



City Council Meeting Amended Agenda

Tuesday, November 28, 2017

SAM LICCARDO, MAYOR

CHAPPIE JONES, DISTRICT 1

SERGIO JIMENEZ, DISTRICT 2

RAUL PERALEZ, DISTRICT 3

LAN DIEP, DISTRICT 4

MAGDALENA CARRASCO, VICE MAYOR, DISTRICT 5

DEV DAVIS, DISTRICT 6

TAM NGUYEN, DISTRICT 7

SYLVIA ARENAS, DISTRICT 8

DONALD ROCHA, DISTRICT 9

JOHNNY KHAMIS, 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** - 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.
- **Environmental and Utility Services** - Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety** - 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 Successor Agency to the Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- o **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.
- o When the Council reaches your item on the agenda, the Mayor 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.

- o 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.
- o 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 6 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 <http://www.sanjoseca.gov/index.aspx?NID=3549>. 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, Tower 14th 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 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.

[17-441](#) **Closed Session Agenda**

Attachments [Closed Session Agenda](#)

- **Call to Order and Roll Call**

9:30 a.m.- Closed Session, Call to Order in Council Chambers
Open Session, Labor Negotiations Update (See Item 3.2)
Adjourn to Closed Session in Council Chambers Conference Room, W133
See Separate Agenda

1:30 p.m.- Regular Session, Council Chambers, City Hall

6:00 p.m.- Public Hearings, Council Chambers, City Hall

- **Invocation (District 10)**

Jeff Kramer, CEO/Owner, ComedySportz San José

- **Pledge of Allegiance**

- **Orders of the Day**

To be heard after Ceremonial Items

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- **Closed Session Report**

To be heard after Ceremonial Items

1. CEREMONIAL ITEMS

- 1.1 [17-388](#) Presentation of a proclamation recognizing November 2017 as Sikh Awareness Month in the City of San José. (Arenas)
- 1.2 [17-403](#) Presentation of a proclamation recognizing December 1st as World Aids Day in the City of San José. (Perales)
- 1.3 [17-431](#) Presentation of a commendation to Ed Mosher for his long-standing downtown store Mosher's Ltd. and for his contributions to the City of San José and his alma mater San José State University. (Mayor)

- 1.4 [17-204](#) Presentation of a commendation to ComedySportz commemorating its 30th anniversary as the longest running show in Silicon Valley. (Perez/Khamis)
TO BE HEARD IN THE EVENING
- 1.5 [17-432](#) Presentation of a commendation to Victor M. Arraño, Jr. for leadership and service to The First Tee of Silicon Valley and San José Youth. (Rocha)
TO BE HEARD IN THE EVENING

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.

2.1 Approval of City Council Minutes.

2.2 Final Adoption of Ordinances.

[17-365](#)

Final Adoption of Ordinances.

Recommendation:

(a) ORDINANCE NO. 30028 - An ordinance of the City of San José amending the San José Municipal Code to add Title 26 for Community Energy. CEQA: Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment. (City Attorney/City Manager)

(b) ORDINANCE NO. 30029 - An ordinance of the City of San José amending Sections 20.10.040, 20.50.100, 20.70.100, 20.80.760, 20.80.765, 20.80.775, 20.80.780, 20.80.790, 20.100.1530, 20.100.1535, and 20.100.1540 of Title 20 (Zoning) of the San José Municipal Code relating to medical and non-medical marijuana to change “Medical Marijuana Collective” to “Medical Cannabis Collective,” “Medical Marijuana Collective Cultivation Site Only,” to “Medical Cannabis Collective Cultivation Site Only,” “Medical Marijuana Collective Dispensary Site Only,” to “Medical Cannabis Collective Dispensary Site Only,” and to add “Medical Cannabis Business,” and “Non-Medical Cannabis Business” as newly enumerated restricted uses in specified industrial zoning districts and the downtown primary commercial zoning district and to make other technical, formatting, non-substantive changes. CEQA: Negative Declaration (File No. PP11-039, Resolution No. 75984), as addended by File Nos. PP11-076, PP14-030, PP16-076 and PP17-070; and Statutory Exemption pursuant to Section 26055(h) of the California Business and Professions Code: Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. (Planning, Building and Code Enforcement/Police)
PP17-070 - Citywide

(c) ORDINANCE NO. 30030 - An ordinance of the City of San José amending Chapter 6.88 of Title 6 of the San José Municipal Code pertaining to Medical Cannabis Collectives, Medical Cannabis Businesses, Non-Medical Cannabis Businesses and to the personal cultivation and use of cannabis. CEQA: Negative Declaration (File No. PP11-039, Resolution No. 75984), as addended by File Nos. PP11-076, PP14-030, PP16-076 and PP17-070; and Statutory Exemption pursuant to Section 26055(h) of the California Business and Professions Code: Without limiting any other statutory exemption or categorical

exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. (Planning, Building and Code Enforcement/Police)
PP17-070 - Citywide

(d) ORDINANCE NO. 30031 - An ordinance of the City of San José amending Part 12 to Chapter 17.23 of Title 17 of the San José Municipal Code to modify the definition of rental unit, to modify the scope of the exception to the material or habitual lease violation cause for eviction, and to repeal Section 17.23.1290, which suspended Part 6 and Part 7 of this Chapter. CEQA: Statutorily Exempt, File No. PP17-030, CEQA Guidelines Section 15061(b)(3), No potential for causing a significant effect on the environment. (Housing)

(e) ORDINANCE NO. 30032 - An ordinance of the City of San José amending Parts 1 through 8 and adding a new Part 9 to Chapter 17.23 of Title 17 of the San José Municipal Code to revise the Apartment Rent Ordinance. CEQA: Statutorily Exempt, File No. PP17-075, CEQA Guidelines Section 15061(b)(3), No potential for causing a significant effect on the environment. (Housing)

Attachments [Ordinance - Part \(a\)](#)
[Ordinance - Part \(d\)](#)
[Ordinance - Part \(e\)](#)

2.3 Approval of Council Committee Minutes.

2.4 Mayor and Council Excused Absence Requests.

[17-374](#)**Mayor and Council Excused Absence Requests.****Recommendation:**

(a) Retroactive request for an excused absence for Councilmember Jimenez from the Regular Meeting of the Public Safety, Finance and Strategic Support Committee on November 16, 2017 due to personal travel. (Jimenez)
CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment.

Attachments [Memorandum](#)

2.5 City Council Travel Reports.**2.6 Report from the Council Liaison to the Retirement Boards.****2.7** [17-270](#)**Agreement with Steve P. Rados, Inc., for Design and Construction of Fourth Street 84-inch Interceptor Phase VI-A Project.****Recommendation:**

Adopt a resolution:
(a) Approving the final rankings of the design-build entity that responded to the Request for Proposals for the 4880 - Fourth Street 84 -inch Interceptor Phase VI-A Project ("Project"); and
(b) Authorizing the Director of Public Works to negotiate a Design-Build contract for the Project with Steve P. Rados, Inc.
CEQA: Determination of Consistency with the Mitigated Negative Declaration for Sewer Interceptor Phase VIA Public Project (Resolution No. 77626), File No. PP10-160. (Public Works)
(Deferred from 11/7/17 - Item 2.9 to 11/28/17)

Attachments [Memorandum](#)
 [Resolution](#)

2.8 [17-359](#) Actions Related to the Concession Agreement with PRI-San José, LLC.

Recommendation: Approve the Airport Retail Merchandising Unit Concession Agreement (“Agreement”) with PRI-San José, LLC (PRI) for a term of five (5) years from the Commencement Date, with a concession fee payable to the City of San José of the greater of a minimum annual guarantee (“MAG”) or an annual percentage fee of 2.25%. The MAG is established at Year 1 at \$54,000 and escalates annually to Year 5 of the Agreement to \$60,778, for a total minimum guarantee of \$286,695. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Airport)

Attachments [Memorandum](#)
 [Agreement](#)

2.9 [17-360](#) Actions Related to the Agreement with ALD Development, Inc. dba The Club at SJC.

Recommendation: (a) Approve the Third Amendment to the Airport Concession Agreement between the City of San José (“City”) and ALD Development, Inc. dba The Club at SJC (ALD) to extend the term through January 31, 2025, add a minimum Mid-Term Refurbishment Capital Expenditure to be made by ALD of \$225,000, increase the Gross Revenue percentage fee payable to the City to 13%, retroactive to June 1, 2016, and revise the minimum annual guarantee (“MAG”) to account for impacts from the opening of the new shared use lounge in Terminal A.
 (b) Approve a separate Shared Use Lounge Concession Agreement between the City and ALD to design, construct, and operate a new shared use lounge in Terminal A through January 31, 2025, with a minimum of \$2,000,000 in capital investment to be made by ALD, and a concession fee payable to the City of the greater of a MAG of \$136,600 or a percentage fee of 13% of gross revenue annually. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Airport)

Attachments [Memorandum](#)
 [Agreement - Part \(a\)](#)
 [Agreement - Part \(b\)](#)

2.10 [17-361](#) Grant Application for the Airfield Electrical System Rehabilitation Project at the Airport.

Recommendation: Adopt a resolution authorizing the City Manager to apply for, execute, and accept upon receipt, grants from the Federal Aviation Administration (FAA) for the construction portion of the Airfield Electrical System Rehabilitation project at the Norman Y. Mineta San José International Airport in a total amount not to exceed \$8,050,000. CEQA: Determination of Consistency with the Final Environmental Impact Report, as Supplemented, for the San José International Airport Master Plan Update (Resolution Nos. 67380 and 71451), File No. PP17-079. (Airport)

Attachments [Memorandum](#)
[Resolution](#)

2.11 [17-382](#) Termination of the Proclamation of the Existence of a Local Emergency.

Recommendation: Adopt a resolution terminating the proclamation of the existence of a local emergency as a result of flooding. CEQA: Exempt, Section 15269, Emergency Projects, Specific actions necessary to prevent or mitigate an emergency. (City Manager)
DEFERRED FROM 11/28/17 TO 12/5/17

Attachments [Memorandum](#)
[Resolution](#)

2.12 [17-364](#) Actions Related to the Purchase Order with Aegis ITS, Inc. for Fiber Optic Cable Services.

Recommendation: Adopt a resolution authorizing the City Manager to:
(a) Execute a Purchase Order with Aegis ITS, Inc. (Anaheim, CA) for fiber optic cable repair, splicing and testing services for a three-year term starting on or about November 28, 2017 and ending on or about November 27, 2020, for an amount not-to-exceed \$354,864; and
(b) Purchase additional services as needed, subject to the same unit pricing, terms, and conditions, and the appropriation of funds.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance)

Attachments [Memorandum](#)

2.13 [17-357](#) Sale of a Portion of City-Owned Property Located Northeasterly Corner of Berryessa Road and Mercado Way.

Recommendation:

Adopt a resolution:

- (a) Declaring 783 square feet of vacated street on Berryessa Road, east of Mercado Way, surplus to the needs of the City;
- (b) Authorizing the City Manager or his designee to execute a Purchase and Sale Agreement with the adjacent property owner S.J. Mercado Properties, LLC. in an amount not to exceed \$1,000; and
- (c) Authorizing the City Manager or his designee to execute the sale agreement, the quitclaim deed, and all other documents necessary to complete the transaction.

CEQA: Determination of Consistency to the San José Flea Market General Plan Amendment & Planned Development Rezoning EIR (Resolution No. 73956), GP06-04-01 and PDC03-108. (Economic Development)

Attachments [Memorandum](#)
[Resolution](#)

2.14 [17-387](#) Mayor's Staff Travel to Baltimore, MD.

Recommendation:

Approve travel payments and authorize travel for Mayor's staff, Khanh Russo, Director of Strategic Partnerships, to Baltimore, Maryland, from December 4, 2017 to December 5, 2017 for the 21st Century Cities Symposium. Source of Funds: John Hopkins University. CEQA: Not a Project, File No. PP17-010, City Organization & Administrative Activities resulting in no change to the physical environment. (Mayor)

Attachments [Memorandum](#)

2.15 [17-358](#) Vacation of Setback Easement Located at 1199 Crescent Drive.

Recommendation:

Adopt a resolution of intention to vacate the 25-foot and 15-foot light and air easements located at 1199 Crescent Drive and set a Public Hearing on Tuesday, December 19, 2017, at 1:30 p.m. CEQA: Exempt, File No. PP17-069, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitation. Council District 6. (Public Works)

Attachments [Memorandum](#)
[Resolution](#)

2.16 [17-389](#) District 2 Community Events.**Recommendation:**

As recommended by the Rules and Open Government Committee on November 15, 2017:

- (a) Retroactively approve the Dumpster Day held on November 11, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.
 - (b) Approve the Dumpster Day scheduled on December 9, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.
 - (c) Approve the District 2 Holiday Appreciation Party scheduled on December 6, 2017 as a City Council sponsored Special Event and approve the expenditure of funds.
 - (d) Approve and accept donations from various individuals, businesses, or community groups to support the event.
- CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Jimenez)
[Rules Committee referral 11/15/17 - Item G.1.a.]

Attachments [Memorandum](#)

2.17 [17-390](#) Celebrate Cambrian Festival.**Recommendation:**

As recommended by the Rules and Open Government Committee on November 15, 2017:

- (a) Approve the Celebrate Cambrian Festival scheduled on August 26, 2018 as a City Council sponsored Special Event and approve the expenditure of funds.
 - (b) Approve and accept donations from various individuals, businesses, or community groups to support the event.
- CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Rocha)
[Rules Committee referral 11/15/17 - Item G.1.b.]

Attachments [Memorandum](#)

3. STRATEGIC SUPPORT**3.1 Report of the City Manager, David Sykes (Verbal Report)****3.2 Labor Negotiations Update. Accept Labor Negotiations Update.**

TO BE HEARD AT 9:30 A.M.

3.3 [17-281](#) Retirement Services Audit.

Recommendation: As recommended by the Public Safety, Finance, and Strategic Support Committee on October 19, 2017, accept the audit of Retirement Services. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City actions. (City Auditor) [Public Safety, Finance, and Strategic Support Committee referral 10/19/17 - Item (d)5]
(Deferred from 11/7/17 - Item 3.3 to 11/28/17 - Item 3.3)
RECOMMEND DEFERRAL TO 12/5/17 PER
ADMINISTRATION

Attachments [Memorandum](#)
[Memorandum from Mayor Liccardo](#)
[Supplemental Memorandum](#)

3.4 [17-265](#) Actions Related to the Request for Proposal for Transportation Incident Management Center Event Tracking System.

Recommendation: Accept the report on the Request for Proposal and adopt a resolution authorizing the City Manager to:
(a) Negotiate and execute an Agreement with Parsons Transportation Group, Inc. (La Palma, CA) for the purchase and deployment of a Transportation Incident Management Center Event Tracking System, including software, and professional services for project management, software development, implementation, configuration, training and ongoing support and maintenance for an initial term of twelve years ending on or around December 2029, with a maximum compensation not-to-exceed \$1,678,351, including ten years of post-implementation maintenance and support, subject to the appropriation of funds; and
(b) Execute amendments and change orders as may be required for any unanticipated changes to the City's requirements, not to exceed \$255,000, subject to the appropriation of funds.
CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance)
(Deferred from 11/7/17 - Item 3.6 to 11/28/17 - Item 3.4)

Attachments [Memorandum](#)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 [17-085](#) Report on the Implementation of the Urban Village Component of the Envision San José 2040 General Plan.

Recommendation: Accept the progress report on the implementation of the Urban Village component of the Envision San José 2040 General Plan, and provide comments on the proposed approach for implementation. CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Economic Development/Planning, Building and Code Enforcement) (Deferred from 5/23/17 - Item 4.1, 6/6/17 - Item 4.1, et al, and 11/14/17 - Item 4.1)
RECOMMEND DEFERRAL TO 12/5/17 PER ADMINISTRATION

Attachments [Memorandum](#)
 [Memorandum from Mayor Liccardo](#)
 [Supplemental Memorandum](#)

4.2 [17-303](#) Envision San José 2040 General Plan Annual Performance Review.

Recommendation: Accept the Envision San José 2040 General Plan Annual Performance Review 2017 report. CEQA: Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. (Planning, Building and Code Enforcement)

Attachments [Memorandum](#)
 [Memo from CMs Rocha, Peralez & Jimenez](#)
 [Letter from the Public](#)
 [Memorandum from Mayor Liccardo](#)

4.3 [17-362](#)**Declaration of Continued Shelter Crisis, Designation of Facilities, and Agreement with HomeFirst for Overnight Warming Location Activation.****Recommendation:**

(a) Adopt a resolution declaring the continued existence of a shelter crisis in the City of San José pursuant to and in accordance with the provisions of California Government Code section 8698 et seq. and designating the following four City owned facilities to be occupied as overnight warming facilities by homeless individuals and families during the crisis:

- (1) Tully Community Library, 880 Tully Rd, San José, CA 95111;
- (2) Southside Senior Center, 5585 Cottle Rd, San José, CA 95123;
- (3) Alum Rock Library, 3090 Alum Rock Ave, San José, CA 95127;

and

- (4) Roosevelt Community Center, 901 E Santa Clara St, San José, CA 95116.

(b) Approve the Second Amendment to an Agreement with HomeFirst increasing the amount of the agreement by \$506,000 to continue operating the Overnight Warming Locations during the 2017-2018 cold weather season.

CEQA: Exempt, File No. PP17-076, CEQA Guidelines Section 15301, Existing Facilities and Section 15269, Emergency Projects. Council Districts 2, 3, 5 & 7. (Housing)

Attachments

[Memorandum](#)

[Resolution - Part \(a\)](#)

[Agreement - Part \(b\)](#)

[Letters from the Public](#)

5. NEIGHBORHOOD SERVICES

5.1 [17-229](#) Greenprint and Financial Feasibility Study.

Recommendation: As recommended by the Neighborhood Services and Education Committee on October 12, 2017, accept the report from the Department of Parks, Recreation and Neighborhood Services on the status of the Greenprint Update and Parks Funding Feasibility Study. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Parks, Recreation and Neighborhood Services) [Neighborhood Services and Education Committee referral 10/12/17 - Item (d)(3)]

Attachments [Memorandum](#)
[Memo from Mayor Liccardo and CMs Jimenez & Rocha](#)
[Memorandum from Councilmember Khamis](#)

5.2 [17-363](#) Actions Related to the Tamien Park Phase II Project.

Recommendation: Adopt a resolution authorizing the Director of Public Works to:
(a) Award a construction contract for the Tamien Park Phase II Project to the lowest responsive and responsible bidder in an amount not to exceed \$2,000,000 and to approve a five percent contingency in an amount not to exceed \$100,000; and
(b) Decide any timely bid protest(s), make the City's final determination as to the lowest responsive bidder that is responsible, or reject all bids and re-bid the project.
CEQA: Mitigated Negative Declaration for Tamien Park Master Plan (Resolution No. 77407), File No. PP14-057. Council District 3. (Public Works/Parks, Recreation and Neighborhood Services)

Attachments [Memorandum](#)
[Resolution](#)

6. TRANSPORTATION & AVIATION SERVICES**7. ENVIRONMENTAL & UTILITY SERVICES**

7.1 [17-309](#) Actions Related to the 7382 - Digester and Thickener Facilities Upgrade Project at the San Jose-Santa Clara Regional Wastewater Facility.

Recommendation: (a) Approve a \$15,000,000 increase to the construction contingency amount of \$13,490,625 for a revised total contingency amount of \$28,490,625 and increasing the contract not-to-exceed amount from \$121,415,625 to a total revised contract amount not-to-exceed \$136,415,625 for the 7382 - Digester and Thickener Facilities Upgrade Project.

(b) Adopt the following 2017-2018 Appropriation Ordinance Amendments in the San José- Santa Clara Treatment Plant Capital Fund:

 (1) Decrease the Yard Piping and Road Improvements appropriation to the Environmental Services Department by \$8,000,000

 (2) Decrease the Aeration Tanks and Blower Rehabilitation appropriation to the Environmental Services Department by \$7,000,000; and

 (3) Increase the Digester and Thickener Facilities Upgrade appropriation to the Environmental Services Department by \$15,000,000.

CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment, and San José-Santa Clara Regional Wastewater Facility Digester and Thickener Facilities Upgrade Project Mitigated Negative Declaration, File No. PP15-055. (Environmental Services/City Manager)

Attachments [Memorandum](#)
 [TPAC Supplemental](#)

8. PUBLIC SAFETY

8.1 [17-386](#) 2017 Fireworks Ordinance Workplan.

Recommendation: (a) Council determination that the amount of notice to the public is appropriate and therefore waive the 10-day noticing requirement for the distribution of the 2017 Fireworks Ordinance Workplan status report, and consider the following recommendation.

(b) Accept the 2017 Fireworks Ordinance Workplan status report.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Fire)

Attachments [Memorandum Item8.1](#)

9. REDEVELOPMENT – SUCCESSOR AGENCY

- Open Forum

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.

- Council will recess until 6:00 p.m.

10. LAND USE

TO BE HEARD AT 6:00 P.M.

Notice to the public: There will be no separate discussion of Land Use Consent Calendar (Item 10.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Land Use Consent Calendar (Item 10.1) and considered separately.

10.1 Land Use on Consent Calendar

- (a) [17-263](#) **Conforming Rezoning of Real Property Located at 1087 Meridian Avenue.**

Recommendation: Consideration of an ordinance of the City of San José rezoning a 0.2-acre portion of a larger 1.13-gross acre site, located at 1087 Meridian Avenue (northwest corner of Meridian Avenue and Willow Street) from CO Commercial Office Zoning District to CP Commercial Pedestrian Zoning District (Penco Association, Owner). CEQA: Determination of Consistency with the Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)
C17-042 - Council District 6

Attachments [Memorandum](#)
 [Ordinance](#)

- (b) [17-269](#) **Conforming Rezoning of Real Property Located at 771 Almaden Avenue.
DROP**

Recommendation: Consideration of an ordinance of the City of San José rezoning a 0.157-gross acre site, located at the west side of Almaden Avenue approximately 150 feet northerly of West Virginia Street (771 Almaden Avenue) from the CN Neighborhood Commercial Zoning District to the R-2 Two-Family Residence Zoning District (Sean Huang, Owner). CEQA: Exempt per CEQA Guidelines 15303(b) for New Construction or Conversion of Small Structures. (Planning, Building and Code Enforcement)
C17-011 - Council District 3
DROP - Withdrawn by Applicant

- (c) [17-356](#) **Conforming Rezoning for Real Property Located at 1508 Murphy Avenue.
DROP**

Recommendation: Consideration of an ordinance of the City of San José rezoning an approximate 0.45-gross acre site, located at the southeast corner of Murphy Avenue and Ringwood Avenue (1508 Murphy Avenue) from the A Agricultural Zoning District to the R-M Multiple Residence Zoning District for residential uses (Long Ju Lin And Tsao Yu Chi, Owner). CEQA: Exempt per CEQA Guidelines Section 15303 for New Construction or Conversion of Small Structure. (Planning, Building and Code Enforcement)
C17-020 - Council District 4
DROP - TO BE RENOTICED

(d) [17-377](#) **Conforming Rezoning for Real Property Located at 440 West Julian Street.**

Recommendation:

Consideration of an ordinance of the City of San José rezoning a 5.38-gross acre site, located at the northeast corner West Julian Street and North Autumn Street (440 West Julian Street) from Light Industrial and Heavy Industrial Zoning Districts to the Transit Employment Center Zoning District (Michael Akatiff, Owner). CEQA: Determination of Consistency with Envision San José 2040 General Plan Environmental Impact Report (Resolution No. 76041) and Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77517), and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)
C17-038 - Council District 3

Attachments [Memorandum](#)
[Ordinance](#)

(e) [17-378](#) **Conforming Rezoning for Real Property Located at 1593 Monterey Road.**

Recommendation:

Consideration of an ordinance of the City of San José rezoning a 0.3-gross acre site, located on the northwest corner of Monterey Road and Bellevue Avenue (1593 Monterey Road) from the LI Light Industrial Zoning District to the CN Commercial Neighborhood Zoning District. CEQA: Determination of Consistency with Envision San José 2040 General Plan EIR (Resolution No. 76041) and Supplemental EIR to the Envision San José 2040 General Plan Program EIR (Resolution No. 77517), and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)
C17-001 - Council District 7

Attachments [Memorandum](#)
[Ordinance](#)

- (f) [17-379](#) **Conforming Rezoning for Real Property Located at 6970 Santa Teresa Boulevard.**

Recommendation: Consideration of an ordinance of the City of San José rezoning a 0.51-gross acre site, located at the north east corner of Santa Teresa Boulevard and Realm Drive (6970 Santa Teresa Boulevard) from the IP Industrial Park Zoning District to the CP Commercial Pedestrian Zoning District (American Real Estate Group LLC, Owner). CEQA: Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) Supplemental EIR to Envision San José General Plan EIR (Resolution No. 77617), and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. (Planning, Building and Code Enforcement)
C17-039 - Council District 2

Attachments [Memorandum](#)
 [Ordinance](#)

OPEN GENERAL PLAN AMENDMENT HEARING THIRD CYCLE

- (g) [17-353](#) **General Plan Amendment: Land Use/Transportation Diagram Located at 2720 Booksin Avenue. DROP**

Recommendation: General Plan Amendment to change the Land Use/Transportation Diagram from Public Quasi Public to Residential Neighborhood to allow for residential uses on a 1.65-gross acre site, located on the easterly corner of Booksin Avenue and the terminus of Wawona Drive (2720 Booksin Avenue) (Lincoln Glen Church, Owner). CEQA: 2700 Booksin Avenue General Plan Amendment Initial Study/Negative Declaration. (Planning, Building and Code Enforcement)
GP16-012 - Council District 9
DROP - Withdrawn by Applicant

(h) [17-380](#)

General Plan Amendment: Land Use/Transportation Diagram.

Recommendation:

(a) Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto.

(b) Adopt a Resolution approving a General Plan Amendment to address Land Use/Transportation Diagram errors at locations within the boundaries of the Rincon South Urban Village, Jackson-Taylor Specific Plan, Martha Gardens Specific Plan, and Evergreen Village. CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (7-0-0).

(Planning, Building and Code Enforcement)

GP17-014 - Council Districts 3 and 8

Attachments [Memorandum](#)

[Resolution](#)

- (i) [17-381](#) **General Plan Text Amendment: Envision San José 2040 General Plan and The Alameda (East) Urban Village Plan.**

Recommendation:

(a) Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto.

(b) Adopt a resolution approving a General Plan Text Amendment to make minor modifications to the Envision San José 2040 General Plan and the Alameda (East) Urban Village Plan, including clarifying revisions to General Plan Policy IP-2.11 and The Alameda (East) Urban Village Policy LU-2.1, updates to Appendix 5 of the General Plan, and other minor grammatical and clarifying revisions.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (7-0-0).

(Planning, Building and Code Enforcement)

GPT17-003 - Citywide

Attachments [Memorandum](#)
[Resolution](#)

(j) [17-383](#)

General Plan Text Amendment: General Plan Land Use Designations.

Recommendation:

(a) Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto.

(b) Adopt a resolution approving a General Plan Text Amendment to clarify General Plan Land Use designations associated with the vacation or sale of City right-of-way and State freeways and transportation corridors.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San Jose General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (7-0-0).

(Planning, Building and Code Enforcement)

GPT17-004 - Citywide

Attachments [Memorandum](#)

[Resolution](#)

(k) [17-384](#)

General Plan Text Amendment: Diridon Station Area Plan.

Recommendation:

(a) Consider the Determination of Consistency with the Diridon Station Area Plan Final Program Environmental Impact Report (Resolution No. 77096), and Addenda thereto.

(b) Adopt a resolution approving a General Plan Text Amendment to add text from the adopted Diridon Station Area Plan Final Program Environmental Impact Report to the General Plan, and associated General Plan Amendment to reinstate the Downtown Core and modify the boundaries of the Midtown Specific Plan and the Downtown Growth Area.

CEQA: Determination of Consistency with the Diridon Station Area Plan Final Program Environmental Impact Report (Resolution No. 77096) and Addenda thereto. Planning Commission recommends approval (7-0-0). (Planning Building and Code Enforcement) GPT17-005/GP17-011 - Council District 3

Attachments

[Memorandum](#)

[Resolution](#)

[Letter from Public](#)

(I) [17-385](#) **General Plan Text Amendment: Revision to Policy IP-5.10.**

Recommendation:

(a) Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto.

(b) Adopt a resolution approving a General Plan Text Amendment to revise Policy IP-5.10 to clarify that the commercial component of a Signature Project must be constructed before or concurrently with residential uses.

CEQA: Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617), and Addenda thereto. Planning Commission recommends approval (7-0-0).

(Planning, Building and Code Enforcement)

GPT17-006 - Citywide

Attachments [Memorandum](#)

[Resolution](#)

END OF CONSENT CALENDAR

10.2 [17-207](#)**Appeal Hearing on Conditional Use Permit and Site Development Permit
for the Real Property Located at 3702 South Bascom Avenue.****DEFERRED****Recommendation:**

(a) Conduct an Administrative Hearing and consider the Permit Appeal of the Planning Commission's approval of the Conditional Use Permit and Site Development Permit to allow the demolition of an existing 1,276-square foot gas station convenience store with incidental service and vehicle repair, and the construction of a new 5,754-square foot convenience store and fully automated car wash, and early morning use for the gas station and convenience store only (one hour extension between 5:00 a.m. and 6:00 a.m.), a temporary use trailer, and an exceedance of the Zoning Ordinance noise performance standards by two decibels.

(b) Adopt a resolution denying the permit appeal and approving the Conditional Use Permit and Site Development Permit, subject to Conditions, to allow the demolition of an existing 1,276-square foot gas station convenience store with incidental service and vehicle repair, and the construction of a new 5,754-square foot convenience store and fully automated car wash, and early morning use for the gas station and convenience store only (one hour extension between 5:00 a.m. and 6:00 a.m.), a temporary use trailer, and an exceedance of the Zoning Ordinance noise performance standards by two decibels on an approximately on a 0.81-gross acre site located at 3702 South Bascom Avenue (southeast corner of South Bascom Avenue and Woodard Road).

CEQA: Exempt per CEQA Guidelines Section 15302 for Replacement or Reconstruction and 15332 for Infill Development Projects. Planning Commission approved the Conditional Use Permit and Site Development Permit (4-3-0; Phan, Bit-Badal opposed). (Planning, Building and Code Enforcement)

CP16-035 - Council District 9

(Deferred from 10/24 - Item 10.4)

DEFERRED FROM 11/28/17 TO 12/12/17 PER APPLICANT

Attachments [Memorandum](#)
[Memorandum from Councilmember Rocha](#)
[Attachment A - Permit Appeal](#)
[Attachment B - Project Petition](#)
[Attachment C - Planning Commission Packet](#)
[Attachment D - Signed Planning Commission Resolution](#)
[Attachment E - Mitigation Management Plan](#)
[Attachment F - Noise Study](#)
[Attachment G - Plan Set](#)
[Letters from the Public](#)
[Letters from the Public 2](#)
[Letters from the Public 3](#)
[Illingworth & Rodkin, Inc's \(I&R\) Environmental Noise Assessn](#)

10.3 [17-354](#) **General Plan Amendment: Land Use/Transportation Diagram Located at 100 South Capitol Avenue.**

Recommendation: Adopt a resolution approving a General Plan Amendment to change the Land Use/Transportation Diagram from Neighborhood/Community Commercial to Residential Neighborhood on a 0.35-gross acre site., located on the southeast corner of South Capitol Avenue and Rose Avenue (100 South Capitol Avenue) (Nguyen Hiep Van Trustee, Owner). CEQA: Exempt per CEQA Guideline Section 15303 for New Construction or Conversion of Small Structures. Planning Commission recommends approval (6-0-1, Ballard absent). (Planning, Building and Code Enforcement) GP17-001 - Council District 5

Attachments [Memorandum](#)
[Resolution](#)

10.4 [17-355](#)**General Plan Amendment: Land Use/Transportation Diagram Located at 370 West Trimble Road.****Recommendation:**

- (a) Adopt a resolution approving the 350/370 West Trimble Road General Plan Amendment Initial Study/Negative Declaration.
- (b) Adopt a resolution approving a General Plan Amendment to change the Land Use/Transportation Diagram from Industrial Park to Combined Industrial/Commercial on a 19.4 gross acre site, located on the southwest corner of West Trimble Road and Orchard Parkway (370 West Trimble Road) (370 West Trimble Rd Corp, Owner).

CEQA: 350/370 West Trimble Road General Plan Amendment Initial Study/Negative Declaration. Planning Commission recommends approval (6-0-1, Ballard absent). (Planning, Building and Code Enforcement)

GP17-007 - Council District 4

Attachments [Memorandum](#)
[Resolution - Part \(a\)](#)
[Resolution - Part \(b\)](#)

CONTINUE GENERAL PLAN AMENDMENT HEARING THIRD CYCLE TO DECEMBER 12, 2017

- **Open Forum**

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.

- **Adjournment**

[17-435](#)**Notice of City Engineer's Pending Decision on Final Maps**

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

Tract-10409, Location - 1480 Douglas Street, Council District 6, Developer - Dom Campaign LLC, Lots/Units - 6/6, Type - SFA, Proposed Decision: Approve

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions: § No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.