



CITY COUNCIL AGENDA

JUNE 7, 2011

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
NANCY PYLE

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.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. 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**
9:00 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

- **Invocation (District 6)**
Pastor Scott Simmerok, Church on the Hill

- **Pledge of Allegiance**
- **Orders of the Day**

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

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Enrique Flores for his commitment to make quality educational experiences available to underprivileged youths and supporting our community as Founder and Director of East Side Heroes. (Chu/Campos)
(Rules Committee referral 05/25/11)

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 Minutes.

2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances.

- (a) ORD. NO. 28918 – Rezoning certain real property situated at the southwest corner of Foxworthy Avenue and Almaden Expressway (1175 Hillsdale Avenue; APN: 451-06-066 & -068) to CN(PD) Planned Development Zoning District.
- (b) ORD. NO. 28919 – Amending Sections 25.08.700 and 25.08.730 of Part 7 of Chapter 25.08 and Section 25.16.050 of Chapter 25.16 of Title 25 of the San José Municipal Code to require all providers of Taxicab services at the airport to obtain an Airport Ground Transportation Permit, to require that parking shuttle operations be conducted in a separate vehicle from any other ground transportation services at the airport and to clarify the circumstances under which persons may be authorized to park without charge in public parking facilities at the airport.

2.3 Approval of Council Committee Reports.

Recommendation: Approval of Council Committee Reports.

- (a) Rules and Open Government Committee Report of May 11, 2011. (Mayor)
- (b) Public Safety, Finance and Strategic Support Committee Report of May 19, 2011. (Constant)
 - (a) Call to Order and Roll Call
 - (b) Review of Workplan
 - (c) Consent Calendar
 - (1) Redevelopment Agency Monthly Financial Statements; Capital Costs; Cash Flow Projections. (Redevelopment Agency)
TO BE HEARD ON THE 6/14/11 REDEVELOPMENT AGENCY AGENDA
 - (2) Workers' Compensation Report as Of March 31, 2011. (City Manager's Office/Mayor)
- (d) Committee Reports
 - (1) Interoperability Report on Public Safety Projects. (Finance)
 - (2) Third Quarter Finance Reports
 - (a) Revenue Collection Strategic Plan
 - (b) Investment Report
 - (c) Debt Reports
 - (3) Team San José Quarterly 2010-2011 Performance and Incentive Measure Report. (Team San José)

(Item continued on the next page)

2. CONSENT CALENDAR

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

Recommendation:

- (b) Public Safety, Finance and Strategic Support Committee Report of May 19, 2011. (Cont'd.)
- (d) (4) Monthly Report of Activities. (City Auditor)
- (5) Audit of Key Drivers of Employee Compensation. (City Auditor)
SEE ITEM 3.5 FOR COUNCIL ACTION TO BE TAKEN
- (e) Open Forum
- (f) Adjournment
- (c) [Community & Economic Development Committee Report of May 23, 2011.](#) (Herrera)
- (d) Rules and Open Government Committee Report of May 4, 2011. (Mayor)
[Deferred from 5/24/11 – Item 2.3(c)]
- (e) Rules and Open Government Committee Report of April 27, 2011. (Mayor)
[Deferred from 5/17/11 – Item 2.3(a) and 5/24/11 – Item 2.3(d)]
- (f) Rules and Open Government Committee Report of April 20, 2011. (Mayor)
[Deferred from 5/10/11 – Item 2.3(a), 5/17/11 – Item 2.3(b) and 5/24/11 – Item 2.3(e)]
- (g) Rules and Open Government Committee Report of April 13, 2011. (Mayor)
[Deferred from 5/3/11 – Item 2.3(a), et al, 5/24/11 – Item 2.3(f)]
- (h) Rules and Open Government Committee Report of March 23, 2011. (Mayor)
[Deferred from 4/12/11 – Item 2.3(a), et al, and 5/24/11 – Item 2.3(g)]
- (i) Rules and Open Government Committee Report of March 16, 2011. (Mayor)
[Deferred from 4/5/11 – Item 2.3(a), et al, and 5/24/11 – Item 2.3(h)]
- (j) Rules and Open Government Committee Report of March 9, 2011. (Mayor)
[Deferred from 3/29/11 – Item 2.3(a), et al, and 5/24/11 – Item 2.3(i)]

2.4 Mayor and Council Excused Absence Requests.

Recommendation:

- (a) [Request for an excused absence Vice Mayor Nguyen from the City Council Budget Study Session on May 19, 2011 due to illness..](#) (Nguyen)
(Rules Committee referral 05/25/11)
- (b) [Request for an excused absence Vice Mayor Nguyen from the regular meeting of the Public Safety, Finance and Strategic Support Committee on May 19, 2011 due to illness.](#) (Nguyen)
(Rules Committee referral 05/25/11)

2.5 City Council Travel Reports.

2.6 Report from the Council Liaison to the Retirement Boards.

2. CONSENT CALENDAR

2.7 Settlement Agreement with Phuong Quang Ho.

Recommendation: Approve settlement in the case of Phuong Quang Ho v. City of San José, et al., and authorize the City Attorney to execute a Settlement [Agreement](#) and Release with Phuong Quang Ho in the amount of \$225,000. CEQA: Not a Project; File No. PP10-066(h), Settlement Agreements. (City Attorney's Office)

2.8 Master Agreements for Environmental Support Services.

Recommendation: Approve consultant master agreements with the following firms for various City projects:

- (a) [David J. Powers & Associates, Inc.](#) for a variety of environmental support services from the date of execution through December 31, 2014 in an amount not to exceed \$500,000, subject to appropriation of funds.
- (b) [Denise Duffy & Associates, Inc.](#) for a variety of environmental support services from the date of execution through December 31, 2014 in an amount not to exceed \$500,000, subject to appropriation of funds.

CEQA: Not a Project, File No. PP10-066, contracts for professional services. (Public Works)

2.9 Agreement for City Design Services with the Santa Clara Valley Transportation.

Recommendation:

- (a) Adopt a resolution authorizing the Director of Public Works to negotiate and execute the following amendments to the Agreement for Design Services with the Santa Clara Valley Transportation Authority for the Capitol Expressway Light Rail Pedestrian Improvements (CELR) Project:
 - (1) A first amendment to add services, extend the term, and increase compensation in the amount of \$150,000 for a total contract amount not to exceed \$459,225, subject to the appropriation of funds; and
 - (2) A subsequent amendment to adjust reimbursable hourly compensation rates after approval of the 2011-2012 Adopted Operating Budget and total compensation costs are known.
- (b) Adopt the following 2010-2011 Appropriation Ordinance and Funding Sources Resolution amendments in the Construction Excise Tax Fund:
 - (1) Increase the appropriation to the Department of Transportation for the Capitol Expressway Light Rail Pedestrian Improvements project by \$50,000.
 - (2) Increase the estimate for Earned Revenue by \$50,000

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. Council Districts: 5 & 8. SNI Areas: Five Wounds/Brookwood Terrace, Gateway East, Mayfair, East Valley/680 Communities. (Public Works/City Manager's Office)
(Deferred from 5/24/11 – Item 2.13)

2. CONSENT CALENDAR

2.10 [Route 87 Freeway Project Right of Way Cooperative Agreement.](#)

Recommendation: Approve the amendment to the Route 87 Freeway Project Right of Way Cooperative [Agreement](#) between the State of California and the City of San José, extending the termination date of the agreement to December 31, 2012. CEQA: Route 87 Freeway Project EIR, Resolution No. 65071. (Transportation)

3. STRATEGIC SUPPORT SERVICES

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

3.2 Labor Negotiations Update

Recommendation: Accept Labor Negotiations Update.
TO BE HEARD AT 9:00 A.M.

3.3 [Council Salary Setting Commission Recommendations.](#)

[Attachment – Memo from Mayor Reed](#)

Recommendation: As recommended by the Council Salary Setting Commission, approve an [ordinance](#) setting the salaries and benefits of the Mayor and City Council for the period June 26, 2011 through June 30, 2013 – Fiscal Years (FY) 2011- 2012 and FY 2012 – 2013 as follows:

- (a) For the Mayor, reduce the salary recommended by the Commission for the 2009-2011 period from \$127,000 annually to \$114,000 annually, to be effective June 26, 2011.
- (b) For each Councilmember, reduce the salary recommended by the Commission for 2009-2011 from \$90,000 annually to \$81,000 annually, to be effective June 26, 2011.
- (c) Retain the levels of health, dental, life insurance and other benefits through in accordance with the benefits provided to management employees in Unit 99.
- (d) For the current Mayor and Councilmembers (meaning those in office as of July 1, 2011), maintain the City's participation and contributions to CalPERS defined benefit or PTC 457 defined contribution plans through their terms of office.
- (e) Direct the City Clerk and City Attorney to perform necessary research and return with recommendations for the implementation of a change in retirement plan benefits for future Councilmembers, including options available through CalPERS or other providers.
- (f) Reduce the 2009-2011 Commission recommendation of a monthly \$600 vehicle allowance to a monthly \$350 vehicle allowance for the Mayor and each member of the City Council, to be effective June 26, 2011.
- (g) Continue to require Councilmembers to pay \$250 for each unexcused absence at scheduled Council meetings, pursuant to City Charter Section 407.

(City Clerk)

(Deferred from 5/17/11 – Item 3.3)

3. STRATEGIC SUPPORT SERVICES

3.4 [Audit of Key Drivers of Employee Compensation.](#)

Recommendation: As referred by the Public Safety, Finance and Strategic Support Committee on May 19, 2011, accept the Audit of Key Drivers of Employee Compensation. (City Auditor)
[Public Safety, Finance and Strategic Support Committee referral 5/19/11 – Item D(5)]

3.5 [Public Hearing for the Cost of Sidewalk Repairs.](#)

Recommendation: Conduct a public hearing on recording liens on property for the reimbursement of cost for sidewalk repairs and adopt a [resolution](#) to approve the report from the Director of Finance on the reimbursement of cost for sidewalk repairs, confirming the assessments contained in the Report and directing the recording of liens on the property tax roll for the cost of sidewalk repairs. CEQA: Not a Project, File No. PP10-067(a), Specific Funding mechanism for Increase or Adjustment to Fees, Rates and Fares. (Finance)

3.6 [Ordinance to implement new Health Care Trusts for Police and Fire Retirement Plan.](#)

Recommendation: Consider an [ordinance](#) amending Title 3 of the San José Municipal Code to add new Chapter 3.54 and 3.56, and to amend Sections 3.36.575, 3.36.1925, 3.36.1930, 3.36.2030 and 3.36.2050 for the purposes of establishing a new trust pursuant to Section 115 of the Internal Revenue Code related to retiree health care benefit funding and payment of retiree health care benefits. CEQA: Not a Project; File No. PP10-068(b), Municipal Code or Policy. (City Attorney's Office)
(Rules Committee referral 05/25/11)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Approval to Set Public Hearings on the Business Improvement Districts.

Recommendation:

- (a) [Preliminary approval of the report as filed by the Hotel Business Improvement District Advisory Board, or as modified by Council; and adoption of a resolution of intention to levy the annual assessment for Fiscal Year 2011-2012, and set June 21, 2011 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments.](#) CEQA: Exempt, File No. PP08-048. (Economic Development)

(Item continued on the next page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Approval to Set Public Hearings on the Business Improvement Districts. (Cont'd.)

Recommendation:

- (b) [Preliminary approval of the report as filed by the Japantown Business Improvement District Advisory Board](#), or as modified by Council; and adoption of a [resolution](#) of intention to levy the annual assessment for Fiscal Year 2011-2012, and set June 21, 2011 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments. CEQA: Exempt, File No. PP08-048. Council District 3. SNI: 13th Street. (Economic Development)
- (c) [Preliminary approval of the report as filed by the Downtown Business Improvement District Advisory Board](#), or as modified by Council; and adoption of a [resolution](#) to levy an increased annual assessment for Fiscal Year 2011-2012, and confirming June 21, 2011 at 1:30 pm as the date and time for the public hearing on the levy of the proposed increased assessment. CEQA: Exempt, File No. PP03-05-165. Council District 3. SNI: St. James Square; University; Josefa/Auzerais; Burbank/DelMonte. (Economic Development)

4.2 [Schedule of Parkland Fees to Clarify the Low Income Exemption for Affordable Housing Pipeline Projects.](#)

Recommendation: Adopt a [resolution](#) to amend the Schedule of Parkland Fees to clarify the definition of “low-income units” exempt from the payment of parkland fees applying to residential projects that have obtained an approved discretionary permit or tentative or parcel map on or before October 24, 2010 and subsequently obtain an amendment or new development approval(s) without changing the type or increasing the number of units in the residential project. CEQA: Statutorily Exempt, File No. PP10-067(a), CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges. (Parks, Recreation and Neighborhood Services/Housing)

4.3 [Deferred Annexation Agreement for the Lands of Viso.](#)

Recommendation: Approve Deferred Annexation Agreements with the present and/or prospective owners of the Lands of Viso and forward the Agreements to the County of Santa Clara for recordation. CEQA: Mitigated Negative Declaration adopted by the Santa Clara County Board of Supervisors. Council District 5. (Planning, Building and Code Enforcement)

[Deferred Annexation Agreement 1](#)

[Deferred Annexation Agreement 2](#)

[Notice of Intent to Adopt a Mitigated negative Declaration](#)

[CEQA Resolution](#)

5. NEIGHBORHOOD SERVICES

6. TRANSPORTATION & AVIATION SERVICES

6.1 [Valley Transportation Plan 2040.](#)

Recommendation: As recommended by the Transportation and Environment Committee on May 2, 2011, accept the Valley Transportation Plan 2040 Report. (Transportation)
[Transportation and Environment Committee referral 5/2/11 – Item D(4)]
(Deferred from 5/24/11 – Item 6.2)

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 San Jose Municipal Water System 2010 Urban Water Management Plan Update.

Recommendation:

- (a) Hold a Public Hearing to allow community input regarding the implementation plan for complying with the requirements of Senate Bill X7-7 (SB 7), Water Conservation Bill of 2009.
- (b) Hold a Public Hearing to allow community input regarding the draft Urban Water Management Plan prior to its adoption.
- (c) Adopt a resolution approving the San Jose Municipal Water System 2010 Urban Water Management Plan update and directing staff to file the Plan with the California Department of Water Resources.

CEQA: The preparation and adoption of an UWMP is exempt from the CEQA process per California Water Code section 10652. Council Districts 2, 4 7 and 8. (Environmental Services)

RECOMMEND CONTINUANCE TO 6/14/11 PER ADMINISTRATION

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT 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 or Redevelopment Agency Board.
- Continue RDA Board Meeting
- Adjournment

**CITY OF SAN JOSÉ PARKING AUTHORITY
AGENDA**

1:30 P.M.

TUESDAY, JUNE 7, 2011

CHAMBERS

1 CALL TO ORDER AND ROLL CALL

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

2 APPROVAL OF MINUTES

2.1 [Minutes of June 2, 2009](#)

3 OLD BUSINESS

4 NEW BUSINESS

5 ADJOURNMENT

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, Redevelopment Agency Board, 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, Redevelopment Agency Board, 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.