

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING THE RULES FOR THE CONDUCT OF ITS MEETINGS, SUPERSEDING RESOLUTION NO. 79367

WHEREAS, on January 14, 2020, the Council of the City of San José adopted Resolution No. 79367, amending the rules for the conduct of Council meetings ("Resolution"); and

WHEREAS, the Council desires to amend Rules 9(d) and 9(h) of the Resolution to change the authority to appoint Standing Committee members, including the Chairperson and Vice Chairperson of each Standing Committee, from the Mayor to the Council, after recommendation by the Mayor; and

WHEREAS, the Council may discuss at a public hearing and amend the Mayor's recommendations prior to appointment; and

WHEREAS, except for appointments which the Mayor has sole authority to appoint pursuant to statute, organization bylaws, or other governing documents, appointments approved for Standing Council Committees and Board, Commission or Committee appointments at the January 12, 2021 Council meeting are subject to public discussion, amendment and final appointment by the Council;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:

SECTION 1. The Council of the City of San Jose hereby adopts the following amendments to Resolution No. 79367.

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RULE 1
MEETINGS

(a) Regular Meetings

The regular meetings of the Council are held in accordance with the Ralph M. Brown Act (California Government Code Sections 54950, et seq., hereinafter referred to as the “Brown Act”), and the additional rules of procedure as described in the Consolidated Open Government and Ethics Resolution on Tuesday of each calendar week. The meeting commences at 9:30 a.m., for closed session purposes, in the Council Chambers in the City Hall of the City of San José, unless the session is publicly posted to begin at a different time, and upon completion of closed session is recessed until 1:30 p.m., in the Council Chambers in the City Hall of the City of San José or at such other time or place as the Council or Rules and Open Government Committee may from time to time prescribe. Evening sessions are limited to two per calendar month, with the second evening session scheduled only when necessary as the Council or Rules and Open Government Committee may from time to time prescribe. Evening sessions, when scheduled, commence at 6:00 p.m. with the proviso that there will be a thirty minute recess between the afternoon and evening session that may result in delaying the commencement of the evening session to a time later than 6:00 p.m. City Hall is situated at 200 East Santa Clara Street, San José, California, at the south side of East Santa Clara Street, between 4th and 6th Streets, San José, California.

(b) Special Meetings

A special meeting of the Council may be called at any time by the Mayor, or by a majority of the members of the Council, in accordance with the Brown Act and the additional rules of procedure as described in the Consolidated Open Government and Ethics Resolution.

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(c) Convening and Adjourning Meetings

1. Convening Meetings

Except as otherwise provided herein or in the City Charter, the Mayor, in his or her discretion, may convene any regular City Council meeting or special City Council meeting, including a Study Session, at the noticed time, with at least one other member of the Council present. No business of the Council may take place at such a meeting convened without a majority of the entire membership of the Council present; however, the members present may proceed with the Invocation, the Pledge of Allegiance, and Ceremonial Items.

2. Adjournment: Adjourned Meetings

The Council may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members will be or are absent from any regular or adjourned regular meeting, the City Clerk may declare the meeting adjourned to a stated time and place and cause a written notice of the adjournment to be given in the same manner as provided for special meetings. Within 24 hours after the time of adjournment, a copy of the order or notice of adjournment must be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this Rule, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it must be held at the hour specified for regular meetings.

(d) Closed Sessions

The Council may hold closed sessions during a regular or special meeting, or at any time otherwise authorized by law, to consider or hear any matter which it is authorized by state law and the Consolidated Open Government and Ethics Resolution, to hear or consider in closed session, and may exclude from any such closed session any person or persons which it is authorized by state law to exclude from such closed sessions.

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Every person who attends closed session will be required to sign a notice acknowledging that he or she understands the potential penalties that exist under California law and/or City Council policy for disclosing confidential information acquired by being present at closed session.

(e) Attendance

Section 407 of the San José City Charter requires that a sum, as established by the Council Salary Setting Commission, be deducted from the salary of each member, except the Mayor, for each regular meeting of the Council missed by said member. Attendance, for purposes of Charter Section 407, is deemed to mean being present at any such regular meeting, unless officially excused by the Council for authorized City business, illness or death of a close family member pursuant to provisions of Section 407 of the Charter. Requests to be excused from attendance must be a regular agenda item on the Council's Consent calendar.

(f) Cancellation

Any meeting of the Council may be canceled in advance by majority vote of the Council. The Mayor may cancel a meeting in the case of an emergency or when a majority of members have confirmed in writing their unavailability to attend a meeting.

(g) Chair

The Mayor presides over all Council meetings. In the Mayor's absence, the Vice Mayor serves as presiding officer. In the absence of both the Mayor and the Vice Mayor, the Mayor has discretion to appoint the Chair for the meeting. In the event the Mayor is unable to appoint the Chair, the Council designates the Chair.

RULE 2
ORDER OF BUSINESS

The business of the Council, at its regular meetings, is conducted in accordance with the following order of business:

CLOSED SESSION
CALL TO ORDER
INVOCATION
PLEDGE OF ALLEGIANCE
CEREMONIAL ITEMS
ORDERS OF THE DAY
CLOSED SESSION REPORT
CONSENT CALENDAR
STRATEGIC SUPPORT SERVICES
PUBLIC SAFETY SERVICES
TRANSPORTATION & AVIATION SERVICES
ENVIRONMENTAL & UTILITY SERVICES
NEIGHBORHOOD SERVICES
COMMUNITY & ECONOMIC DEVELOPMENT
REDEVELOPMENT – SUCCESSOR AGENCY
OPEN FORUM (for afternoon meetings)
LAND USE
OPEN FORUM (for evening meetings)
ADJOURNMENT

The order of business may be altered by the Rules and Open Government Committee or the City Council. Also, the Chair has the discretion to call matters on the agenda out of order in order to manage the meeting. In addition, the Chair will be responsible for establishing the order of and length of time allocated for any audio/visual presentations to be made at the meeting.

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RULE 3
AGENDA

(a) Content

The City Clerk prepares for each meeting of the Council an agenda specifying the time and place of the meeting and setting forth a brief general description of each item of business to be considered by the Council at that meeting. The agenda for each regular meeting includes all items of business requested to be placed on the agenda by the City Council or the Rules and Open Government Committee. Any member of the Council or the Council Appointees (i.e. the City Manager, the City Attorney, the City Clerk, the City Auditor, or the Independent Police Auditor) may submit items to be placed on the agenda to the Rules and Open Government Committee or to the Council as a whole under the Orders of the Day. The City Clerk must refer all written requests from the public for an agenda item to the Administration and provide a copy of each written request to the Rules and Open Government Committee.

(b) Draft Agenda

The City Clerk prepares a draft Council agenda for the Rules and Open Government Committee's consideration on the second Wednesday immediately preceding the date of the Council meeting. The Rules and Open Government Committee, upon considering such agenda, may add any items of business thereto, and may delete items therefrom, except for items placed on the agenda by an individual Council member, unless such items have been referred to staff or a Standing Committee.

(c) Time Certain

Some items may be listed on the agenda approved by the Rules and Open Government Committee for a time certain or not before a certain time. Such listing means that the item is heard as soon as reasonably possible after the specified time, but not before.

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(d) Orders of the Day

1. The following actions may be taken under Orders of the Day:
 - a) Items may be added to the agenda, by the Chair, or any Councilmember or Council Appointee, only in compliance with Subsections 2.3.2.1.E and 2.3.2.1.F of the Consolidated Open Government and Ethics Resolution.
 - b) Items may be deferred to a later agenda, or dropped.
 - c) The published order of the agenda may be changed.
2. The agenda must include a statement under Orders of the Day that items recommended to be added, dropped or deferred are usually approved under Orders of the Day unless the Council directs otherwise.
3. Requests about items on the agenda may be heard during Orders of the Day unless a member of the Council objects. If a member of the Council objects, the item will be heard in its noticed order on the agenda.
4. In addition, if a motion is made on an individual item during Orders of the Day and the Council debates the motion, the public may offer testimony during that debate.

(e) Posting

The agenda for each meeting must be posted in accordance with the Brown Act and the additional rules of procedure as described in the Consolidated Open Government and Ethics Resolution. The City Clerk must maintain a record of such posting in a form approved by the City Attorney.

(f) Council Consideration

The Council may not discuss or take action on any matter not appearing on the posted agenda unless one of the exceptions listed in the Brown Act is applicable.

RULE 4

PUBLIC HEARINGS AND OTHER AGENDA ITEMS

(a) Time for Consideration

Hearings and matters publicly noticed or ordered to be held by the Council at any specified time, commence either (1) at the time specified for hearing or consideration of such matter, or as soon thereafter as is reasonably possible; or (2) at such other time as the Council or the Rules and Open Government Committee may from time to time prescribe, provided that the prescribed time is consistent with any required public notice, and continue until the same have been completed or until other disposition of such matters has been made.

Land Use matters set for public hearing shall be heard at the evening session of a Council meeting under the Land Use section of the agenda unless the Director of Planning, or his or her designee, with the concurrence of the Rules and Open Government Committee, determines that the item should be heard by the Council at the afternoon session of a Council meeting and the item has been properly noticed for the afternoon session.

(b) Continuance of Hearings

Any hearing being held, noticed or ordered to be held at any meeting of the Council may, by order or notice of continuance, be continued or recontinued to any subsequent meeting of the Council, in the same manner and to the same extent hereinabove set forth for the adjournment of meetings; if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing must be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

(c) Public Testimony on Matters set for Public Hearing

Before a call for the question may be heard, the Chair must inquire if there are any persons present who desire to speak on the matter which is to be heard or to present

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evidence respecting such matter. Any person desiring to so speak or present evidence must submit a speaker's request card to the City Clerk and upon being recognized by the Chair, such person may speak or present evidence relevant to the matter being heard. No person may be denied the right to speak because he or she declines to disclose his or her name, address or telephone number. Members of the Council who wish to ask questions of the people or of each other, or who wish to discuss the subject matter of the hearing during the course of the hearing, may do so, but only after being recognized by the Chair. The Chair must conduct the meeting in a manner which affords persons wishing to speak or present evidence an opportunity to be heard on the merits of the matter set for hearing.

All persons interested in the matter which is the subject of the hearing are entitled to submit written evidence which will be part of the record and must be given opportunity to present other evidence relevant to such subject. All evidence presented must be retained by the City as part of the Clerk's record; however, parties displaying models and large exhibits may withdraw them. The City Clerk can request that substitute photographs be submitted to be part of the record. Also, within the time limits which may be set as described below, interested persons must be given reasonable opportunity to present oral arguments for or against any proposed action. However, no person may, during such hearing, speak or present evidence respecting matters not relevant to the matter which is the subject of the hearing.

(d) Consideration of Question by Council

After the conclusion of the public testimony upon the subject of any hearing, the Council may consider what disposition it wishes to make of the question(s) presented to it at said hearing. No member of the public is allowed, without the consent of the Chair, to speak upon the question or subject during or after such discussion and consideration by the Council. While considering any matter presented to them at such hearing, members of the Council may speak upon addressing the Chair and being recognized by the

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Chair. Councilmembers may address other members of the Council only through the Chair.

(e) Public Comments on Agenda Items Generally

Before any motion is adopted relating to the merits of an agenda item, the Chair must inquire if there are any persons present who desire to speak on the agenda item except on ceremonial items, during Orders of the Day or when the Brown Act permits no public comment. With the foregoing exceptions, members of the public may comment on any discussion item on a regular or special meeting agenda. Any person desiring to so speak must submit a speaker's request card to the City Clerk and upon being recognized by the Chair, such person may speak relevant to the matter being heard. No person may be denied the right to speak because he or she declines to disclose his or her name, address or telephone number. Members of the Council who wish to ask questions of the speakers or of each other, or who wish to discuss the agenda item during the course of the discussion on the agenda item, may do so, but only after being recognized by the Chair.

(f) Time Limits

The Chair may set such time limits as he or she finds reasonable under the circumstances.

RULE 5
MOTIONS

(a) Main Motions

When a motion is made and seconded, it may be debated by the Council. Members of the Council may speak in debate of a motion only when addressing the Chair and being recognized by the Chair. Whenever the subject of the motion has been discussed and considered, no further discussion or debate may take place except that members of the Council may explain their vote or propose supplemental motions.

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(b) Subsidiary Motions

Motions to amend (seeking a change or modification to the main motion that is the subject of debate) and substitute motions (motions that are new and different and replace the main motion that is the subject of the debate) are permissible. Both require a second, are debatable, adopted by a majority vote and take precedence over the main motion.

Motions to amend may be amended but only one amendment may be considered at any one time. No amendments to substitute motions are permitted other than friendly amendments accepted by the maker of the substitute motion and the person who seconded the substitute motion.

(c) Reconsideration

Any action taken by the City Council is subject to reconsideration if the motion to reconsider is made by a Councilmember who voted with the majority. A motion to reconsider may only be made at the Council meeting where the original vote was taken or at the next Council meeting that meets the notice requirements of the Consolidated Open Government and Ethics Resolution. If the motion to reconsider is to be made, a member of the Council who voted with the majority must submit a memo to the City Clerk no later than noon of the third day after the original action requesting that the motion be placed on the City Council agenda. In addition, notice of the item must comply with the requirements of the Brown Act and the additional rules of procedure as described in the Consolidated Open Government and Ethics Resolution. If a timely request for reconsideration is made pursuant to this Rule 5(c), the waiver of noticing requirements set forth in Subsection 2.3.2.1.E of the Consolidated Open Government and Ethics Resolution does not apply.

If a motion to reconsider is made at the next Council meeting, and if a majority of the City Council has voted to reconsider an action, the reconsideration can be held

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immediately, if the agenda has provided appropriate notice that the reconsideration may be held at that meeting, or at a later Council meeting as designated by the Council.

RULE 6

VOTING

All members of the Council who are present at a meeting, either in person in the room where the meeting is being held or by other means permitted by the Brown Act, when a question comes up for a vote, must vote for or against the measure in accordance with City Charter Section 600.

RULE 7

ROBERT'S RULES OF ORDER

Except as otherwise provided herein, the Council is governed by the rules of procedure set forth in the most current version of Robert's Rules of Order Newly Revised, as it may be amended from time to time by the Robert's Rules Association.

RULE 8

STUDY SESSION

The Council may meet in a Study Session at such time(s), and at such place(s), as it may deem advisable. The City Manager or any member of the Council may request that the Rules and Open Government Committee set the Study Sessions.

The Mayor or, in the Mayor's absence, the Vice Mayor, presides as the Chair of the Study Session. In the absence of both the Mayor and the Vice Mayor, the Mayor has the discretion to appoint the Chair for the Study Session. In the event the Mayor is unable to appoint the Chair, the Council must designate the Chair.

Council Members study and consider all matters which may be referred to it by the City Council or the Rules and Open Government Committee; and all recommendations made at the Study Session are reported to the Council for action.

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RULE 9
COUNCIL COMMITTEES

(a) Council Standing Committees Established

Six Standing Committees of the City Council are hereby established.

1. Rules and Open Government
2. Transportation and Environment
3. Neighborhood Services and Education
4. Community and Economic Development
5. Public Safety, Finance and Strategic Support
6. Smart Cities and Service Improvements Committee

In addition to the six Standing Committees, the City Council, may from time to time, meet as a Committee of the Whole.

(b) Standing Committee Rules

The rules included in Rule 9(g), Conduct of Standing Committee Business, govern the conduct of all Standing Committee meetings. Each Standing Committee may adopt, by a majority vote of its entire membership, such additional rules, not in conflict with this Rule, as it may deem necessary for the conduct of Standing Committee business.

(c) Standing Committee Meetings

Each Standing Committee meets regularly and without notice, except as detailed below, at a regularly scheduled time to be recommended by the Rules and Open Government Committee, adopted by the Council and posted by the City Clerk.

The Standing Committee secretary shall notice all Rules and Open Government Committee meetings as a “Joint Meeting of the Rules and Open Government Committee/Committee of the Whole,” as specified below in Rule 9(g).

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Councilmembers that are not members of a Standing Committee, other than the Rules and Open Government Committee, shall notify the Standing Committee secretary of their planned participation no later than seventy-two (72) hours before the scheduled Standing Committee meeting. The Standing Committee secretary in response to such notification shall notice other Standing Committees as a "Joint Meeting/Committee of the Whole," and will post an amended agenda noticing the Standing Committee's meeting as a "Joint Meeting of the _____ Committee/Committee of the Whole," as specified below in Rule 9(g).

Each Standing Committee, other than the Rules and Open Government Committee, may meet and take action if the meeting has been noticed as a Standing Committee and there is a quorum of that Standing Committee. The Joint Meeting of the Rules and Open Government Committee/Committee of the Whole may meet and take action if the meeting has been noticed as a Joint Meeting of the Rules and Open Government Committee/Committee of the Whole and there is a quorum of the Rules and Open Government Committee. A Standing Committee that has been noticed as a Joint Meeting of the Standing Committee/Committee of the Whole may meet and take action if the meeting has been noticed as a Joint Meeting of the Standing Committee/Committee of the Whole, and there is a quorum of that Standing Committee.

Whenever a Joint Meeting of the Standing Committee/Committee of the Whole has been noticed, a special meeting of the City Council has also been noticed as required by law, at which the Councilmembers may discuss items on the agenda but will not take any action as the City Council. A Joint Meeting of the Standing Committee/Committee of the Whole shall be conducted as a Standing Committee meeting and Councilmembers that are not members of the Standing Committee may participate in discussions upon recognition by the Standing Committee Chair, but only members of the Standing Committee are entitled to make, second or vote on any motion or other action of the Standing Committee. Any actions taken by the Standing Committee

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pursuant to the posted agenda shall be deemed recommendations of the Standing Committee for the full Council to consider at a future Council meeting.

Each Standing Committee will meet in Room W-118/119 of City Hall unless otherwise noticed.

Each Standing Committee may, by majority vote of its membership, set special meetings or adjourned meetings as it deems necessary, in accordance with the Brown Act and the additional rules of procedure as described in the Consolidated Open Government and Ethics Resolution.

The provisions of Rule 1(b), 1(c) and 1(d) of this Resolution apply to each Standing Committee, except that the word Mayor as used therein means Chairperson, and the word Council as used therein means Standing Committee.

The provisions of the Brown Act and the additional rules of procedure as described in the Consolidated Open Government and Ethics Resolution apply to the meetings of each Standing Committee.

(d) Standing Committee Appointments and Duties of Standing Committee Members

The Mayor ~~appoints~~ recommends the members of each Standing Committee from among the members of the City Council, with final appointment by the City Council.

The Chairperson and the Vice Chairperson of each Standing Committee are ~~appointed~~ recommended by the Mayor, with final appointment by the City Council. The Chairperson and Vice Chairperson may be removed in the same manner. The term for each Standing Committee appointment is one year, from the first day in January to December 31st and until a successor is duly appointed. Should a vacancy occur in any

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Standing Committee for whatever reason, appointment to the vacated position is for the unexpired term of the position created by said vacancy.

In the absence of both the Chairperson and Vice Chairperson, the Standing Committee members present may elect the Chair-pro-tem.

It is the duty of a Councilmember to attend every meeting of every Standing Committee of which the Councilmember is a member and the Councilmember is charged with fulfilling the responsibilities of such Standing Committees. Requests to be excused from attendance must be a regular item on the Council's Consent calendar. This paragraph does not apply to the meetings of the Committee of the Whole described in Rule 9(c).

(e) Staff Assignments to the Standing Committees

Standing Committee staff must deliver to each Standing Committee member, the balance of the Council and to Council Appointees, all papers and documents relating to matters referred to such Standing Committee pursuant to these rules. The City Clerk serves as secretary to Study Sessions and all of the Council Standing Committees. The City Manager shall designate staff to prepare the agenda and related materials for Council Standing Committees to forward to the City Clerk for proper posting and distribution.

(f) Reports

The reports from the Standing Committees must be in writing and presented to the City Council for approval on the Consent Calendar. Any item in the Report may be pulled for comment. Items requiring formal Council action beyond approval of the Report must be cross-referenced pursuant to this Rule.

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(g) Conduct of Standing Committee Business

Except as otherwise provided in these rules, Standing Committee hearings are conducted as follows:

1. The Chairperson presides at meetings of the Standing Committee. If the Chairperson is absent, the Vice Chairperson assumes the duties of the Chairperson. If both the Chairperson and Vice Chairperson are absent, one of the Standing Committee members present assumes the duties of the Chairperson by vote of all the members present.
2. The Chairperson directs the order of presentation of the arguments for and against matters for consideration by the Standing Committee, and permits questions to be asked by the various members of the Standing Committee, members of the public and the Administration in an orderly fashion and in keeping with proper decorum.
3. Any proposal to make substantial changes to recommendations pending before a Standing Committee that is made public less than four (4) days before the meeting, whether through a memo or from the dais, may be discussed by the Standing Committee, but action should be deferred until the next Standing Committee meeting.
4. Any member of the Standing Committee including the member assuming the duties of the Chairperson may make or second a motion.
5. At the discretion of the Chairperson, any Standing Committee, including the Rules and Open Government Committee, may meet with only two Standing Committee members present. Standing Committees with only two members present may not take action on any matter, but may hear the matter and refer it without a recommendation to the City Council.

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6. When only three Standing Committee members are present, the Standing Committee may take action on a matter with a vote of 2-1.

7. If four Standing Committee members are present and a vote on a motion is split 2-2, the matter will be referred without a recommendation to the City Council; however, if the motion is to add an item to a City Council agenda at a meeting of the Rules and Open Government Committee, and the vote on the motion is split 2-2, the motion will fail and the item will not be added to the Council agenda at that time.

8. The Standing Committee Chairperson, in consultation with Standing Committee staff, sets the Standing Committee agenda. The Chairperson sets the date for any continued hearing and notifies the Standing Committee secretary of such date.

9. The Standing Committee secretary must post the Standing Committee agenda in accordance with the Brown Act and the additional rules of procedure as described in the Consolidated Open Government and Ethics Resolution applicable to the posting of agendas of the Standing Committees. The agenda must be composed of items referred by the Council or Rules and Open Government Committee as well as items within the Standing Committee work plan.

10. All reports and matters referred to or acted upon by Standing Committees at a regular meeting must be forwarded to the City Council and appear on the Council agenda at the second Council meeting following the Standing Committee meeting except as follows:

(a) If the Standing Committee meets weekly or on a Monday, the report may appear on the agenda at the third Council meeting following the Standing Committee meeting.

(b) The Chairperson of any Standing Committee can direct that an item be reported at an earlier Council meeting.

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(c) The Rules and Open Government Committee approves a different time period.

11. The Council must vote to accept the Standing Committee Report and to take all actions specified in the Report, other than to approve an ordinance, resolution or contract which requires separate action by the Council. Councilmembers who do not concur with a recommendation may request a separate vote or may ask that a 'no' vote be recorded with regard to that recommendation. Staff recommendations that are contained in other materials must be restated in the Standing Committee Report or separately agendized for Council consideration.

12. The Standing Committee may recommend that: (a) an ordinance or resolution be introduced or amended; (b) a contract be awarded; or (c) some other action requiring Council approval be considered by the City Council as a “cross-reference” out of Standing Committee. A “cross-reference” may be placed on the same Council agenda as the Standing Committee report or on a different Council agenda at the request of the Standing Committee. If an action requires an ordinance, resolution or contract and the legal document is not ready for formal action and public review, the Standing Committee Report may be understood to provide direction to the City Attorney to prepare the necessary documents upon the Council's acceptance of the Standing Committee Report.

13. The Standing Committee secretary must keep a record of the meetings and actions taken by the Standing Committee.

14. No Standing Committee action may be taken on any item outside a duly constituted Standing Committee meeting.

15. Council Appointees or their designees, may attend and speak at all Standing Committee meetings, but have no vote therein.

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16. The Standing Committees must report on all matters referred to them by the Council without unnecessary delay. The Rules and Open Government Committee approves and may make changes to Standing Committee Work Plans.

17. Council and Standing Committee referrals or requests for information or direction to the Administration staff must be processed in accordance with the Council Referral procedures in Council Policy No. 0-12.

(h) Rules and Open Government Committee

The Rules and Open Government Committee is composed of five members. ~~The Mayor is the Chairperson of the Rules and Open Government Committee and the Vice Mayor is the Vice Chairperson.~~ The Rules and Open Government Committee may, if requested by the Council, consider and make recommendations on the operations of the Council, including relationships between the Council and the Council Appointees, policies and procedures governing boards and commissions, the operation of Council offices, rules regarding the Council conduct, renovation and construction of Council Chambers and offices, elections and initiatives, and organizational and operational matters pertaining to the offices of Council Appointees. The Rules and Open Government Committee also reviews the Council and Study Session agendas in advance of the Council or Study Sessions and may add or withdraw items as needed except for those items placed on the agenda by a majority vote of Council. The Rules and Open Government Committee may also prescribe the time for hearings and matters publicly noticed or ordered to be held by the Council, provided that the prescribed time is consistent with any required public notice. The Rules and Open Government Committee's area of responsibility includes the approval of the Standing Committees' work plan and the City Auditor's work plan. The Rules and Open Government Committee may also refer any item directly to Standing Committees or the Administration for consideration. The Rules and Open Government Committee also has the responsibilities specified in the Consolidated Open Government and Ethics

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(i) Division of City Operations

Except for budget matters, which are considered by the Council as a whole, most matters to come before the Council must go through one of the Standing Committees for a public hearing.

The policy areas or mission statements for Standing Committees are as follows:

Rules and Open Government Committee

Council Agenda Setting; Standing Committee Work Plan; City Auditor Work Plan; Ensuring accessible, responsive, transparent and accountable government.

Transportation and Environment

To provide the community with safe, secure, and efficient surface and air transportation systems that support San José's livability and economic vitality and to provide environmental leadership through policy development, program design and reliable utility services and infrastructure.

Neighborhood Services and Education

To serve, foster and strengthen community by providing access to lifelong learning, opportunities to enjoy life, ensuring a diverse range of housing opportunities, preserving healthy neighborhoods.

Community and Economic Development

To manage the growth and change of the City of San José in order to encourage a strong economy, ensure a diverse range of arts cultural and entertainment offerings, and create and preserve healthy neighborhoods.

Public Safety, Finance and Strategic Support

To effectively develop, manage and safeguard the City's fiscal, physical, technological and human resources to enable and enhance the delivery of City services and projects and to provide prevention and emergency response

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Smart Cities and Service Improvements

To achieve the strategic goals of San José's Smart City Vision by advancing innovation projects at scale, demonstration/pilot projects, and strategy and policy initiatives that deliver community benefit, optimize resources, improve service delivery, and build capacity for future success.

(j) Amending Council Standing Committee Rules

Standing Committees may set their own rules as long as they are consistent with Rule 9. Any rule which conflicts with Rule 9 must be authorized by resolution adopted by the Council.

(k) Certain Other Standing Committees Abolished

All other Standing Committees heretofore established by this Council consisting solely of members of Council, except those mentioned in this Resolution, are hereby abolished. The Mayor or the Council may appoint *ad hoc* committees from time to time.

(l) Matters Requiring Public Hearings

No matter may be referred or assigned to a Standing Committee pursuant to these rules for which a public hearing by the City Council is required by law or where the decision with respect to such matter is delegated to or reposed in a body or individual other than the Council, nor may a Standing Committee initiate on its own motion consideration of any such matter.

RULE 10

PETITIONS AND COMMUNICATIONS

(a) General

Within the established rules for the conduct of the Council's official proceedings, any person or group of persons may personally, or through authorized representatives, present grievances or offer suggestions to the Council for the betterment of municipal affairs at any regular meeting of the Council. Such may be done either by filing with or

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presenting to the Council written petitions or communications respecting such matter and/or orally speaking thereon.

(b) Written Petitions on Agenda

If a written petition has been filed and placed on the agenda pursuant to Rule 3, such petition must be considered by the Council at the time such agenda item is taken up by the Council. Any person or group of persons desiring to speak to the Council respecting the subject matter of such petition will be permitted to do so personally or through authorized representatives, subject to applicable rules, at said time, provided that no person may speak unless the person has submitted a speaker's request card, is recognized by the Chair, and is given permission by the Chair to speak. Any person desiring to so speak may complete a speaker's request card and submit it to the City Clerk. No person may be denied the right to speak because he or she declines to disclose his or her name, address or telephone number on the speaker's request card.

(c) Petitions or Communications Not on Agenda

If a person or group of persons wishes to present to the Council, at a regular Council meeting, a written or oral petition or communication, that is within the subject matter jurisdiction of the Council, which has not been placed on the Council's agenda pursuant to Rule 3, such will be permitted at the time the Council takes up "open forum" as shown on the agenda for any regular meeting. Any person or group of persons desiring to speak to the Council respecting the subject matter of such petition or communication that is within the subject matter jurisdiction of the Council will be permitted to do so personally or through authorized representatives, subject to applicable rules. Any person desiring to so speak must submit a speaker's request card to the City Clerk. No person may be denied the right to speak because he or she declines to disclose his or her name, address or telephone number on the speaker's request card. However, no person may speak until recognized by the Chair.

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The Chair may limit public comments at special meetings to only those relevant to items described on the special meeting notice/agenda.

The Chair sets such time limits as he or she finds reasonable under the circumstances. The Council must not take any action on any matter not appearing on the posted agenda unless one of the exceptions in the Brown Act is applicable.

RULE 11

DISORDERLY CONDUCT

Pursuant to the provisions of Section 502 of the City Charter, the Mayor has the authority to preserve order at all Council meetings, to remove or cause the removal of any person from any meeting of the Council for disorderly conduct, to enforce the rules of the Council and to determine the order of business under the rules of Council. For the above purposes, the Mayor or, in the Mayor's absence, the Chair of the meeting may command the assistance of any security staff or peace officers of the City to enforce all lawful orders of the Mayor or Chair.

Disorderly conduct includes, but is not limited to, each of the following:

1. Willfully disturbing or breaking up, without authority of law, any meeting of the Council; or doing any act or engaging in any conduct, at any Council meeting, without authority of law, with intent to disturb or break up such meeting of the Council, which urges the disturbance or breaking up of such meeting, or urges others to commit acts or engage in conduct which will disturb or break up such meeting. Acts or conduct deemed disturbing to the meeting include, but are not limited to, unreasonably loud and prolonged yelling, screaming, clapping or other noise-creating acts which render it impossible or difficult for the Council to conduct or continue with its proceedings;

2. Doing any act or engaging in any conduct, at a meeting of the Council and in the immediate view or hearing and presence of the Council, with intent to disturb the proceedings of the Council or to impair the respect due to the authority of the Mayor, the

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Chair or Council, which tends to interrupt the proceedings of the Council or impair the respect due to the authority of the Mayor, the Chair or the Council;

3. Doing any act or engaging in any conduct, at any Council meeting, with intent to cause a riot, which urges a riot, or urges others to commit acts of force or violence, or the burning or destroying of property, under circumstances which produce a clear and present and immediate danger of acts of force or violence or the burning or destroying of property. As used herein, "riot" means any use of force or violence, disturbing the public peace, or any threat to use such force or violence, if accompanied by the immediate power of execution, by two or more persons acting together and without authority of law;

4. Threatening, at any meeting of the Council, to commit or cause bodily injury upon any member of the Council, or upon any officer or employee of the City, or upon any other person, or to burn or destroy or cause the burning or destruction of any property if the Council fails or refuses to act, or to refrain from acting, in accordance with the wishes of the threatening person;

5. Willfully refusing or failing, at a meeting of the Council, to comply with any rule of the Council or with any reasonable order of the Mayor, the Chair or the Council.

SECTION 2. The rules set forth in Resolution No. 79367 as amended by this resolution are in addition to the rules set forth in this Council's resolution known as the Consolidated Open Government and Ethics Resolution. In the event of conflict between the provisions of Resolution No. 79367 as amended by this resolution and the provisions of the Consolidated Open Government and Ethics Resolution, the provisions of the Consolidated Open Government and Ethics Resolution shall prevail.

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ADOPTED this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

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