



**MINUTES OF THE
JOINT RULES AND OPEN GOVERNMENT COMMITTEE
AND COMMITTEE OF THE WHOLE**

SAN JOSE, CALIFORNIA

WEDNESDAY, JANUARY 14, 2015

The Rules and Open Government Committee of the City of San José convened in Regular Session at 2:01 p.m. in the Committee Rooms 118-120, Council Wing, City Hall.

PRESENT: Mayor Sam Liccardo, Councilmember Magdalena Carrasco, Councilmember Johnny Khamis, and Councilmember Chappie Jones.

ABSENT: Vice Mayor Rose Herrera

STAFF: Interim City Manager Norberto Duenas, Interim Assistant City Manager Dave Sykes, City Attorney Richard Doyle, Mayor's Agenda Assistant Ahmad Chapman, Agenda Services Manager Gloria Schmanek, City Clerk Toni J. Taber, Assistant City Clerk Tom Graves, and Deputy City Clerk Suzanne Guzzetta.

CITY COUNCIL (CITY CLERK)

- (1) Review January 20, 2015 Final Agenda**
None – Meeting Cancelled
- (2) Review January 27, 2015 Draft Agenda**
 - a. Add New Items to Final Agenda
 - b. Assign "Time Certain" to Agenda Items (if needed)
 - c. Review of Items that Meet Exception Rule (if needed)

Public Comment: David Wall offered comments on Item 7.1

Action: Upon motion by Councilmember Khamis, seconded by Councilmember Jones and carried unanimously, the Committee approved the agenda including the following sunshine waivers, additions, and changes: Closed Session to start at 9:00 a.m., Item 1.1 to be heard in the evening, and Item 5.3 to be heard no earlier than 2:30 p.m. (4-0-1. Absent: Herrera.)

REVIEW OF UPCOMING STUDY SESSION AGENDA(S)

None.

LEGISLATIVE UPDATE

- (1) State – None.
- (2) Federal – None.

MEETING SCHEDULE

- (1) Set a Council Study Session entitled General Fund Structural Budget Deficit History and Service Preservation/Restoration Priorities and Strategies for Tuesday, January 20, 2015 from 1:30 p.m. – 4:30 p.m., in City Council Chambers. (City Manager)

Documents Filed: Memorandum from Interim City Manager Norberto Duenas to the Rules and Open Government Committee, dated January 9, 2015, entitled, “General Fund Structural Budget Deficit History and Service Restoration Priorities and Strategies.”

Public Comment: David Wall suggested potential discussion items to be added to the Study Session.

Action: Upon motion by Councilmember Khamis, seconded by Councilmember Carrasco and carried unanimously, the recommendation was approved with direction to provide information on general lease bond revenue debt, interest on each bond, and call back dates. (4-0-1. Absent: Herrera.)

THE PUBLIC RECORD

Documents Filed: Memorandum from City Clerk Toni J. Taber transmitting the Public Record for the Week of January 2 – 8, 2015.

Public Comment:

- Joyce Rabourn, Marie Hayter, Richard McCoy, and Martha O’Connell pulled Item E(1) and provided comments on time commitments related to serving on the Senior Citizens Commission.
- David Wall opined on various issues.

Mayor Liccardo referred Item E(1) to the City Clerk’s office for their attention.

Action: Upon motion by Councilmember Khamis, seconded by Councilmember Carrasco and carried unanimously, the public record was noted and filed. (4-0-1. Absent: Herrera.)

BOARDS, COMMISSIONS AND COMMITTEES

- (1) Appointments – None.
- (2) Work Plans – None.
- (3) Annual Reports – None.

RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS

(1) Workload Assessment for Council Requests and Referrals. – None.

(2) Proposed State Legislation to Amend the Vehicle Code. (City Attorney's Office)

Recommend that Council direct the City Administration to seek a sponsor for state legislation to allow local regulation of certain pedestrian right of ways, such as staircases, under the California Vehicle Code.

Documents Filed: Memorandum from City Attorney Richard Doyle to the Rules and Open Government Committee, dated January 9, 2015, entitled, "Proposed State Legislation to Amend the Vehicle Code."

City Attorney Rick Doyle offered background information. Director of Intergovernmental relations Betsy Shotwell and Interim Deputy City Manager Dave Sykes were available to answer questions from the Commission and provide additional information.

Councilmember Khamis recused himself from the conversation due to a conflict of interest.

Public Comment: Jeremy Jones, Vice President of Tuscan Hills Homeowners Association, spoke in support of the City regulations.

David Wall voiced concerns related to enforcement of regulations.

Action: Upon motion by Councilmember Carrasco, seconded by Councilmember Jones and carried unanimously, the item was placed on the January 27, 2015 City Council Agenda for discussion and action. (3-0-1-1. Absent: Herrera. Abstain: Khamis)

(3) African American History Month Flag Raising Special Event. (Kalra)

- a. Approve the African American History Month Flag Raising on February 6, 2015 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.
- c. Place the item on the January 27, 2015 Council Agenda for action.

Documents Filed: Memorandum from Councilmember Ash Kalra to the Rules and Open Government Committee, dated January 9, 2015, entitled, "Approval of the African American History Month Flag Raising as a Sponsored Special Event, to Expend City Funds and Accept Donations of Materials and Services for the Event."

Action: Upon motion by Councilmember Khamis, seconded by Councilmember Jones and carried unanimously, the item was placed on the January 27, 2015 City Council Agenda for final action. (4-0-1. Absent: Herrera.)

RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS

(4) **Measure B Negotiations Study Session. (Rocha)**

As referred by Rules and Open Government Committee on January 7, 2015, consider agendaing a study session on the topic of Measure B, and the attendant legal and implementations issues, for the purpose of helping new colleagues learn about the intricacies of pension reform, as well as help the entire Council take stock of the current situation.

Documents Filed: Memorandum from Councilmember Rocha to the Rules and Open Government Committee, dated January 7, 2015, entitled, "Measure B Negotiations."

Councilmember Rocha was available to offer background information and answer questions from the Committee.

Public Comment: David Wall offered comments on the retention and recruitment of police officers.

Action: Upon motion by Councilmember Khamis, seconded by Councilmember Carrasco and carried unanimously, the item was approved with discussion to be part of the January 20, 2015 Study Session, to schedule a date if a second Study Session is required, discuss any issues unable to be heard in open session as part of the January 27, 2015 Closed Session, and direction to staff to provide an Information Memorandum providing all resources for information on Measure B including City Attorney and City Manager (OER) posting on past actions, et al. (4-0-1. Absent: Herrera.)

(5) **Waiver of Closed Session Privilege. (Rocha)**

- a. Agenda Council consideration of a waiver of closed session privilege for Item A on the closed session agenda for December 16, 2014, concerning the evaluation of City Manager Ed Shikada. The discussion could happen in open or closed session.
- b. Request that the City Attorney advise the Council as to whether any other legal restrictions besides closed session privilege may limit disclosure of any portion of the particular closed session discussion at question.

Documents Filed: Memorandum from Councilmember Rocha to the Rules and Open Government Committee, dated January 7, 2015, entitled, "Waiver of Closed Session Privilege."

Councilmember Rocha was available to offer background information and answer questions from the Committee.

City Attorney Rick Doyle offered background information and answered questions from the Committee.

Councilmember Khamis objected to the recommendation citing concerns that the former councilmembers who were part of the discussion would not be in attendance.

Action: The item failed for lack of motion.

RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS

(6) Review of Recent Incidents within the City Manager's Office. (Rocha)

Direct the City Manager, with the assistance of the City Attorney and City Auditor, as necessary, to bring forward options for furnishing the Council with a review of the management of the City Manager's Office, focusing on any problems that may recently have arisen with that office, for the purpose of determining whether any actions need to be taken, either within the authority of the City Council or the City Manager, to ensure that such problems do not arise again. The review should be consistent with all applicable law, and would preferably be completed prior to the hiring of a new City Manager.

Documents Filed: Memorandum from Councilmember Rocha to the Rules and Open Government Committee, dated January 8, 2015, entitled, "Review of Recent Incidents within the City Manager's Office."

City Auditor Sharon Erickson and Councilmember Rocha were available to answer questions from the Committee.

Motion: Councilmember Khamis moved to approve the recommendation. Councilmember Jones seconded the motion.

Interim City Manager Norberto Dueñas noted that the review would focus on the internal management system and reporting structures and how they could be more effective.

Mayor Liccardo suggested an amendment to the motion to have the City Auditor take the lead on the review and work with the City Attorney and City Manager.

Councilmembers Khamis and Jones accepted the amendment.

Public Comment: David Wall voiced concerns about the abuse of appointing authority.

Action: Upon call for the question, the motion carried unanimously, and the item was referred to the City Auditor to work with the City Manager and City Attorney. (4-0-1. Absent: Herrera.)

REVIEW OF ADDITIONS TO COUNCIL COMMITTEE AGENDAS/WORKPLANS

- (1) Community and Economic Development Committee – None.
- (2) Neighborhood Services and Education Committee – None.
- (3) Transportation and Environment Committee – None.
- (4) Public Safety, Finance and Strategic Support Committee – None.
- (5) Rules and Open Government Committee – None.

OPEN GOVERNMENT

- (1) Appeals of Public Records Act Request – None.

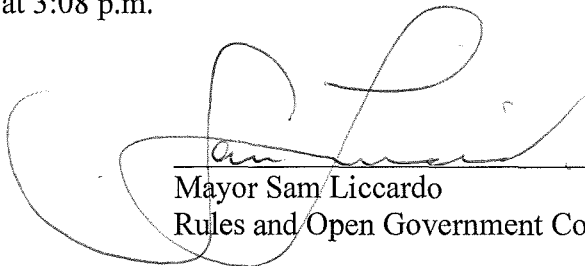
OPEN FORUM

Blair Beekman spoke on issues related to transparency and Police Request of Drone use.

David Wall expressed concerns related to homeless encampments.

ADJOURNMENT

The meeting adjourned at 3:08 p.m.



Mayor Sam Liccardo
Rules and Open Government Committee

SL:slg