

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

SAN JOSE, CALIFORNIA

WEDNESDAY, OCTOBER 28, 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 1:32 p.m.

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

Absent: Councilmembers - Arenas.

Staff: City Manager, David Skyes; Office of the City Manager, Chief of Staff, Lee Wilcox; City Attorney, Nora Frimann; City Clerk, Toni Taber; City Manager's Office, Gloria Schmanek; Henry Smith, Mayor's Office; and Yasmin Garcia/Ruth Krantz, City Clerk's Office.

A. City Council (City Clerk)

1. Review November 3, 2020 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 Comments: Blair Beekman offered well wishes for affordable housing efforts.

Office of the City Manager, Chief of Staff, Lee Wilcox stated that Item 3.1 would be deferred to the November 17, 2020 Agenda.

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Johnny Khamis and carried unanimously, the Committee approved the November 3, 2020 Final Agenda. (4-0-1. Absent: Arenas)

2. **Review November 10, 2020 Draft Agenda**
 - a. **Add New Items to Draft 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 Comments: Blair Beekman addressed public accessibility of body worn camera footage, specifically interactions of Court Trial processes such as appeals.

Action: Upon motion by Councilmember Johnny Khamis, seconded by Vice Mayor Chappie Jones and carried unanimously, the Committee accepted the November 10, 2020 Draft Agenda. (4-0-1. Absent: Arenas)

B. Review of Upcoming Special 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

None presented.

F. Boards, Commissions and Committees

None provided.

G. Rules Committee Reviews, Recommendations and Approvals

1. Consent Calendar

- a.) **Approval of the Dumpster Day at Fischer Middle School 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)**

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1a. (Cont'd.)

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Dev Davis and carried unanimously, the Committee approved Dumpster Day at Fischer Middle School as a City Council Sponsored Special Event and added the item to the November 3, 2020 Agenda. (4-0-1. Absent: Arenas)

b.) Approval of the Día De Los Muertos Community 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)

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Dev Davis and carried unanimously, the Committee approved Día De Los Muertos Community Event scheduled on October 30, 2020 to October 31, 2020 as a City Council sponsored Special Event and added the item to the November 3, 2020 Agenda. (4-0-1. Absent: Arenas)

c.) Approval of National Prematurity Awareness Month Community Event Sponsored by Council District 8 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event. (Arenas)

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Dev Davis and carried unanimously, the Committee approved National Prematurity Awareness Month to be recognized by the City Council on Tuesday, November 17 and added the item to the November 17, 2020 Agenda. (4-0-1. Absent: Arenas)

2. Medical Marijuana Business Tax Exemption. (Khamis & Foley)

Public Comment: (1) A speaker addressed the need for fair taxes on marijuana and the need for separation between marijuana taxes being categorized along with land use taxes. (2) A speaker suggested marijuana being similarly taxed to alcohol and cigarettes.

Councilmember Pam Foley requested the items need for consideration at the next council meeting.

Councilmember Johnny Khamis informed Staff on the specific tax percentages regarding marijuana at both the City and State Levels.

Motion: Councilmember Johnny Khamis made a motion to approve his joint memorandum with Councilmember Pam Foley dated October 22, 2020. The memorandum recommended the following: Direct Staff to explore, analyze, and report back to City Council on an option to exempt medical marijuana card holders from paying the City Marijuana Business Tax (MBT).

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2. (Motion Cont'd.)

Motion: The report to Council shall include a comparison of the projected financial impacts to MBT revenue collection between the following alternatives: 1) If all medical marijuana card holders are exempted 2) If all medical marijuana card holders who can prove San José residency are exempted. Vice Mayor Chappie Jones seconded the motion for the purpose of discussion.

Office of the City Manager, Chief of Staff, Lee Wilcox stated the administration has recommended a yellow-light for the item to go to priority setting, indicating the delay of placing this item on existing priorities is due to COVID-19.

Vice Mayor Chappie Jones requested Councilmember Johnny Khamis modify his motion to direct this item to priority setting.

Councilmember Johnny Khamis declined the request to modify the motion.

Substitute Motion: Vice Mayor Chappie Jones made a substitute motion to refer this item to priority setting. The motion was seconded by Councilmember Dev Davis.

Mayor Sam Liccardo directed a question to City Attorney, Nora Frimann regarding the clarification of the legality of Prop 64. City Attorney, Nora Frimann stated she would return with a review of Prop 64.

Action: On a call for question, the Substitute Motion to refer this item to priority setting (yellow light) was approved. (3-1-1. Noes: Khamis. Absent: Arenas.)

3. **Authorizing Membership in the California Community Housing Agency (Calcha) to Prevent Displacement and Increase Housing Affordability. (Khamis and Diep)**

Public Comments: (1) Blair Beekman spoke to the importance of low- and mixed-income housing efforts. (2) Vince Rocha addressed the importance of City dollars being used effectively to allow middle-income residents to live and work in San José. (3) Matt Regan, Senior Vice President of Public Policy addressed the importance of reducing greenhouse gases and in moving the item forward. (4) Ben Metcalf from UC Berkeley offered approaches to finance affordable housing without draining local and state funds and urged to move the item forward. (5) A speaker stated adding additional public housing building structures does not help the current housing issues at hand. (6) Tim B., representing the Santa Clara County Association of Realtors, stated their support for the memorandum to help prevent middle-income residents from being displaced out of San José.

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3. (Cont'd.)

Director of Housing, Jacky Morales-Ferrand informed staff of the ongoing process selecting the best option that aligns with the requirements and standards for the City of San José such as Catalyst and CalCHA.

Mayor Sam Liccardo requested clarification on the possible risk factors such as displacement and credit rating.

Motion: Councilmember Johnny Khamis made a motion to move the item forward for discussion. Councilmember Dev Davis seconded the motion.

Office of the City Manager, Chief of Staff, Lee Wilcox stated November 10, 2020 would be too soon to compile more information. He suggested a later date in 2020 or early 2021.

Councilmember Dev Davis requested a date sooner than priority setting.

Action: On a call for question, Councilmember Johnny Khamis made an amendment to his motion, seconded by Councilmember Dev Davis and carried unanimously, to defer the item to the December 2, 2020 Rules Committee, and for staff to return with a list of questions and concerns (yellow light). (4-0-1. Absent: Arenas)

4. Funding Off-Duty SJPC Officers to Patrol Suncrest and Sierra. (Diep)

Withdrawn from agenda.

5. Pawnbroker Ordinance. (Jones & Esparza)

Public Comment: (1) A speaker advised the relocation of pawn brokers as similarly done with marijuana dispensaries. (2) A speaker suggested to create an area in the City to relocate massage parlors, marijuana dispensaries, and pawn shops to help regulate the businesses to a certain location.

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Dev Davis and carried unanimously, the joint memorandum from Vice Mayor Chappie Jones and Councilmember Maya Esparza dated October 22, 2020 was approved, as indicated below. The memorandum recommended the following: 1. Direct Staff to update the conditional use process and requirements for Pawnbrokers to mirror the process and requirements set forth in the off-sale of alcohol beverage establishments including but not limited to: a. Proposed locations within five hundred feet of existing pawnbrokers, within or outside the City, must not result in a total of three pawnbrokers within a thousand foot radius.

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5. (Action Cont'd.)

b. If a proposed location results in more than three pawnbrokers within a thousand foot radius, the resulting concentration of such uses will not: i. Adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area; or ii. Impair the utility or value of property of other persons located in the vicinity of the area; or iii. Be detrimental to public health, safety or general welfare. c. For such location within five hundred feet from any child care center; public park; social service agency; residential care facility; residential service facility; elementary school; secondary school; college or university; neighborhood revitalization area designated by the city for targeted neighborhood enhancement services or programs; parolee/probationer home; emergency shelter; supportive housing; transitional housing and transitional housing development; located within an area in which the chief of police has determined based upon quantifiable information that the proposed use: (a) would be detrimental to the public health, safety, or welfare of persons located in the area; or (b) would increase the severity of existing law enforcement or public nuisance problems in the area; or one hundred fifty feet from any residentially zoned property, the building in which the proposed use is to be located is situated and oriented in such a manner that would not adversely affect the locations listed. d. Planning Commission's decision to be appealable to Council. (4-0-1. Absent: Arenas)

6. Consideration of Renaming a Public Area or Facility in Memoriam of Richard Doyle - City of San José City Attorney. (Perez)

Public Comment: (1) Blair Beekman spoke to body-worn camera accessibility and stated that Richard Doyle had been in favor and offered appreciation for his inspiring work.

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Johnny Khamis and carried unanimously, consideration to rename a public area or facility in memoriam of City of San José City Attorney Office, Richard Doyle, was approved. (4-0-1. Absent: Arenas)

7. Receive Staff Update on Recommendation to Establish Encampment Blight and Brush Removal Agreements. (City Manager's Office)

Public Comment: (1) A speaker addressed the need for the Encampment Removal recommendations to be raised sooner, critiqued the easy accessibility of the fence leading to the train tracks in his neighborhood and the danger it has presented, which he's witnessed personally. (2) Blair Beekman addressed trash issues contributed by the increasing encampments in the City.

Deputy City Manager, Jim Ortbal, offered a presentation discussing: EOC BeautifySJ response approach, Caltrans Partnership, Caltrans Workshop Process, and the next steps towards equitable, efficient, and effective protocols and strategies.

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7. (Cont'd.)

Mayor Sam Liccardo left to attend another meeting, and the remainder of the meeting was chaired by Vice Mayor Chappie Jones.

Action: A motion was not required. The report was received and approved.
(4-0-1. Absent: Arenas)

8. City Attorney Appointment and Compensation Package. (Mayor)

Action: Upon motion by Councilmember Johnny Khamis, seconded by Councilmember Dev Davis and carried unanimously, the appointment of Nora Frimann as the City Attorney and approving compensation for services as City Attorney effective beginning November 1, 2020, was accepted on the November 3, 2020 Council agenda for action.
(3-0-2. Absent: Arenas and Liccardo)

H. Review of additions to Council Committee Agendas/Workplans

1. Community and Economic Development Committee

2. Neighborhood Services and Education Committee

3. Transportation and Environment Committee

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

I. Open Government

None provided.

J. Open Forum

Public Comment: (1) Blair Beekman thanked the Committee for the meeting. (2) A speaker offered critique to 911 calling issues and potholes in the City's streets.

K. Adjournment

Mayor Sam Liccardo adjourned the Committee meeting at 4:19 p.m.

Approved via email

Mayor Sam Liccardo, Chair
Rules and Open Government Committee

SL/yg:rulesmin_10-28-20