

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

SAN JOSÉ, CALIFORNIA

WEDNESDAY, AUGUST 7, 2024

The Committee meeting was held in a hybrid format, both in person in the Council Chambers and remote locations. The meeting convened at 2:00 p.m.

Present: Councilmembers - Jimenez, Davis, Kamei, Foley, Cohen.

Absent: Councilmembers - None.

Staff: Assistant City Manager, Lee Wilcox; Assistant City Clerk, Joy Rodriguez; Assistant City Attorney, Kevin Fisher; City Manager's Office, Rachelle Blattman; and Deputy City Clerk, Daniel Aguilar.

A. City Council (City Clerk)

1. Review August 13, 2024 Final Agenda

- a. Add New Items to Final 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 Comment: None provided.

Action: Upon motion by Councilmember Dev Davis, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, the August 13, 2024 Final Agenda and Add Sheet were approved.
(5-0-0)

2. Review August 20, 2024 Final Agenda

- a. Add New Items to Final 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 Comment: None provided.

Action: Upon motion by Councilmember Pam Foley, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, the August 20, 2024 Final Agenda was approved. (5-0-0)

B. Consent Calendar

Public Comment: None provided.

Action: Upon motion by Councilmember Dev Davis, seconded by Vice Mayor Rosemary Kamei, and carried unanimously, the Consent Calendar was approved as a whole, and the below actions were taken as indicated. (5-0-0)

1. The Public Record for June 6 - August 1, 2024. (City Clerk)

The Public Record for June 6 - August 1, 2024, was received and filed.

2. Update to the August - December 2024 Community and Economic Development Committee Work Plan. (City Manager)

Approve an amendment to the August - December 2024 Community and Economic Development Committee Work Plan to add the following item to the August 26, 2024, Community and Economic Development Committee meeting agenda.

Fire Sprinkler Systems in Qualifying Accessory Dwelling Unit. Condominiums Purpose: Provide a status report on requiring fire sprinkler systems in qualifying Accessory Dwelling Units to be sold as condominiums. (Fire)

Action: The update to the August – December 2024 Community and Economic Development Committee Work Plan was approved.

3. Deferred Compensation Advisory Committee Appointment. (City Manager)

1. Approve the appointment of Aric Johnson, nominated by the group of employees designated as “Management Employees” consisting of employees in Unit 99 and the Association of Engineers and Architects, IFPTE Local 21 (AEA); Association of Maintenance Supervisory Personnel, IFPTE, Local 21 (AMSP); City Association of Management Personnel, IFPTE, Local 21 (CAMP); and the Association of Legal Professionals of San José (ALP), as the active employee member to the Deferred Compensation Advisory Committee to fill a vacant seat for the remainder of the term, beginning September 1, 2024 and ending on March 1, 2026.
2. Place the item on the August 13, 2024, City Council Agenda for action.

Action: The Deferred Compensation Advisory Committee Appointment was approved.

4. Diridon Station Study Session. (Transportation)

Set a City Council Study Session entitled Diridon Station Study Session for Friday, August 16, 2024, from 9:30 a.m. to noon and approve the Study Session agenda.

Action: The Diridon Station Study Session was set for Friday, August, 16 2024.

5. Retroactive Approval of Flag Raising Recognizing Juneteenth on June 17-21, 2024 Sponsored by Council District 3 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials for the Event. (Torres)

1. Retroactively approve the Juneteenth Flag Raising scheduled on June 17, 2024 as a City Council sponsored Special Event 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 August 13, 2024 Council Agenda for action.

Action: The Flag Raising Recognizing Juneteenth on June 17-21, 2024 sponsored by Council District 3 was retroactively approved for placement on the August 13, 2024 City Council Agenda.

6. Approval of Multiple Special Events Sponsored by Council District 4 as City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Events. (Cohen)

1. Retroactively approve the District 4 Leadership Forum scheduled on June 15, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
2. Retroactively approve the District 4 Community Office Hours scheduled on June 26, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
3. Retroactively approve the District 4 Dog Park Grand Opening scheduled on June 29, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
4. Approve and accept donations from various individuals, businesses or community groups to support the events.
5. Place the item on the August 13, 2024 Council Agenda for action.

Action: Multiple Special Events sponsored by Council District 4 was approved for placement on the August 13, 2024 City Council agenda.

7. Retroactive Approval and Approval of Various Events Sponsored by Council District 5 as City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Events. (Ortiz)

1. Retroactively approve the Mother's Day Celebration at Gramercy Event scheduled on May 10, 2024 as a City Council sponsored Special Event and approve the expenditure of funds;

2. Retroactively approve the Alum Rock Village Dumpster Day scheduled on May 18, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
3. Retroactively approve the Poco Way Beautification Event scheduled on May 25, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
4. Retroactively approve the Cafe Para Todos Event scheduled on May 30, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
5. Retroactively approve the Alum Rock Park Road Reopening Event scheduled on June 14, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
6. Retroactively approve the Snack with Matt Event scheduled on June 25, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
7. Retroactively approve the Capitol Park Dumpster Day scheduled on June 29, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
8. Approve the San José Lowrider Day Event scheduled on September 1, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
9. Approve the Grito de Independencia Event scheduled on September 14, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
10. Approve the Culture Fest Event scheduled on October 12, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
11. Approve the District 5 Christmas Tree Giveaway and Holiday Celebration Event scheduled on December 4, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
12. Approve the Cinco de Mayo Parade and Festival Event scheduled on May 4, 2025 as a City Council sponsored Special Event and approve the expenditure of funds.
13. Place the item on the August 13, 2024 Council Agenda for action.

Action: Various Special Events sponsored by Council District 5 were approved and retroactively approved for placement on the August 13, 2024 City Council agenda.

8. Approval of Free Use on August 21, 2024 for the USPS San Jose Postmaster's Installation Event Co-Hosted by Council District 9 and USPS Postmaster's Office as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event. (Foley)

1. Adopt a resolution authorizing "Free Use" for the private, invitation-only USPS San Jose Postmaster's Installation event held at City Hall Rotunda on Wednesday, August 21, 2024.
1. Approve the USPS San Jose Postmaster's Installation Event scheduled on August 21, 2024 as a City Council sponsored Special Event 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 August 13, 2024 Council Agenda for action.

Action: Approval of Free Use on August 21, 2024 for the USPS San Jose Postmaster's Installation Event Co-Hosted by Council District 9 and USPS Postmaster's Office was approved for placement on the August 13, 2024 City Council Agenda.

9. Retroactive Approval and Approval of Special Events Sponsored by Council District 10 as City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Event. (Batra)

1. Retroactively approve the Dumpster Day at Greystone Park scheduled on August 3, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
2. Approve the Indian Independence Day Cultural Event scheduled on August 15, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
3. Approve the Housing Town Hall with Housing Director Erik Solivan scheduled on August 17, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
4. Approve the Shredding and eWaste Day scheduled on August 24, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
5. Approve the Blossom Valley Dumpster Day scheduled on September 14, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
6. Approve the In-Person Talk with Batra scheduled on September 21, 2024 as a City Council sponsored Special Event and approve the expenditure of funds.
7. Approve and accept donations from various individuals, businesses or community groups to support the events.
8. Place the item on the August 13, 2024 Council Agenda for action.

Action: Special Events sponsored by Council District 10 were approved and retroactively approved for placement on the August 13, 2024 City Council Agenda.

C. Rules Committee Reviews, Recommendations and Approvals

1. Janet Gray Hayes Rotunda Naming. (Davis)

1. In celebration of the 50th anniversary of the November 1974 election of Janet Gray Hayes as the first female mayor of San José and the first female mayor of a major American city, and in honor of her accomplishments and contributions to San José, name the City Hall Rotunda the Janet Gray Hayes Rotunda.
 - a. Add the name to the wayfinding signs in the Civic Center Plaza and Facilities.
 - b. Affix the name "Janet Gray Hayes Rotunda" and one of her Alexander Calder logos, if approved by the artist's foundation, inside the rotunda and the outside the rotunda in the areas noted in the attached photos.
 - c. Permit the installation of a memorial plaque in honor of Janet Gray Hayes inside the rotunda.

- d. Direct staff to report back in 30 days with the cost of installing the lettering and logo, signage, and plaque with a budget recommendation on source of funding.
2. In celebration of the approaching 50th anniversary of the 1978 voter approval of district elections in San José, approve the use of wall space inside the rotunda for a rotating photographic exhibition of neighborhoods from each of the council districts in San José and the installation of a plaque regarding the creation of district elections.

Public Comment: David and Gloria offered public testimony regarding the item.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Pam Foley, and carried unanimously, the Janet Gray Hayes Rotunda naming was approved.
(5-0-0)

2. Request to Add Resolution on Federal Recognition for Muwekma Ohlone Tribe to the City Council Meeting Agenda of August 13, 2024. (Ortiz, Davis, Cohen, Candelas, and Doan)

1. Consider a resolution of the City Council of the City of San José declaring the City's support of federal recognition of the Muwekma Ohlone Tribe.
2. Add the draft resolution of the City Council of the City of San José declaring the City's support of federal recognition of the Muwekma Ohlone Tribe to the City Council Agenda for its regular meeting of August 13, 2024.

Councilmember Peter Ortiz introduced the July 30, 2024 joint memorandum co-authored by Councilmember Ortiz, Councilmember Davis, Councilmember Cohen, Councilmember Candelas, and Councilmember Doan.

Public Comment: Kate Facet, Karina Arellano, Scott, Sarnoth Krishka, Leo Bellante, Rush Gupta, Vernad Thalia, Dinorah Flores, Sharleen, Eush, Aaron He, Drew Amayo, Lilliana, Cynthia, Nicholas, Gian Lopez, Ickla Pilli, and Shawn Schram provided public testimony regarding the item.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sergio Jimenez, and carried unanimously, the resolution in support of the Federal Recognition for Muwekma Ohlone Tribe was considered and the draft resolution was approved for the August 13, 2024 City Council Meeting Agenda with the following amendment:

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE

OFFICIALLY RECOGNIZING THE MUWEKMA OHLONE TRIBE AND SUPPORTING THE TRIBE IN ITS EFFORTS TO SECURE FEDERAL RECOGNITION AS AN INDIAN TRIBE BY THE UNITED STATES GOVERNMENT.

WHEREAS, the present-day Muwekma Ohlone Tribe is comprised of all of the known surviving American Indian lineages aboriginal to the San Francisco Bay region who trace their ancestry through the Missions Dolores, Santa Clara, and San Jose and who were also members of the historical Federally Recognized Verona Band of Alameda County;

WHEREAS, the aboriginal homeland of the Muwekma Ohlone Tribe includes the following counties: Santa Clara, San Francisco, San Mateo, Alameda, Contra Costa, and portions of Napa, Santa Cruz, Solano, and San Joaquin;

WHEREAS, comprehensive genealogical analysis of the Mission, Baptismal, Death, and Marriage Records from the three Bay Area Missions traces the surviving Muwekma lineages of the late 19th century through today back to their aboriginal villages;

WHEREAS, the present-day tribally enrolled Muwekma lineages are represented by the Armija/Thompson, the Santos-Pinos-Juarez-Colos-Armija, the Guzman-Nonessa, and the Marine-Guzman-Peralta, Marine-Alvarez-Galvan, Marine-Sanchez, Marine-Munoz, MunozGuzman, Marine-Arellano, and Marine-Elston-Thompson-Ruano descended families;

WHEREAS, the Muwekma Ohlone Tribe has been a continuous and distinct social and political community pre-dating the State of California, between 1982 and 1984, it formally organized congruent with the laws of the United States;

WHEREAS, by 1989, the Muwekma Tribal Council had also passed a resolution to petition the United States government for federal acknowledgment;

WHEREAS, on January 25, 1995, the Tribe submitted its petition for federal recognition during a White House meeting of California Indian leaders, and on May 24, 1996, the Bureau of Indian Affairs Branch of Acknowledgment and Research (now known as the Office of Federal Acknowledgment) made a positive determination of "previous unambiguous Federal Recognition";

WHEREAS, on March 26, 1998, after the submission of additional documentation by the Muwekma Tribe, the Bureau of Indian Affairs placed the Muwekma petition on the ready for "Active Consideration" lists and subsequently on "Ready Status" lists;

WHEREAS, given the number of tribes on both the "Active Consideration" and "Ready Status" lists and the rate at which tribal petitions were being processed, the Muwekma Tribal Council sought to expedite the formal determination;

WHEREAS, on December 8, 1999, the Muwekma Tribal Council filed a lawsuit and, on June 30, 2000, the Honorable Ricardo M. Urbina of the United States District Court for the District of Columbia ruled in favor of the Muwekma Tribe and ordered the Department of the Interior to formulate a process to expedite the Muwekma Tribe's petition;

WHEREAS, on July 25, 2002, California Congresswoman Zoe Lofgren issued a statement in support of the Muwekma Tribe's restoration on the floor of the House of Representatives;

WHEREAS, on August 29, 2002, California's then-Lieutenant Governor Cruz Bustamante wrote a letter supporting the Tribe to then-Assistant Secretary - Indian Affairs, Neil McCaleb;

WHEREAS, a Federal District Court Judge in the Northern District of California found that the Tribe retains its sovereign immunity despite not being on the Bureau of Indian Affairs' list of recognized Tribes;

WHEREAS, the previously recognized Tribe has never been Terminated by an Act of Congress; and

WHEREAS, securing federal recognition would improve the ability of the Muwekma Ohlone Tribe to enhance the quality of life of its members, would serve to better educate San Jose residents on the rich history of Muwekma Ohlone heritage, and would recognize the right of this vulnerable indigenous population to exist and to Nation-build here on its 10,000-year Bay Area homeland.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Jose, hereby officially recognizes the Muwekma Ohlone Tribe and supports the tribe in its efforts to secure federal recognition as an Indian Tribe by the United States Congress and the Bureau of Indian Affairs.

Including the acceptance of the memorandum co-authored by Councilmember Ortiz, Councilmember Davis, Councilmember Cohen, Councilmember Candelas, and Councilmember Doan, recommending the following:

1. Consider a resolution of the City Council of the City of San José declaring the City's support of federal recognition of the Muwekma Ohlone Tribe.
2. Add the draft resolution of the City Council of the City of San José declaring the City's support of federal recognition of the Muwekma Ohlone Tribe to the City Council Agenda for its regular meeting of August 13, 2024. (5-0-0)

3. Proposition 5 - Local Government Financing: Affordable Housing and Public Infrastructure: Voter Approval. (Cohen, Candelas, Jimenez, and Ortiz)

1. Adopt a position of support for Proposition 5 on the November 5, 2024 California General Election Ballot.

Public Comment: None provided.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Dev Davis, and carried unanimously, a position of support on Proposition 5 was approved. (5-0-0)

4. Study Session on the Prevention of Illegal Fireworks. (Batra)

Direct the City Clerk and City Manager to schedule a Council Study Session titled “Prevention of Illegal Fireworks” with a focus on the City’s current work plan and strategies.

Public Comment: None provided.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sergio Jimenez, and carried unanimously, the staff recommendation in the Request for Policy Analysis dated 8/7/2024 was approved, recommending the following:

The City of San José has an existing Fireworks Ordinance Work Plan for which regular progress updates were made to the Public Safety, Finance, and Strategic Support (PSFSS) Committee. Rather than holding a Study Session, staff recommend adding an ordinance work plan update to the FY 2024-2025 PSFSS Committee Work Plan. The purpose of this update would be to provide the Committee a status report of the City's Fireworks Ordinance Work Plan, and staff's ongoing efforts to implement strategies towards the prevention of illegal fireworks displays in San José.

Over the course of 40 years, the City of San José developed and implemented strategies to deter the transport, storage, and use of illegal fireworks. In 1984, the City Council voted to amend the San José Municipal Code to ban all fireworks, including “safe and sane” fireworks, with the exception of controlled public fireworks displays operated by a licensed pyrotechnician pursuant to a permit issued by the Fire Department. In August 2014, the City Council directed the City Manager to make changes to fireworks enforcement after several years of increasing noise and safety complaints from residents. Both the Fire and the Police Departments were directed to look for enforcement mechanisms that might slow and eventually contain the illegal sale, use, possession, and storage of fireworks. In June 2015, the City Council directed the City Manager to establish a framework to cite, fine, and adjudicate the use, possession, sale, advertisement for sale, transportation, and/or manufacturing of fireworks. On October 27, 2020, the City Council first directed the City Manager to complete 10 action items for the Fireworks Ordinance Work Plan, out of which 7 are completed, and 3 are in-progress/ongoing. Adding an Illegal Fireworks Ordinance Work Plan update to the PSFSS Committee Work Plan will ensure the Council Committee is aware of the ongoing efforts to address the remaining work plan items. (5-0-0)

D. Open Forum

1. Fernando discussed legal issues he is involved in and expressing his support to putting children’s safety first.
2. Lilliana discussed child exploitation and the foster system.

E. Adjournment

This meeting was adjourned by Chair David Cohen at 3:06 pm.

Minutes Recorded, Prepared, and Respectfully Submitted by,

DRAFT

Daniel Aguilar
Deputy City Clerk, City of San José

Approved at Council on:

Number of actions: 7

Attest by:

Toni J. Taber, MMC
City Clerk, City of San José

vv:rulesmin20240807