



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

SAN JOSE, CALIFORNIA

WEDNESDAY, JANUARY 5, 2022

COVID-19 NOTICE

Consistent with AB 361 and City of San Jose Resolution Nos. 79485, 80237, 80266, 80290 and 80323, this meeting was not physically open to the public, and the Committee Members were teleconferencing from remote locations.

The Council meeting was teleconferenced from remote locations and convened at 2:00 p.m.

Present: Councilmembers - Jones, Peralez, Arenas, Davis, Cohen.

Absent: Councilmembers - All present.

Staff: Deputy City Manager, Angel Rios, Jr.; City Attorney, Nora Frimann; City Clerk, Toni Taber; City Manager's Office, Rachele Blattman; Henry Smith, Mayor's Office; and Deputy City Clerk Ruth Krantz.

A. City Council (City Clerk)

1. Review January 11, 2022 Final Agenda

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

City Clerk Toni J. Taber, indicated January 11 will be a fully virtual meeting, not a hybrid.

Public Comments: (1) Blair Beekman spoke to data surveillance, data collection and developing better health and human services policies. (2) Tessa Woodmansee spoke to sheltering options not meeting the need of our community and the impacts of greenhouse gases. (3) Paul Soto complained that the ROGC agenda was not posted in a timely manner and requested a 10 o'clock start time at the request of the Ohlone Community. (4) Gail Morman spoke to agenda Item 10.3 and asked for a 6 p.m. time certain.

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1. Review January 11, 2022 Final Agenda (Cont'd.)

In response to questions regarding deferral of Add Sheet Item 3.x *Actions Related to 2021 Redistricting Process*, City Clerk Toni Taber, indicated that this item would pertain to the process for redistricting ten years from now and assessing ‘lessons learned’. She suggested that it be heard while still fresh in our minds, but could be delayed to February, which would also allow some time for to gather input from other sources, such as the League of California Cities.

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Raul Peralez and carried unanimously, the Committee accepted the January 11, 2022 Final Agenda, including an Add Sheet, but with Item 3.x *Actions Related to 2021 Redistricting Process* deferred to a later date at consideration of Administration, and allowing a time certain for Land Use items. Meeting to be fully virtual, not a hybrid. (5-0.)

2. Review January 18, 2022 Draft Agenda – Meeting Cancelled

B. Review of Upcoming Meeting Agenda(s)

1. Review the January 14, 2022 Study Session Agenda, entitled 2022-2023 Preliminary General Fund Forecast and Budget. (City Manager)

Public Comments: (1) Blair Beekman spoke to disaster planning and health and human services good practices, including subsidy planning for housing. (2) Paul Soto complained about the circumvention of democracy and the public not being allowed adequate time to speak. (3) Tessa Woodmansee asked that public health be taken as a priority.

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember David Cohen and carried unanimously, the Committee accepted the January 14, 2022 Study Session Agenda. (5-0.)

C. Legislative Update

1. State

2. Federal

There were none presented.

D. Meeting Schedules

There were none presented.

E. The Public Record for December 2 – December 21, 2021. (City Clerk)

Public Comments: (1) Blair Beekman addressed letters he’d submitted for the public record, relating to topics of surveillance technology, accountability and COVID. (2) Paul Soto spoke to items he’d submitted that are not being placed in the public record. (3) Tessa Woodmansee addressed sustainability and Vision Zero policies, including a pilot project of cameras to slow down traffic. (4) Martha O’Connell spoke to the letter she’d provided for the public record. *Paul Soto was advised that his letters are slated for the next ROGC Public Record.*

E. The Public Record (Cont'd.)

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember Raul Peralez and carried unanimously, the Public Record for December 2- 21, 2021 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 January 22, 2022 Dumpster Day 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. (Carrasco)**
- (b) Retroactive Approval of Small Business Advisory Task Force (SBATF) Membership Recognition 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.**
- (c) Retroactive Approval of Community Events Sponsored by Council District 8 as City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Event. (Arenas)**

Public Comments: (1) Paul Soto insisted that any member of the public should be able to pull Consent Calendar items. (2) Blair Beekman offered appreciation for dumpster days and offered positive feedback on the Small Business Task Force. (3) Martha O'Connell offered support to members of the public being able to pull Consent Calendar items. (4) Tessa Woodmansee offered agreement with previous speakers regarding the Consent items and the need to continue virtual meetings for access to everyone. (5) Brian Darby had questions regarding e-comments and easier access to addressing topics.

Action: Upon motion Councilmember Dev Davis, seconded by Councilmember Raul Peralez and carried unanimously, the City Council Sponsored Special Events were approved and cross-referenced to the January 11, 2022 Council Agenda for action. (5-0.)

Vice Mayor Chappie Jones asked that the Public Records Appeal for Katherine Weiland be heard at this time. Due to the potential for litigation, Deputy City Manager, Angel Rios, Jr. recommended that this item be agendized for a closed session.

Item I Public Records Appeal for Katherine Weiland was heard next.

G. 2. Charcot Avenue Extension. (Mayor, Cohen, Peralez, Foley)

Public Comments: (1) Eugene Bradley agreed that it is time to drop this project and agree to make other transit more usable in this area. (2) Paul Soto argued this is a conflict of interest, indicating criticism of this proposal. (3) Blair Beekman offered appreciation to the sensitivity expressed on the last item heard and the sensitivity to city projects and to people's ideas. (4) Jill Borders referenced all the money spent on this planning and similar proposals and questioned irresponsibility with taxpayer money, adding this should be heard as two separate items. (5) Erin McCarthy agreed with the proposal to end the project. (6) Hoai-An offered support as a climate activist.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Raul Peralez and carried unanimously, per the joint memorandum from Mayor Sam Liccardo and Councilmembers Cohen, Peralez and Foley, dated December 17, 2021, direction to the City Manager to no longer move forward with the construction of the Charcot Avenue Extension project and take any steps necessary to cease progress on the project and directed to divert the remaining \$3.9 million in budgeted CIP funds initially reserved for the Charcot Avenue Extension project to either the Mabury/Berryessa/101 project or the Zanker Road/101 project was approved to be forwarded for future Council consideration with a date to be determined. (5-0.)

G. 3. Request for Travel Authorization for Mayor Sam Liccardo. (Mayor)

Public Comments: (1) Call-in User 1 expressed criticism. (2) Paul Soto indicated that the Mayor's discussions during these high profile meetings should be available to constituents. (3) Blair Beekman commented on the Mayor's commitment to local autonomy and the future of broadband. (4) Jill Borders questioned flying for business given the seriousness of our climate crisis.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Raul Peralez and carried unanimously, staff was directed to bring forward for Council approval a resolution affirming the City of San José's support for reproductive freedom and rights, and calling on Congress to protect reproductive freedom nationwide as prescribed in Roe v. Wade. (3-0-2. Absent: Arenas, Davis.)

G. 4. Booster Mandate. (Mayor)

Public Comments: (1) Paul Soto spoke on setting a precedent and compared these actions to Nazi Germany. (2) Call-in User 1 expressed criticism of vaccine mandates. (3) Blair Beekman offered considerations regarding the COVID crisis.

Deputy City Manager, Angel Rios, Jr. provided additional input and responded to questions regarding vetting this information and providing more detail.

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G. 4. Booster Mandate. (Cont'd.)

Motion: Councilmember Raul Perez moved approval of Mayor Sam Liccardo's memorandum dated December 21 2021, including removal of the suggested timeline in the mayor's memorandum, having mandate expansion referred to closed session and other discussion taken to Council on January 11, 2022. Vice Mayor Chappie Jones seconded the motion.

Councilmember Raul Perez respectfully declined a friendly amendment by Councilmember David Cohen to retain the January date indicated in the memorandum.

Councilmember David Cohen requested a second friendly amendment, referencing the first paragraph of Mayor Sam Liccardo's memo, replacing 'complete a third round of vaccination' change to 'receiving a booster'. Councilmember Raul Perez agreed to the amendment to this motion.

Mayor Sam Liccardo offered additional input, indicating staff has been in conversation with this for several weeks.

Action: Upon motion by Councilmember Raul Perez, seconded by Vice Mayor Chappie Jones and carried unanimously, the "Booster Mandate" item, including the Mayor's December 21, 2021 memorandum with removal of the suggested timeline in the mayor's memorandum and replacing 'complete a third round of vaccination' changed to 'receiving a booster', and having mandate expansion referred to closed session and other discussion taken to Council was accepted to be agendaized for Council discussion and action on January 11, 2022. (3-0-2. Absent: Davis, Arenas.)

H. Review of Additions to Council Committee Agendas/Workplans

- 1. Community and Economic Development Committee**
 - 2. Neighborhood Services and Education Committee Work Plan**
 - 3. Transportation and Environment Committee**
 - 4. Public Safety, Finance and Strategic Support Committee**
 - 5. Joint Meeting of the Rules and Open Government Committee**
- None provided.

I. Open Government – *Heard immediately following the Consent Calendar*

(a) Public Records Appeal - Katherine Weiland. (Police)

a. As directed by Rules Committee on 12/1/2021, accept a progress update from staff. b. Deny the appeal from Katherine Weiland (aka Katherine Reichenbach) regarding the City's response to her request for public records seeking records, specifically body worn camera footage, related to a complaint submitted to the San Jose Police Department's Internal Affairs Unit (number I2020-2023), related to event number 20-211-0547. [Continued from 12/8/2021 - Item Ia (ROGC 21-878)]

I. (a) Public Records Appeal - Katherine Weiland. (Cont'd.)

Due to the potential for litigation, Deputy City Manager, Angel Rios, Jr. had recommended that this item be agendized for a closed session.

Public Comments: (1) Paul Soto insisted that this item be heard in open session and related an incident indicating the Police Department's prejudices against him and other certain members of the public. (2) Blair Beekman spoke to how domestic violence issues are handled and commended bravery of the woman involved with this case. (3) Ester Peralez Dieckmann requested viewing the video with leadership, noting such actions will help to heal the rift with Police Department. She asked for justice for her client and asserted that the way this has been handled by the City has endangered her client. (4) Jill Borders offered reflections on victim blaming and the epidemic of domestic violence. (5) Tessa Woodmansee spoke on policing and need for 24-7 community support. (6) Brian Darby offered suggestions for protecting those at risk as a result of lack of communication with authority.

Amanda Gould spoke on behalf of Katherine Weiland and requested information on next steps to be taken. City Attorney, Nora Frimann indicated the procedure for allowing this to go to closed session, including allowing privacy for the appellant with the benefit of providing information to Council to allow for a more informed discussion if there is another hearing before this committee.

Deputy City Manager, Angel Rios, Jr. spoke to the internal protocols that are being looked at and offered to reach out to the appellant with further information. Deputy Chief Elle Washburn (Bureau of Investigations) responded to questions from Councilmember Sylvia Arenas. City Attorney, Nora Frimann indicated the allowance for the appellant and representative/s to participate in the Closed Session.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Raul Peralez, and carried unanimously, this item was referred to a Closed Session of the Rules and Open Government Committee with a date to be determined. (4-0-1. Absent: Davis.)

OPEN FORUM

1. Gail Osmer thanked Councilmember Sylvia Arenas for opening the Evergreen Library, but expressed anger at how the City of San José has treated the homeless in Phase 3.
2. Caller User #1 spoke to crime in District 9.
3. Blair Beekman spoke to accountability and sustainability practices.
4. Martha O'Connell offered appreciation for her Council district representative, but asked that citizens, particularly in the mobile home community, be given the respect and dignity of advising which council district they are in following redistricting.
5. Francesca spoke to the plight of the unhoused, the need for more tiny home villages and poor porta-potty conditions at Columbus Park.
6. Paul Soto spoke to genocide and expressed criticism of police action taken against him.

G. Adjournment

Vice Mayor Chappie Jones adjourned the Committee meeting at 4:19 p.m.

Vice Mayor Chappie Jones, Chair
Rules and Open Government Committee

CJ/rk:rulesmin20220105