



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

SAN JOSE, CALIFORNIA WEDNESDAY, NOVEMBER 18, 2020

Consistent with the California Governor's Executive Order No. N-29-20, Resolution No. 79450 from the City of San José and the Santa Clara County Health Officer's March 16, 2020 Shelter in Place Order, the City Council meeting was not physically open to the public. Public comments were accepted via eComment, email, by phone/Webinar or online.

The Council meeting was teleconferenced from remote locations and convened at 2:02 p.m.

Present: Councilmembers - Liccardo, Jones, Arenas, Davis, Khamis.

Absent: Councilmembers - All Present.

Staff: City Manager, David Sykes; Office of the City Manager, Chief of Staff, Lee Wilcox; City Attorney, Nora Frimann; City Clerk, Toni Taber; City Manager's Office, Gloria Schmanek; Henry Smith, Mayor's Office; and Yasmin Garcia/Ruth Krantz, City Clerk's Office.

A. City Council (City Clerk)

1. Review November 24, 2020 Final Agenda

Cancelled.

2. Review December 1, 2020 Draft Agenda

a. Add New Items to Draft Agenda

b. Assign "Time Certain" to Agenda Items (if needed)

c. Review of Notice of Waiver Requirements for Agenda Items or Documents (if needed)

Public Comments: Blair Beekman addressed body worn camera footage, safety issues, and better community practices.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Chappie Jones and carried unanimously, the Committee accepted the December 1, 2020 Draft Agenda. (5-0.)

B. Review of Upcoming Special Meeting Agenda(s)

None provided.

C. Legislative Update

- 1. State**
- 2. Federal**

There were none presented.

D. Meeting Schedules

1. City Budget Calendar and Budget Study Session Schedule. (City Manager)

Public Comments: Blair Beekman spoke to funding issues during COVID-19.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Chappie Jones and carried unanimously, the Committee approved the City Budget Calendar and Budget Study Session Schedule. (5-0.)

E. The Public Record

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Johnny Khamis and carried unanimously, the Public Record for November 2, 2020 - November 12, 2020 was noted and filed. (5-0.)

F. Boards, Commissions and Committees

None provided.

G. Rules Committee Reviews, Recommendations and Approvals

1. Consent Calendar

a. Approval of the Free Holiday Tree Giveaway Sponsored by Council District 3 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event. (Peralez)

Public Comments: (1) Blair Beekman spoke to neighborhood safety and demilitarization.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, the City Council Sponsored Special Event was approved and placed the item on the December 1, 2020 Council Agenda. (5-0.)

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G.1 (Cont'd)

- b. **Approval of the World AIDS Day Tower and Rotunda Lighting Sponsored by Council District 3 and 9 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event. (Peralez and Foley)**

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, the City Council Sponsored Special Event was approved and placed the item on the December 8, 2020 Council Agenda. (5-0.)

2. **Campaign Finance Regulations. (Jimenez)**

Public Comment: (1) A speaker addressed the need for fair taxes on marijuana. (2) A speaker suggested marijuana should be taxed similar to alcohol and cigarettes. (3) Blair Beekman spoke on the Brown Act and redistricting. (4) Emily urged to move Councilmember Jimenez's memo forward and spoke on the importance of a democracy. (5) A speaker addressed the need for the ethics commission to be linked to the city charter and was in support of moving Councilmember Jimenez's memo forward. (6) A speaker was in favor of moving Councilmember Jimenez's memo forward to enable fair political practices. (7) Angel from District 6 stated the recent election was disheartening for him given that he wants to have a career in politics and urged the memo to go forward.

Vice Mayor Chappie Jones spoke to having more transparency and accountability in the election process, and Councilmember Johnny Khamis stated his support of a study session for this Item.

City Attorney, Nora Frimann, offered advice regarding timing issues with the Commissions review and suggested having a study session with campaign legal experts to provide a legal framework.

Motion: Councilmember Sylvia Arenas made a motion to begin the discussion by referring this to the Board of Fair Campaign and Political Practices (BFCPP) for a Joint Study Session. She suggested that staff hold off on preparation of ordinances until this can be more fully explored. The motion was seconded by Vice Mayor Chappie Jones.

City Clerk Toni J. Taber, responded to questions, indicating that the BFCPP could be fully staffed by February, offering that there are currently two vacancies on the Commission, and a third Commissioner is up for reappointment at the end of February.

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G.2 (Cont'd)

Councilmember Sergio Jimenez suggested amending the scope of the Charter Review Commission, allowing them to review the objectivity, composition and structure of the BFCPP to see whether it may be elevated to be recognized by the Charter, additionally allowing the Charter Review Commission to review the Code of Ethics.

Mayor Sam Liccardo suggested that this Item should go forward to the full Council to determine if the BFCPP Commission can be elevated to the City Charter. Vice Mayor Chappie Jones offered an amendment to the motion, asking to incorporate consideration to the full Council, and Councilmember Sylvia Arenas agreed to the amendment. Including a name change for the BFCPP was also considered.

Action: On a call for question, the motion carried unanimously, with the item referred to the Council and the Board of Fair Campaign Political Practices (BFCPP) for a joint study session to be held in the January or February 2021, and to full Council whether the BFCPP should be elevated to the City Charter. (5-0.)

3. **Designate June 19 as a Public Holiday within the City of San José to Recognize the Ending of Slavery in the United States. (Jones, Foley & Jimenez)**

Public Comments: (1) Blair Beekman spoke to the confederate flag and thanked Vice Mayor Jones for sharing his personal experience on this item. (2) A speaker shared her experience as black mother and parent with children of color in San José Schools and thanked the staff for bringing this item forward. (3) A speaker from District 6 thanked the Councilmembers for their acknowledgment and efforts towards racial reconciliation and equality in the City of San José.

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Dev Davis and carried unanimously, Staff was directed to explore and report the financial implications associated with recognizing June 19th as a paid citywide holiday, additionally accepting Mayor Sam Liccardo's suggestion to explore flexibility regarding the designation of which holidays employees could select from the fixed number of eleven holidays allowed, with the item placed on the December or January (Closed Session) Council Agenda for action. (5-0.)

4. **Measure G Workplan for Expansion of the Authority of the Independent Police Auditor and Arbitration Reform. (Mayor and Carrasco)**

Public Comments: (1) A speaker from District 4 spoke on her support for Measure G, it may increase accountability, transparency, and public trust. (2) Blair Beekman addressed open communication between police officers and the community and whistle blower protection. (3) A speaker addressed police reform to increase public trust, accountability, and endorsed Measure G.

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G.4 (Cont'd)

Vice Mayor Chappie Jones offered some reservations regarding certain aspects of this memo but urged accountability and transparency and maintaining the relationships we have with the Police Department and POA, and support for reimagining public safety.

Motion: Vice Mayor Chappie Jones moved approval of the joint memorandum from Mayor Sam Liccardo and Councilmember Magdalena Carrasco dated November 18, 2020. Councilmember Dev Davis seconded the motion.

Action: On a call for the question, the motion carried unanimously, with the joint memorandum from Mayor Sam Liccardo and Councilmember Magdalena Carrasco dated November 18, 2020, accepted as follows:

1. In light of the passage of Measure G and prior Council direction, direct the City Manager and Independent Police Auditor to include discussions on the expansion of the authority of the Independent Police Auditor to include investigation of police misconduct as part of previous Council Direction on “Reimagining Public Safety”.
2. Further direct the City Manager, City Attorney, and Independent Police Auditor to report back to the City Council in public session by March 1, 2021 with a proposed workplan, policy formulation, possible budget impacts, and negotiation schedule for the expansion of the authority of the Independent Police Auditor to include investigation of police misconduct.
3. Direct the City Attorney and City Manager to include on the list of items to be negotiated in the upcoming Police Officers Association contract the reform of the arbitration process used to challenge disciplinary and termination decisions of the Chief of Police, to enable full transparency and accountability. (5-0.)

5. **Actions Related to City Employee Oversight and Misconduct Investigation. (Mayor, Carrasco and Arenas)**

Public Comments: Scott Largent addressed information regarding the arrest of San Jose Police Officer John Tompkins, his encounters with William Gerry, and the Sunnyvale Police Department investigation.

Mayor Sam Liccardo urged the caller, Scott Largent to reach out to his office.

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Dev Davis and carried unanimously, the Committee approved the City Auditor’s report regarding employee oversight, with additional direction for staff to look into the District Attorney and San José Police Departments investigations, to see if former Code Enforcement Inspector William Gerry or others in the code inspector department had anything to do with the delayed closure of some of the illicit massage parlors. (5-0.)

H. Review of additions to Council Committee Agendas/Workplans

1. Update to the August 2020 - June 2021 Community and Economic Committee Work Plan. (Public Works)

Public Comments: Blair Beekman addressed mixed-income housing and zoning.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Chappie Jones and carried unanimously, the Committee approved the August 2020 - June 2021 Community and Economic Committee Work Plan Update and dropped the Item from the November 23, 2020 meeting. (4-0-1. Absent: Davis)

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

6. Smart Cities and Service Improvement Committee

I. Open Government

None provided.

J. Open Forum

1. Blair Beekman thanked the Committee for the meeting.
2. A speaker offered critique to 911 calling issues and potholes in the City's streets.

K. Adjournment

Mayor Sam Liccardo adjourned the Committee meeting at 4:24 p.m.

Approved Via Email

Mayor Sam Liccardo, Chair
Rules and Open Government Committee

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