

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

SAN JOSE, CALIFORNIA

WEDNESDAY, OCTOBER 18, 2017

The Joint Meeting of the Rules and Open Government Committee and Committee of the Whole of the City of San José convened in Regular Session at 2:01 p.m. in Committee Rooms 118-120, Council Wing, City Hall.

PRESENT: Mayor Sam Liccardo, Chair; Vice Mayor Magdalena Carrasco, Vice Chair (2:10 p.m.); Councilmember Dev Davis, Councilmember Chappie Jones, and Councilmember Johnny Khamis, Members.

ABSENT: All present.

STAFF: City Attorney Richard Doyle; City Manager David Sykes; City Manager's Office Agenda Services Manager Gloria Schmanek; Mayor's Staff Nicole Inamine; Assistant City Clerk Christina Gutierrez; and Interim Legislative Secretary Suzanne Guzzetta.

A. City Council (City Clerk)

1. Review October 24, 2017 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)**

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis, and carried unanimously, the Committee accepted the October 24, 2017 Final Agenda with the following amendments and related sunshine waivers: 10-day sunshine waiver for Item 2.10, Item 3.3 to be heard no earlier than 3:00 p.m., and addition of Item 3.8 "Actions related to Board of Fair Campaign and Political Practices Recommended Revisions to Title 12 and San José City Council Resolution 77879," Item 2.11 "Actions Related to Vice Mayor Carrasco's Travel to Annapolis, Maryland," Item 2.12 "Actions Related to Councilmember Khamis' Travel to Tainan, Taiwan," Item 2.13 "Sponsored International Travel to Tainan, Taiwan for the Sister City 40th Anniversary City Relationship," Item 2.14 "Agreement with United Neighborhoods of Santa Clara County for Funding of BeautifySJ Grants Program". (4-0-1. Absent: Carrasco.)

- A. City Council (Cont'd.)**
2. Review October 31, 2017 Draft Agenda
a) **Add New Items to Draft Agenda**
b) **Assign “Time Certain” to Agenda Items (if needed)**
c) **Review of Notice Waiver Requests for Agenda Items or Documents (if needed)**

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Chappie Jones, and carried unanimously, the Committee accepted the October 31, 2017 Draft Agenda. (4-0-1. Absent: Carrasco.)

B. Review of Upcoming Study Session Agenda(s)

- 1. Joint City of San José-Santa Clara Valley Water District Board Meeting. (City Manager)**
Review the November 3, 2017 Joint City of San José-Santa Clara Valley Water District Board Meeting Agenda.

City Manager Dave Sykes responded to questions from the Committee.

Action: Upon motion by Councilmember Chappie Jones, seconded by Councilmember Dev Davis, and carried unanimously, the Committee accepted the November 3, 2017 Joint City of San José-Santa Clara Valley Water District Board Meeting Agenda. (4-0-1. Absent: Carrasco.)

- C. Legislative Update**
There was no legislative update.

- D. Meeting Schedules**
There were none.

E. The Public Record

Documents Filed: Memorandum from City Clerk Toni Taber, CMC, dated October 13, 2017, transmitting the Public Record for October 6 – 12, 2017.

Action: Upon motion by Councilmember Chappie Jones, seconded by Councilmember Dev Davis, and carried unanimously, the Committee noted and filed the Public Record. (4-0-1. Absent: Carrasco.)

- F. Boards, Commissions and Committees**
1. Appointments
2. Work Plans & Annual Reports

There were none presented.

G. Rules Committee Reviews, Recommendations and Approvals

1. Consent Calendar

- a. Approval of the PATH San José Fundraiser 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)**
- 1) Approve the PATH San José Fundraiser scheduled on October 25, 2017 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 October 24, 2017 City Council Agenda for action.**

Documents Filed: Memorandum from Councilmember Raul Peralez, dated October 13, 2017, entitled, "Approval of the PATH San José Fundraiser 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."

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Chappie Jones, and carried unanimously, the Committee approved the Consent Calendar and placed all items on the October 24, 2017 City Council agenda. (4-0-1. Absent: Carrasco.)

2. District 6 Office Grant for District 6 School. (Davis)

Approve a request to agendize for City Council deliberation on October 24, 2017, to approve a \$5,000 grant to support the Herbert Hoover Middle School Parent Teacher Staff Association for their school beautification project, "The Quad Makeover," which will be used by all 1,100 students.

Documents Filed: Memorandum from Councilmember Dev Davis, dated October 11, 2017, entitled, "Approval of District 6 Office Budget Grant for District 6 School."

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Chappie Jones, and carried unanimously, the Committee approved the request and placed the item on the October 24, 2017 City Council agenda. (5-0.)

3. Donation of Surplus Property. (Public Works)

Approve initiation of the notification process for the potential donation of eight vehicles with a cumulative value of \$42,500 in accordance with Council Policy 1-20.

Documents Filed: Memorandum from Director of Public Works Barry Ng, dated October 6, 2017, entitled, "Donation of Surplus Property."

City Manager Dave Sykes and Fleet Manager Dan Sunseri responded to questions from the Committee.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Johnny Khamis, and carried unanimously, the Committee approved initiation of the notification process for the potential donation of eight vehicles with a cumulative value of \$42,500 in accordance with Council Policy 1-20. (5-0.)

G. Rules Committee Reviews, Recommendations and Approvals

4. Marijuana Regulation. (Rocha)

Approve a request to direct staff to bring back the following items for Council consideration as soon as is practicable:

- 1. Consideration of whether to allow medical marijuana distributors, manufacturers and testing labs to operate in San José. The Council directed staff to return with these items a year ago, but the issue has not yet made it back to Council.**
- 2. At the same time as staff returns with Item (1) above, they should also bring forward consideration of whether to allow:**
 - a. Licensed dispensaries to engage in sales of adult-use recreational marijuana, and to also allow cultivation, processing, manufacture, distribution and testing of recreational marijuana.**
 - b. Licensed dispensaries to be sold to a new owner.**
 - c. Licensed dispensaries to operate on a for-profit basis.**
 - d. The same entity to own more than one licensed dispensary.**

Documents Filed: Memorandum from Councilmember Don Rocha, dated October 12, 2017, entitled, “

Public Speakers: Danielle Pirslin questioned the need to hear this item now.

Assistant to the City Manager Michelle McGurk representing the Police Department and Division of Marijuana Control introduced the item, provided background information, and responded to questions from the Committee.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis, and carried unanimously, the Committee directed staff to bring back in November Part 2 consideration of whether to allow: (a) Licensed dispensaries to engage in sales of adult-use recreational marijuana, and to also allow cultivation, processing, manufacture, distribution and testing of recreational marijuana, (b) Licensed dispensaries to be sold to a new owner, and (c) Licensed dispensaries to operate on a for-profit basis, as part of staff’s current workplan, with note the part (c) is delayed and will be brought back sometime next year. (5-0.)

H. Review of additions to Council Committee Agendas/Workplans

1. Community and Economic Development Committee

- a. Update to the Community and Economic Development Committee Workplan for August – December 2017. (Housing)**

Approve an amendment to the August – December 2017 Workplan for the Community and Economic Development Committee to drop “*Rebuilding for Heroes Program Update*” from the October 23, 2017 agenda.

Documents Filed: Memorandum from Director of Housing Jacky Morales-Ferrand, dated October 11, 2017, entitled, “Update to the Community and Economic Development Committee Workplan for August – December 2017.”

H. Review of additions to Council Committee Agendas/Workplans

- (1) Housing Policy and Plan Administrator James Stagi responded to questions from the Committee.

Action: Upon motion by Councilmember Chappie Jones, seconded by Councilmember Dev Davis, and carried unanimously, the Committee approved the item and dropped “Rebuilding for Heroes Program Update” from the October 23, 2017 Community and Economic Development agenda. (5-0.)

2. Neighborhood Services and Education Committee

There were none presented.

3. Transportation and Environment Committee

- a. Update to the Transportation and Environment Committee Workplan for August – December 2017. (Transportation)**

Approve an amendment to the August – December 2017 Workplan for the Transportation and Environment Committee to add “*Approval of the Downtown Parking Board FY 2016-2017 Annual Report and FY 2017-2018 Workplan*” to the November 6, 2017 Committee meeting.

Documents Filed: Memorandum from Director of Transportation Jim Ortbal, dated October 11, 2017, entitled, “Update to the Transportation and Environment Committee Workplan for August – December 2017.”

Action: Upon motion by Vice Mayor Magdalena Carrasco, seconded by Councilmember Chappie Jones, and carried unanimously, the Committee approved the item and added “Approval of the Downtown Parking Board FY 2016-2017 Annual Report and FY 2017-2018 Workplan” to the November 6, 2017 Transportation and Environment Committee agenda. (5-0.)

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 Improvements Committee

There were none presented.

I. Open Government

1. Appeals of Public Records Act Request.

- a. Mr. Thomas Baker**

Documents Filed: (1) Letter from Thomas Baker, dated September 4, 2017, appealing the City’s response to a Public Records Act Request; (2) Memorandum from Director of Transportation Jim Ortbal, dated October 11, 2017, entitled, “Public Records Act Request – Thomas Baker.”

CAO Rick Doyle provided background on the process for the appeal of a Public Records Act.

Mayor Sam Liccardo opened the floor for the appellant testimony.

I. Open Government (Cont'd.)

- (1)(a) Assistant Director of Transportation Kevin O'Connor provided additional information to the Committee and appellant, and responded to questions from the Committee. Open Government Manager Tamara Becker provided further information regarding the release of records in response to public records act requests. The appellant responded to questions from the Committee.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Chappie Jones, and carried unanimously, the Committee denied the appeal. (5-0.)

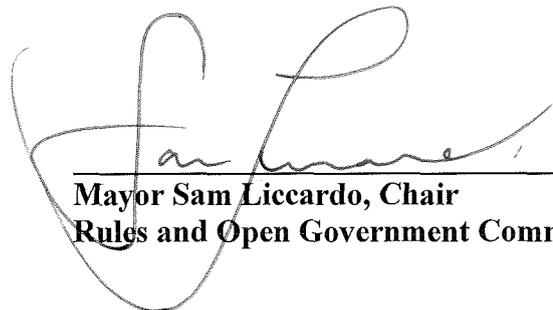
J. Open Forum

Documents Filed: (1) Letter from Danny Garza, dated September 29, 2017, regarding ethics violations; (2) Letter from the San José Police Department to Danny Garza, dated October 6, 2017, regarding a public records request.

- (1) James Blum spoke on sidewalk issues at his property. Mayor Sam Liccardo indicated Assistant Director of Transportation Kevin O'Connor was the individual to speak with.
- (2) Danny Garza submitted two letters to the Committee and indicated concern for potential ethics violations.

K. Adjournment

Mayor Sam Liccardo adjourned the meeting at 2:47 p.m.



Mayor Sam Liccardo, Chair
Rules and Open Government Committee

SL/slg