



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

**SAN JOSE, CALIFORNIA**

**WEDNESDAY, SEPTEMBER 17, 2014**

The Rules and Open Government Committee of the City of San José convened in Regular Session at 2:00 p.m. in the Committee Rooms 118-120, Council Wing, City Hall.

**PRESENT:** Vice-Mayor Madison Nguyen, Councilmember Pierluigi Oliverio, and Councilmember Rose Herrera.

**ABSENT:** Mayor Chuck Reed and Councilmember Pete Constant.

**STAFF:** Deputy City Manager Norberto Dueñas, City Attorney Rick Doyle, City Clerk Toni Taber, Mayor's Agenda Assistant Ahmad Chapman, Agenda Services Manager Gloria Schmanek, and Deputy City Clerk Ruth Krantz.

**CITY COUNCIL (CITY CLERK)**

- (1) Review September 23, 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: David Wall offered comments.

Action: Upon motion by Councilmember Oliverio, seconded by Councilmember Herrera and carried unanimously, the Committee approved the agenda including the following sunshine waiver, additions, and changes: sunshine waiver for Item 4.1, "Initiation of the Annexation/Reorganization of Communications Hill No. 1". (3-0-2. Absent: Constant, Reed.)

- (2) Review September 30, 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)

Action: Upon motion by Councilmember Oliverio, seconded by Councilmember Herrera and carried unanimously, the Committee approved the agenda. (3-0-2. Absent: Constant, Reed.)

**REVIEW OF UPCOMING STUDY SESSION AGENDA(S) – None.**

**LEGISLATIVE UPDATE**

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

**MEETING SCHEDULE**

- (1) **Study Session on Affordable Housing Policies and Ordinances. (Campos)**  
Approve a Council discussion on the City of San José’s Housing Policies and Ordinances in relation to the City’s affordable housing shortage for the October 14, 2014 Study Session.

Documents Filed: Memorandum from Councilmember Campos to the Rules and Open Government Committee, dated September 11, 2014, entitled “Study Session on Affordable Housing Policies and Ordinances.”

Councilmember Campos recommended approval of scheduling a Council discussion on the City’s Housing Policies and Ordinances, specifically identifying the subject of rent control.

Public Comments: David Wall offered criticism of the City’s affordable housing policies. Martha O’Connell offered support of Councilmember Campos’ recommendation and stressed the need for affordable housing.

Action: The proposal failed for lack of a motion.

- (2) **Schedule of Council Hearings on Communications Hill 2 Project. (Nguyen)**
  - a. Initiate the Communications Hill 2 Project Annexation Process on the September 23, 2014 council agenda as recommended by staff.
  - b. Hear and consider certification and adoption of the Communications Hill 2 Project Environmental impact Report (EIR) on September 30, 2014.
  - c. Consider adoption of a resolution approving all General Plan Amendments (including Communications Hill 2 Project) action on September 30, 2014 as recommended by staff.
  - d. Defer Communications Hill 2 Project Pre-zoning and Re-zoning changes to October 21, 2014.
  - e. Request Staff to continue to work with the developer and residents to address current parking and traffic concerns and bring solutions to the council at the October 21, 2014 meeting.

Documents Filed: Memorandum from Vice Mayor Nguyen to the Rules and Open Government Committee, dated September 11, 2014, entitled “Schedule of Council Hearings on Communications Hill 2 Project.”

## MEETING SCHEDULE (CONT'D.)

### (2) Schedule of Council Hearings on Communications Hill 2 Project. (Cont'd.)

Vice Mayor Nguyen offered recommendations that staff have an opportunity to work with the residents and developer in mitigating concerns regarding parking and traffic before action is taken on October 21, 2014.

Public Comments: David Wall offered criticism of the project. Shani Kleinhaus, Santa Clara Valley Audubon Society, expressed environmental concerns.

Action: Upon motion by Councilmember Oliverio, seconded by Councilmember Herrera and carried unanimously, the Schedule of Council Hearings on the Communications Hill 2 Project as outlined by Vice Mayor Nguyen was approved. (3-0-2. Absent: Constant, Reed.)

## THE PUBLIC RECORD

Documents Filed: Memorandum from City Clerk Toni J. Taber transmitting the Public Record for the Week of September 5 – September 11, 2014.

Public Comment: Lee Ellak spoke on Item (2) and offered comments on disasters that could potentially affect the City of San José.

David Wall spoke on Items (1) and (5).

Action: Upon motion by Councilmember Oliverio, seconded by Councilmember Herrera and carried unanimously, the public record was noted and filed. (3-0-2. Absent: Constant, Reed.)

## BOARDS, COMMISSIONS AND COMMITTEES

### (1) Appointments

- a. San José Arena Authority Board Appointments. (Mayor)
  1. Receive and file the Mayor's appointment of Jonathan Clough as a Mayor Representative to a full term from July 1, 2014 – June 30, 2018.

Documents Filed: Memorandum from Mayor Reed, dated September 8, 2014, entitled "San José Arena Authority Board."

Public Comment: David Wall provided comments on the Board.

Action: Upon motion by Councilmember Oliverio, seconded by Councilmember Herrera and carried unanimously, the recommendation was noted and filed. (3-0-2. Absent: Constant, Reed.)

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

## **RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS**

- (1) Workload Assessment for Council Requests and Referrals. – None.
- (2) **Job Description and Qualifications of the Independent Police Auditor. (Mayor)**  
Consideration of a draft Council Policy establishing a job description and qualifications required for the position of Independent Police Auditor was agendized for action at the City Council meeting on September 23, 2014.

Documents Filed: Memorandum from Mayor Chuck Reed dated September 10, 2014, entitled “Job Descriptions and Qualifications of the Independent Police Auditor.”

Public Comment: David Wall suggested further review by the Public Safety, Finance and Strategic Support Committee.

Action: Upon motion by Councilmember Herrera, seconded by Councilmember Oliverio and carried unanimously, the recommendation was approved and placed on the September 23, 2014 City Council agenda for action. (3-0-2. Absent: Constant, Reed.)

- (3) **Riparian Corridor. (Campos)**  
**Approve the Riparian Corridor Policy to be included in the Top Ten Priority List.**

Documents Filed: 1) Memorandum from Councilmember Campos, dated September 11, 2014, recommending that the Riparian Corridor Policy be included in the Top Ten Priority List.

Public Comment: Michele Beasley, Greenbelt Alliance; Larry Ames; Alice Kaufman, Committee for Green Foothills; Shani Kleinhaus, Santa Clara Valley Audubon Society; and Jean Dresden and David Wall spoke in support of the recommendation and urged the City to include the Riparian Corridor Policy in the Top Ten Priority List.

Councilmember Campos urged approval of his recommendation.

Motion: Councilmember Herrera moved approval of Councilmember Campos’ recommendation.

Councilmember Oliverio offered that he could not support the motion on the floor, suggesting Council focus on what is already on the priority list.

Action: The motion failed for lack of a second.

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

**(4) Police Department Operations and Staffing. (Rocha)**

Direct staff to prepare a written report on Police Department operations and performance, in the form of an informational memo. In addition to any information Police Department staff, Rules Committee members or my other colleagues may wish to include, the report should address the following issues:

- a. The current status of police department sworn staffing, including the following:
  1. Current staffing levels, as well as historical staffing levels going back five years.
  2. Any projections as to future staffing the Department may have developed.
  3. An update on recent academy class size, historic class sizes going back five years and a discussion as to what the Police Department's targets are for class size.
- b. An analysis of recent trends in crime statistics, including the following:
  1. A brief overview of the deployment strategies that have allowed the Police Department to achieve a significant reduction in violent crime even at reduced staffing levels.
  2. A discussion as to whether these deployment strategies entail tradeoffs. For example, does a focus on violent crime affect our ability to respond to other crimes?
  3. A discussion of the Police Department's use of overtime, including a discussion of the risks of continued use of overtime as well as an assessment as to whether there may be a limit to our ability to continue using it at high levels.
  4. A discussion as to whether lower priority crimes, especially property crimes, may be under-reported in the statistics. For example, do we capture fewer crimes for statistical purposes because of our inability to respond to calls, or because it takes so long to respond that the reporting party has left the scene?

Documents Filed: Memorandum from Councilmember Rocha, dated September 11, 2014, recommending preparation of a written report on Police Department operations and performance and suggestions for issues to be included on the report.

Public Comment: David Truslow and David Wall offered support to Councilmember Rocha's memorandum.

Councilmember Rocha urged approval and added that an informational memorandum would suffice. Vice Mayor Nguyen recommended this item be presented to Staff for work assessment and returned to the Rules and Open Government Committee Meeting in two weeks; or alternately, taken to the Public Safety, Finance and Strategic Support Committee for further discussion.

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

### **(4) Police Department Operations and Staffing (Cont'd.)**

Deputy City Manager Norberto Dueñas recommended referral to Staff, as some items may already be captured in existing reports, and returned to Rules in two weeks.

Action: Upon motion by Councilmember Herrera, seconded by Councilmember Oliverio and carried unanimously, staff was directed to return to either the Rules and Open Government Committee Meeting or Public Safety, Finance, and Strategic Support Committee as staff deems appropriate by October 1, 2014 with the recommended report. (3-0-2. Absent: Constant, Reed.)

### **(5) Approval of the Westfield Oakridge Winter Walk (WOWW) Sponsored by Council Districts 2, 9, and 10 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event. (Khamis)**

- a. Approve the Westfield Oakridge Winter Walk (WOWW) Sponsored by Council District 2, 9, and 10 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 September 30, 2014 City Council Agenda for action.

Documents Filed: Memorandum from Councilmember Khamis to the Rules and Open Government Committee dated September 10, 2014, entitled "Approval of the Westfield Oakridge Winter Walk (WOWW) Sponsored by Council Districts 2, 9, and 10 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 Councilmember Oliverio, seconded by Councilmember Herrera and carried unanimously, the recommendation was approved and placed on the September 30, 2014 City Council agenda for action. (3-0-2. Absent: Constant, Reed.)

## **REVIEW OF ADDITIONS TO COUNCIL COMMITTEE AGENDAS/WORKPLANS**

(1) Community and Economic Development Committee – None.

### **(2) Neighborhood Services and Education Committee**

- a. Amend the Neighborhoods Services and Education Committee Workplan to include information on the "Butt Out of Our Bars" public health initiative during the October 9, 2014 Meeting. (Rocha)

Documents Filed: (1) Memorandum from Councilmember Rocha to the Rules and Open Government Committee dated September 11, 2014, entitled "Neighborhood Services and Education Committee Workplan Amendment".

## REVIEW OF ADDITIONS TO COUNCIL COMMITTEE AGENDAS/WORKPLANS

### (2) **Neighborhood Services and Education Committee (Cont'd.)**

Public Comment: Brian Davis, Rachel Barry, Gabrielle Antolovich and Devin Wakefield, representing “Butt out of Our Bars” and “Voices United”; and Victoria Bourdon, “Menthol Flavored Tobacco Prevention Project”, offered support to Councilmember Rocha’s memorandum, citing the industry’s propensity to target youth and the LGBT community.

Councilmember Rocha urged support to his recommendations.

Action: Upon motion by Councilmember Herrera, seconded by Councilmember Oliverio and carried unanimously, the Neighborhoods Services and Education and Transportation and Environment Committees Workplan was approved. (3-0-2. Absent: Constant, Reed.)

- (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

David Wall opined a perceived conflict of interest by the Director of Housing in representing the interests of Destination Home.

## ADJOURNMENT

The meeting adjourned at 3:11 p.m.



Mayor Chuck Reed  
Rules and Open Government Committee

CR:rmk