

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

**SAN JOSE, CALIFORNIA**

**WEDNESDAY, January 11, 2023**

**COVID-19 NOTICE**

*Consistent with AB 361 and City of San Jose Resolution Nos. 80628, 80659, 80685, 80724, 80758 and 80809, Committee Members may have teleconferenced from remote locations.*

The Committee meeting was held in a hybrid format, both in person in the Council Chambers and teleconferenced from remote locations. The meeting convened at 2:01 p.m.

Present: Councilmembers- Davis, Jimenez (2:06 p.m.), Foley, Cohen

Absent: Councilmembers- None

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

**A. City Council (City Clerk)**

1. Review January 17, 2023 Final Agenda – Cancelled
2. Review January 24, 2023 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: None

Action: Upon motion by Councilmember Dev Davis, seconded by Vice Chair Pam Foley, and carried unanimously, the Committee approved the draft agenda for the City Council meeting on January 24, 2023. (3-0-1; Absent: Jimenez)

**B. Consent Calendar**

Public Comments: None

Action: Upon motion by Councilmember Dev Davis, seconded by Vice Chair Pam Foley, and carried unanimously, the Consent Calendar was approved. (3-0-1; Absent: Jimenez)

**1. The Public Record for December 1, 2022 – January 5, 2023. (City Clerk)**

The Public Record for December 1, 2022 – January 5, 2023 was noted and filed.

**2. Monthly Report of Activities for December 2022. (City Auditor)**

The Auditor's Office Monthly Report of Activities for the month of December 2022 was approved.

**3. Retroactive Approval of the District 4 Pajama Giveaway and Approval of the River Oaks Neighborhood Association Meet and Greet 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)**

The District 4 Pajama Giveaway Event scheduled on December 12, 2022 and the River Oaks Neighborhood Association Meet and Greet event scheduled on January 18, 2023, both sponsored by Council District 4, were approved for placement on the January 24, 2023 City Council agenda.

**4. 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. (Jones)**

The Small Business Advisory Task Force Membership Recognition Event scheduled on December 15, 2022, sponsored by Council District 1, was approved for placement on the January 24, 2023 City Council agenda.

**5. Retroactive Approval of Olympic Flag Raising for the 2023 United States Figure Skating Championship Sponsored by Council District 6 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event. (Davis)**

The Olympic Flag Raising for the 2023 United States Figure Skating Championship scheduled on January 10, 2023, sponsored by Council District 6, was approved for placement on the January 24, 2023 City Council agenda.

**6. Approval of Lighting for American Heart Month Sponsored by Council District 6 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event. (Davis)**

The Tower and Rotunda Lighting for American Heart Month scheduled on February 7, 2023, sponsored by Council District 6, was approved for placement on the February 7, 2023 City Council agenda.

**7. Retroactive Approval of District 5 Vision Board Party and Street Banner Unveiling 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 District 5 Vision Board Party scheduled on December 20, 2022 and the Street Banner Unveiling Event scheduled on December 22, 2022, both sponsored by Council District 5, were approved for placement on the January 24, 2023 City Council agenda.

**8. Retroactive Approval of the District 2 Walnut Mobile Home Park Stocking Giveaway 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)**

The Walnut Mobile Home Park Stocking Giveaway scheduled on December 15, 2022, sponsored by Council District 2, was approved for placement on the January 24, 2023 City Council agenda.

**9. Special Meeting on Filling Vacancies in Council Districts. (City Clerk)**

The date was set for a Special Meeting on Filling Vacancies in Council District 8 on January 24, 2023 at 3:00 p.m. The agenda for the special meeting was approved as well.

**10. Special Meeting on Filling Vacancies in Council Districts. (City Clerk)**

The date was set for a Special Meeting on Filling Vacancies in Council District 10 on January 26, 2023 at 3:00 p.m. The agenda for the special meeting was approved as well.

**C. Rules Committee Reviews, Recommendations and Approvals**

**1. Biennial Ethics Review. (Liccardo)**

Public Comments: None

Action: Upon motion by Vice Chair Pam Foley, seconded by Councilmember Dev Davis, and carried unanimously, the memorandum from former Mayor Sam Liccardo was approved. (3-0-1; Absent: Jimenez)

*Memorandum from Liccardo:* Pursuant to San Jose Charter Section 608, I make the following biennial recommendation for “amendments or changes to the Code of Ethics and its implementing ordinances to the City Council”; specifically that the Council direct the City Attorney and City Manager to: (1) Bring to Council any proposed changes in City ordinances, rules, protocols and processes - including the integration of proposed technology solutions - to better facilitate the production of documents, audio, and video under the Public Records Act and similar transparency laws, to: (a) Address the rapidly growing volume of Public Records Act requests to the City, in a manner that will: (i) Reduce fiscal burden on taxpayers (and concomitant workload on City staff); (ii) Reduce delay of record production and improve responsiveness; (iii) Reduce errors in failing to turn over relevant records. (b) Identify voluntary protocols that can lawfully encourage media and other entities to better focus their PRA requests to satisfy their (& the public’s) need for

information without overburdening understaffed City records offices seeking to comply with voluminous, “fishing expedition” re-productions of audio, video, and paper records. Consider also legislative advocacy-in concert with the League of California Cities and the Big City Mayors’ coalition - to enable mechanisms that will curtail abuse of well-intentioned PRA requirements. (c) Given the rapidly growing inventory and cost of digital records and data, review record destruction policies under City Policy 6.1.5, and return to Council for a public discussion about the appropriate policy, and the best approaches to ensure compliance. (2) On the Brown Act, without creating any additional standing committees under Cal. Govt Code Section 54952(b), (a) Clearly define the appropriate duration of five-councilmember “groups” formed to avoid Brown Act violations, presumably based on the recency of the Council vote on the matter. Clarify the City’s interpretation of the letter and spirit of the law, and to avoid rigid interpretations that make future discussions of policy matters unreasonably difficult. (b) Clearly define the scope of issues, such that a Council vote on a large, umbrella issue (e.g. Climate Smart, the City’s affordable housing strategy, or Measure T) will not forevermore preclude communication outside a Brown Act group on a very specific implementation of that strategy.

## **2. Audit of BeautifySJ. (Jimenez)**

[This item was taken out of order, after item C.3, to allow for Councilmember Jimenez’ participation in item C.2’s discussion once he joined the meeting.]

Public Comments: The following member of the public provided comments: Gail Anne Osmer.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Vice Chair Pam Foley, and carried unanimously, the memorandum from Councilmember Jimenez was approved, with a referral of the memo’s questions to the City Manager instead of the City Auditor, and with discretion given to the City Manager’s office to bring the item back for discussion. (4-0-0)

*Memorandum from Jimenez:* (1) Direct the City Auditor to conduct an audit of BeautifySJ program safety, training, and employee support protocols, including: (a) Reviewing training provided to employees conducting encampment abatements and clean-ups, particularly those who work directly with unhoused individuals or are exposed to hazardous waste and other potentially hazardous conditions; (b) Reviewing the safety protocols in place for employees conducting encampment abatements and cleanups, including evaluation of protective gear and security; (c) Assessing potential impacts on staff who regularly conduct encampment abatements and work with and encounter people living in abject poverty or suffering from mental health conditions and addiction in encampments. This could include reviewing worker’s compensation claims, staff turnover, absence, or vacancy rates, or other relevant data.

## **3. Schiele and Alameda Park Nomination for Landmark Historical District. (Davis)**

[This item was taken out of order, before item C.2, to allow for Councilmember Jimenez’ participation in item C.2’s discussion once he joined the meeting.]

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

Action: Upon motion by Councilmember Dev Davis, seconded by Vice Chair Pam Foley, and carried unanimously, the memorandum from Councilmember Davis was approved. (4-0-0)

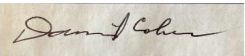
*Memorandum from Davis*: Agendize for discussion and consideration at an upcoming City Council meeting: (1) Adopt a resolution nominating Alameda Park and the Schiele Subdivision for designation as a City Landmark Historic District. (2) Direct the Department of Planning, Building and Code Enforcement to initiate the required process and proceedings to establish this City Landmark Historic District.

## **Open Forum**

1. Gail Anne Osmer thanked Councilmembers Pam Foley and David Cohen, as well as District 9 Chief of Staff Scott Hughes, for helping the unhoused community in their districts.

## **E. Adjournment**

Chair David Cohen adjourned the Committee meeting at 2:23 p.m.



Email: david.cohen@sanjoseca.gov  
Date: 02/04/2023 GMT

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Councilmember David Cohen, Chair  
Rules and Open Government Committee

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