

RESOLUTION NO. 73948

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING THE RULES FOR THE CONDUCT OF ITS MEETINGS, SUPERSEDING RESOLUTION NO. 73586

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. The Council of the City of San José does hereby adopt and establish the following rules for the conduct of its meetings, proceedings, and business.

RULE 1
MEETINGS

(a) Regular Meetings

The regular meetings of the Council are held, without notice, on Tuesday of each calendar week. The meeting commences at 9:30 a.m., for closed session purposes, in the Council Chambers Committee Room in the City Hall of the City of San José, unless the session is publicly posted to begin at 9:00 a.m., 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 place as the Council may from time to time prescribe. 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. Evening sessions, when scheduled, commence at 7:00 p.m.

(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 Ralph M. Brown Act. (California Government Code Sections 54950, et seq.) hereinafter referred to as the "Brown Act."

(c) 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 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.

(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 meetings, is conducted in accordance with the following order of business.

CLOSED SESSION

CALL TO ORDER AND ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

ORDERS OF THE DAY

CLOSED SESSION REPORT

CEREMONIAL ITEMS

CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

COMMUNITY & ECONOMIC DEVELOPMENT

NEIGHBORHOOD SERVICES

TRANSPORTATION & AVIATION SERVICES

ENVIRONMENTAL & UTILITY SERVICES
PUBLIC SAFETY SERVICES
JOINT CITY COUNCIL/REDEVELOPMENT AGENCY
NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS
OPEN FORUM (to be heard jointly with Redevelopment Agency public discussion)
GENERAL PLAN HEARINGS
PUBLIC HEARINGS (for meetings with evening sessions)
OPEN FORUM (for evening meetings)
ADJOURNMENT

The order of business may be altered to the extent necessary to comply with the provisions of Rule No. 4 relating to Hearings. Also, departures from the order of business may be authorized from time to time by majority vote of the Council or by the Chair.

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 Council 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. The City Clerk must provide a copy of each written request to the Rules and Open Government Committee.

(b) Draft Agenda

The City Clerk prepares a draft agenda for the Rules and Open Government Committee on the second Wednesday immediately preceding the date of 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 Committee.

(c) Time Certain

Some items may be listed on the agenda 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.

(d) Orders of the Day

Items may be added to the agenda, under Orders of the Day, by the Chair, or any Councilmember or Council Appointee, if that person determines that there is a necessity to so add. However, no such item may be heard unless the change to the Orders of the Day has been approved by a majority of the Council. 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.

(e) Posting

The agenda for each regular meeting must be posted in accordance with the Brown Act. The City Clerk must maintain a record of such posting in a form approved by the City Attorney.

(f) Actions

The Council may not 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

HEARINGS AND DISCUSSION ITEMS

(a) Time for Consideration

Hearings and matters noticed or ordered to be held by the Council at 7:00 p.m., or at any other specified time, commence at the time specified for hearing or consideration of such matter, or as soon thereafter as is reasonably possible, and continue until the same have been completed or until other disposition of such matters has been made.

(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; provided, that 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 Discussion

Before any motion is adopted relating to the merits of the matter to 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 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 due process.

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.

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

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

(e) 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 prevailing side. A motion to reconsider may only be made at the Council meeting where the original vote was taken or at the next Council meeting. Once a majority of the City Council has voted to reconsider an action, the

reconsideration can be held immediately or at a later Council meeting as designated by the Council.

RULE 5

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 and roll call has started, no further discussion or debate may take place except that members of the Council may explain their vote or propose supplemental motions.

RULE 6

VOTING

All members of the Council who are present at a meeting when a question comes up for a vote, must vote for or against the measure in accordance with City Charter Section 600.

RULE 6.5

ADDITIONAL RULES OF PROCEDURE

From time to time, the Council may adopt additional rules of procedure for the conduct of its meetings, proceedings and business. Such rules may include, but are not limited to, additional requirements for noticing of Council agenda items, distribution of information related to agenda items and supermajority voting requirements under specified circumstances. An action taken in violation of these additional procedural rules may not be determined to be null and void if the action was in substantial compliance with the rules, or taken in connection with the sale or issuance of notes, bonds, other evidences of

indebtedness, or the action taken gave rise to a contractual obligation upon which a party has in good faith relied. The Clerk must maintain a current listing of all such rules.

RULE 7

ROBERT'S RULES OF ORDER

Except as otherwise provided herein, the Council is governed by the rules of procedure set forth in Robert's Rules of Order, Newly Revised, 9th Edition.

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.

RULE 9

COUNCIL COMMITTEES

(a) Council Committees Established

Five 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

(b) Committee Rules

The rules included in Rule 9(g), Conduct of Committee Business, governs the conduct of all Committee meetings. Each 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 Committee business.

(c) Committee Meetings

Each Committee meets regularly and without notice 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.

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

Each Committee may, by majority vote of its membership, set special meetings or adjourned meetings as it deems necessary, in accordance with the Brown Act.

The Council Committees meet jointly with the Committees of the Redevelopment Agency.

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

The provisions of the Brown Act apply to the meetings of each Committee.

(d) Committee Appointments and Duties of Committee Members

The Mayor appoints the members of each Committee from among the members of the City Council.

The Chairperson and the Vice Chairperson of each Standing Committee are appointed by the Mayor. The Chairperson and Vice Chairperson may be removed in the same manner. The term for each 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 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 Committee members present may elect the Chair-pro-tem.

It is the duty of a Councilmember to attend every meeting of every Committee of which the Councilmember is a member and the Councilmember is charged with fulfilling the responsibilities of such Committees. Requests to be excused from attendance must be a regular item on the Council's Consent calendar.

(e) Staff Assignments to the Committees

Committee staff must deliver to each Committee member, the balance of the Council and to Council Appointees, all papers and documents relating to matters referred to such Committee pursuant to these rules. The City Clerk serves as secretary to Study Sessions and the Rules and Open Government Committee. The City Manager designates a secretary to keep a record of attendance and business transacted for each of the other Committee meetings. Such record must be provided to the City Clerk. The City Clerk must distribute to the Mayor,

the Council, and the Council Appointees a copy of the record from each Committee meeting including presentation materials.

(f) Reports

The reports from the Committees must be in writing and presented to the City Council. Nothing in this Rule prohibits the introduction of minority reports, together with the majority report.

(g) Conduct of Committee Business

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

1. The Chairperson presides at meetings of the 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 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 Committee, and permits questions to be asked by the various members of the Committee, members of the public and the Administration in an orderly fashion and in keeping with proper decorum.
3. Any member of the Committee including the member assuming the duties of the Chairperson may make or second a motion.
4. At the discretion of the Chairperson, any Council Committee, including the Rules and Open Government Committee, may meet with only two Committee members present. Committees with only two members present may take action on any matter, but the report to the City Council must reflect the number of members actually voting.

5. The Committee Chairperson, in consultation with Committee staff, sets the Committee agenda. The Chairperson sets the date for any continued hearing and notifies the Committee secretary of such date.
6. The Committee secretary must post the Committee agenda in accordance with the Brown Act. An agenda for each Committee meeting must be delivered to the Mayor, City Council, and the Council Appointees at least four (4) working days prior to the Committee meeting, and must be posted in conformance with Rule 3(d). The agenda must be composed of items referred by the Council or Rules and Open Government Committee as well as items within the Committee work plan.
7. A report or matter approved by a Committee must be forwarded to Council and appear on the Council agenda at the second Council meeting following the Committee meeting except as follows:
 - (a) If the Committee meets on a Monday, the report may appear on the agenda at the third Council meeting following the Committee meeting.
 - (b) Based on extenuating circumstances, the Chairperson of any Committee can direct that an item be reported at an earlier Council meeting.
8. The Council must vote to accept the Committee Report and to take all actions specified in the Report, other than to approve an ordinance, resolution or contract. 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 Committee Report or separately agendized for Council consideration.
9. The Committee may recommend that an ordinance or resolution be introduced or amended or that a contract be awarded. If the ordinance, resolution or

contract has been prepared before the date on which it is considered by the City Council, it must be placed under a separate agenda item and acted upon separately from approval of the Committee Report. If the ordinance, resolution or contract is not ready for formal action, the Committee Report may be understood to provide direction to the City Attorney to prepare the necessary documents upon the Council's acceptance of the Committee Report.

10. The assigned staff must keep a record of the meetings and actions taken by the Committee.
11. No Committee action may be taken on any item outside a duly constituted Committee meeting.
12. Council Appointees or their designees, may attend and speak at all Committee meetings, but have no vote therein.
13. The Committees must report on all matters referred to them by the Council without unnecessary delay. If the City Council desires to remove a matter from the jurisdiction of a Committee, it may, at a regular meeting of the City Council, discharge said Committee from further consideration of the matter.
14. Council and 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 four members and an alternate member. The Mayor is the Chairperson of the Rules and Open Government Committee and the Vice Mayor is the Vice Chairperson. If one or more members of the Rules Committee cannot attend, the alternate member of the Committee may attend in the absent member's stead. 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, appointments to 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's area of responsibility includes the approval of the Standing Committee's 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 considers and makes recommendations to the Council on disputes over Public Records Act requests.

(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; Committee Work Plan; City Auditor Work Plan; Commission Appointments (not required to be interviewed by Council); 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, Strategic Support and Finance

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 services for crime, fire, medical, hazardous and disaster related situations.

(j) Amending Council Committee Rules

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 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 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 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 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 Council meeting, a written or oral petition or communication 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. Any person or group of persons desiring to speak to the Council respecting the subject matter of such petition or communication 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.

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 Charter of the City of San José, 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 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 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. Resolution No. 73586 and all other prior Resolutions inconsistent herewith are hereby superseded.

ADOPTED this 14th day of August, 2007, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, CORTESE,
LICCARDO, NGUYEN, OLIVERIO, PYLE, WILLIAMS;
REED

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk