

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

SAN JOSE, CALIFORNIA

WEDNESDAY, June 1, 2022

COVID-19 NOTICE

Consistent with AB 361 and City of San Jose Resolution Nos. 79485, 80237, 80266, 80290, 80323, 80343, 80363, 80400, 80445, 80841 and 80507, this meeting will not be physically open to the public and the Committee Members will be teleconferencing from remote locations.

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

Present: Councilmembers - Arenas, Davis, Peralez (Vice Chair)

Absent: Councilmembers - Cohen, Jones

Staff: Assistant City Manager, Lee Wilcox; City Attorney, Nora Frimann; City Clerk, Toni Taber; City Manager's Office, Gloria Schmanek; and Deputy City Clerk, Megan Roche.

A. City Council (City Clerk)

1. Review June 7, 2022 Final Agenda

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

Public Comments: The following member of the public provided comments: Blair Beekman.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sylvia Arenas, and carried unanimously, the Committee approved the final agenda for the City Council meeting on June 7, 2022 with the Add Sheet, and with item 3.4 not deferred. (3-0-2; Absent: Cohen, Jones)

2. Review June 14, 2022 Draft Agenda

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

Public Comments: The following member of the public provided comments: Blair Beekman.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sylvia Arenas, and carried unanimously, the Committee approved the draft agenda for the City Council meeting on June 14, 2022. (3-0-2; Absent: Cohen, Jones)

B. Consent Calendar

Public Comments: The following members of the public provided comments: Socorro, Arturo Munoz, Dilza González, Misrayn Mendoza, Blair Beekman, Kim Guptill, and Trujillo Miguel Vazquez.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sylvia Arenas, and carried unanimously, the Consent Calendar was approved. (3-0-2; Absent: Cohen, Jones)

1. The Public Record for May 19 – May 26, 2022. (City Clerk)

The Public Record for May 19 – May 26, 2022 was noted and filed.

2. Approval of Seventh Annual Fourth of July Fireworks Festival Sponsored by Council District 10 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event; and Approval of District 10 Abierto Funds Grant for Almaden Valley Women's Club as Non-Profit Partner in this Event. (Mahan)

The Seventh Annual Fourth of July Fireworks Festival scheduled on July 4, 2022, sponsored by Council District 10, and the grant of D10 Abierto funds in the amount of \$44,000 to the Almaden Valley Women's Club, were approved for placement on the June 7, 2022 Council agenda.

3. Retroactive Approval of Mother's Day Celebration 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)

The Mother's Day Celebration scheduled on May 11, 2022, sponsored by Council District 5, was approved for placement on the June 7, 2022 Council agenda.

4. Retroactive Approval of Leadership Event 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)

The Leadership Event scheduled on May 6, 2022, sponsored by Council District 5, was approved for placement on the June 7, 2022 Council agenda.

5. 2022-2023 Council Meeting Schedule and August - December 2022 Study Session Schedule. (City Manager)

The City Council Meeting Schedule for the period August 2022 - June 2023 and the Study Session Schedule for the period August 2022 - December 2022 were approved. It was noted that, as approved, the date of the Non-citizen Voting Study Session was moved to August 23, 2022 at 6:00

p.m.

C. Rules Committee Reviews, Recommendations and Approvals

1. Protecting the Public from Predatory Criminal Behavior Pending Investigations of Employee Misconduct (Mayor)

Public Comments: The following member of the public provided comments: Blair Beekman.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sylvia Arenas, and carried unanimously, the Committee approved the memorandum from the Mayor for placement on the June 21, 2022 City Council agenda. The Mayor's memorandum included direction to the Independent Police Auditor (IPA), within this calendar year, to: (a) Initiate a review and report findings in public session to the City Council concerning San Jose Police Department investigation of misconduct amounting to predatory criminal behavior by City employees. (b) Make recommendations regarding SJPd policies and procedures to ensure protection of the public from such behavior. The scope of that review shall include: (i) SJPd's investigatory and disciplinary treatment of sexual battery allegations regarding Officer Matthew Dominguez in May of 2021, and the decisionmaking regarding whether he would be placed on administrative leave or reassigned pending that investigation; and (ii) The SJPd's determination that it could not or would not investigate two anonymous complaints- received in December of 2018 and February of 2019- against former City of San Jose Code Enforcement Inspector William Gerry, recently sentenced to a term of 35 years of prison on sexual assault, bribery, and extortion charges; and (iii) Any other examples in which place at issue the timeliness or responsiveness of a SJPd investigation of allegations of criminally predatory behavior by any other City employees that could pose a risk on the community. (c) The City Auditor and City Manager shall work in coordination with the IPA to ensure she has access to a complete factual record that includes any work previously performed by those offices. (d) To the extent that the City Attorney determines that the scope of this direction exceeds the authority of the Independent Police Auditor, the Council shall consider an independent investigation pursuant to Section 416 of the San Jose City Charter. The Mayor's memorandum also included direction to the City Manager to return to Council to describe what citywide policies have been implemented-or will be implemented-to address the risk of exposing the public to harmful behavior pending investigations of City employees' criminal conduct, such as by establishing that credible allegations of predatory criminal conduct constitute a clear "trigger" for mandatory leave until an investigation has concluded. (3-0-2; Absent: Cohen, Jones)

D. Open Forum

1. Blair Beekman discussed gun use and practices, as well as the approach of providing counseling and mental health services for other forms of violence in San José.
2. Brian Darby described safety, health, and traffic concerns in the downtown area of San José and suggested the opening of a City office dedicated to helping people who would like to leave San José.

E. Adjournment

Vice Chair Raul Peralez adjourned the Committee meeting at 2:46 p.m.



Email: raul.perez@sanjoseca.gov

Councilmember Raul Perez, Vice Chair
Rules and Open Government Committee

CJ/mr:rulesmin20220601