

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

SAN JOSE, CALIFORNIA

WEDNESDAY, OCTOBER 19, 2016

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

PRESENT: Mayor Sam Liccardo, Chair; Vice Mayor Rose Herrera, Vice Chair; Council Member Johnny Khamis and Council Member Magdalena Carrasco, Members.

ABSENT: Jones. (Excused)

STAFF: City Attorney Richard Doyle, Assistant City Manager David Sykes, Senior Executive Analyst Gloria Schmanek, Mayor's Policy Analyst Candace Le, City Clerk Toni Taber, and Deputy City Clerk Susan Davis.

A. City Council (City Clerk)

1. Review October 25, 2016 Final Agenda

- a. Add new items to Draft Agenda**
- b. Assign "Time Certain" to Agenda Items (if needed)**
- c. Review of Notice Waiver Requests for Agenda Items or Documents (if needed)**

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Magdalena Carrasco and carried unanimously, the Committee accepted the October 25, 2016 Agenda, as amended, including a sunshine waiver for Item 2.10, Approval of Free Use of City Hall Facility Use for the Sister City International 40th Anniversary. (4-0-1. Absent: Jones.)

2. Review November 1, 2016 Draft Agenda

- a. Add new items to Draft Agenda**
- b. Assign "Time Certain" to Agenda Items (if needed)**
- c. Review of Notice Waiver Requests for Agenda Items or Documents (if needed)**

G. 2. Review November 1, 2016 Draft Agenda. (Cont'd.)

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Johnny Khamis and carried unanimously, the Committee accepted the November 1, 2016 Agenda, as amended, Ceremonial Item 1.1, Presentation of a proclamation recognizing November 26, 2016 as “Small Business Saturday” in the City of San José was deferred to November 15, 2016 and Item 2.9, Amendment to Title 11 of the San José Municipal Code Prohibiting Sidewalk Bicycling, was moved to Section 6, Transportation and Aviation Services on the Agenda. (4-0-1. Absent: Jones.)

B. Review of Upcoming Study Session Agendas

There were none presented.

C. Legislative Update – Verbal Report

There was none presented.

D. Meeting Schedules

There were none presented.

E. The Public Record

Documents Filed: Memorandum from City Clerk Toni J. Taber, dated October 14, 2016, transmitting the Public Record for the Week of October 07 – October 13, 2016.

Action: Upon motion by Council Member Magdalena Carrasco, seconded by Vice Mayor Rose Herrera and carried unanimously, the Committee noted and filed the public record. (4-0-1. Absent: Jones.)

F. Boards, Commissions and Committees

- 1. Appointments**
- 2. Work Plans & Annual Reports**

There were none presented.

G. Rules Committee Reviews, Recommendations and Approvals

1. Consent Calendar

- a. **Approval of Community Meeting for File No. CP15-085 sponsored by Council District 1 as a City Council sponsored Special Event to expend City funds for services for the event. (Jones)**
 - (1) Retroactively approve the Community Meeting for File No. CP15-085 as a City Council sponsored Special Event and approve the expenditure of funds.**
 - (2) Place the item on the October 25, 2016 Council Agenda for action.**

- G. 1. b. **Approval to Expend City Funds and Accept Donations for Sister Cities International Northern California 40th Annual Conference Sponsored by Council District 5. (Carrasco)**
- (1) Approve the expenditure of funds for the Sister Cities International Northern California 40th Annual Conference sponsored by Council District 5.
 - (2) Approve and accept donations from various individuals, businesses or community groups to support the event.
 - (3) Place the item on the October 25, 2016 Council Agenda for action.
- c. **Approval of community events sponsored by Council District 7 as City Council sponsored Special Events to expend City funds and accept donations of materials and services for various Halloween events in *District 7*. (T. Nguyen)**
- (1) Approve the Filipino History Month Celebration on Saturday, October 22, 2016 at Seven Trees Community Center; Halloween Festival on Friday, October 28, 2016 at Tully Library Community Room; Varoween Haunted House on Sunday, October 30, 2016 at George Shirikawa Community Center; and District 7 Neighborhood Leaders Reception on Monday, December 12, 2016 at Tully Library Community Room as City Council sponsored Special Events and approve the expenditure of funds.
 - (2) Approve and accept donations from various individuals, businesses or community groups to support the event.
 - (3) Place the item on the October 25, 2016 Council Agenda for action.

Documents Filed: (1) Memorandum from Council Member Chappie Jones, dated October 13, 2016, requesting retroactively approving the Special Council Event and placing the item on the October 25, 1026 Agenda. (2) Memorandum from Council Member Magdalena Carrasco, dated October 13, 2016, requesting approval of the Special Council Event and placing the item on the October 25, 1026 Agenda. Memorandum from Council Member Tam Nguyen, dated October 13, 2016, requesting approval of the Special Council Events and placing the items on the October 25, 1026 Agenda.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Magdalena Carrasco and carried unanimously, the Committee accepted the Consent Calendar, with the title of Item G.1.c. changed from District 5 to District 7, and agendized it on the October 25, 2016 Council Agenda. (4-0-1. Absent: Jones.)

2. **Discussion of Council Policy 0-11, Council Resolution Policy, and Consider Whether to Direct the City Manager and City Attorney to Draft Modifications to the Policy for Council Approval. (City Attorney)**

G. 2. Discussion of Council Policy 0-11G. (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Sam Liccardo, dated October 18, 2016, with direction to the City Attorney's Office to amend Council Policy 011 to include the following policy revisions as described in "Action" below. (2) Memorandum from City Attorney Richard Doyle, dated October 13, 2016, regarding a discussion of Council Policy 0-11.

Action: Upon motion by Council Member Johnny Khamis, seconded by Vice Mayor Rose Herrera and carried unanimously, the Committee moved the memorandum from Mayor Sam Liccardo, dated October 18, 2016, to the full Council for discussion and action: The City Attorney was directed to: (1) Amend "Purpose" paragraph to read, "To provide guidelines where the City Council considers a request for action upon a matter over which the City lacks jurisdiction or substantial influence, and to preserve public time, resources and deliberation for those matters upon which the City Council's decisions have direct and concrete consequence." (2) Codify that in lieu of the City Council taking up items that do not fall within the basic criteria for resolutions outlined in Council Policy 0-11, Council Members may individually or collectively, issue declaratory letters representing their position on the issue. (a) Letters issued by Council Members must include language indicating that the position contained in the letter does not represent an official position of the City of San José and only represents the position of the undersigned. The letters may further clarify that the City, as a matter of policy, does not take official positions on matters such as that. (b) Pending an opinion by the City Attorney, the policy should further clarify that any serial consideration of such letters by multiple members of the Council should not be considered for purposes of assessing a Brown Action violation, since the matter lies beyond the Council's purview in the first instance. Additionally the draft letter from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Magdalena Carrasco and Council Member Raul Peralez in support of the Standing Rock Tribe was approved. (4-0-1. Absent: Jones.)

3. Clean City.

Direct the City Attorney to examine whether or not the City of San José can fine State Agencies for not maintaining or cleaning property within City Boundaries, and determine if the City of San José can bill State Agencies for these services. (Oliverio)

Documents Filed: Memorandum from Council Member Pierluigi Oliverio, dated October 13, 2016, recommending direction to the City Attorney as described above.

City Attorney Richard Doyle informed the Committee that Staff will return to the November 9, 2016 Rules and Open Government Committee Meeting with a formal response.

Brief Committee discussion ensued.

G. 3. Clean City. (Cont'd.)

Action: Upon motion by Council Member Johnny Khamis, seconded by Council Member Magdalena Carrasco and carried unanimously, the Committee referred the item to the City Attorney for action, with direction to return to Rules and Open Government Committee in three weeks for discussion and to include feedback from the Department of Transportation/Parks, Recreation and Neighborhood Services on the GPC Contract. (4-0-1. Absent: Jones.)

**4. Proposed Gun Violence Ordinance.
Accept the Staff Report on the proposed Gun Violence Prevention Ordinance. (Police)**

Documents Filed: (1) Memorandum from Chief of Police Edgardo Garcia, dated October 13, 2016, recommending acceptance of the report. (2) Two letters from the public, each dated October 19, 2016, concerning gun violence and the proposed gun violence ordinance.

Chief of Police Edgardo Garcia presented the report on the proposed Gun Violence Prevention Ordinance and responded to Committee questions and concerns.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Expressing sensible gun safety, support, opposition, shared experiences, suggestions and comments were Annette Ladowitz, Karen Pandula, Mary Spagnol, Marilyn Highland, Jo Stein, Dr. Lois Fiedler, Don Veitz, Donna Poulos, Irena Olender, Safe Cities Coalition; Maya Shaffer, Dave Truslow, Lawrence Townsend, Louis Pandula, Wallace S. Gardner, Don Newton, Jess B. Guy, Dr. Lois Fiedler, Mark Towber, Golden State Second Amendment Council; Steve Quon, Ken Krall, Rabbi Melanie Aron, Congregation Shir Hadah; Ed Kaufman, Anthony Napolitano, Jim Roberts, Ann Rosenzweiz, Bonita Kiasnopoler, PACT and Lox Thomson.

Action: Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Magdalena Carrasco and carried unanimously, the Committee accepted the Staff Report; referred *Item 1* (ordinance) from the memorandum from Council Member Ash Kalra and Council Member Raul Peralez, dated September 1, 2016, to the full Council for discussion and action later this year: Require gun owners to safely store firearms that are kept in the home in a locked container or disabled with a trigger lock. *Item 2:* Staff was directed to identify funding sources or grant opportunities for purchase of off-duty lock boxes for Police Officers. *Items 3 and 4:* Staff was directed return to the Rules and Open Government Committee after the November 8, 2016 General Election and results of Proposition 63, including information on penalties. Staff was further directed to refer the draft letter from Mayor Sam Liccardo, Vice Mayor Rose Herrera, Council Member Magdalena Carrasco and Council Member Raul Peralez in support of the Standing Rock Tribe to the full Council for consideration and action. (4-0-1. Absent: Jones.)

- H. Review of additions to Council Committee Agendas/Work Plans**
- 1. Community and Economic Development Committee**
 - 2. Neighborhood Services and Education Committee**
 - 3. Transportation and Environment Committee**
 - 4. Public Safety, Finance and Strategic Support Committee**
 - 5. Joint Meeting of the Rules and Open Government Committee and Committee of the Whole**

There were none presented.

- I. Open Government**
- 1. Appeals of Public Records Act Request**

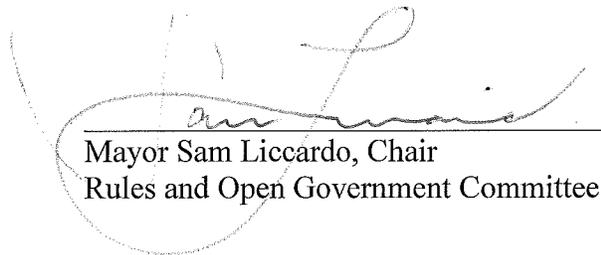
There were none presented.

OPEN FORUM

Blair Beekman expressed his views on various topics.

ADJOURNMENT

Mayor Sam Liccardo adjourned the meeting at 4:08 p.m.



Mayor Sam Liccardo, Chair
Rules and Open Government Committee

SL/smd