



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

SAN JOSE, CALIFORNIA

WEDNESDAY, OCTOBER 1, 2014

The Rules and Open Government Committee of the City of San José convened in Regular Session at 2:03 p.m. in the Committee Rooms 118-120, Council Wing, City Hall.

PRESENT: Mayor Chuck Reed, Councilmember Pierluigi Oliverio, and Councilmember Pete Constant.

ABSENT: Vice-Mayor Madison Nguyen.

STAFF: City Manager Ed Shikada, Deputy City Manager Norberto Duenas, City Attorney Richard Doyle, Mayor's Agenda Assistant Ahmad Chapman, Senior Executive Analyst Ernest Azevedo, City Clerk Toni J. Taber, Assistant City Clerk Tom Graves, and Deputy City Clerk Suzanne Guzzetta.

CITY COUNCIL (CITY CLERK)

- (1) Review October 7, 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 opinions on Item 2.8.

Action: Upon motion by Councilmember Constant, seconded by Councilmember Oliverio and carried unanimously, the Committee approved the agenda including the following sunshine waivers, additions, and changes: 10-day sunshine waiver for Item 3.3 and addition of Item 3.x, "Public Negotiations Discussion." (3-0-1. Absent: Nguyen.)

- (2) Review October 14, 2014 Draft Agenda**
None – Meeting Cancelled

REVIEW OF UPCOMING STUDY SESSION AGENDA(S)

Action: Upon motion by Councilmember Constant, seconded by Councilmember Oliverio and carried unanimously, the study session holds on October 3rd and 14th were released. (3-0-1. Absent Nguyen.)

LEGISLATIVE UPDATE

- (1) State

Director of Intergovernmental Relations Betsy Shotwell offered a short update on current state legislation.

- (2) Federal – None.

MEETING SCHEDULE

None.

THE PUBLIC RECORD

- (1) Public Record for the Week of September 12 – 18, 2014
- (2) Public Record for the Week of September 19 – 25, 2014

Documents Filed: 1) Memorandum from City Clerk Toni J. Taber transmitting the Public Record for the Week of September 12 – 18, 2014; 2) Memorandum from City Clerk Toni J. Taber transmitting the Public Record for the Week of September 19 – 25, 2014

Pete Constant highlighted concerns related to Item E.2(1).

Public Comment: Richard McCoy, Martha O’Connell, and Warren Gannon pulled Item E.2(1) and offered comments.

David Wall spoke on Items E.1(2), E.2(1) and (2).

Action: Upon motion by Councilmember Constant, seconded by Councilmember Oliverio and carried unanimously, the public record was noted and filed. (3-0-1. Absent: Nguyen.)

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.

RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS

(4) Staff Follow-up Related to Order to Show Cause for 801 N. 13th Street (Verbal Report).

As referred by the Rules and Open Government Committee on September 10, 2014, verbal report from Staff on action that has been taken or may need to be taken related to the property located at 801 N. 13th Street.

[Rescheduled from September 24, 2014 – Item G(5)]

Documents Filed: Pictures and video from residents near El Tarasco Bar.

Deputy City Manager Norberto Duenas, Sergeant Todd Trayer, Vice Unit, and Lieutenant Mike Sullivan offered background information, provided an update, and answered questions from the Committee. City Attorney Richard Doyle provided additional background and answered questions.

Councilmember Liccardo voiced additional comments and encouraged the Committee to refer discussion to the City Council Closed Session on October 7, 2014.

Public Comment: Larry Yamasaki, Elisa Hwang-Mendez, Riko Mendez, and Martha O'Connell urged the Committee to act. Riko Mendez submitted a flash drive featuring pictures and video of the acts in question.

David Wall opined on various solutions to the issue.

Action: Upon motion by Councilmember Constant, seconded by Councilmember Oliverio and carried unanimously, discussion was referred to the October 7, 2014 City Council Closed Session Agenda. (3-0-1. Absent: Nguyen.)

(2) Affordable Housing and Homeless Housing Funding Source. (Mayor)

Place the following on the City Council agenda for October 7, 2014:

Direct the City Manager and the City Attorney to engage in settlement discussions with the County of Santa Clara to resolve an existing dispute over the City/County Pass-through Agreement, with a new agreement to use all the funds in dispute (approximately \$20 million per year) for affordable housing (50%) and housing for the homeless (50%).

[Rescheduled from September 24, 2014 – Item G(2)]

Documents Filed: Memorandum from Mayor Reed to the Rules and Open Government Committee, dated September 16, 2014, entitled, "Affordable Housing and Homeless Housing Funding Source."

Mayor Reed provided background on the recommendation.

Public Comment: David Wall commented on affordable housing.

Action: Upon motion by Councilmember Constant, seconded by Councilmember Oliverio and carried unanimously, the recommendation was approved with sunshine waiver and placed on the October 7, 2014 City Council agenda for action. (3-0-1. Absent: Nguyen.)

RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS

(3) Housing Impact Fee Nexus Study. (Rocha)

Agendize the Housing Impact Fee Nexus Study for Council direction during the evening session of the October 21, 2014 City Council meeting.

[Rescheduled from September 24, 2014 – Item G(4)]

Documents Filed: Memorandum from Councilmember Rocha to the Rules and Open Government Committee, dated September 18, 2014, entitled, “Housing Impact Fee Nexus Study.”

Public Comment: Wendy Ho, United Way Silicon Valley, Phil Mastracola, Pat Farrow, Amanda Montez, Destination: Home, Alejandra Herrera, Destination: Home, Bill Black, Sacred Heart Housing Committee, Jenny Niklaus, CEO for HomeFirst, and Kevin Zwick, Housing Trust Silicon Valley thanked the committee and encouraged them to support the recommendation.

David Wall spoke in opposition to the recommendation.

Councilmember Rocha provided background on the recommendation, requested the item be heard on November 4th, and was available to answer questions from the Committee.

The Committee emphasized the need to respond to questions posed in a letter from the BIA, do the work necessary to be legally defensible, and set aside enough time for Council deliberation and get all staff work to the Council ahead of the meeting.

Director of Housing Lesley Corsiglia answered questions from the Committee.

Action: Upon motion by Councilmember Constant, seconded by Councilmember Oliverio and carried unanimously, the recommendation was approved and set for the November 18, 2014 City Council agenda. (3-0-1. Absent: Nguyen)

Items (5) – (7) were heard together .

(5) Approval of the San Jose Gun Buyback Sponsored by Council District 5 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event. (Campos)

- a. Approve the San Jose Gun Buyback scheduled on December 13, 2014 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 October 7, 2014 City Council Agenda for action.

[Rescheduled from September 24, 2014 – Item G(3)]

RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS

- (6) **Approval of the Shred-A-Thon & E-Waste Recycling Event Sponsored by Council District 1 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event. (Constant)**
- a. Approve the Shred-A-Thon & E-Waste Recycling Event scheduled on October 18, 2014 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 October 7, 2014 City Council Agenda for action.
- (7) **Approval of the Disability Awareness Day Sponsored by Council District 1 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event. (Constant)**
- a. Approve the Disability Awareness Day scheduled on October 10, 2014 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 October 7, 2014 City Council Agenda for action.

Documents Filed: 1) Memorandum from Councilmember Campos to the Rules and Open Government Committee, dated September 17, 2014, entitled, "Approval of the San Jose Gun Buyback Sponsored by Council District 5 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event."; 2) Memorandum from Councilmember Constant to the Rules and Open Government Committee, dated September 4, 2014, entitled, "Approval of the Shred-A-Thon & E-Waste Recycling Event Sponsored by Council District 1 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event"; 3) Memorandum from Councilmember Constant to the Rules and Open Government Committee, dated September 4, 2014, entitled, "Approval of the Disability Awareness Day Sponsored by Council District 1 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event."

Public Comment: David Wall commented on Item (5)

Action: Upon motion by Councilmember Oliverio, seconded by Councilmember Constant and carried unanimously, the recommendations were approved and placed on the October 7, 2014 City Council agenda for action. (3-0-1. Absent: Nguyen.)

RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS

(8) Accept Recommended City Positions on the November 4, 2014 California General Election Ballot – Propositions 1, 2, 45-48. (City Manager)

- a. Approve the recommended City positions for Propositions 1, 2, 45-48, on the November 4, 2014 California General Election ballot.
- b. Request that a one-week turnaround be granted so that this item can be heard at the October 7, 2014 City Council meeting.

<u>Propositions</u>		<u>Recommended City Position</u>
Proposition 1 -	Water Bond. Water Quality, Supply and Support Infrastructure Act of 2014 (AB 1471 Ch. 188).	Support
Proposition 2 -	State Budget Stabilization Account. Legislative Constitutional Amendment.	Support
Proposition 45 -	Healthcare Insurance. Rate Changes. Initiative Statute.	No Position
Proposition 46 -	Drug and Alcohol Testing of Doctors, Medical Negligence Lawsuits. Initiative Statute.	Oppose
Proposition 47 -	Criminal Sentences. Misdemeanor Penalties. Initiative Statute.	Oppose
Proposition 48 -	Indian Gaming Compacts. Referendum.	No Position

Documents Filed: Memorandum from Director of Intergovernmental Relations Betsy Shotwell to the Rules and Open Government Committee, dated September 24, 2014, entitled, "Accept Recommended City Positions on the November 4, 2014 California General Election Ballot – Propositions 1, 2, 45-48."

Director of Intergovernmental Relations Betsy Shotwell provided background information and answered questions from the Committee.

Public Comment: David Wall commented on Proposition 48.

Action: Upon motion by Councilmember Oliverio, seconded by Councilmember Constant and carried unanimously, the item was placed on the October 21, 2014 City Council agenda without recommendation. (3-0-1. Absent: Nguyen.)

RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS

(9) Police Operations and Performance Information Request. (Police)

Approve the plan to respond to the Rules Committee direction to staff to prepare a report on Police Department operations and performance through two separate Information Memos.

Documents Filed: Memorandum from Chief of Police Larry Esquivel to the Mayor and City Council, dated September 25, 2014, entitled, "Police Operations and Performance Information Request."

Mayor Reed offered comments and observed that the item should be set for a study session.

A brief Committee discussion ensued.

Assistant Police Chief Edgardo Garcia provided the Committee with additional information and was available to answer questions.

Action: Upon motion by Councilmember Constant, seconded by Mayor Reed, and carried, the study session on November 7th was extended to include discussion of the recommendation. (2-1-1. Noes: Oliverio. Absent: Nguyen.)

Mayor Reed noted that discussion should return in one to two weeks on how to manage Council expectation of requests for information.

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

Documents Filed: Letters between the Law Offices of Richard MacBride and Juan M. Munoz, El Rincon Taqueria Mariscos, and Myungho Lee & Jeong Lee.

Aaron Resendez submitted copies of letters to the Committee and requested assistance for local businesses in understanding ADA laws.

David Wall voiced opinions on various subjects.

ADJOURNMENT

The meeting adjourned at 3:27 p.m.



Mayor Chuck Reed

Rules and Open Government Committee

CR:slg