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**RULES AND OPEN GOVERNMENT COMMITTEE**

Meeting Report

April 16, 2014

**PRESENT:** Mayor Chuck Reed, Vice-Mayor Madison Nguyen, Councilmember Pete Constant and Councilmember Pierluigi Oliverio.

**ABSENT:** None.

**STAFF:** City Manager Ed Shikada, City Attorney Richard Doyle, City Clerk Toni Taber, Assistant City Clerk Tom Graves, Mayor's Agenda Services Manager Ahmad Chapman, Senior Executive Analyst Ernest Azevedo, and Deputy City Clerk Kathy Carrillo.

**A. City Council (City Clerk)**

1. Review April 22, 2014 Final 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 Comments: David Wall pulled item 2.8 for comments.

Action: Upon motion by Councilmember Constant, seconded by Vice Mayor Nguyen and carried unanimously, to approve the 9:00 a.m. start time and addition to the amended agenda, was approved. (4-0.)

- a. Add New Items to Final Agenda: 1.x (Presentation of a proclamation to Parents Helping Parents, recognizing the month of April as "Autism Awareness Month" in the City of San José.) (4-0.)

2. Review April 29, 2014 Draft Agenda
  - a. Add New Items to Draft Agenda
  - b. Assign "Time Certain" to Agenda Items (if needed)
  - c. Review of Items that Meet Exception Rule (if needed)

Public Comments: David Wall pulled items 4.1 and 7.1.

Action: Upon motion by Councilmember Constant, seconded by Vice-Mayor Nguyen and carried unanimously, the agenda was approved. (4-0.)

**B. Review of Upcoming Study Session Agenda(s)**

**C. Legislative Update**

1. State – None.
2. Federal – None.

**D. Meeting Schedules**

1. Set General Plan Hearings (Planning, Building & Code Enforcement)

Planning staff recommends that the Rules Committee:

- a. Schedule a General Plan Hearing for the Diridon Station Area Plan and associated General Plan Amendments on May 20, 2014, at 7:00 p.m.
- b. Schedule a General Plan Hearing for privately initiated General Plan Amendments and for the proposed Urban Village Plans for West San Carlos, South Bascom and The Alameda on August 19, 2014, at 7:00 p.m.

Documents: Memorandum from Planning, Building, and Code Enforcement Director David Sykes to the Rules and Open Government Committee dated April 3, 2014, forwarding the recommendations.

Planning, Building and Code Enforcement Assistant Director Laurel Prevetti responded to the Committee's questions.

Public Comments: David Wall offered suggestions on conserving the City of San José's water in the midst of a drought.

Action: Upon motion by Councilmember Constant, seconded by Vice Mayor Nguyen and carried unanimously, to approve the recommendations, was approved. (4-0.)

**E. The Public Record**

Documents Filed: Memorandum from the City Clerk Toni Taber to Mayor and City Council dated April 11, 2014, transmitting the Public Record for the week of April 4, 2014 – April 10, 2014.

Public Comments: David Wall pulled Items E.a and E.e for comments. Martha O'Connell and Joyce Rabourn pulled Item E.d opposing a proposal to use hotels/motels to house the homeless in San José.

Action: Upon motion by Councilmember Constant, seconded by Vice Mayor Nguyen and carried unanimously, the Committee referred Items E.d to the City Manager's Office to be included in staff's report. The Committee referred Item E.a to the City Manager's Office directing staff to send a written response with a copy of the reply to the City Council, and noted and filed the Public Record, was approved. (4-0.)

**F. Boards, Commissions and Committees**

1. Appointments  
None.
2. Work Plans  
None.
3. Annual Reports  
None.

**G. Rules Committee Reviews, Recommendations and Approvals**

1. Workload Assessment for Council Requests and Referrals.

**G. Rules Committee Reviews, Recommendations and Approvals (Cont.)**

2. "Free For All: Inside the Public Library" (Oliverio)

Approval of District 6 "Free for All: Inside the Public Library" event scheduled for May 5, 2014 as a City Council sponsored Special Event and approve the expenditure of funds, and accepting donations from various individuals, businesses or community groups to support the event placing the item on the April 29, 2014 Council Agenda for action.

Documents Filed: Memorandum from Councilmember Oliverio to the Rules and Open Government Committee dated March 26, 2014, forwarding the recommendations.

Action: Upon motion by Vice Mayor Nguyen, seconded by Councilmember Oliverio and carried unanimously, to approve the recommendations, was approved. (4-0.)

3. HR 29 (Gomez) Outsourcing Public Services (City Manager)

a. Pursuant to the City's streamlined bill process for responding quickly to legislative proposals, approve opposition for HR 29 (Gomez).

b. Approve a Sunshine Waiver and recommend a one-week turnaround to the City Council so that the City's legislative staff can advocate the City's opposition to HR 29 (Gomez).

Documents Filed: Memorandum (HR 29) from City Manager's Office to the Rules and Open Government Committee dated April 9, 2014, forwarding the recommendations.

Intergovernmental Relations Director Betsy Shotwell updated the Committee on the status of Measure HR 29, the Measure passed the Assembly and there will be no further action.

Action: Item dropped.

4. District 10 SAP Grant to Kiwanis Club of Almaden (Khamis)

Forward a recommendation to the City Council to approve a grant of \$1,000 to the Almaden Kiwanis TAS Scholarship Fund to be paid from the budgeted District 10 SAP Center at San José allocation, which is funded by the Arena Community Fund City-Wide appropriation.

Documents Filed: Memorandum from Councilmember Khamis to the Mayor and City Council dated April 7, 2014, forwarding the recommendations.

Action: Upon motion by Councilmember Oliverio, seconded by Vice Mayor Nguyen and carried unanimously, to approve the recommendations, was approved. (4-0.)

5. Temporary Rental Services (Campos)

Direct staff to develop a method to and implementation plan for the requirement that all shareable housing and temporary rental services doing business in San José collect and pay the Transient Occupancy Tax (TOT).

Documents Filed: Memorandum from Councilmember Campos to the Mayor and City Council dated April 9, 2014, forwarding the recommendation.

**G. Rules Committee Reviews, Recommendations and Approvals (Cont.)**

Councilmember Javier Campos spoke on his memorandum and was available to answer the Committee's questions.

Public Comments: David Wall expressed his concern towards homeowners renting their homes as rooming houses and avoiding paying the Transient Occupancy Tax.

Action: Upon motion by Councilmember Constant, seconded by Councilmember Oliverio and carried unanimously, to refer the item to staff, was approved. (4-0.)

6. Abandoned Cart Fee Ordinance Review (Campos)

a. Direct staff to review Section 9.6 of the Municipal Code to create a more efficient cost recovery program for abandoned shopping carts.

b. Report back to Council in 60 days with a recommendation for Council action on the issue.

Documents Filed: Memorandum from Councilmember Javier Campos to City Council dated April 8, 2014, forwarding the recommendations.

Councilmember Campos spoke on his memorandum and was available to answer the Committee's questions.

Planning, Building, and Code Enforcement Assistant Director Laurel Prevetti responded to the Committee's questions and asked the Committee for direction to staff in moving forward.

Public Comments: David Wall spoke on shopping cart blight in the neighborhoods.

Action: Upon motion by Councilmember Constant, seconded by Councilmember Oliverio and carried unanimously, to refer the item to be part of the budget process, was approved. (4-0.)

7. Electronic Cigarette Regulation (City Attorney)

City Attorney's response to Rules Committee direction regarding Councilmember Herrera's proposal to regulate Electronic Cigarettes.

Documents Filed: (1) Memorandum from City Attorney Richard Doyle to the Rules and Open Government Committee dated April 10, 2014, forwarding the recommendation; (2) Documents submitted from a speaker to the Rules and Open Government Committee on April 16, 2014, regarding electronic cigarettes health risks; (3) Documents submitted from Brian Davis to the Rules and Open Government Committee on April 16, 2014, regarding organizations and individuals opposing electronic cigarettes.

City Attorney Richard Doyle spoke on his memorandum and responded to the Committee's questions.

Public Comments: The following speakers spoke in support on the ban of electronic cigarettes: David Wall, Brian Davis, Margo Sidener, and Nicole Coxe.

The following speakers spoke in opposition on the ban of electronic cigarettes: Ansel Modesto, Lilian Fernando, Nate Salfen, Eric Lunn, and Fabianne Rico.

**G. Rules Committee Reviews, Recommendations and Approvals (Cont.)**

Discussion: The Committee had a brief discussion and conferred with staff on setting a policy to ban electronic cigarettes in city facilities verses setting a ban for the city as a whole.

Action: Upon motion by Vice Mayor Nguyen, seconded by Mayor Reed, to move the item forward to City Council, no action taken. (2-2; noes Constant, Oliverio.)

Upon motion by Vice Mayor Nguyen, seconded by Mayor Reed, and carried unanimously, to refer the item to staff and return to the Rules Committee on 4/30/14, was approved. (4-0.)

**H. 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.

**I. Open Government**

1. Appeals of Public Records Act Request  
None.


**J. Open Forum**

David Wall spoke in regards to a property in his neighborhood that is involved in illegal activities.

The Committee referred this issue to staff.

**K. Adjournment.**

The meeting adjourned at 3:17 p.m.



Mayor Chuck Reed  
Rules and Open Government Committee