 - (2) Increase the City Attorney's Office Personal Services appropriation in the amount of \$13,817.
 - (3) Increase the 2014-2015 Future Deficit Earmarked Reserve in the amount of \$4,567,406.
 - (4) Decrease the San José Police Officers' Association Employee Compensation Planning Earmarked Reserve in the amount of \$11,089,000.

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

Ordinance No. 29350 adopted.

(Action Continued on the Next Page)

3. STRATEGIC SUPPORT SERVICES

3.4 Terms of an Agreement with the San José Police Officers' Association. (Action Cont'd.)
Staff was directed to include the following in the information memorandum coming to Council in January 2014:

- (1) An outline of what happens now when officers have injuries that exceed one year and run out of their time, including running out of their 48/50 time, and what they may have on the books i.e. vacation, sick and comp time. Include a copy of the voluntary resignation letter.**
- (2) Include a “word for word definition of disability” in the CALPERS System: “cannot normally perform the usual duties of their position or the usual duties of the position for any other CALPERS Employers including State Agencies, schools and local public agencies.”**
- (3) Include several clear examples and scenarios of representations of disability retirements, and incorporating comparisons with other cities.**

The memorandum from Council Member Rocha, dated December 9, 2013, was referred to the City Manager and City Attorney, outlining the following direction:

- (1) The City Manager and City Attorney was directed to review the assertions made in the letter from the San José Police Officer's Association dated December 3, 2013 (see attachment online), regarding the Tier 2 disability retirement benefits established by Measure B. Specifically the letter asserts that newly hired officers feel that the Tier 2 disability benefits is inadequate and as a result are purchasing their own disability insurance out of pocket. It further asserts that inadequate benefits are hampering retention efforts. Staff requested to return to Council in either closed or open session, as appropriate, with a response to these concerns. Staff may wish to address the following questions:**
 - (a) Are newly hired officers within the Tier 2 system purchasing their own long term disability insurance? Are there any long disability insurance plans that could offset the salary gap if a disabled Tier 2 officer were placed in a position that provided a lower salary than the police officer position?**
 - (b) How do the City's Tier 2 disability retirement benefits compare to those provided by other cities, in particular, the Bay Area or California Cities that may be competing with San José to hire officers?**
 - (c) Is there evidence that the Tier 2 disability retirement benefits are contributing to the City's police Officer retention problem?**
 - (d) What is Staff's understanding of how the Tier 2 definition of “disability” will be interpreted and applied, and how does it differ from the Tier standard? Can Staff provide real or hypothetical examples as to when the two standards would yield different determinations? What are the “other jobs described in the City's classification plan” in the Police Department that would be available to a disabled Tier 2 officer?**

(Action Continued on the Next Page)

3. STRATEGIC SUPPORT SERVICES

3.4 Terms of an Agreement with the San José Police Officers' Association. (Action Cont'd.)

- (2) Offer the Police and Fire Retirement Board an opportunity to provide any feedback on the implementation of Tier 2 disability retirement benefits that they may wish to provide, including any information from their outside counsel as to how the definition and benefit standards should be interpreted.

3.5 2013 Revenue Ballot Measures Public Opinion Survey.

Recommendation: Accept the report on the results of the 2013 Revenue Ballot Measures Public Opinion Survey. (City Manager's Office)
(Rules In-Lieu referral 11/26/13)

Report Accepted.

The memorandum from Mayor Reed, Vice Mayor Nguyen and Council Member Herrera, dated December 6, 2013, was approved, with the following direction to Staff:

- (1) Set the Library Parcel Tax Renewal as the highest priority for either a June or November election which will be determined after additional polling is presented to Council in February.
- (2) Defer consideration of the Sales Tax increase until February when the date of the election of the Library Parcel Tax Renewal is determined and other election factors can be established for a proposed sales tax increase such as: establishing organized support, neutralizing opposition, determining financial support for a campaign and development of a spending plan.

3.6 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)

Dropped. To Be Renoticed.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 TEFRA Hearing and Consideration of the Approval of Conduit Financing for Si Se Puede Academy, Brilliant Minds Elementary, and RS-Jackson Avenue School.

Recommendation:

- (a) Hold a Tax Equity and Fiscal Responsibility Act (“TEFRA”) Hearing for the issuance of \$35,000,000 of tax-exempt 501(c)(3) revenue bonds by the California Municipal Finance Authority (“CMFA”) on behalf of Launchpad Development Company, for the Si Se Puede Academy, Brilliant Minds Elementary and RS-Jackson Ave. School Project.

**The TEFRA Hearing was opened and continued to Item 11.3 in the evening.
Abstain: Liccardo.**

- (b) Consider a resolution approving the issuance of tax-exempt revenue bonds, by the CMFA, on behalf of Launchpad Development Company, in an aggregate principal amount not to exceed \$35,000,000 (the “Bonds”), allocated as such:
- (1) Approximately \$10,000,000 in Bonds to finance and refinance the acquisition, construction, improvements, and equipping of certain charter school educational facilities in San José, identified as the Si Se Puede Academy (2249 Dobern Avenue); pay certain expenses incurred in connection with the issuance of the Bonds; and fund all or a portion of a reserve fund deposit and capitalized interest.
 - (2) Approximately \$14,000,000 in Bonds to finance and refinance the acquisition, construction, improvements, and equipping of certain charter school educational facilities in San José, identified as the Brilliant Minds Elementary (2962 Story Road); pay certain expenses incurred in connection with the issuance of the Bonds; and fund all or a portion of a reserve fund deposit and capitalized interest.
 - (3) Approximately \$11,000,000 in Bonds to finance and refinance the acquisition, construction, improvements and equipping of certain charter school educational facilities in San José, identified as the RS-Jackson Avenue School (70 S. Jackson St.); pay certain expenses incurred in connection with the issuance of the Bonds; and fund all or a portion of a reserve fund deposit and capitalized interest.

CEQA: Not a Project, File No. PP10-069, Organizational and administrative activities.
Council District 5. (Finance)

Resolution No. 76880 adopted. (Item 4.1(b)(3) heard in the evening after Item 11.3)

Noes: Oliverio.

Abstain: Liccardo.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Actions Related to the Charlotte Drive Apartments Project.

Recommendation: Adopt a resolution of the City Council in connection with the issuance of multifamily housing revenue bonds:

- (a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as City of San José Multifamily Housing Revenue Bonds, Series 2013B-1 and Series 2013B-2 (“Charlotte Drive Apartments”) in an aggregate principal amount not to exceed \$31,643,000 (the “Bonds”).
- (b) Approving a loan of Bond proceeds to Charlotte Drive Apartments, L.P., a California limited partnership created by Eden Housing, Inc., to finance the construction of the Charlotte Drive Apartments located at 5600 Cottle Road in San José (the “Project”), immediately south of Charlotte Drive.
- (c) Approving in substantially final form an Indenture of Trust, a Loan Agreement and Regulatory Agreement and Declaration of Restrictive Covenants (the “Documents”).
- (d) Authorizing and directing the City Manager, Director of Finance, Assistant Director of Finance and Director of Housing, or their designees, to execute and deliver these Documents and other related Bond documents as necessary.

CEQA: EIR Resolution No. 72772 adopted June 21, 2005, File No. PDC04-031, as cited in the Project’s Planned Development Permit, PD12-039. Council District 2. (Finance/Housing)

Dropped per Administration.

4.3 Satellite Housing Inc. Loans for the Development of the Willow Glen Woods Affordable Housing Site Located At 2900 Evans Lane.

Recommendation: Adopt a resolution approving forgiveness of predevelopment loans totaling \$100,000 made to Satellite Housing Inc. for the development of the Willow Glen Woods affordable housing site owned by the City, located at 2900 Evans Lane. CEQA: Not a Project, File No. PP10-066, Contracts/Agreements. Council District 6. (Housing)

Renumbered to Item 2.10.

See Item 2.10 for Action

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

Recommendation: Report on bids and award of contract for the 5939 – Del Monte Park Project to the low bidder, Calstate Construction, Inc., in the amount of \$2,219,000, and approval of a contingency in the amount of \$177,520. CEQA: Exempt, File No. PP08-094. Council District 6. (Public Works)
(Deferred from 12/3/13 – Item 4.9)

Approved.

5. NEIGHBORHOOD SERVICES

5.1 Actions Related to the Kelley House Fire Insurance Settlement.

Recommendation:

- (a) Direct City staff to: (i) Accept the property insurance claim settlement of \$1,960,594 from the City of San José's property insurance carrier, Lexington, which assumes the demolition of the remaining Kelley House structure; and (ii) Develop a plan for re-use of this location which references the Kelley House significance.

Approved.

- (b) Adopt the following 2013-2014 Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:
- (1) Increase the revenue estimate for Other Revenue by \$1,960,594.
 - (2) Establish a capital improvements appropriation to the Parks, Recreation and Neighborhood Services Department for the Kelley House Demolition project in the amount of \$425,000.
 - (3) Increase the 2014-2015 Future Deficit reserve by \$1,535,594.

CEQA: Exempt, File No. PP13-107. Council District 7. (Finance/Parks, Recreation and Neighborhood Services/City Manager's Office)

Ordinance No. 29351 adopted.

Resolution No. 76878 adopted.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Ordinance Suspending License and Permit Requirements for Certain Taxicab Businesses and Drivers who Drop Off Passengers at the Airport and Any Other Location in San José.

Recommendation: Approve an ordinance:

- (a) Amending Chapter 6.64 of Title 6 of the San José Municipal Code to amend Sections 6.64.130, 6.64.150, and 6.64.465 to suspend the license and permit requirements for taxicab businesses and persons whose principal place of business is located outside the City of San José that only drop off passengers in the City.
- (b) Amending Chapter 25.08 of Title 25 of the San José Municipal Code to amend Sections 25.08.700 and 25.08.750 to suspend the permit requirements for ground transportation providers of taxicab services whose principal place of business is located outside the City of San José that only drop off passengers at the Norman Y. Mineta San José International Airport.

CEQA: Not a Project, File No. PP10-068(c), Municipal Code or policy change that involves no changes in the physical environment. (Airport)

(Action Continued on the Next Page)

6. TRANSPORTATION & AVIATION SERVICES

6.1 Ordinance Suspending License and Permit Requirements for Certain Taxicab Businesses and Drivers who Drop Off Passengers at the Airport and Any Other Location in San José. (Action Cont'd.)

Ordinance No. 29352 passed for publication, as amended, with direction to Staff as follows:

- (1) Eliminate any fees and/or permit requirements for taxis relating to “drop offs” at the San José Mineta International Airport (SJC) and other venues throughout the City.**
- (2) Suspend the prosecution and collection of fines issued since May 2013 for “drop offs” at SJC and other venues throughout the City.**
- (3) Return with a workable system.**
- (4) Report back with the amount of administrative time being spent on this effort.**

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 Actions Related to Medical Marijuana Establishments.

Recommendation: Direct the Administration to:

- (a) Expand the priority enforcement areas to address Medical Marijuana establishments operating in San José as follows:**
 - (1) Within 1,000 feet of public and private schools, child daycare centers, churches with child daycare centers, community/recreation centers, parks, libraries and other Medical Marijuana establishments.**
 - (2) 500 feet from substance abuse rehabilitation centers.**
 - (3) 150 feet from residential uses.**
- (b) Either:**
 - (1) Return within 90 days with a complete Medical Marijuana regulatory program or;**
 - (2) Return in 30 days with a ban prohibiting the operation of Medical Marijuana establishments in San José.**

CEQA: Not a Project, File No. PP10-068, General Procedure and Policy Making. (City Manager's Office)

Heard in the Evening No Earlier than 8:00 p.m.

(Action Continued on the Next Page)

8. PUBLIC SAFETY SERVICES

8.1 Actions Related to Medical Marijuana Establishments. (Action Cont'd.)

- (a) The memorandum from Mayor Reed, dated December 9, 2013, was approved. Staff was directed to bring back the ordinances approved by the Council in 2011 with whatever changes may be necessary to be in compliance with State law and the U.S. Attorney General's Enforcement Memorandum and the following changes:**
 - (1) Prohibit on-site consumption as defined in the earlier ordinance section 6.88.440.**
 - (2) Develop an underage decoy program along the lines of the City's program to deal with sales of tobacco.**
 - (3) Ensure that all restrictions placed on smoking tobacco also apply to smoking marijuana.**
 - (4) Allow off-site cultivation, with sufficient controls to comply with the Enforcement Memorandum and protect existing uses from negative impacts.**
 - (5) Allow cultivation in the CIC, LI and HI industrial zones, subject to the same restrictions as wineries and breweries, with off-sales only as incidental uses and with sufficient controls to comply with the Enforcement memorandum and protect existing uses from negative impacts.**
 - (6) Disqualify from the registration process any medical marijuana business, collective or dispensary when the business/collective/dispensary itself or any one of its owners or managers, have been the subject of three (3) or more documented and verified code violations and/or nuisance activities within one year of the time in which the business is being considered for approval under the regulatory scheme that is eventually passed by Council.**
 - (7) Prohibit the siting of any such medical marijuana business/collective/dispensary on a parcel that has been the subject of three (3) or more documented and verified code violations and/or nuisance activities within one year of the time in which the site is being considered for approval under the regulatory scheme that is eventually passed by Council.**
- (b) The memorandum from Council Member Rocha, dated December 6, 2013, was approved as follows:**
 - (1) Staff recommendation (a) pertaining to expansion of priority enforcement areas and provide the following additional direction pertaining to enforcement:**
 - (a) Direct the City Attorney to identify the steps the City could take to increase its enforcement powers, such as having the City Attorney prosecute misdemeanor violations and to seek commitments for the District Attorney and the United States Attorney to prosecute serious violators of the regulatory program.**

(Action Continued on the Next Page)

8. PUBLIC SAFETY SERVICES

8.1 Actions Related to Medical Marijuana Establishments. (Action Cont'd.)

- (b) (1) (b) Direct the City Manager to bring back in the budget process an analysis of the cost of a multi-department task force to focus on getting compliance with the marijuana tax and a goal of doubling the annual total amount paid.**
- (c) Direct the City Manager and City Attorney, in coordination with the Police Chief, to pursue discussions with the County Sheriff and District Attorney regarding potential enforcement efforts.**
- (2) Staff recommendation (b)(1) was approved, to return within 90 days with a complete Medical Marijuana regulatory program, with the following additional direction:**
 - (a) The program should comply with the Guidance Regarding Marijuana Enforcement Memorandum to U.S. Attorneys dated August 29, 2013 (see attachment online) that identifies the need for a strong and effective regulatory and enforcement system to control the cultivation, distribution, sale and possession of medical marijuana and the necessary resources to enforce the City's laws and regulations in a manner that ensures they do not undermine the Federal enforcement priorities.**
 - (b) As detailed in the Enforcement Memorandum, include measures to ensure a tightly regulated market in which revenues are tracked and accounted for, effective measures to prevent diversion of marijuana outside of the regulated system and prohibition of access to marijuana to minors through the prohibition of:**
 - (1) Sales or transfer to minors**
 - (2) Trafficking near areas associated with minors**
 - (3) Marketing in a manner that appeals to minors**
 - (4) Diversion, directly or indirectly, and purposefully or otherwise, to minors.**
 - (c) Staff should have the flexibility to recommend any regulatory program that complies with the above direction, but in the interest of testing out a variety of regulatory options: Staff was directed to return with a regulatory proposal based on the criteria set forth in the issues table in the memorandum, in addition to any other proposals that Staff wishes to recommend.**

(Action Continued on the Next Page)

8. PUBLIC SAFETY SERVICES

8.1 Actions Related to Medical Marijuana Establishments. (Action Cont'd.)

Staff was additionally directed to:

- (1) Begin immediate enforcement against collectives that share a “zero lot line” with residential uses.
- (2) Explore advertising restrictions, including looking at eliminating specific medical marijuana advertising signs, i.e. people “waving” green crosses.
- (3) Replace the word “church” with “houses of worship” throughout the guidelines and include all houses of worship not just those with child daycare.
- (4) Explore a prohibition for anyone seeking public office in the City of San José to receive any monies connected with marijuana collectives.
- (5) Explore scenarios prohibiting medical marijuana collectives up to a mile from residential areas with regard to land uses and enforcement.
- (6) Referring to the prohibition in shopping centers located on parcels over 40 acres in size stated in the memorandum from Council Member Rocha, explore options to make it congruent with other definitions.
- (7) Explore scenarios for a prohibition around assembly uses, 1000 feet for all sensitive uses i.e. residential and school uses.

Noes: Campos, Chu, Herrera.

9. REDEVELOPMENT – SUCCESSOR AGENCY

9.1 Amendment to the José Theater Lease for the San José Improv.

Recommendation: Approve the First Amendment to the Amended and Restated Lease (Lease) with the Comedy Club of San José, LLC (“Improv”) for the use of the José Theater located at 62 South Second Street. CEQA: Resolution No. 67721. (Successor Agency to the Redevelopment Agency)

Approved.

- Open Forum
None Presented.

- Adjournment
The Council of the City of San José adjourned the afternoon session at 5:14 p.m.

10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar.

No Public Hearings on Consent Calendar at this time.

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

Recommendation: The following projects being considered are located on an 8.0 gross acre site, at southwest corner of West San Carlos and Sunol Streets and extending to Auzerais Avenue (860 W. San Carlos Street):

- (a) A rezoning from A(PD) to the A(PD) Planned Development Zoning District to allow the following changes: (1) range of multi-family units from 680-800 to 600-800 units; (2) range of commercial square footage from 24,000-30,000 sf; and (3) building height on Block C from 140-150 ft to 50-80 ft.
- (b) Consideration of an ordinance to approve a Development Agreement with Green Republic, LLLP VTA, G. Figone Trust, 861 Auzerais Investment, Green Valley Corp., and Carolyn Pahle Trust, to develop up to 800 MFA residential units and a min. of 14,000 sf of ground floor commercial space on three blocks with a min. of two tower structures and one structure with a min. height of 70 ft, consistent with the purposes Planned Development Zoning, 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.

CEQA: EIR Resolution No. 09-064, File No. PDC08-061. (Planning, Building and Code Enforcement)

PDC13-004/DA13-002 – District 6

(Deferred from 8/20/13 – Item 11.3 et al and 11/5/13 – Item 11.2)

Dropped. To Be Renoticed.

11. PUBLIC HEARINGS

11.3 Rezoning the Real Property Located on the North Of Minnesota Avenue.

Recommendation: Consideration of an ordinance rezoning the real property located on the north of Minnesota Avenue, approximately 180 feet west of Lupton Avenue (1236 Minnesota Avenue) from the R-1-8 Single-Family Residence Zoning District to the R-1-8(PD) Planned Development Zoning District to allow a single-family residence on a new flag lot behind an existing single family residence on a 0.32 gross acre site (Cyrus L. Colburn III & Et Al, Owner). CEQA: Exempt. (Planning, Building and Code Enforcement)
PDC13-030 – District 6

No Council Action. Motion Failed.

(5-6. Noes: Kalra, Khamis, Nguyen, Oliverio, Rocha; Reed.)

11.4 Rezoning the Real Property Located at/on the Easterly Terminus of Skyway Drive, East of Monterey Road, Near the Southeast Corner of the Football Field.

Recommendation: Consideration of an ordinance rezoning the real property located at/on the easterly terminus of Skyway Drive, east of Monterey Road, near the southeast corner of the football field (100 Skyway Drive) from A(PD) Zoning District to the A(PD) Zoning District to allow: 1) increase student population from 1,300 to 2,300 students; 2) allow inbound school bus access on Diamond Heights Drive; 3) remove a requirement for a transportation mitigation measure at Skyway Drive and Monterey Road; and 4) modify Santa Clara Valley dudleya plant mitigation measures on a 56.2 gross acres site (Valley Christian Schools, Owner). CEQA: Valley Christian Schools EIR. (Planning, Building and Code Enforcement)
PDC12-012 – District 2

Deferred to January 28, 2014 per Administration.

11.5 Actions Related to the Real Property Located on the Eastside of South Jackson Avenue.

Recommendation:

- (a) Adopt a resolution adopting a Mitigated Negative Declaration for the Rocketship Jackson rezoning and conditional use permit project, and a related Mitigation Monitoring and Reporting Program;

Resolution No. 76879 adopted.

Noes: Oliverio.

Abstain: Liccardo.

- (b) Consideration of an ordinance rezoning real property located on the eastside of South Jackson Avenue, approximately 350 feet south of Alum Rock Avenue 70 South Jackson Avenue) from R-1-8 Single-Family Residence Zoning District (approximately 1.24 acres) and R-1-8(PD) Planned Development Zoning District (approximately 0.23 acres) to CP Commercial Pedestrian Zoning District.

Ordinance No. 29353 passed for publication. Second Reading to be heard on December 17, 2013.

Noes: Oliverio.

Abstain: Liccardo.

11. PUBLIC HEARINGS

11.5 Actions Related to the Real Property Located on the Eastside of South Jackson Avenue. (Cont'd.)

- (c) Consideration of adoption of a resolution approving Conditional Use Permit to allow the conversion of an existing post office and the addition of a new 12,295 square foot building for an elementary school use on an approximately 1.47 gross acre site, located on the eastside of South Jackson Avenue, approximately 350 feet south of Alum Rock Avenue at 70 South Jackson Avenue.

CEQA: Mitigated Negative Declaration to be adopted. (To An N, Angela K et al, and City of San José, Owner). (Planning, Building and Code Enforcement)

C13-049/CP13-085 – District 5

Continued to December 17, 2013.

- **Open Forum**
None Presented.

- **Adjournment**
The Council of the City of San José was adjourned at 12:00 a.m. in memory of Odette Morrow, who passed away on September 17, 2013. She was very active in the Coyote Creek neighborhood and also served as a lay chaplain with her church, where she ministered to people in convalescent homes and trained volunteers to do the same. (Kalra)

**JOINT COUNCIL/
SAN JOSE FINANCING AUTHORITY AGENDA**

1:58 P.M.

TUESDAY, DECEMBER 10, 2013

CHAMBERS

Heard Immediately Following the Ceremonial Items.

- 1. Call to Order and Roll Call
Absent Council Members: All Present.**

- 2. Actions Related to the City of San José Financing Authority Lease Revenue Bonds, Series 2008CDE (Hayes Mansion Refunding Project and Ice Centre Refunding Project).**

Recommendation:

- (a) It is recommended that the City Council:
 - (1) Adopt a resolution approving and authorizing the negotiation, execution and delivery of a Continuing Covenant Agreement with U.S. Bank National Association relating to the City of San José Financing Authority Lease Revenue Bonds, Series 2008C (Hayes Mansion Refunding Project) and the City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2008D (Hayes Mansion Refunding Project), approving and authorizing the execution and delivery of a First Amendment to Project Lease relating thereto, and authorizing other related actions.
Resolution No. 76873 adopted.

 - (2) Adopt a resolution approving and authorizing the negotiation, execution and delivery of a Continuing Covenant Agreement with U.S. Bank National Association relating to the City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2008E-1 and Series 2008E-2 (Ice Centre Refunding Project), approving and authorizing the execution and delivery of a First Amendment to Project Lease and First Amendment to Site and Facility Lease relating thereto, and authorizing other related actions.
Resolution No. 76874 adopted.

JOINT COUNCIL/SAN JOSE FINANCING AUTHORITY

2. Actions Related to the City of San José Financing Authority Lease Revenue Bonds, Series 2008CDE (Hayes Mansion Refunding Project and Ice Centre Refunding Project). (Cont'd.)

(b) It is recommended that the City of San José Financing Authority Board:

- (1) Adopt a resolution approving and authorizing the negotiation, execution and delivery of a Continuing Covenant Agreement with U.S. Bank National Association relating to the City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2008C (Hayes Mansion Refunding Project) and the City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2008D (Hayes Mansion Refunding Project), approving and authorizing the execution and delivery of an Amended and Restated Indenture of Trust and a First Amendment to Project Lease relating thereto, and authorizing other related actions.

San José Financing Authority Resolution No. 123 adopted.

- (2) Adopt a resolution approving and authorizing the negotiation, execution and delivery of a Continuing Covenant Agreement with U.S. Bank National Association relating to the City of San José Financing Authority Taxable Lease Revenue Bonds, Series 2008E-1 and Series 2008E-2 (Ice Centre Refunding Project), approving and authorizing the execution and delivery of an Amended and Restated Indenture of Trust and a First Amendment to Project Lease and First Amendment to Site and Facility Lease relating thereto, and authorizing other related actions.

CEQA: Not a Project, File No. PP10-069, City Organizational and Administrative Activities. (Finance)

San José Financing Authority Resolution No. 124 adopted.

3. Open Forum

There were none presented.

4. Adjourn the San José Joint City Council/Financing Authority.

Mayor Reed adjourned the meeting at 2:11 p.m.