

**RULES AND OPEN GOVERNMENT COMMITTEE**

Meeting Report

March 5, 2014

**PRESENT:** Mayor Chuck Reed, Vice Mayor Madison Nguyen, and Councilmember Pierluigi Oliverio.

**ABSENT:** Councilmember Pete Constant

**STAFF:** City Manager Ed Shikada, City Attorney Richard Doyle, City Clerk Toni Taber, Mayor's Agenda Services Manager Ahmad Chapman, Agenda Services Manager Gloria Schmanek, Deputy City Clerk Kathy Carrillo and Deputy City Clerk Teresa Lewis.

1. Review March 11, 2014 Final 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)

Public Comments: David Wall pulled Item 4.6 (McCarthy Ranch property) and Martha O'Connell pulled Item 4.2 (Housing for the Homeless) for comments.

Action: Upon motion by Vice Mayor Nguyen, seconded by Councilmember Oliverio, and carried unanimously, the following items were approved:

Add new items to Final Agenda: A ten-day sunshine waiver was approved to add the following items: 3.x (FY 2014-2015 Mayor's March Budget Message) to be heard immediately following the Consent Calendar; Item 3.4 Title recommendation change: Discussion on Paid Parental or Family Leave Programs; Item 4.5 deferred to 3/25/14. (3-0-1. Absent: Constant.)

2. Review March 18, 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)

Public Comments: David Wall pulled Item 7.3 (Zero Waste Energy, LLC) for comments.

Action: Upon motion by Vice Mayor Nguyen, seconded by Councilmember Oliverio, and carried unanimously, the agenda was approved. (3-0-1. Absent: Constant.)

**B. Review of Upcoming Study Session Agenda(s)**

None.

**C. Legislative Update**

1. State

Mayor Reed noted that Senator Lou Correa has a Medicinal Marijuana Bill SB 1262 that has been endorsed by the National League of Cities and the Police Chief Association, if the bill is passed the language would be useful in drafting the City's ordinance.

**C. Legislative Update (Cont.)**

2. Federal - None.

**D. Meeting Schedules**

1. Reschedule Workforce Support and Development Study Session. (City Manager)

Documents Filed: Memorandum from Agenda Services Manager Gloria Schmanek to the Rules and Open Government Committee dated February 28, 2014, forwarding the recommendations.

Action: Upon motion by Vice Mayor Nguyen, seconded by Councilmember Oliverio, and carried unanimously, the Committee approved the recommendations. (3-0-1. Absent: Constant.)

2. Study Session – Urban Village Implementation. (Planning, Building and Code Enforcement)  
Set a City Council Study Session entitled *General Plan Implementation: Urban Villages* for April 1, 2014 from 1:30 p.m. to 4:30 p.m. in the Council Chambers.

Documents Filed: (1) Memorandum from Interim Director of Planning, Building and Code Enforcement David Sykes to the Rules and Open Government Committee dated February 28, 2014, forwarding the recommendations; (2) Updated Study Session Agenda

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti offered an update and answered the Committee's questions.

Public Comments: David Wall spoke in regards to SPUR as being a separate entity with potential for corruption.

Action: Upon motion by Vice Mayor Nguyen, seconded by Councilmember Oliverio, and carried unanimously, the Committee approved the recommendations. (3-0-1. Absent: Constant.)

**E. The Public Record**

Documents Filed: None

**F. Boards, Commissions and Committees**

1. Appointments Deferred Compensation Advisory Committee Appointments. (Human Resources)
  - a. Approve the appointment of Jamal Fontaine as the representative nominated by the San José Firefighters, Local 230 (IAFF) to the Deferred Compensation Advisory Committee (Committee) for the remainder of the four-year term ending on March 1, 2017. This seat was made vacant by the resignation of the current representative, Darren Wallace.
  - b. Approve the appointments of Daniel Earl as the representative nominated by the American Federation of State, County and Municipal Employees (AFSCME), including MEF or CEO bargaining units and Donna Busse as the representative nominated by AEA, AMSP, CAMP, ALP or an employee in Unit 99 (Management Employees) for four-year terms ending March 1, 2018. These two representative's terms expired on March 1, 2014.
  - c. Recommend this item for full Council consideration at the March 11, 2014 Council meeting.

Documents Filed: Memorandum from Deputy City Manager Alex Gurza to the Rules and Open Government Committee dated February 26, 2014, forwarding the recommendations.

**F. Boards, Commissions and Committees**

Action: Upon motion by Vice Mayor Nguyen, seconded by Councilmember Oliverio, and carried unanimously, Item F.1 (a-c) was approved placing the item on the March 11, 2014 Consent Calendar Council Agenda for action. (3-0-1. Absent: Constant.)

2. Work Plans

None.

3. Annual Reports

None.

**G. Rules Committee Reviews, Recommendations and Approvals**

1. Workload Assessment for Council Requests and Referrals.

2. District 10 Assyrian New Year (Khamis)

Approval of the District 10 Assyrian New Year Flag Raising on March 21, 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 March 18, 2014 Council Agenda for action.

Documents Filed: Memorandum from Councilmember Johnny Khamis to the Honorable Mayor and City Council dated February 27, 2014, forwarding the recommendations.

Action: Upon motion by Councilmember Oliverio, seconded by Vice Mayor Nguyen, and carried unanimously, the Committee approved the recommendation placing the item on the March 18, 2014 Council Agenda for action. (3-0-1. Absent: Constant.)

3. District 5 Cesar Chavez Day Flag Raising (Campos)

Approval of the District 5 Cesar Chavez Day Flag Raising on March 24, 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 March 18, 2014 Council Agenda for action.

Documents Filed: Memorandum from Councilmember Xavier Campos to the Honorable Mayor and City Council dated February 26, 2014, forwarding the recommendations.

Action: Upon motion by Councilmember Oliverio, seconded by Vice Mayor Nguyen, and carried unanimously, the Committee approved the recommendations placing the item on the March 18, 2014 Council Agenda for action. (3-0-1. Absent: Constant.)

4. Districts 2, 9, & 10 SJPd Southern Division ID Symposium (Kalra/Rocha/Khamas)

Approval of the Districts 2, 9, & 10 SJPd Southern Division ID Symposium on April 12, 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 March 18, 2014 Council Agenda for action.

Documents Filed: Memorandum from Councilmembers Ash Kalra, Donald Rocha, and Johnny Khamis to the Honorable Mayor and City Council dated February 26, 2014, forwarding the recommendations.

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

Public Comments: David Wall spoke in support of Item G.4, commenting on the San José Police officers wages.

Action: Upon motion by Councilmember Oliverio, seconded by Vice Mayor Nguyen, and carried unanimously, the Committee approved the recommendations placing the item on the March 18, 2014 Council Agenda for action. (3-0-1. Absent: Constant.)

5. District 10 Tartan Day Scottish Flag Raising (Khamis)

Approval of the District 10 Tartan Day Scottish Flag Raising on April 8, 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 March 18, 2014 Council Agenda for action.

Documents Filed: Memorandum from Councilmember Johnny Khamis to the Honorable Mayor and City Council dated February 26, 2014, forwarding the recommendations.

Action: Upon motion by Councilmember Oliverio, seconded by Vice Mayor Nguyen, and carried unanimously, the Committee approved the recommendations placing the item on the March 18, 2014 Council Agenda for action. (3-0-1. Absent: Constant.)

6. Recommendation to Modify the Prohibitions on the Discharge of Projectile Weapons (Chu)

Direct the City Attorney's Office to work with the Department of Parks, Recreation, and Neighborhood Services and the Police Department to amend City ordinances 10.32.140 and 13.44.200 modifying the prohibitions on the discharge of projectile weapons to add an exemption for low velocity pellet gun model watercraft activities. Due to minimal staff time needed to modify the existing ordinance, I recommend that this can be exempt from going through the Council priority setting session.

Documents Filed: (1) Memorandum from Councilmember Kansen Chu to the Rules and Open Government Committee dated February 26, 2014, forwarding the recommendations; (2) E-mail from John S. Blackburn to Councilmember Chu dated March 4, 2014, in support of Item G.6.

Councilmember Chu provided further details on the reasons for bringing the memorandum forward and was available to answer the Committee's questions.

Public Comments: The following speakers spoke in support of Item G.6: George McManus, Jeff Krolik, Rob Wood and David Wall.

Mayor Chuck Reed noted that the ordinance needs to be more specific in its meaning.

Action: Upon motion by Vice Mayor Nguyen, seconded by Councilmember Oliverio, and carried unanimously, the Committee approved the recommendations with direction to the City Attorney to work with staff to make amendments to the ordinance and return to the City Council at a later date. (3-0-1. Absent: Constant.)

**H. Review of additions to Council Committee Agendas/Workplans**

1. Community and Economic Development Committee  
None.

**H. Review of additions to Council Committee Agendas/Workplans (Cont.)**

2. Neighborhood Services and Education Committee

None.

3. Transportation and Environment Committee

None.

4. Public Safety, Finance and Strategic Support Committee (City Manager)

Approve adding an item entitled "Facilities Preventive Maintenance Program Update" to the Public Safety, Finance and Strategic Support Committee Agenda for the March 20, 2014 meeting.

Documents Filed: Memorandum from Director of Public Works David Sykes to the Rules and Open Government Committee dated February 26, 2014, forwarding the recommendations.

Public Comments: David Wall expressed his opinion regarding the Mexican Heritage Plaza.

Action: Upon motion by Vice Mayor Nguyen, seconded by Councilmember Oliverio, and carried unanimously, the Committee approved adding an item entitled "Facilities Preventive Maintenance Program Update" to the Public Safety, Finance and Strategic Support Committee Agenda for the March 20, 2014 meeting. (3-0-1. Absent: Constant.)

5. Rules and Open Government Committee

None.

**I. Open Government**

1. Appeals of Public Records Act Request

None.

**J. Open Forum**

Martha O'Connell spoke in support of the sale of City of San José golf courses and offered suggestions on traveling to sister cities.

Jeff Bedolla commented on 12-047.

David Wall stated that he has submitted several public record requests and as of date has had no response. Mayor Reed referred the public record request issue to the City Manager's Office to follow-up.

Wolfe Cevorov spoke regarding pedestrians safety on sidewalks in San José.

**K. Adjournment.**

The meeting adjourned at 2:50 p.m.



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Mayor Chuck Reed  
Rules and Open Government Committee