



PLANNING COMMISSION SYNOPSIS

Monday, June 11, 2007

6:30 p.m. Regular Meeting

ROOMS: W-118 / 119 / 120

First Floor, City Hall Wing

200 East Santa Clara Street
San Jose, California

Xavier Campos, Chair
James Zito, Vice-Chair

Christopher Platten Ash Kalra
Randi Kinman
Matt Kamkar Lisa Jensen

Joseph Horwedel, Director
Planning, Building and Code Enforcement

NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 535-7800 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

NOTICE TO THE PUBLIC

Good evening, my name is **Xavier Campos** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of **Monday, June 11, 2007**. Please remember to turn off your cell phones and pagers. Parking ticket validation machines for the garage under City Hall are located at the rear of the Chambers. If you want to address the Commission, **fill out a speaker card (located on the table by the door, on the parking validation table at the back, and at the bottom of the stairs near the Audio-Visual Technician. Deposit the completed card in the basket near the Planning Technician. Please include the agenda item number (not the file number) for reference. Example: 4a, not PD06-023.**

The procedure for this hearing is as follows:

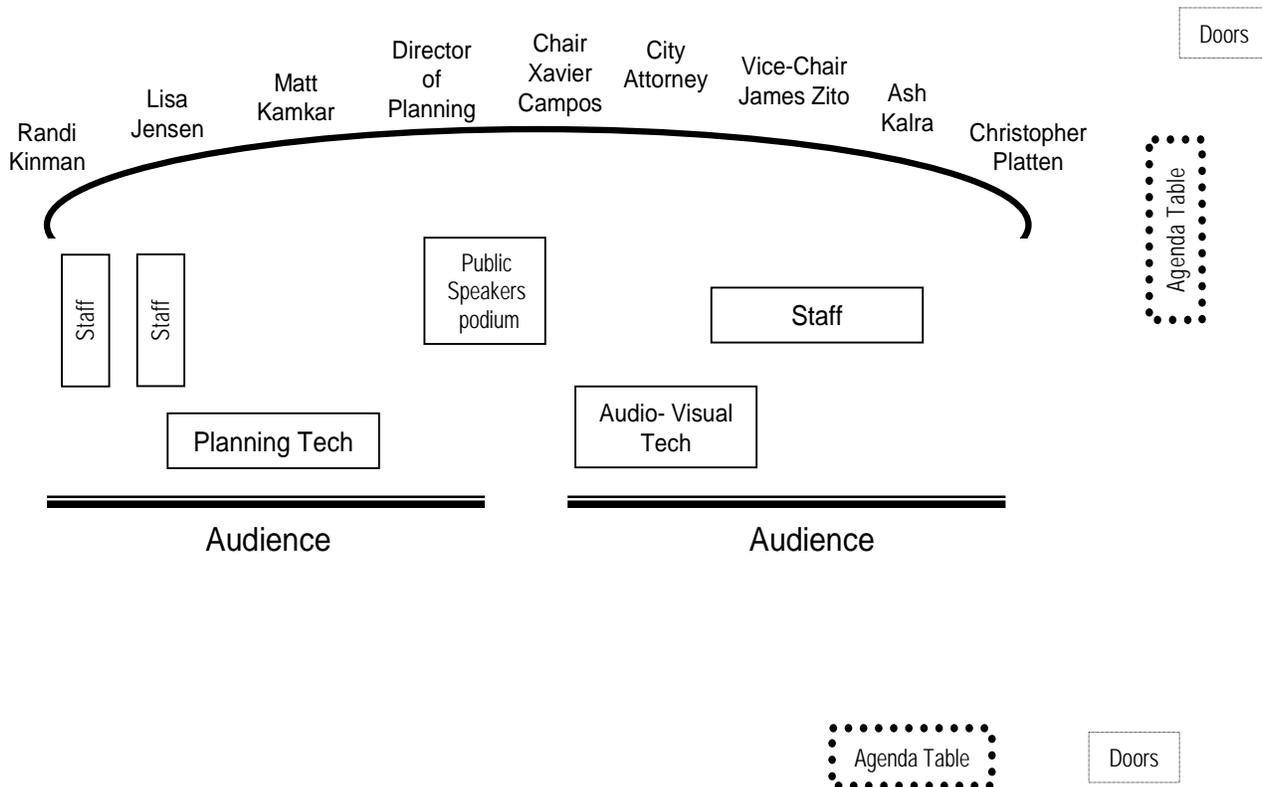
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.

The Planning Commission's action on rezoning, prezonings, General Plan Amendments and Code Amendments is advisory only to the City Council. The City Council will hold public hearings on these items. Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

Note: If you have any agenda questions, please contact Olga Guzman at olga.guzman@sanjoseca.gov

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San Jose Planning Commission generally meets every 2nd and 4th Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at www.sanjoseca.gov/planning/hearings/planning_com.asp.

Audio for the Planning Commission hearings are recorded and broadcast live. To listen to live audio broadcast or to listen to past hearing recordings go to the Internet website:

http://sanjose.granicus.com/ViewPublisher.php?view_id=17#planningCommission.

If you have any questions, please direct them to the Planning staff at (408) 535-7800. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

AGENDA
ORDER OF BUSINESS

1. ROLL CALL

All present except Zito arrived after deferrals at consent and Kamkar arrived after consent in time for item 3.d.

2. DEFERRALS

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table.

Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time.

- a. Consideration of Planning Commission Agenda management and length of public hearing concerns and determination on whether to proceed with remaining agendized items past 11:00 p.m., continue this hearing to a later date certain, or defer remaining items to the next regularly scheduled Planning Commission meeting date. To be heard by the Planning Commission no later than 11:00 p.m.
- b. **PDC07-004**. Planned Development Rezoning from the R-2 Two Family Residence District to the R-2(PD) Planned Development Zoning District to allow 2 single family detached residences and 1 duplex that currently exist on the project site to facilitate future subdivision. No new construction is proposed, the project site located on the southeast corner of East Hedding Street and North 17th St. (890 North 17th Street) (Louis Bini, owner). Council District 3. SNI: 13th Street. CEQA: Exempt.

DEFER TO 6-27-07 (5-0-2; ZITO AND KAMKAR ABSENT)

3. CONSENT CALENDAR

NOTICE TO THE PUBLIC

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time.

- a. **PDC06-064**. Planned Development Rezoning from the CG Commercial General Zoning District to the A(PD) Planned Development District to allow approximately 44,000 square foot commercial use (Whole Foods) on a 2.19 gross acres site, located on the Northwest corner of The Alameda and Stockton Avenue (155 STOCKTON AV) (Alameda/Stockton Llc, Owner; Whole Foods Market California, Inc., Developer). Council District 6. SNI: None. CEQA: Mitigated Negative Declaration.

RECOMMENDED APPROVAL (6-0-1; KAMKAR ABSENT)

- b. [CP07-012](#). Wireless - Conditional Use Permit to allow a wireless communications monopole and associated ancillary equipment to continue to operate, with no changes proposed, on a 0.10 gross acre site in the CN Neighborhood Commercial Zoning District, approximately 600 feet south of North First Street, midway between Grand Boulevard and Trinity Park Drive (Sainte Claire Corp, Owner). Council District 4. SNI: None. CEQA: Exempt.

APPROVED (6-0-1; KAMKAR ABSENT)

- c. [CPA01-025-01](#). Wireless - Conditional Use Permit Amendment to continue the use of an existing 50-foot monopole, associated wireless communication panel antennas, and 660 square foot equipment shelter on a 3.56 gross acre site in the A Agricultural Zoning District, located at/on westside of Senter Road approximately 400 feet southerly of Capitol Expressway (3195 SENTER RD) (Mr Jerry Harris, Owner). Council District 7. SNI: None. CEQA: Exempt.

APPROVED (6-0-1; KAMKAR ABSENT)

- d. [C07-005](#). Conventional Rezoning from R-2 Two-Family Residence Zoning District to R-M Multiple Residence District on a 0.2 gross acre site, located on the southeast corner of Highway 280 and South 11th Street (868 South 11th Street) (Margarita O. Delgado et al, Tamara Alabastro, Owners; Bruce Williams, Developer). Council District 3. SNI: Spartan/Keyes. CEQA: San Jose 2020 General Plan EIR Resolution No. 65459.

CONTINUED TO 6-27-07 (7-0-0)

Pulled by member of community. Staff gave brief update indicating the conventional zoning does not propose a specific project and additional community outreach will occur at development stage.

Commissioner Kalra asked whether 4 units would be consistent with the neighborhood and an applicant provided a concept plan for review for Commissioners. City Attorney clarified for the Commission that plan was only a conceptual plan and not for approval today.

A representative of Spartan Keyes asked that the item be deferred until the next NAC meeting to allow community discussion, and in response to Commissioner Kinman, stated next NAC meeting is June 21st. Another speaker explained that a general traffic and noise study had been prepared for the NAC recently. Applicant responded to concerns that ample room for parking on site. Commissioner Kalra asked if applicant would allow a delay in zoning and applicant stated unnecessary delay and would be willing to subsequently talk with NAC.

In response to Chair Campos, staff and City Attorney commented no specific development proposal yet and community meeting perhaps premature. Commissioner Jensen commented that there are two houses over 100 years old and should be referred to Historic Landmarks, and she moved continuance to June 27, 2007.

The following items are considered individually.

4. **PUBLIC HEARINGS**

NOTICE TO THE PUBLIC

Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

- a. [An Ordinance of the City of San José](#) establishing a limited pilot program to allow certain restaurants, bars and nightclubs located in an area generally bounded by St. John Street, 4th Street, San Carlos Street, Market Street, San Fernando Street and San Pedro Street, as more precisely described on the pilot program area map, to remain open until 3:00 a.m. for a period of up to 180 days. Council District 3. CEQA: Exempt, PP07-117.

RECOMMENDED APPROVAL (7-0-0)

In response to Chair Campos about why not extended to the South, Director Horwedel stated important to have manageable area, costs being borne by General Fund, and test area has less residential.

Commissioner Zito asked if time for alcohol service is 1:30 (although state law is 2:00 a.m.), and asked if more emphasis needed to be placed for confirming alcohol sales stop at 1:30 since business open until 3:00 a.m. Director Horwedel stated close work with Police Department over operational concerns. Commissioner Zito asked about effectiveness so 6 months from July would carry to January 2008, depending on whether pilot is extended.

In response to Commissioner Zito, City Attorney responded that if you are allowed legally to be open until 2:00 a.m., you can be open to 3 a.m. for 90 days, and second 90 days would address logistics of how to make a permanent ordinance.

In response to Commissioner Kalra, Director stated that if pilot is successful, could be extended to broader area. Commissioner Kalra commented that could allow migrating of patrons and Director Horwedel stated issue of migration to other clubs one of the items being addressed. Commissioner Kalra stated public safety issues with current closing and extending hours would be safer, friendlier and would allow restaurants. Commissioner Platten stated intelligent policy design to allow review with Police of options, and San Jose needs to be sophisticated as 10th largest city and City should identify ways to do this. Commissioner Kamkar supported concept but asked how success would be measured to which Director Horwedel commented Downtown Working Group charged answering with that question.

- b. [CP07-018](#). Conditional Use Permit to allow a poolroom/billiard establishment within an existing commercial center on a 1.72 gross acre site located on the southeast side of Story Road, approximately 300 feet east of Lucretia Avenue (950 Story Road) in the CN-Commercial Neighborhood Zoning District (Vu' S Corporation, Owner). Council District 7. SNI: Tully/Senter. CEQA: Exempt.

APPROVED (4-3-0; CAMPOS, JENSEN AND KINMAN OPPOSED)

Staff reiterated permit requirements and stated applicant was willing to work with NAC. Applicant commented safe environment with no alcohol served and not open after midnight. Several speakers spoke in support of business operator saying other businesses she operates supportive of community and this business would improve condition of building. Proximate business owners expressed support for business and explained community ties.

Commissioner Kalra stated he had visited site and asked property owner if there is off site sale of alcohol in shopping center and response was no, and no intention. In response to Commissioner Kalra about security, property investor stated operator of business will bring forth private security. Chair Campos stated other alcohol outlets are available. In response to Commissioner Kinman, property manager stated 8 years left in leases and options for alternating parking arrangements.

Other speakers commented that gaming should not be allowed and expressed concerns about video games. In response to Commissioner Zito about age limit, smoking rooms, etc., applicant explained 18 years and older, with only entertainment games and then smoking area outdoors.

In response to Commissioner Kinman, about possibility of secondhand smoke, applicant suggested that fans could be added. Applicant stated an additional security guard would be on staff Thursday to Sunday. In response to Chair Campos, applicant stated windows would remain uncovered.

Chair Campos had questions about ability to rope off area during the day, and staff explained how room would be open and no private rooms and highlighted conditions proposed to help address issues of high crime area.

Lieutenant Hober explained his concern that crime is 54% higher at this location and the SNI leaders believe would attract undesirable activities and billiard halls can be crime magnet and Chair Campos stated type of business attracts gang activities and bad for neighborhood. In response to Commissioner Zito, Lieutenant Hober stated this hall would bring citywide total to 10, of 25 halls allowed. Commissioner Zito stated might be a good thing to allow young people a venue for entertainment rather than just "hang out."

Commissioner Kamkar asked if Police had any information on operators' other businesses and Lieutenant Hober said hadn't known other sites. In response to Commissioner Jensen about undercover Police capability, Lieutenant Hober stated not enough police officers to be able to be on site.

In response to Commissioner Zito on 18-and-over crowd, applicant indicated two other businesses have one 21-and-over and other 18-and-over and not had other problems at other businesses. Applicant noted checks for ID were random at other businesses, but pool hall would require ID to gain admittance.

In response to Commissioner Kinman, applicant commented no food served, no food service to tables and only juice. Commissioner Zito moved approval (Platten seconded) staff recommendation with 1) tobacco sales prohibited and 2) reference to Muni code that see-through windows will apply to this billiard hall.

Commissioner Zito stated Commission has been willing to recommend businesses that have good track record and that options should be made available and could be beneficial. Commissioner Kinman stated concern about smoking area in family shopping center and that parking may not be adequate and long lease left and won't support motion. Commissioner Jensen concerned about gaming and wants only regular games not gambling, and expressed concern about smoking area, and that there may not be resources for 1-year compliance review, and stated struggling with permit. Commissioner Kalra stated also struggling, especially with a likely empty parking lot with nearby off-sale alcohol, and stated considering approval only because 1-year compliance review. He stated security is an issue but that overall should give an opportunity. Chair Campos stated too easy to not abide by rules to restrict access to some of pool tables during the day and Code Enforcement is unlikely, and gang violence is too close and is a dangerous situation.

- c. **CP06-059**. Conditional Use Permit to (1) convert 400 square feet of existing space from ancillary automotive use to retail use, (2) construct 328 square feet of new office/storage use; and (3) allow off-sale of alcoholic beverages on a 0.67 gross acre site in the CN Neighborhood Commercial Zoning District, located at the northwest corner of Cahalan Avenue and Santa Teresa Boulevard (6095 CAHALAN AVE) (YBM Inc., Owner). Council District 10. SNI: None. CEQA: Exempt. Deferred from 5-30-07.

APPROVED (4-3-0; CAMPOS, JENSEN AND KALRA OPPOSED)

In response to Commissioner Kamkar about whether existing venues could provide enough alcohol outlets and who would be coming here to buy alcohol and neighborhood speaker stated that number of outlets would increase from 3 to 4 and Commissioner Kamkar stated that patrons could go across the street to 7-11.

Staff highlighted Police were neutral to permit because not over-concentrated or high crime area. Staff clarified that opposition from property owner of surround center was to reduce competition. Commissioner Kalra stated that across the street, a two-lane road, is a house and not much separation and won't support motion. Chair Campos stated retail uses are appropriate with gas station but not with liquor sales.

- d. **FEIR**. FINAL ENVIRONMENTAL IMPACT REPORT for the HOUSEHOLD HAZARDOUS WASTE FACILITY. Relocation of the household hazardous waste drop-off facility previously located at the City of San Jose's Central Service Yard (1661 Senter Road). Proposed on-site activities consist of collection of household hazardous wastes such as paint, solvents, and motor oil from members of the public approximately eight days per month, and temporary storage of the collected materials in prefabricated storage containers. Proposed site changes include new and relocated storage containers and creation of a driveway. The project site is a currently vacant 1.8-acre portion of a 4.2-acre City-owned parcel located at the corner of Las Plumas Avenue and Nipper Avenue (1608 Las Plumas Avenue). File No.: PP06-100. Council District: 3.

CERTIFIED EIR (5-2-0; CAMPOS AND PLATTEN OPPOSED)

The Planning Commission found the HHW Final EIR meets the requirements of CEQA by disclosing the significant environmental effects of the project, identifying feasible ways to

mitigate the significant effects, and describing reasonable alternatives to the project, to allow the City Council to make an informed decision whether to relocate the HHW facility to the City-owned Las Plumas property.

- e. **PDA74-014-01**. APPEAL of the Planning Director’s decision to conditionally approve a Planned Development Amendment to allow the removal of three dying Monterey Pine trees and to erect a new 8 foot tall chain link fence with slats between the sidewalk and the pool area on a 12.3 gross acre site in the R-1-8(PD) Planned Development Zoning District, located on the south side of Roy Ave, 780 ft easterly of Lincoln Ave, (Lincoln Village Homeowner's Association, Owner). Council District 6. SNI: None. CEQA: Exempt.

UPHELD APPEAL (7-0-0)

The Planning Commission required a fast growing evergreen vine to cover the fence (no ivy).

5. PETITIONS AND COMMUNICATIONS

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:
1. Responding to statements made or questions posed by members of the public; or
 2. Requesting staff to report back on a matter at a subsequent meeting; or
 3. Directing staff to place the item on a future agenda.

Jean Marlowe – Expressed concern that Irvine project was not identified as a “larger” neighborhood plan.

Macele – This project should not be rushed through the process.

Eric Kaedding – Mayor should not intervene with Planning Commission business and should not favor developer interest on Irvine project over neighborhood interests.

Rick Lambert – from Irvine Co., needs to fast track project in order to be able to facilitate a larger park.

6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES

None

7. GOOD AND WELFARE

- a. Report from City Council
- b. Commissioners' reports from Committees:
- Norman Y. Mineta San Jose International Airport Noise Advisory Committee (Campos).

No report.

- Coyote Valley Specific Plan (Platten)

Next meeting on Monday, June 18, 2007.

- Parks Funding Subcommittee (Zito)

See memo (report by Commissioner Zito) dated on June 11, 2007.

- c. Review of synopses from May 2 and May 16, 2007

Approved synopses

- d. Consider study session dates and/or topics

- e. Consider letter forwarding recommendations of the Parks Funding Subcommittee for joint transmittal by the Planning and Parks Commission to the City Council.

Motion to sign letter and forward to City Council (7-0-0).

- f. Consider Council request to conduct a public hearing on Monday, June 18, 2007 (or earlier) at 6:30 p.m. (per June 5, 2007 memorandum from Mayor Reed).

Planning Commission decided not to reconsider Mayor's recommendation to reconsider Irvine project at 6/18/07 instead of 6/27/07. Commissioner Jensen concerned about City Council "forcing" Planning Commissioners to add a hearing due to developer constraints. The Developer did not bring up particular concerns regarding acquisition or options on proximate properties for park at the previous Planning Commission hearing. Planning Commission should continue to be independent. Motion to reconsider failed (1-6-0; Campos, Jensen, Kalra, Kinman, Platten and Zito opposed).

8. ADJOURNMENT

2007 PLANNING COMMISSION MEETING SCHEDULE

Date	Time	Type of Meeting	Location
January 31	6:30 p.m.	Regular Meeting	Council Chambers
Mon. February 12	6:30 p.m.	Regular Meeting	Council Chambers
February 28	6:30 p.m.	Regular Meeting	Council Chambers
March 14	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Coyote Valley Specific Plan EIR</i>	
March 14	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
March 28	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Meeting Procedures and Commission Role</i>	
March 28	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
April 11	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Early Public Outreach for General Plan Update</i>	
April 11	6:30 p.m.	Regular Meeting	Council Chambers
April 25	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Level of Service Policy</i>	
April 25	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 2	5:00 p.m.	<i>Study Session</i>	T-1654
		<i>Review Capital Improvement Program</i>	
May 2	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 16	6:00 p.m.	<i>Study Session</i>	T-332
		<i>Sunshine Reform Task Force Recommendations</i>	
May 16	6:30 p.m.	Regular Meeting	Council Chambers
May 30	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Economic Development/Retail Strategy</i>	
May 30	6:30 p.m.	Regular Meeting	Council Chambers
Mon., June 11	6:30 p.m.	Regular Meeting	W-118 / 119 / 120
June 27	5:00 p.m.	<i>Joint Study Session w/Parks Commission</i>	W-120
		<i>Riparian Corridor issues</i>	
June 27	6:30 p.m.	Regular Meeting	Council Chambers
July 18	6:30 p.m.	Regular Meeting	Council Chambers
August 8	6:30 p.m.	Regular Meeting	Council Chambers
August 22	6:30 p.m.	Regular Meeting	Council Chambers
September 12	6:30 p.m.	Regular Meeting	Council Chambers
September 26	6:30 p.m.	Regular Meeting	Council Chambers
October 10	6:30 p.m.	Regular Meeting	Council Chambers
October 24	6:30 p.m.	Regular Meeting	Council Chambers
November 7	6:30 p.m.	Regular Meeting	Council Chambers
November 14	6:30 p.m.	Regular Meeting	Council Chambers
November 28	6:30 p.m.	Regular Meeting	Council Chambers
December 5	6:30 p.m.	Regular Meeting	Council Chambers