



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Paul Krutko  
Chief Development Officer

**SUBJECT:** STAFF RESPONSE TO SUNSHINE  
REFORM TASK FORCE  
RECOMMENDATIONS

**DATE:** July 23, 2007

Approved

Date

7/31/07

**COUNCIL DISTRICT:** Citywide

## RECOMMENDATION

1. Approval to incorporate the following Sunshine Reform Task Force Recommendations into Council-adopted Cost-Benefit Analysis pilot program: D.1.i. (Accountability), D.1.ii. (Net fiscal impact), D.1.iv.(A) (Housing Impact: Number of units constructed/demolished), D.1.v. (Source of funds), and D.1.vi. (Neighborhood impacts).
2. Approval to disaggregate 'public subsidies' proposals from the Sunshine Ordinance.

## OUTCOME

The City of San Jose has developed and adopted a 'pilot program' to incorporate the principles of cost-benefit analysis into its decision-making process for unanticipated projects requiring substantial city resources. The Sunshine Reform Task Force (SRTF) has also developed a series of recommendations about the content of cost-benefit analyses and the process by which such information would be made available. This memorandum recommends the inclusion of several of the Task Force's recommendations into the City's 'pilot program' and responds to other recommendations.

## BACKGROUND

On January 8, 2007, the Government Reform and Ethics Subcommittee of the Mayoral Transition Committee released its final recommendations for improving the openness of San Jose City Government. The report contained a recommendation for staff to provide the Council and the public with cost-benefit analyses of projects requiring public funds:

*Recommendation: A cost-benefit analysis must be submitted for all projects, activities, and events seeking public funding. An after action report/analysis must be performed to determine whether or not the City's interests were met.*

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Staff was directed with responding to this and other recommendations advanced through the subcommittee report and reporting back to the Rules and Open Government Committee. Through extensive conversations at the City Service Area and department head levels, staff developed a cost-benefit analysis 'pilot program' which attempted to balance the need for the public to have access to additional information with the ability of the City to have the flexibility to seize significant opportunities that will benefit the community. On March 7, 2007, members of the Rules Committee reviewed staff's proposal and advanced the report for the consideration of the full Council. On April 3, Council unanimously approved the pilot program with the additional direction to staff to respond to the ultimate recommendations of the Sunshine Reform Task Force. The following section includes these recommendations and the responses of staff.

## ANALYSIS

### **Language Adopted by the Sunshine Reform Task Force and Staff Responses:**

Many of the recommendations adopted by the Sunshine Reform Task Force had previously been proposed by staff in the Council-adopted cost-benefit analysis 'pilot program.' However, the specificity of the Task Force recommendations has clarified the proposed model for staff analysis. On May 23, 2007, the Sunshine Reform Task Force released their Phase I recommendations, which included the following language regarding cost-benefit analysis (p. 11):

Below are the Sunshine Reform Task Force Phase I Recommendations about cost-benefit analysis, followed by staff's responses (in italics):

#### **D. Public Subsidies**

1. If an item to be discussed is for a public subsidy of \$1 million or more, the staff reports and other supporting documents must be posted on the City's website and made available for inspection and copying 30 calendar days before a regular meeting. In exceptional circumstances where there is a risk that a high priority project may be jeopardized, staff may request a waiver to move the issue forward in 21 calendar days

**Staff response:** *As part of the January adoption of the Reed Reforms, the City Council implemented new standards requiring that staff reports are posted for specific numbers of days prior to consideration by Council Committees (7 days or 5 days for Rules) or the full Council (10 days). The Council further adopted policy to require all items involving over \$1 million to be posted for at least 14 days prior to full Council consideration.*

*Staff modeled the cost-benefit analysis pilot program to conform to reporting standards as adopted by Council in January. Staff proposes that the cost-benefit analysis be available to the public in compliance with this new policy. We support the recommendation contained in the pilot cost-benefit analysis structure, unanimously approved by Council, that projects contained in the pilot would go first to the appropriate Council Committee with posting 7 days before that Committee's meeting and then for 14 days before consideration by the full Council. This will provide at least three weeks of 'sunshine' before any action is taken. Staff proposes that the posting requirements as adopted provide ample opportunity for public review*

*and participation. Additionally, as approved by Council in February 2007, items that are heard by Council Committees and require a one-week report out to the full Council for action will remain an exception to the 21-day requirement.*

*Staff also has concerns about the Task Force recommendation that all projects receiving \$1 million in public funds should require a cost-benefit analysis starting immediately. Staff recommends continuing the Council-adopted pilot program for six projects during which time staff will refine analytical techniques and develop criteria for which projects should require analysis, prior to expanding the scope of analysis to additional projects. Through the pilot program, staff will also develop information about the costs and staff time required to do professional, credible cost-benefit analyses. These lessons learned will shape staff's recommendation to Council following the completion of the pilot program.*

The Sunshine Reform Task Force proposed that staff reports must include the following information:

- i. **Accountability:** The options available if the projected returns do not occur and an after-action report describing the extent to which the proposal is actually generating the outcomes predicted.

**Staff response:** *Agree (included in pilot)*

- ii. **Net fiscal impact:** A calculation of tax revenues generated by the subsidy minus tax revenues lost.

**Staff response:** *Agree (included in pilot)*

- iii. **Net job impact:** The number of jobs generated as a result of the project in each of the following salary categories: \$1 to \$20,000, \$20,000 to \$40,000, \$40,000 to \$60,000, \$60,000 to \$80,000 and over and whether the employer provides health insurance.

**Staff response:** *Staff agrees that collecting data about projected job creation is an important component of the cost-benefit analysis pilot program. As such, staff supports the direction outlined in the Council approved pilot to provide information about the number net new jobs created. However, staff does not agree with the recommendation as proposed by the Task Force. Due to the proprietary and competitive importance of specific salary and wage data, even within broad ranges, publicly traded companies, as well as privately owned companies, will not provide data, which exceeds both the reporting requirements of the Federal Securities and Exchange Commission and the State Employment Development Department. As many of the companies the City may want to support in bringing jobs in driving industries, business support and household serving industries, will not be willing to provide this information, the effect of the Sunshine Task Force recommendation could limit the willingness of those companies to make investments in San Jose. This would effectively place the City at a*

*disadvantage in the competition for jobs and investment, as no other Silicon Valley community requires collection and publication of specific salary, wage, and benefits data in regards to projects receiving public investment.*

*Given the volatility of the local economy in an environment of "creative destruction" as illustrated by the most recent recession when Santa Clara County lost nearly 20% of its total jobs (over 200,000 jobs), this recommendation by the Sunshine Task Force does not support the direction the City staff has received through the discussion of the Economic Development Strategy, Getting Families Back to Work Committee Meetings, Community and Economic Development Committee meetings, and Counter to Council study sessions to pursue growing jobs, capital investment and tax revenues for the City to deal with the City budget structural deficit.*

iv. Housing impact:

- A). The number of housing units constructed or demolished as part of the project, categorized by level of affordability

**Staff response:** *Agree (included in pilot)*

- B). An estimate of the number of ELI (Extremely Low Income) housing units that would be required for employees of the project.

**Staff response:** *Staff agrees that it is important to provide information in the staff report about site-specific questions of whether an economic development project will require the demolition of any housing stock. Staff further agrees that this information should be categorized by affordability. However, staff does not agree with the recommendation that staff reports analyzing non-housing economic development projects should speculate on changes in the demand for housing. San Jose currently has a significant numbers of unemployed and underemployed residents within our community as well as the large number of youth entering the workforce each year, who are already living in the City and looking for work. If lower-skilled jobs are created through a particular project, there are local residents that would pursue such employment. This suggests that additional housing might not be required, because the 'new' employees would already reside in San Jose and not require additional housing.*

*Further the process of conducting a housing demand analysis is exceptionally complex. First, the analysis would require quantifying the demand for workers at various ability levels (open jobs companies need to fill) created by a given economic development project. Second, the supply of available labor (number of people seeking employment) would have to be quantified and categorizing by respective ability levels. Third, the demand for workers would have to be compared to*

*the supply of available labor, as a means of calculating the net impact of a project on the labor market. If this analysis suggested that insufficient local workers were available to fill a projected increase in jobs, it could theoretically serve as a basis of a demand for housing calculation. However, even this assumption is inaccurate given the imperfection of labor markets and the open nature of the San Jose economy (i.e. San Jose is not a closed economy but part of the larger Silicon Valley and Bay Area economy). The end result of such a calculation is unlikely to predict accurately the impact of any specific project on housing demand.*

*San Jose must strive to create a broad mix of employment opportunities for individuals of all skill levels. As such, an employer providing entry level jobs to unemployed adults, underemployed adults, and youth entering the workforce already residing in San Jose would be enhancing that individual's or households' economic situation positively and in many cases putting the newly employed individual on a career path for income growth in the future.*

- v. Source of funds: Information describing the source of funds and any restrictions on the use of funds

**Staff response:** *Agree (included in pilot)*

- vi. Neighborhood impacts: Information about the impact on neighborhoods, including data contained in EIRs and traffic studies as well as impacts on other public infrastructure and services such as parks, community centers and libraries

**Staff response:** *Agree (included in pilot)*

### **Disaggregate Public Subsidies Analysis Requirements from Sunshine Ordinance**

While many of the Task Force recommendations should be incorporated into the pilot Cost-Benefit Analysis program, staff proposes that questions of what details should be included in staff reports are policy questions under the purview of Council. As such, these recommendations are beyond the scope of what should be included in the final Sunshine Ordinance.

The pilot project will help to calibrate the level of analysis that should be undertaken moving forward after the initial six projects recommended by staff. While this effort has been initially assigned to the Office of Economic Development, it will be important to balance that small staff's core responsibility of spurring job creation, capital investment and ultimately tax revenues for the City against time and energy devoted to extensive cost benefit analysis. As such, staff will evaluate the impact of diverting staff resources from achieving departmental objectives in order to conduct cost-benefit analyses in-house. At the conclusion of the pilot program, staff will provide recommendations about how to administer the program most effectively in the long-

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term. These recommendations may include consideration of where the program should be housed within the City and whether contract specialists should be hired to conduct the analysis, particularly if concerns are raised by the community about the credibility and perceived objectivity of the analyses.

### EVALUATION AND FOLLOW-UP

Per direction from Council on April 3, 2007, this memorandum responds to the Phase I recommendations of the Sunshine Reform Task Force released in late May. The Council-adopted cost-benefit analysis pilot program is currently evaluating its first of six projects, the proposed Soccer Stadium and Airport West Redevelopment. Upon completion of six analyses, which will represent a range of projects to be determined in conjunction with Council direction, staff will report back to the Council on the performance of the pilot program and provide recommendations for improving analyses and integrating the analyses into City operations. Staff anticipates that the pilot program will be completed during FY2007-2008 with recommendations following within 60 days.

### POLICY ALTERNATIVES

#### ***Alternative #1: Integrate all recommendations of the Sunshine Reform Task Force***

**Pros:** Requires additional analysis for public review.

**Cons:** Staff concerns about SRTF Recommendations D1 (Introduction/30 days), D.1.iii (Net job impact), and D.1.iv.(B). (Demand for Extremely Low Income housing) are listed in the Analysis section.

**Reason for not recommending:** Recommendations D.1, D.1.iii, and D.1.iv.(B) do not advance San Jose's Economic Development Strategy, specifically Initiative #8: "Diversify San Jose's Economic Base and Preserve/Create Middle-Income Jobs."

The Council debated alternatives to the pilot program during their April 3, 2007 meeting; therefore alternatives to the pilot program as a whole are not discussed in this section.

### PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although the recommended action does meet any of the above criteria, this report will be posted on the City's website for the August 7, 2007, City Council agenda.

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**COORDINATION**

This memorandum has been coordinated with the City Manager's Office, the City Attorney's Office, and the Redevelopment Agency.

**FISCAL/POLICY ALIGNMENT**

Staff recommendations align with the principles adopted by the Council through the cost-benefit analysis pilot program, the recommendations of the Government Reform and Ethics Subcommittee of the Mayoral Transition Committee, and the Economic Development Strategy.

**COST SUMMARY/IMPLICATIONS**

Not applicable

**BUDGET REFERENCE**

Not applicable

**CEQA**

Exempt

  
PAUL KRUTKO  
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For questions, please contact Paul Krutko, Chief Development Officer, at 408-535-8181.

