



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

SAN JOSE, CALIFORNIA

WEDNESDAY, MAY 27, 2015

The Joint Rules and Open Government Committee and Committee of the Whole of the City of San José convened in Regular Session at 2:03 p.m. in the Committee Rooms 118-120, Council Wing, City Hall.

PRESENT: Mayor Sam Liccardo, Councilmember Chappie Jones, Councilmember Magdalena Carrasco, and Councilmember Johnny Khamis.

ABSENT: Vice Mayor Rose Herrera (Excused.)

STAFF: City Attorney Richard Doyle, City Clerk Toni J. Taber, Assistant City Manager Dave Sykes, Mayor's Agenda Assistant Margaret Le, Agenda Services Manager Gloria Schmanek, Assistant City Clerk Tom Graves and Deputy City Clerk Anh Tran.

CITY COUNCIL (CITY CLERK)

(1) Review June 2, 2015 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 Jones, seconded by Councilmember Carrasco and carried unanimously, the Committee approved the agenda including the following sunshine waivers, additions, and changes: None. (4-0-1. Absent: Herrera)

(2) Review June 8, 2015 Special Meeting Agenda

- a. Assign "Time Certain" to Agenda Items (if needed)
- b. Review of Notice Waiver Requests for Agenda Items or Documents (if needed)

(3) Review June 9, 2015 Draft 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 Carrasco, seconded by Councilmember Jones and carried unanimously, the Committee approved the agenda including the following sunshine waivers, additions, and changes: None. (4-0-1. Absent: Herrera)

REVIEW OF UPCOMING STUDY SESSION AGENDA(S)

None.

LEGISLATIVE UPDATE

- (1) State – None.
- (2) Federal – None.

MEETING SCHEDULE

- (1) Council Meeting Schedule and Study Session Schedule for August – December 2015 (City Manager)
 - (a) Approve the City Council Meeting Schedule for the period August – December 2015; and
 - (b) Approve the Study Session Schedule for the period August – December 2015.

Documents Filed: Memorandum from Agenda Services Manager Gloria Schmanek to the Rules and Open Government Committee, dated May 20, 2015, entitled, “Council Meeting Schedule and Study Session schedule for August-December 2015.”

Action: Upon motion by Councilmember Jones, seconded by Councilmember Carrasco and carried unanimously, the item was approved. (4-0-1. Absent: Herrera)

THE PUBLIC RECORD

Documents Filed: Memorandum from City Clerk Toni J. Taber transmitting the Public Record for the Week of May 15 – May 21, 2015.

Action: Upon motion by Councilmember Carrasco, seconded by Councilmember Jones and carried unanimously, the public record was noted and filed. (4-0-1. Absent: Herrera)

BOARDS, COMMISSIONS AND COMMITTEES

- (1) Appointments – None.
- (2) Work Plans – None.
- (3) Annual Reports
 - (a) Airport Commission FY 2015-16 Work Plan and FY 2014-15 Annual Report. (Airport)
 1. Approve the Airport Commission Work Plan for FY 2015-16 recommended by staff and unanimously approved by the Commission; and
 2. Approve the Annual Report on the FY 2014-15 Airport Commission Work Plan.

Documents Filed: Memorandum from Director of Aviation Kimberly J. Becker to the Rules and Open Government Committee, dated May 20, 2015, entitled, “Airport Commission FY 2014-2015 Annual Report.”

Action: Upon motion by Councilmember Carrasco, seconded by Councilmember Jones and carried unanimously, the item was approved. (4-0-1. Absent: Herrera)

RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS

(1) Consent Calendar

Upon motion by Councilmember Khamis, seconded by Councilmember Jones and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (4-0-1. Absent: Herrera)

- (a) Approval of the Rainbow Flag Raising Ceremony 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. (Oliverio)
 1. Approve the Rainbow Flag Raising Ceremony as a City Council sponsored Special Event;
 2. Approve and accept donations from various individuals, businesses or community groups to support the event; and
 3. Place the item on the June 2, 2015 Council Agenda for action

Documents Filed: Memorandum from Councilmember Pierluigi Oliverio to the Rules and Open Government Committee, dated May 18, 2015, entitled, "Approval of the Rainbow Flag Raising Ceremony 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."

Action: The item was placed on the June 2, 2015 City Council Agenda for final action. (4-0-1. Absent: Herrera)

END OF CONSENT CALENDAR

- (2) **AB 24 (Nazarian) -- Transportation Network Companies: Public Safety Requirements. (Airport)**
 - a. Adopt a position of support for AB 24 (Nazarian) -- Transportation Network Companies: Public Safety Requirements.
 - b. Recommend this item be agendized for the June 9, 2015 City Council Meeting so that the City's Legislative Representative can advocate the City's support for AB 24 (Nazarian).

Documents Filed: Memorandum from Director of Aviation Kimberly J. Becker to the Rules and Open Government Committee, dated May 20, 2015, entitled, "AB 24. (Nazarian) Transportation Network Companies: Public Safety."

Director of Intergovernmental Relations Betsy Shotwell and Assistant to the Director of Aviation Jim Webb were available to answer questions from the Committee.

Action: Upon motion by Councilmember Khamis, seconded by Councilmember Jones and carried unanimously, the recommendation was approved and the item was placed on the June 9, 2015 City Council Agenda for final action. (4-0-1. Absent: Herrera)

(3) Resolution in Support of a Constitutional Amendment Opposing Corporate Personhood. (Kalra)

Refer to Council for full discussion to adopt a resolution calling for an amendment to the Constitution of the United States declaring that only human beings have Constitutional rights.

Documents Filed: Memorandum from Councilmember Ash Kalra to the Mayor and City Council, dated May 21, 2015, entitled, "Resolution in Support of a Constitutional Amendment Opposing Corporate Personhood."

Public Comment:

-Martha O'Connell requested an update to Council Policy 0-11 and expressed concerns about this item.

-The following people spoke in favor of this item: Santa Clara County Move to Amend Member John Fioretta, Herb Engstrom, Sierra Club Member Brian Carl, South Bay Coordinator of California Clean Money Campaign Craig Dunkerley, and Shaunn Cartwright.

Councilmember Ash Kalra provided comments and was available to answer questions from the Committee.

Action: Upon motion by Councilmember Carrasco, seconded by Jones and carried unanimously, the recommendation was approved and the item was placed on the June 16, 2015 City Council Agenda for final action. (3-0-1-1. Noes: Khamis)

(4) Alviso Park Master Plan and Improvements. (Mayor/Matthews)

- a. Direct the Administration to report back in June on the costs, possible funding, and timing of developing a park master plan, possible expansion, and phased improvements for Alviso Park.
- b. Direct the Administration to work immediately with the Alviso Community to form an Alviso Park Master Plan Committee to work with and advise the City on the plan.
- c. Direct the Administration to set a timeline that will meet all the requirements of the Settlement Agreement, recently signed by the Alviso Community, the Trammell Crow Company, and the City of San Jose.
- d. Place the item on the June 2, 2015 Council Agenda for action

Documents Filed: Memorandum from Mayor Sam Liccardo and Councilmember Margie Matthews to the Rules and Open Government Committee, dated May 20, 2015, entitled, "Alivso Park Master Plan and Improvements."

Councilmember Margie Matthews and Interim Deputy Director of the Department of Parks, Recreation and Neighborhood Services Marybeth Harasz provided comments and were available to answer questions from the Committee.

Action: Upon motion by Councilmember Jones, seconded by Councilmember Khamis and carried unanimously, recommendation was approved and the item was placed on the June 2, 2015 City Council Agenda for final action. (4-0-1. Absent: Herrera)

(5) Police Accountability Initiatives. (Mayor)

- a. Direct the City Manager to implement the following from the Independent Police Auditor's 2014 Annual Report:
 1. Broaden the scope of inquiry of complaints of bias-based policing (page 64-65)
 2. Work with key stakeholders to expand civilian review of police misconduct, subjecting the San Jose Police Department (SJPD) initiated investigations to review by the Independent Police Auditor (Recommendation #2).
- b. Direct the City Manager to report to the Public Safety, Finance and Strategic Support Committee in August 2015 on the following items:
 1. Independent Police Auditor 2014 Annual Report Recommendation #1 - Expand SJPD's definition of use of force to include the circumstances leading up to the use of force and proportionality.
 2. Independent Police Auditor 2014 Annual Report Recommendation # 3 - Include in the annual Department Initiated Investigations (DII) Report descriptions of the misconduct that gave rise to each of the sustained findings.
 3. Independent Police Auditor 2014 Annual Report Recommendation # 5 - Establish both a Duty Manual rule and an Internal Affairs rule that state what the representatives of subject officers in IA interviews can and cannot say to subject officers in preparation for the interviews.
 4. Independent Police Auditor 2014 Annual Report Recommendation # 6 - Require SJPD to adopt a "no choke hold" rule.
 5. Update from the Chief of Police on the independent analysis of detention and search data.

Documents Filed: Memorandum from Mayor Sam Liccardo to the City Council, dated May 21, 2015, entitled, "Police Accountability Initiatives."

Public Comment:

- Sharunn Cartwright voiced concerns regarding this item.

Action: Upon motion by Councilmember Jones, seconded by Councilmember Khamis and carried unanimously, the recommendation was approved. (4-0-1. Absent: Herrera)

(6) Council Priority Setting Nominations (Mayor)

1. "Prohibition of the Obstruction of Sidewalks Without a Permit" – Modify the San Jose Municipal Code to enact an ordinance prohibiting the obstruction of sidewalks without a permit, and penalizing the unpermitted closure of sidewalks with substantial penalties, including but not limited to fines.
2. "San Jose is Open for Business" – Clarify Title 20 of the Municipal Code to reduce the evidentiary burdens on businesses and property owners seeking to establish a longstanding, legal nonconforming (LNC) use. Alternative approaches might include:
 - a. Allow any business/property owner an option of either: (1) seeking a fast-tracked "tentative" LNC finding that can be issued to avoid adverse code enforcement action, but that could be rescinded with sufficient rebuttal evidence, or (2) seeking "final determination" of LNC, with a more thorough, rigorous fact-finding process (and requiring a higher fee).

- b. Allow a signed, attested declaration from the business owner/property owner to be given substantial evidentiary weight, particularly in the absence of contrary evidence of continuous use.
- c. To minimize the risk of onerous longstanding impacts in residential areas, any revisions pertaining to businesses should:
 - 1) Apply only to commercial or industry uses on sites with non-residential zoning.
 - 2) Exclude businesses located adjacent to residences if engaged in uses likely to impose uniquely undesirable impacts, such as adult book stores, marijuana dispensaries; or 24-hour bail bonds offices.

Documents Filed: Memorandum from Mayor Sam Liccardo to the Rules and Open Government Committee, dated May 21, 2015, entitled, "Council Priority Setting Nominations."

Action: Upon motion by Councilmember Jones, seconded by Councilmember Carrasco and carried unanimously, the recommendation was approved and the City Manager was directed to inform the City Council Offices to submit all future Council Priority Setting Nominations to the City Clerk by June 9, 2015. (4-0-1. Absent: Herrera)

(7) Purchase of Radar Gun. (Oliverio)

Approve the purchase of a Speed Radar Gun.

Documents Filed: Memorandum from Councilmember Pierluigi Oliverio to the Rules and Open Government Committee, dated May 18, 2015, entitled, "Purchase of Radar Gun."

Action: Upon motion by Councilmember Khamis, seconded by Councilmember Jones and carried unanimously, the recommendation was approved and the item was placed on the June 16, 2015 City Council Agenda for final action. (4-0-1. Absent: Herrera)

REVIEW OF ADDITIONS TO COUNCIL COMMITTEE AGENDAS/WORKPLANS

- (1) Community and Economic Development Committee – None.
- (2) Neighborhood Services and Education Committee – None.
- (3) Transportation and Environment Committee – None.
- (4) Public Safety, Finance and Strategic Support Committee – None.
- (5) Rules and Open Government Committee – None.

OPEN GOVERNMENT

(1) Appeals of Public Records Act Request

a. Rosanna Pizzuti

(Continued from 5/20/15 – Item I.1.a)

Documents Filed: Memorandum from Director of Communications David Vossbrink to the Rules and Open Government Committee, dated May 13, 2015, entitled, “Public Records Appeal – Rosanna Pizzuti.”

Director of Communications David Vossbrink provided comments and was available to answer questions from the Committee.

Public Comment:

- Rosanna Pizzuti voiced her concerns and was available to answer questions from the Committee.

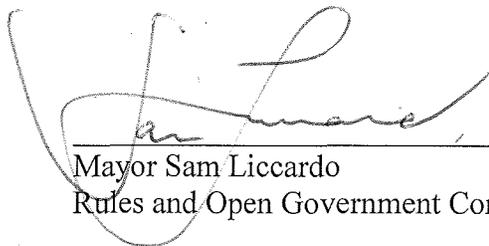
Action: Upon motion by Councilmember Khamis, seconded by Councilmember Jones and carried unanimously, the appeal was denied. (4-0-1. Absent: Herrera)

OPEN FORUM

- Martha O’Connell voiced support for Richard McCoy’s request.
- Richard McCoy requested the City Council to consider flying the POW/MIA flag at City Hall.
- Blair Beekman provided comments related to transparency and drone usage.

ADJOURNMENT

The meeting adjourned at 3:02 p.m.



Mayor Sam Liccardo
Rules and Open Government Committee

SL:at