

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

SAN JOSE, CALIFORNIA

WEDNESDAY, AUGUST 19, 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 2:00 p.m.

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

Absent: Councilmembers - Arenas. (Excused)

Staff: Acting City Attorney, Nora Frimann; City Manager, David Sykes; Chief of Staff, Office of the City Manager, Lee Wilcox; City Clerk Toni Taber; Senior Executive Analyst, Gloria Schmanek; Henry Smith, Mayor's Office; and Deputy City Clerk, Ruth Krantz.

- 1. Review August 25, 2020 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)**

Public Comments: (1) Blair Beekman spoke to the weekly COVID report and the need for owners and tenants to work together. (2) Paul Soto addressed the need for clarity of language with the public. (3) Jeremy spoke to supplying unhoused residents face shields.

The Mayor, Vice Mayor Chappie Jones and City Manager, David Sykes discussed the deferral of Item 4.2, *Police Department Duty Manual Amendments*, and indicated an After Action report would be forthcoming, which may offer greater clarity.

Councilmember Johnny Khamis spoke to the need to revisit the length of time allowed for speaking on Item 3.1, the City Manager's Report. Brief discussion followed, with Mayor Sam Liccardo indicating this topic could be brought up again during Council if needed.

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1. Review August 25, 2020 Final Agenda (Cont'd.)

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Dev Davis, and carried unanimously, the August 25, 2020 agenda, including proposed additions with Sunshine Waivers; and with Item 4.2 deferred to September 15, 2020, was accepted. (4-0-1. Absent: Arenas.)

2. Review September 1, 2020 Draft 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)

Public Comments: Gabriel and Leah Martinez with SOMOS-Mayfair asked for a time certain for 8.1, the Anti-Displacement Strategy, and urged Spanish-language translation to allow more inclusive community participation. Blair Beekman spoke to item 6.1, Energy Resiliency, and need for renewable energy. Paul Soto suggested sociological reports for clearer demographics reflecting cultural shifts. Jeremy spoke to translation issues, and polling residents to identify areas of greatest concern.

Action: Upon motion by Councilmember Dev Davis, seconded by Vice Mayor Chappie Jones and carried unanimously, the Committee accepted the September 1, 2020 Draft Agenda, with an 11 a.m. start time, and with Item 8.1 not to be heard before 6 p.m. (4-0-1. Absent: Arenas.)

B. Review of Upcoming Meeting Agenda(s)

None provided.

C. Legislative Update

1. State

2. Federal

There were none presented.

D. Meeting Schedules

None provided.

E. The Public Record for August 6, 2020 –August 13, 2020. (City Clerk)

Public Comments: Blair Beekman noted his letter to the CPUC regarding accountability and sustainability.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Chappie Jones, carried unanimously, the Public Record for August 6, 2020 – August 13, 2020 was noted and filed. (4-0-1. Absent: Arenas.)

F. Boards, Commissions and Committees

None provided.

G. Rules Committee Reviews, Recommendations and Approvals

1. Consent Calendar

- a. Retroactive approval of San José State University Welcome Week City Hall Lighting Display 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)**

- b. Retroactive approval of Muslim American Appreciation and Awareness Month Sponsored by Council District 2 as a City Council sponsored Special Event to expend City funds and accept donations of materials and services for the event. (Jimenez)**

Action: Upon motion by Councilmember Dev Davis, seconded by Vice Mayor Chappie Jones and carried unanimously, approval of the City Council sponsored Special Events were accepted and placed on the August 25, 2020 City Council Agenda for action. (4-0-1. Absent: Arenas.)

2. Actions Related to Illegal Fireworks. (Jimenez)

Councilmember Sergio Jimenez outlined his memorandum dated August 12, 2020 and interest in this being placed on the September 15, 2020 agenda for full Council discussion due to the many complaints regarding illegal fireworks received.

City Manager, David Sykes noted that this had been dropped from the PSFSS Work Plan, but this action would bring it directly to Council. Vice Mayor Chappie Jones suggested that this would be a good topic to first bring to PSFSS. Councilmember Sergio Jimenez urged the acceleration of this topic.

Committee members noted the many members of the public that have complained of the high volume of illegal fireworks activity.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis, and carried unanimously, *Actions Related to Illegal Fireworks* as outlined in Councilmember Sergio Jimenez memorandum dated August 12, 2020, directing staff to provide Council with updates related to: (a) Illegal Fireworks activity prior to and during July 4, 2020; (b) Recap of enforcement efforts prior to and during the recent July 4, 2020 holiday, and ‘next steps’, was accepted and placed on the September 15, 2020 City Council Agenda for action. (4-0-1. Absent: Arenas.)

3. Government Accountability Measures (Diep)

Councilmember Lan Diep outlined his memorandum dated August 13, 2020 and asked for consideration to assist City Hall in saving money and eliminating wasteful spending as we brace for difficult financial challenges ahead, with consideration that:

1. In any year where the City Manager and the Budget Director report a budget surplus in their October budget update, at least 50% of that surplus will be set aside to our Budget Stabilization Fund, until an amount equal to 15% of the General Fund balance has been achieved or be used to pay municipal debt;
2. A standing commission shall be created consisting of appointed residents of San José to provide oversight of any ballot measures or policy proposals proposed or endorsed by the City that result in tax increases or additional revenue. The commission shall produce a public report annually to certify whether the Council has allocated dollars as promised when the measure or ordinance was proposed.
3. Prior to the start of the annual budget season and priority setting session, the intergovernmental team shall report to Council about the latest trends and chatter coming from Sacramento and Washington about potential policy changes and funding opportunities relevant to municipalities so that we may strategically align our priorities and resources to maximize benefits for San José residents.
4. Direct the City Auditor to commence regular performance audits of three key departments that are constituent-facing - such as Police, Fire, Planning, Housing, Transportation, Public Works, Environmental Services, and Parks - every year henceforth, to identify cost savings and process efficiencies, with results put on the Council agenda for public hearing and review:
 - a. Audits should reoccur every four years;
 - b. Amend the City Auditor's 2020-2021 workplan to include an audit of our Police Department, focusing specifically on identifying cost savings and process efficiencies

City Manager, David Sykes noted the Early Consideration Response Form, and the evaluation given for a 'green light' for items 1 and 3; and a red light for item two, since it is a 'heavy lift' at this time. City Auditor Joe Rois indicated good potential for Item 4.

Public Comments: (1) Blair Beekman discussed oversight and accountability issues, such as those for Measure T. (2) Eddie Truong, Silicon Valley Organization, offered support to the proposal, particularly budget stabilization and performance audits.

Chief of Staff, Office of the City Manager, Lee Wilcox, responded to questions regarding proactive work involving commissions, and Budget Director, Jim Shannon offered insight into budgetary considerations.

3. Government Accountability Measures (Cont'd.)

Councilmember Lan Diep spoke to continuity of one particular commission to meet as needed and to issue a standard report regarding fees such as increased property taxes to independently confirm what that the funds are being spent as proposed.

City Manager, David Sykes suggested that this item be brought to Council on September 22, 2020.

Motion: Councilmember Johnny Khamis moved approval of Councilmember Lan Diep's memorandum with considerations as outlined, with referral to Council for September 22, 2020. Councilmember Dev Davis seconded the motion.

Committee discussion continued, and Budget Director, Jim Shannon offered clarification regarding allocation of balances and any changes that may be required to the City Council Policy.

Action: On a call for the question, the motion carried unanimously, with a discussion of Government Accountability Measures to be agendized for full Council consideration on September 22, 2020. (4-0-1. Absent: Arenas.)

H. Review of additions to Council Committee Agendas/Work Plans

- 1. Community and Economic Development Committee - none provided.**
- 2. Neighborhood Services and Education Committee**
- 3. Transportation and Environment Committee – none provided.**
- 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**

There were none presented.

I. Open Government

None provided.

OPEN FORUM

1. Paul Soto spoke for clearer communication between the City and constituents.
2. Blair Beekman noted Measure 1438 and AB 1410 and criticism of tear gas in the time of COVID.

G. Adjournment

Mayor Sam Liccardo adjourned the Committee meeting at 3:20 p.m.

Mayor Sam Liccardo, Chair
Rules and Open Government Committee

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