



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

SAN JOSE, CALIFORNIA

WEDNESDAY, AUGUST 6, 2014

The Rules and Open Government Committee of the City of San José convened in Regular Session at 2:02 p.m. in the Committee Rooms 118-120, Council Wing, City Hall.

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

ABSENT: All Present.

STAFF: City Manager Edward K. Shikada, Assistant City Manager Norberto Duenas, Assistant City Attorney Ed Moran, City Clerk Toni Taber, Assistant City Clerk Tom Graves, Mayor's Senior Policy Advisor and Public Information Officer Michelle McGurk, Senior Executive Analyst Ernest Azevedo, and Deputy City Clerk Suzanne Guzzetta.

CITY COUNCIL (CITY CLERK)

- (1) Review August 12, 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 Comment: Martha O'Connell spoke on Item 2.8 and offered comments comparing Copenhagen to Downtown San Jose and bicyclists in Downtown San Jose. David Wall offered comments on Items 2.8, 2.14, 4.1, and 4.2.

Action: Upon motion by Councilmember Constant, seconded by Vice Mayor Nguyen and carried unanimously, the Committee approved the agenda including the following sunshine waivers, additions, and changes: sunshine waiver and addition of Item 1.x, "Presentation of a commendation to John B. Hammett for over 30 years of community service to the Center for Training and Careers", adding an additional Closed Session during the afternoon session, and starting the morning Closed Session at 10:00 a.m. (4-0.)

CITY COUNCIL (CITY CLERK) (CONT'D.)

(2) Review August 19, 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 Comment: David Wall voiced concerns on Items 2.12 and 4.1 and offered comments on Item 8.1

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

REVIEW OF UPCOMING STUDY SESSION AGENDA(S)

City Manager Edward Shikada answered questions from the Committee clarifying the date of the Priority Setting Session during the Regular City Council meeting of August 26th.

LEGISLATIVE UPDATE

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

MEETING SCHEDULE

None.

THE PUBLIC RECORD

None..

BOARDS, COMMISSIONS AND COMMITTEES

- (1) Appointments
 - a. Historic Landmarks Commission Nominations. (City Clerk)
 1. Approve appointments to the Historic Landmarks Commission:
 - a. Appoint Jesus Gomez to an unexpired term ending June 30, 2015;
 - b. Appoint Josh Marcotte to a term ending June 30, 2018;
 - c. Appoint Patricia Jones to a term ending June 30, 2018;
 - d. Appoint Steve Roldan to a term ending June 30, 2018; and
 2. Place on the August 12, 2014 City Council Agenda for action.

BOARDS, COMMISSIONS AND COMMITTEES (CONT'D.)

- (1) Documents Filed: Memorandum from City Clerk Toni J. Taber to the Rules and Open Government Committee dated July 31, 2014, entitled "Historic Landmarks Commission Nominations";

Public Comment: Martha O'Connell expressed support for Councilmember Oliverio's nominations to the Commission.

Brian Grayson, Preservation Action Council, expressed concern that the new commissioners being appointed are all new, without experience, and commissioners eligible for reappointment were not appointed.

Marilyn Messina and Ramiro Torres, past Historic Landmarks Commissioners voiced concerns and offered their continued interest in serving on the Commission.

Rich Buikema, acting Historic Preservation Officer, and Steven Piasecki, Planning Official, offered comments and answered questions from the Committee.

Motion: Councilmember Oliverio moved to approve the recommendation and add a nomination for Ramiro Torres to the remaining vacancy for a period of one year. Vice Mayor Nguyen seconded the motion.

Action: Upon a call for the motion, it carried unanimously, the appointments were approved as amended and placed on the August 12, 2014 City Council agenda for action. (4-0.)

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

RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS

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

(2) **Open Government Legislation (City Clerk, City Manager, City Attorney)**

Review and direction to staff regarding:

- a. The draft ordinance renaming Title 12 of the San Jose Municipal Code and adding a new Chapter 12.21 to codify Open Government provisions (also known as "sunshine reforms");
- b. The draft resolution repealing the following City Council policies and resolutions, and consolidating these provisions into "the Consolidated Open Government and Ethics Resolution":

City Council Policy 0-32	Disclosure and Sharing of Material Facts and Communications Received During Council Meetings
City Council Policy 0-33	Public Records Policy and Protocol

**RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS
(CONT'D)**

- (2) b. City Council Policy 0-34 City Council Declaration of Conflict of Interest Policy
City Council Policy 0-35 Procurement and Contract Process Integrity and Conflict of Interest
Resolution No. 75091 Approving Sunshine Reform Task Force Phase II Recommendations (with some exceptions) as amended by the Rules and Open Government Committee and Directing Implementation on a Pilot Basis
Resolution No. 75140 Approving Certain Sunshine Reform Task Force Phase II Recommendations, as amended by the Rules and Open Government Committee and Directing Implementation on a Pilot Basis
Resolution No. 75292 Approving Certain Sunshine Reform Task Force Phase I and Phase II Recommendations and Directing Implementation on a Pilot Basis
Resolution No. 75978 Amending the Open Government Requirements as it Relates to Videotaping Certain Council Meetings; and
- c. The draft resolution amending the Council's Rules of Conduct resolution to delete Rule 1.5, Closed Session Meetings, and Rule 6.5, Additional Rules of Procedure, which have been incorporated into the Consolidated Open Government and Ethics Resolution, making conforming and clarifying changes, and superseding Resolution No. 76475, the current Council Rules Resolution, dated October 23, 2012.
- d. Adopt a resolution amending the FY 2014-2015 Schedule of Fees and Charges (Resolution No. 72737, as amended) to establish that there will be no charge for a response to a Public Records Act request in which the total duplication charges are less than \$5.

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, City Manager Edward K. Shikada, and City Attorney Richard Doyle to the Rules and Open Government Committee, dated July 30, 2014, entitled "Open Government Legislation"; (2) Presentation entitled "Draft Open Government Regulations" dated August 6, 2014; (3) Draft Ordinances and Resolutions .

Lee Price, former City Clerk, provided introductory remarks and presented on the team's Open Government Legislation recommendations, and answered questions from the Committee. Deputy City Attorney Patricia Deignan and Ellen Donnelly were also available to answer questions.

**RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS
(CONT'D)**

- (2) Public Comments: Bob Brownstein, former Sunshine Reform Task Force member, expressed the need for further clarification of who hears complaints and responded to questions from the Committee.

Ed Rast, former Sunshine Reform Task Force member, thanked staff for their work and offered suggestions as to how to deal with complaints coming before Rules, and asked for a record to be kept for exceptions to the ten-day rule for releasing items before a meeting.

Richard Zapelli, spoke in support of Bob Brownstein and Ed Rast's comments.

David Wall, thanked staff for their work, and expressed concerns about the Treatment Plant Advisory Committee as it relates to Sunshine.

Committee discussion ensued.

Motion: Councilmember Constant moved to approve the recommendations including dropping the 14-Day Early Distribution rule, updating the recording retention schedule, clarifications to enforcement, requiring supplemental memorandums making substantive changes to the recommendation be released no later than Thursday prior to the meeting in question, and placing it on the August 26, 2014 City Council Agenda for action.

Councilmember Oliverio seconded the motion.

Action: Upon a call for the question, the motion carried unanimously, the Committee approved the recommendation and placed it on the August 26, 2014 City Council Agenda for action. (4-0.)

(3) **AB 2126 (Bonta) Meyers-Milias-Brown Act: Mediation. (City Manager)**

- a. Adopt a position in opposition to AB 2126 (Bonta).
- b. Recommend a one-week turnaround to the City Council on August 12, 2014 so that the City's legislative staff can advocate the City's opposition to AB 2126 (Bonta).

Documents Filed: Memorandum from the City Manager's Office, The City Attorney's Office, and Sacramento Legislative Advocate to the Rules and Open Government Committee dated July 28, 2014, entitled "AB 2126 (Bonta) Meyers-Milias-Brown Act: Mediation".

Betsy Shotwell, Director of Intergovernmental Relations, was available to answer questions from the Committee.

Action: Upon motion by Councilmember Constant, seconded by Vice Mayor Nguyen and carried unanimously, the recommendation was approved and placed on the August 12, 2014 City Council agenda for action. (4-0.)

**RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS
(CONT'D)**

- (4) **2014 League of California Cities Voting Delegate and Alternate Voting Delegate at the Annual Business Meeting. (City Manager)**
- a. Approve the proposed designation of Councilmember Rose Herrera as the voting delegate, and Councilmember Pete Constant as the alternate voting delegate at the September 5, 2014, Annual Business Meeting for the League of California Cities (LOCC).
 - b. A one-week turnaround to the City Council on August 12, 2014 is requested so that the full Council may act on this request for these designations to be submitted to the LOCC by their August 15 deadline.

Documents Filed: Memorandum from Director of Intergovernmental Relations Betsy Shotwell to the Rules and Open Government Committee dated July 28, 2014, entitled "2014 League of California Cities Voting Delegate and Alternate Voting Delegate at the Annual Business Meeting".

Action: Upon motion by Councilmember Oliverio, seconded by Vice Mayor Nguyen and carried unanimously, the recommendation was approved and placed on the August 12, 2014 City Council agenda for action. (4-0.)

- (5) **Approval of the Park-Wilshire Improvement Association Neighborhood Block Party sponsored by Council District 9 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.. (Rocha)**
- a. Approve the Park-Wilshire Improvement Association Neighborhood Block Party as a City Council sponsored Special Event and approve the expenditure of City Funds.
 - b. Approve and accept donations from various individuals, businesses, or community groups to support the event.
 - c. Place the item on the August 12, 2014 Council Agenda for action.

Documents Filed: Memorandum from Councilmember Donald Rocha to the Rules and Open Government Committee dated July 25, 2014, entitled "Approval of the Park-Wilshire Improvement Association Neighborhood Block Party sponsored by Council District 9 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event".

Action: Upon motion by Vice Mayor Nguyen, seconded by Councilmember Oliverio and carried unanimously, the recommendation was approved and placed on the August 12, 2014 City Council agenda for action. (4-0.)

REVIEW OF ADDITIONS TO COUNCIL COMMITTEE AGENDAS/WORKPLANS

- (1) Community and Economic Development Committee – None.

Items (2) and (3) were heard together

- (2) Neighborhood Services and Education Committee
 - a. Approve the Neighborhood Services and Education Committee workplan for the period of August through December 2014 and set its meeting schedule on the second Thursday of each month at 1:30 p.m. in Rooms W118-119. (Mayor/Nguyen)
- (3) Transportation and Environment Committee
 - a. Approve the Transportation and Environment Committee workplan for the period of August through December 2014 and set its meeting schedule on the first Monday of each month at 1:30 p.m. in Rooms W118-119. (Mayor/Liccardo)

Documents Filed: (1) Memorandum from Mayor Chuck Reed and Neighborhood Services and Education Committee Chair Vice Mayor Madison Nguyen to the Rules and Open Government Committee dated July 30, 2014, 2014, entitled “Neighborhood Services and Education Committee Workplan”. (2) Memorandum from Mayor Chuck Reed and Transportation and Environment Committee Chair Councilmember Sam Liccardo to the Rules and Open Government Committee dated July 30, 2014, 2014, entitled “Transportation and Environment Committee Workplan”.

Public Comment: David Wall offered comments on items that should be heard by each Committee.

Action: Upon motion by Councilmember Constant, seconded by Councilmember Oliverio and carried unanimously, the Neighborhoods Services and Education and Transportation and Environment Committees Workplans were approved. (4-0.)

- (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

Joyce Raybourne, Chair of the Senior Citizens Commission, expressed concerns that there was no progress report on status of the Commission’s subcommittees.

Marie Hayter, Vice Chair of Senior Commission, offered comments in support of the Commission’s subcommittees.

OPEN FORUM (CONT'D.)

Martha O'Connell, emeritus member of the Senior Citizens Commission, quoted an October 2010 letter from Former City Clerk Lee Price on the Bylaw updates for Boards and Commissions, and spoke in support of maintaining the Commission's subcommittees.

David Wall offered comments on various issues.

Richard McCoy, Senior Citizens Commission, chair of Health and Human Services subcommittee, spoke in support of maintaining the Commission's subcommittees..

ADJOURNMENT

The meeting adjourned at 3:23 p.m.



Mayor Chuck Reed

Rules and Open Government Committee

CR:slg