COUNCIL AGENDA: 1-6-15 ITEM: 2.1



Memorandum

TO:

HONORABLE MAYOR AND

CITY COUNCIL

FROM:

Councilmember

Donald Rocha

SUBJECT:

COUNCIL APPOINTMENTS

DATE:

January 6, 2015

Approved

Date //6/15

RECOMMENDATION

That the Council Approve Mayor Liccardo's memo dated January 2, 2015 with the following amendments:

- 1. Decline to approve Recommendation 3, thus retaining a four-member Rules Committee. A four-member Committee would allow councilmembers who do not sit on the Rules Committee to continue to address the Committee without violating the Brown Act.
- 2. Amend the 2015-2016 Council Appointments as follows:
 - a. Remove Rocha from the ABAG Executive Board and replace with Peralez
 - b. Remove Peralez from the Silicon Valley Regional Interoperability Project and replace with Rocha
- Suggest that the Mayor consider appointing four councilmembers to all of the council committees instead of five.

ANALYSIS

I appreciate Mayor Liccardo's efforts to put forward a thoughtful and inclusive slate of Council appointment. I would like to suggest some amendments to his recommendations.

The Rules Committee Should Not Have Five Members

Mayor Liccardo recommends that the Rules Committee, along with the rest of the Council Committees, have five members. Let me explain why this may not be in the best interest of the public.

The Brown Act (which has the force of State law) currently prohibits more than five members of the City Council from participating in discussion of any given item at a Committee meeting. What this means is that if the Rules Committee has four members, one additional member of the City Council who does not sit on the Rules Committee can address the Committee on any given item. If the Committee has five members, however,

as recommended by Mayor Liccardo, no councilmember besides those who sit on the Committee will be allowed to speak at Rules Committee meetings (or any other five-member committee, for that matter.)

Why is this important? The Rules Committee has great power: it gets to decide which items appear on the City Council agenda. If a Councilmember has a new or important proposal that they wish to place on the agenda, they would need the Rules Committee to take action. Consequently, Councilmembers who do not sit on Rules will often attend its meetings for the purpose of explaining their proposals and urging the Committee to place them on an agenda. If the membership of the Committee increases to five, Councilmembers will no longer have that option.

It's worth pointing out that over the past year, Mayor Liccardo has frequently taken advantage of the opportunity to address the Rules Committee, which was made possible by the fact that it had four members. Below is a list of all the times he addressed the Committee in 2014 alone.

Instances when Sam Liccardo Addressed the Rules Committee in 2014

Meeting Date	Agenda Item	Summary of Comments
January 29, 2014	G6. Lending the Police a Hand: Crowd-Sourcing Video Evidence. (Liccardo)	Liccardo urged Committee to approve his proposal.
April 2, 2014	G8. Lending the Police a Hand: Crowd-Sourcing Video Evidence. (Liccardo)	Liccardo thanked the Committee for supporting his proposal.
April 30, 2014	G3. Micro-Housing: Another Tool in the Battle Against Homelessness (Liccardo/Herrera)	Liccardo urged Committee to approve his proposal.
May 7, 2014	G5. Campaign Finance Law, Regarding Card Clubs (Liccardo)	Liccardo urged Committee to approve his proposal.
May 21, 2014	G3. Casino M8trix: Pay up, or Close Down. (Liccardo)	Liccardo urged Committee to approve his proposal.
June 11, 2014	G3. Bird-Safe Building Design (Liccardo/Chu)	Liccardo urged Committee to approve his proposal.
September 10, 2014	G3. Order to Show Cause for 801 N. 13th Street. (Liccardo)	Liccardo urged Committee to approve his proposal.
October 1, 2014	G4. Staff Follow-up Related to Order to Show Cause for 801 N. 13th Street (Verbal Report).	Liccardo again urged Committee to approve his proposal.
October 8, 2014	G2. Resolution Regarding Relations Between City of San Jose and the Government of the Socialist Republic of Vietnam. (Mayor/Nguyen/Liccardo)	Liccardo thanked the Committee for supporting his proposal.
October 22, 2014	G2. Soft-Story Retrofit Program. (Liccardo/Herrera/Khamis)	Liccardo urged Committee to approve his proposal.

If the Rules Committee had had five members over the past year, Mayor Liccardo would not have had the above opportunities to explain and champion his proposals.

I do not mean to suggest that the Mayor is intentionally trying to deny his colleagues the opportunity to attend Rules meetings. The Brown Act can be a constricting law. Therefore, I don't believe there's any direct intent to take away a prerogative that he himself has exercised a number of times over the past year.

An Example of Why it Matters

In order to explain why Councilmembers speak at Rules, I'd like to provide an example of how the power of the Rules Committee has recently been abused. At the March 6, 2013 Rules Committee meeting, Councilmember Chu brought forward a proposal to establish rules regarding visits from Vietnamese government officials. The Rules Committee declined to advance his proposal to the Council. Over a year later, two members of the Rules Committee who had originally shot Councilmember Chu down, along with then-Councilmember Liccardo, brought forward the exact same proposal and claimed it as their own. This time the Rules Committee advanced it to the Council and it was approved.

Given this history of the Rules Committee almost literally stealing policy ideas from other councilmembers, it should be no wonder that councilmembers who do not sit on the Committee will often show up to make their case and try to ensure they aren't stiffled.

Other Council Committees

Although it is most important that councilmembers be allowed to address Rules given its power over the agenda, I also believe councilmembers not on other Council Committees should also have the option to show up and speak to items of interest to them. There are some good reasons to establish five member committees, as Mayor Liccardo points out, but I don't believe any of them override the interest keeping Committees open to those who are not members.

I will note that Mayor Liccardo only needs Council approval to increase the Rules Committee to five members; he does not need approval to increase the sizes of the other Committees. Thus, the Council is limited to asking him to consider a suggestion if it wishes him to make changes.