



**RULES AND OPEN GOVERNMENT COMMITTEE**

Meeting Report  
October 29, 2008

**PRESENT:** Mayor Reed, Vice Mayor Cortese, Council Member Constant, Chirco.

**ABSENT:**

**STAFF:** City Attorney Richard Doyle, City Clerk Lee Price, City Manager Debra Figone, Redevelopment Agency Assistant Director Gary Miskimon, Deputy City Manager Deanna J. Santana, Council Agenda Manager Alicia Bosco and Deputy City Clerk Nora Pimentel.

**A. City Council**

**1. Review of November 4, 2008 Final Agenda.**

Action: The Committee approved the November 4, 2008 City Council Final Agenda with the following change:

- Item 3.6 (Calling for a Special Recall Election) to be taken up immediately following the consent calendar.

**2. Review of November 11, 2008 Draft Agenda.**

None-Meeting Canceled.

**B. Redevelopment Agency**

**1. Review of November 4, 2008 Final Agenda.**

**2. Review of November 11, 2008 Draft Agenda.**

Action: November 11, 2008 meeting was canceled.

**C. Legislative Update**

**1. State**

There were no updates.

**2. Federal**

There were no updates.

**D. Meeting Schedules**

There were none.

**E. The Public Record**

Documents Filed: Memorandum from City Clerk Lee Price, dated October 24, 2008, transmitting items for the Public Record for the period of October 17-23, 2008.

Action: The Committee noted and filed the Public Record.

**F. Appointments to Board, Commissions and Committee**

1. **Approve appointment of David Mills to the Work2future Board of Directors.**  
Documents Filed: Memorandum from Mayor Reed dated October 23, 2008 recommending appointment of David Mills, Program Director of the John S. and James L. Knight Foundation, to serve as a private sector representative on the Work2future Board of Directors.

Action: The Committee approved the appointment to the Work2future Board of Directors.

2. **Recommend term extension of Sharon Hightower to the Civil Service Commission for up to one year expiring on or before December 1, 2009.**  
Documents Filed: Memorandum from City Clerk Lee Price dated October 24, 2008 recommending extending the term of Civil Service Commission Member and Vice Chair Sharon Hightower for up to one year, expiring on or before December 1, 2009.

Action: The Committee approved the term extension of Civil Service Commissioner Sharon Hightower.

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

1. **Approve amendment to Ordinance 26710 (Section 17.72.570), entitled: "Storing or maintaining household items."**

Action: This item was dropped at the request of the Vice Mayor.

2. **Adopt resolution encouraging smoke-free multi-unit housing in the City of San Jose.**

Documents Filed: Memorandum from Councilmember Williams and Chu dated October 23, 2008 recommending adoption of resolution to encourage smoke-free multi-unit housing in the City of San Jose.

Public Comments:

The following citizens spoke in support of smoke-free multi-unit housing in the City of San José: Francis Capili (Santa Clara County Public Health Department), Scott Vu (The Health Trust), Hewitt Joyner III (Breathe California), Joshua Howard (Tri-Counties' Apartment Association), Ralph Morales (American Lung Association of California) and Keisha Nzew (American Heart Association).

Action: The Committee requested that Councilmember Williams work with the City Attorney's Office on finalizing the resolution before forwarding it to the City Council for approval.

**3. Amend the Rules and Open Government Committee (ROGC) Workplan to include a review of Study Session Agendas.**

Documents Filed: Memorandum from Mayor Reed dated October 23, 2008 recommending amending the Rules and Open Government Workplan to include review of Study Session Agendas.

Action: The Committee approved to amend the ROGC Workplan.

**4. Recommend to add 1) "Review and discuss the San Jose Police Department's policies for handling individuals who are intoxicated in public", and 2) "Review and discuss statistics and data related to public intoxication arrests" to the November 18, 2008 Council Agenda.**

Documents Filed: Memorandum from Mayor Reed, Councilmember Campos and Nguyen dated October 23, 2008 recommending adding 1) "Review and discuss the San Jose Police Department's policies for handling individuals who are intoxicated in public", and 2) "Review and discuss statistics and data related to public intoxication arrests" to the November 18, 2008 Council Agenda.

Action: The Committee agreed to place this item on the December 2, 2008 Council agenda, to be heard in the evening.

**5. Request additional information regarding Citywide Inclusionary Policy.**

Documents Filed: (1) Memorandum from Councilmember Oliverio and Constant dated October 24, 2008 requesting additional information regarding Citywide Inclusionary policy. (2) Correspondence from Michele Beasley, South Bay Field Representative, Greenbelt Alliance dated October 28, 2008 supporting Citywide inclusionary zoning and the City's process. Greenbelt Alliance views inclusionary zoning as a climate friendly policy. (3) Correspondence from James Zahradka II, Senior Attorney, Law Foundation of Silicon Valley dated October 29, 2008.

Public Comments: Speaking in support of recommendations set forth in the joint memorandum: Pat Dando (San José/Silicon Valley Chamber of Commerce), Richard Zappelli, Kerri Hamilton, Anil Babbar, Ed Rast, Mark Lazzarini, Jennifer Rodriguez (Homebuilders Association).

Speaking in support of the staff process and urging the Committee to move forward: Bonnie Mace (Housing Commission), Chris Block, James Zahradka (Law Foundation of Silicon Valley), Sandy Perry, Roger Lobbes (PACT) and Shaila Ballard (Silicon Valley Leadership Group).

Action: The Committee set a special meeting on Monday, November 10, 2008 at 1:00 p.m. in Council Chambers for Council determination of the following issues: (1) whether the City Council wants to keep the current schedule, which now envisions action at the December 9, 2008 City Council meeting, and (b) whether additional information is needed for the Council to make an informed decision, including, but not limited to, recommendations #1-4 included in an October 24, 2008 Joint Memorandum signed by Councilmembers Constant and Oliverio. The Committee clarified that this action shall not interrupt or interfere with the current work plan in the meantime.

6. **Recommend that the City Council and Agency Board accept the disclosure of property interests by Kerry Adams-Hapner, Deputy Director of Economic Development, and direct that the disclosure be entered into the public minutes of the Agency Board meeting.**

Documents Filed: Memorandum from Patricia Deignan, Chief Deputy General Counsel dated October 20, 2008 recommending that the City Council and Agency Board accept the disclosure of property interests by Kerry Adams-Hapner, Deputy Director of Economic Development, and direct that the disclosure be entered into the public minutes of the Agency Board meeting.

Action: The Committee approved the recommendation to accept the disclosure of property interest and forwarded the matter on to the RDA meeting of November 18, 2008.

- H. **Review of additions to Council Committee Agenda**
  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**

There were none.

- I. **Open Government Initiatives**
  1. **Reed Reforms**
  2. **Sunshine Reform Task Force (SRTF)**
    - Review of SRTF Phase II Report and Recommendations**
      - a. **SRTF Phase II Report and Recommendations.**
      - b. **Staff's Response to Phase II Report and Recommendations of the SRTF.**
      - c. **SRTF Chair's Response to the Staff Report responding to Phase II Report and Recommendations of the SRTF.**
      - d. **Confirm direction and approve Workplan responding to the Rules and Open Government Committee's consideration of the Law Enforcement Records recommendation of the SRTF.**

Documents Filed: (1) Memorandum from Communications Director Tom Manheim dated October 22, 2008 confirm direction and approve Workplan responding to the Rules and Open Government Committee's consideration of the Law Enforcement Records

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recommendation of the SRTF. (2) Correspondence from Bert Robinson, Chair, SRTF Public Records Subcommittee, dated October 27, 2008 regarding Committee members and staff concerns about Police Department disclosure.

Public Comments: The following citizens speaking in support of the SRTF recommendations for Police Records: James Zahradka (Law Foundation of Silicon Valley), Betsy Wolf-Grace and Raj Jayod (DeBug). Deputy District Attorney JoAnne McCracken expressed concerns regarding the disclosure of private, sensitive information.

Action: The Committee approved the workplan outlined in the City Manager's memo with the following additions: 1) Add the 6 bullet points from Bert Robinson's October 27, 2008 memo; 2) Explain what "reverse balancing test" means; and 3) Clarify what would happen to courtesy reports written by other agencies.

**3. Significant Public Records Act Requests**

**4. Council Policy Manual Update**

There were none.

**J. Open Forum**

None were presented.

**K. Adjournment**

The meeting was adjourned at 3:53 p.m.



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Mayor Chuck Reed  
Rules and Open Government Committee