

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

SAN JOSE, CALIFORNIA

WEDNESDAY, JUNE 23, 2021

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 2:00 p.m.

Present: Councilmembers - Jones, Peralez, Davis, Arenas, Cohen.

Absent: Councilmembers - All Present.

Staff: 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 Deputy City Clerk Ruth Krantz.

A. City Council (City Clerk)

- 1. Review June 29, 2021 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)**

Public Comments: (1) Blair Beekman spoke to digital inclusion, community development for the Alum Rock area and importance of the Flea Market as a community resource. (2)

Roland LeBrun asked for agenda to be posted even in draft form at the same time the Committee is notified, indicating he's not seeing the agenda in a timely manner. (3) Martha O'Connell requested to see more documentation regarding the hybrid meetings, asking that all public documents be included in the packet and that hybrid meetings be implemented so autoimmune compromised people can participate. (4) Ann would like more time allowed for public comment.

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1. Review June 29, 2021 Final Agenda (Cont'd.)

Speaking to public comment, Vice Mayor Chappie Jones indicated that if speakers' time limits were lengthened, fewer members of the public would be able to contribute. City Clerk Toni Taber walked participants through the posting process, adding that hybrid meetings will definitely be scheduled, although the memo pertaining to this procedure is not yet out. She indicated that agendas post 10 days in advance.

Action: Upon motion by Councilmember Sylvia Arenas, seconded by Councilmember David Cohen, and carried unanimously, the Committee accepted the June 29, 2021 Final Agenda with Adds as required, with a 9 a.m. start time for Closed Session, and with Item 4.1 (Gun Harm) not to be heard before 6:30 p.m., a time certain of 1:30 p.m. for the Berryessa items (10.4 & 10.5), and with Item 8.5 (Approval of the Affordable Housing Siting Policy) deferred, with a target date to be determined during the next Rules and Open Government Committee Meeting. (5-0.)

B. Review of Upcoming Meeting Agenda(s)

None provided.

C. Legislative Update

1. State

2. Federal

There were none presented.

D. Meeting Schedules

There were none presented.

E. The Public Record for June 10 – June 17, 2021. (City Clerk)

Public Comments: (1) Blair Beekman referenced a letter for the public record regarding a Measure T meeting on June 10 which was no longer accessible but available on YouTube and encouraged public outreach. (2) Roland LeBrun clarified his concerns regarding untimely links to specific agenda items.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Sylvia Arenas and carried unanimously, the Public Record for June 10 – June 17, 2021 was noted and filed.
(5-0.)

F. Boards, Commissions and Committees

None provided.

G. Rules Committee Reviews, Recommendations and Approvals

1. Consent Calendar

- (a) Retroactive approval of Multiple Special Events Sponsored by Council District 3 as City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Events. (Perez)**
- (b) Retroactive approval of Multiple Special Events Sponsored by Council District 7 as City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Event. (Esparza)**

Public Comments: Blair Beekman encouraged dumpster days indicating them as a vehicle for community involvement and importance of addressing the gun control issue.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Raul Perez and carried unanimously, the City Council Sponsored Special Events were retroactively approved and cross-referenced to the June 29, 2021 Council Agenda for action. (5-0.)

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**
- None provided.

5. Joint Meeting of the Rules and Open Government Committee and Committee of the Whole Rules and Open Government Committee Workplan

Public Comments: Blair Beekman suggested the public offer suggestions on ways to expedite agenda posting.

Action: Upon motion by Councilmember Dev Davis, seconded by Councilmember Raul Perez and carried unanimously, the Rules and Open Government Committee workplan for the period from July 2021 through June 2022 and setting its meeting schedule as every Wednesday at 2:00 p.m. in the City Hall Wing Committee Meeting Rooms 118-120 or held virtually via Zoom in declared emergencies. The agendas will be posted as the Joint Rules and Open Government Committee and Committee of the Whole. (5-0.)

I. Open Government - Public Records Appeal.

City Attorney, Nora Frimann outlined the appeal from Ramona Giwargis, *San José Spotlight* regarding the City's response to her May 9, 2021 Public Records Act request for public records seeking records regarding Solutions San José, indicating the City's recommendation for a denial of the appeal.

Appellants Ramona Giwargis and Josh Barrouse Overturn introduced their appeal and Assistant to the City Manager, Sarah Zaraté offered the City's response.

Public Comments: (1) Speaker 5140 spoke off topic. (2) Blair Beekman offered appreciation to San José Spotlight for their efforts as a community newspaper. (3) Tessa Woodmansee indicated that the media is critical to overseeing government and stressed the need for open government and sharing email. (4) Tran Nguyen, a reporter with *San José Spotlight* spoke to the importance of this issue. (5) Ann Chung urged a more transparent government.

Ramona Giwargis outlined her request through the Public Records Act for a copy of all emails, texts and Slack (or other messaging system) communications between Mayor Sam Liccardo, Chief of Staff Jim Reed and any and all other Mayor's staff, consultants, lobbyists or associates related to Solutions San José over the past six months.

City Attorney, Nora Frimann spoke to the City's response to the public records request, citing privileged communications with email correspondence seeking legal advice between the City Attorney's Office and staff in Mayor's Office, and indicating an attorney-client privilege. The request was interpreted broadly and privilege identified. It was added that the City did not provide any legal advice for setting up Solution San José non-profit.

Upon further discussion and in responding to questions from the Committee, three instances of email correspondence were identified, and City Attorney, Nora Frimann indicated a log of these email can be provided.

Councilmember Raul Peralez recommended bringing this item before the City Council to let the Council decide. It was determined that, if heard, this item could be held during Open Session.

Motion: Councilmember Raul Peralez moved approval of another sweep of email, including private email, with a log of the email to be provided. Councilmember Sylvia Arenas seconded the motion. (5-0.)

Action: On a call for the question, City Staff was directed to perform another in-depth sweep of email, including private email, with a log of the email to be provided. (5-0.)

OPEN FORUM

Paul Soto spoke to institutionalized racism and thanked Ramona and Josh from *San José Spotlight* in seeking out the truth and addressed the weaponization of power.

Blair Beekman addressed open public policies and good democratic practices. He spoke to a continuance of flea market items.

Martha O'Connell asked that during Council and ROGC meeting, both items should be shown on the screen when items are being combined, noting the 6/22/21 Council Meeting where items 8.3 and 8.4 were combined.

Caller '5140' opined that the peoples' democratic process is being denied.

Tessa Woodmansee spoke to Open Government and complained that the General Plan changes without notification. She expressed criticism of the 'financialization' of our land and burning of fossil fuel.

G. Adjournment

Vice Mayor Chappie Jones adjourned the Committee meeting at 3:24 p.m.

Vice Mayor Chappie Jones, Chair
Rules and Open Government Committee

CJ/rk:rulesmin20210623