
RULES AND OPEN GOVERNMENT COMMITTEE

CHUCK REED, CHAIR
MADISON P. NGUYEN, VICE CHAIR
PIERLUIGI OLIVERIO, MEMBER
PETE CONSTANT, MEMBER
ROSE HERRERA, ALTERNATE

STAFF **TONI J. TABER, CITY CLERK**
ED SHIKADA, CITY MANAGER
RICHARD DOYLE, CITY ATTORNEY
AHMAD CHAPMAN, MAYOR'S OFFICE

AGENDA

2:00 P.M.

April 2 , 2014

Wing 118-120

- A. City Council (City Clerk)**
 - 1. Review April 8, 2014 Final Agenda
 - a. Add New Items to Final Agenda
 - b. Assign "Time Certain" to Agenda Items (if needed)
 - c. Review of Items that Meet Exception Rule (if needed)
 - 2. Review April 15, 2014 Draft Agenda
 - a. Add New Items to Draft Agenda
 - b. Assign "Time Certain" to Agenda Items (if needed)
 - c. Review of Items that Meet Exception Rule (if needed)
- B. Review of Upcoming Study Session Agenda(s)**
- C. Legislative Update**
 - 1. State
 - 2. Federal
- D. Meeting Schedules**
- E. The Public Record**
- F. Boards, Commissions and Committees**
 - 1. Appointments
 - 2. Work Plans
 - 3. Annual Reports
- G. Rules Committee Reviews, Recommendations and Approvals**
 - 1. Workload Assessment for Council Requests and Referrals.
 - 2. [Districts 6 Annual Willow Glen History Night Part Two](#) (Oliverio)
Approval of District 6 Annual Willow Glen History Night Part Two on April 7, 2014, sponsored as a City Council Special Event and approve expenditure of funds and accepting donations from various individuals, businesses, or community groups to support the event and

G. Rules Committee Reviews, Recommendations and Approvals (Cont.)

- placing the item on the April 8, 2014 Council Agenda for action and approve a ten-day sunshine waiver.
3. [Districts 5 Family Science Night](#) (Campos)
Approval of District 5 Family Science Night event on April 10, 2014, sponsored as a City Council Special Event and approve expenditure of funds and accepting donations from various individuals, businesses, or community groups to support the event and placing the item on the April 8, 2014 Council Agenda for action and approve a ten-day sunshine waiver.
 4. [San Jose E-Cigarette Regulation](#) (Herrera)
Direct staff to draft an amendment to city ordinance title 9 section 44 that would regulate non-prescription electronic smoke and vaporizing products in the same way as traditional tobacco products within the City of San José.
 5. [Amendments to the Airport Ground Transportation Program](#) (Campos)
Bring to the full Council for approval the following changes to be incorporated as part of the new Airport Ground Transportation program.
 - 1) Recommend as part of the initial phase-in of the new Airport On-Demand Taxicab system a 3-year moratorium on any new cab companies from servicing the Airport; after the third year staff should determine through a “needs and necessities” process whether passenger demand supports any new taxi companies’ increases.
 - 2) For the first five years of the new Airport Ground Transportation program, to require any new taxi servicing the airport to have been DOT GPS approved either on or before March 4, 2014.
 - 3) Require new taxi companies to have a minimum 3 year experience operating taxis in San Jose.
 - 4) Continue to allow individual drivers to apply for Taxi Driver permits in the City of San Jose.
 6. [Disability Retirement & Measure B \(Public Employee Pension Plan Amendments\)](#) (Rocha)
That the Rules Committee agendaize the below action for Council consideration under item 3.4 on the April 8th Council Meeting, as an option for the Council to consider in addition to the proposed recommendation.
 - 1) Direct staff to return in 30 days with a proposal to amend the Charter’s disability retirement provisions for the purpose of resolving employee retention issues that arise from the current disability retirement rules. Staff’s proposal should be comparable with CalPERS, and should allow for the Council to potentially place a measure on the ballot in November 2014.
 - 2) Direct staff to return to Council on the same timeframe as in item 1 with draft language for potential amendments to the City Charter that achieve the goals listed below. It’s important to note that we’d only be asking for preliminary analysis-the Council would of

G. Rules Committee Reviews, Recommendations and Approvals (Cont.)

course retain discretion as to whether to pursue meet and confer and potentially place charter amendments on the ballot in November 2014.

- a. Eliminate section 1514-A, which requires the Council to cut employee compensation if section 1506-A (b) is struck down.
 - b. Revise section 1508-A to allow retirement at age 62 for Federated employees and 57 for public safety employees and to allow an accrual rate of 2.5% for public safety employees and 2% for Federated employees, consistent with the CalPERS second tier.
 - c. Confirm that if benefit parameters were increased by the voters as recommended above, the Council would be able to increase Tier 2 benefits without returning to the voters.
 - d. Amend section 1508-A (h) to provide that employees do have a vested right to Tier 2.
 - e. Amend the charter to provide that employees who have left City service in Tier 1 may return to city service in Tier 1 instead of going into Tier 2.
 - f. Develop a truly voluntary election program that could survive legal scrutiny and potentially gain the support of our bargaining units.
- 3) Take action to agendize an open session Council decision as to whether to pursue an appeal of the Measure B (Public Employee Pension Plan Amendments) ruling.
7. [Disability Retirement and Right of Return for former City Employees](#) (Herrera)
Request the Rules Committee to agendize the following actions and consider them under item 3.4 on the April 8th City Council Meeting.
- 1) Direct staff to return in 30 days with a proposed amendment(s) to the charter that would include an option of a Right of Return for former San Jose Police officers to return to Tier 1 for a defined period of 90 or 120 days and present the language of said amendment in time for council to decide whether to place it on the ballot in November 2014.
 - 2) Direct staff to return in 30 days with a standardized definition of disability comparable to the one used by CalPERS and present the language of said amendment in time for council to decide whether to place it on the ballot in November 2014.
 - 3) State our intent as a council to make no further changes or amendments to the city charter that would diminish or reduce voter-approved Measure B.
 - 4) State our intent as a council to only examine areas that would not alter the spirit of the measure the voters passed but only take into consideration changing sections that need clarification or modification.

G. Rules Committee Reviews, Recommendations and Approvals (Cont.)

8. [Lending the Police a Hand: Crowd Sourcing Video Evidence](#) (Liccardo)

Accept the staff report to the Rules and Open Government Committee and refer to Council through the Public Safety & Finance Committee, to evaluate whether, and how:

- a. The City can create, with minimal cost, a neutral database enabling San Jose residents, business owners, and other property owners to voluntarily register the location and type of their video surveillance equipment for future use (upon request) for Police Department investigations; and
- b. The City can engage with private video surveillance companies to offer “bulk discounts” for those property owners who seek both (a) to install their own systems, and (b) register those systems with the City.

9. [Registration of Privately-Owned Surveillance Cameras](#). (City Manager)

Accept the Administration's report regarding creation of a cost neutral and workload passive database which would allow San José residents to voluntarily register the location and type of their video surveillance equipment for future potential use of captured footage by the Police Department in its investigations.

10. [Firefighter Breathing Air Replenishment Systems](#). (Fire/City Attorney)

Accept staff's report confirming San José Firefighters Local 230's position on the use of Firefighter Breathing Air Replenishment Systems (FBARS) in high-rise buildings; and, regarding whether requiring the installation of a breathing air replenishment system in high-rise buildings limits the public to the use of a proprietary system.

11. [Fireworks Policy Review](#). (Fire/Police)

- 1) Accept staff's report recommending the continued ban on fireworks in the City, with the exception of controlled and permitted displays open to the public; and, recommending the continued collaboration with the community to provide public education on the use of illegal fireworks through Press Information Offices, Neighborhood District meetings and newsletters.
- 2) Direct staff to evaluate the outcome of the following 4th of July events being organized for 2014 and report their findings to the Rules and Open Government Committee so that, depending on the outcome of these events, the Committee could request the City Council direct the Administration to explore partnering with private organizations to co-sponsor future firework displays in the City:
 - a. The Rotary's Discovery Meadow event;
 - b. San José Giant's Muni Stadium event; and
 - c. Almaden Lake Fun Festival.

G. Rules Committee Reviews, Recommendations and Approvals (Cont.)

12. [Proposed Revisions to Title 12 of the San Jose Municipal Code and the Regulations and Procedures of the San Jose Ethics Commission \(City Attorney/City Clerk\)](#)

Place the following item on the April 15, 2014, City Council agenda to consider:

- 1) Approval of an ordinance of the City of San José amending Chapter 12.04 of Title 12 of the San José Municipal Code relating to the San José Ethics Commission and amending Section 12.16.040 of Chapter 12.16 of Title 12 to make a technical correction to the date to file disclosure reports for fundraising solicitations by elected City officials on a quarterly basis.
- 2) Adoption of a resolution revising the regulations and procedures of the San José Ethics Commission, and repealing Resolution No. 75640, which sets forth the current regulations and procedures for the San José Ethics Commission's investigations and hearings.

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. Rules and Open Government Committee

I. Open Government

1. Appeals of Public Records Act Request

J. Open Forum

Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the Committee.

K. Adjournment

The City San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public. **The City Code of Ethics may be viewed on-line at http://www.sanjoseca.gov/clerk/cp_manual/CPM_0_15.pdf**

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at City Hall, 200 E. Santa Clara Street, Office of the City Clerk 2nd Floor Wing, San José, Ca 95113 at the same time that the public records are distributed or made available to the legislative body.

To request an accommodation or alternative format for City-sponsored meetings, events or printed materials, please call the Office of the City Clerk 408-535-1252 or 408-294-9337 (TTY) as soon as possible, but at least three business days before the meeting/event.

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://sanjoseca.gov/index.aspx?nid=3581>

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Successor Agency to the Redevelopment Agency Board (SARA), their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.

- The items cannot create a building maintenance problem or a fire or safety hazard.
 - b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
 - c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.
3. Addressing the Council, Successor Agency to the Redevelopment Agency Board (SARA), Committee, Board or Commission:
- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
 - b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
 - c) Speakers should discuss topics related to City business on the agenda.
 - d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
 - e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
 - f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
 - g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.