



**REGULAR MEETING OF THE SAN JOSÉ
RULES AND OPEN GOVERNMENT COMMITTEE**

SAN JOSE, CALIFORNIA

WEDNESDAY, July 29, 2009

The Rules and Open Government Committee of the City of San Jose convened in regular session at 2:03 p.m. in Conference Rooms 118 and 119, Council Wing, City Hall.

PRESENT: Mayor Reed, Vice Mayor Chirco, Council Members Pyle and Constant

ABSENT: None.

STAFF: City Attorney Richard Doyle, City Clerk Lee Price, City Manager Debra Figone, Redevelopment Agency Assistant Director Gary Miskimon, Deputy City Manager Deanna Santana, Mayor's Council Agenda Manager Nikhil Warrior and Deputy City Clerk Nora Pimentel.

CITY COUNCIL AGENDA REVIEW

3.1 Review of August 4, 2009 Final City Council Agenda.

Action: The Committee approved the August 4, 2009 final Council Agenda, as amended.

3.2 Review of August 11, 2009 Draft Agenda.

Action: The Committee approved the August 11, 2009 final Council Agenda, as amended.

REDEVELOPMENT AGENCY (RDA) AGENDA REVIEW

4.1 Review of August 4, 2009 Final Agenda.

Action: Cancellation was posted for this meeting.

4.2 Review of August 11, 2009 Draft Agenda.

Action: The Committee approved the August 11, 2009 draft RDA Agenda.

LEGISLATIVE UPDATE

6.1 State

a. Sacramento Update (verbal report). (Manager's Office)

Lobbyist Roxanne Miller provided a brief overview of State Budget revisions.

8. Public Record

Documents Filed: Memorandum from City Clerk Lee Price, dated July 24, 2009, transmitting items for the Public Record for the period of June 10 – July 23, 2009.

Item (a), Letter from Martha O'Connell, was referred to the Office of the City Clerk. Councilmember Constant pulled Items (p) and (v) regarding request to reconsider the Council's June 23rd action relating to Educational Park Branch Library. Discussion followed.

Public Comment: The following spoke in support of reconsideration: Pat Sausedo (SJ/SV Chamber of Commerce), David Gibbons (Barry Swenson Builder), Ira Harris (Barry Swenson Builder).

The following spoke in opposition: Ed Reyes (Ironworkers Local 377), Dennis Meakin (Ironworkers Local 377), Daniel Prince (Ironworkers Local 377), Neil Struthers (Building Trades Council), Jose Garcia (Carpenters Local 405), Danny Garza (Carpenters Local 405) and Rick Solis (Carpenters Local 405).

Bob Brownstein (Working Partnerships) objected to reconsideration unless it is initiated by a member of the prevailing side.

Motion to place reconsideration on the agenda for August 4, 2009 failed by a 2-2 vote.

Action: The Committee agreed to waive the 10-day Sunshine requirement if the Clerk receives a memo submitted by a Councilmember on the prevailing side by Friday, August 31, 2009. The Committee noted and filed the balance of the Public Record.

APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEE

- 9.1 Appoint David Phillip Oster to a term ending June 30, 2012 on the Mobilehome Advisory Commission and Kasey Ong to an unexpired term ending May 31, 2010 on the Youth Commission.**

Documents Filed: Memorandum from Councilmember Chu dated June 18, 2009 forwarding the recommendation.

Action: The Committee approved the appointments of David Phillip Oster and Kasey Ong and forwarded the appointments to the City Council for action on August 4, 2009.

RULES COMMITTEE REVIEWS, RECOMMENDATIONS AND APPROVALS

- 10.1 Place on the August 11, 2009 City Council agenda proposed revisions to the Title 12 as it relates to the Elections Commission and Campaign Finance Regulations.**

Action: Item was dropped.

- 10.2 Accept the City Auditor's report on the American Recovery and Reinvestment Act Preliminary Report on Internal Controls.**

Documents Filed: Memorandum from Sharon Erickson dated June 18, 2009 forwarding the recommendation.

Action: The Committee accepted the Auditor's report.

- 10.3 Approve the City Auditor's Fiscal Year 2009-10 Workplan.**

Documents Filed: Memorandum from Sharon Erickson dated June 18, 2009 forwarding the recommendation.

Public Comment: Patricia Gardner (Silicon Valley Council of Non Profits) spoke in support of New Project #27 (Financial Scan of City-funded Community-Based Organizations).

Action: The Committee approved the Auditor's Workplan.

- 10.4 Approve the Auditor's Office Monthly Report of Activities for June 2009.**

Documents Filed: Memorandum from Sharon Erickson dated July 22, 2009 forwarding the recommendation.

Action: The Committee approved the Auditor's monthly report.

10.5 Accept staff report on Agenda Streamlining measures related to the Council and Committee Agenda Processes.

Documents Filed: Memorandum from Deputy City Manager Deanna Santana and City Clerk Lee Price dated June 15, 2009 forwarding the recommendation.

Action: The Committee accepted staff's report.

REVIEW OF ADDITIONS TO COUNCIL COMMITTEE AGENDAS

11.1 Approve the CED Committee Workplan for the period of August through December 2009.

Documents Filed: Memorandum from Mayor Reed and Councilmember Pyle dated June 17, 2009 forwarding the recommendation.

Action: The Committee approved the CED Committee Workplan.

11.2 Approve the NSE Committee Workplan for the period of August through December 2009.

Documents Filed: Memorandum from Mayor Reed and Councilmember Campos dated June 18, 2009 forwarding the recommendation.

Action: The Committee approved the NSE Committee Workplan.

11.3 Approve the TE Committee Workplan for the period of August through December 2009.

Documents Filed: Memorandum from Mayor Reed and Councilmember Liccardo dated June 18, 2009 forwarding the recommendation.

Action: The Committee approved the TE Committee Workplan.

11.4 Approve the PSFSS Committee Workplan for the period of August through December 2009.

Documents Filed: Memorandum from Mayor Reed and Councilmember Nguyen dated June 19, 2009 forwarding the recommendation.

Action: The Committee approved the PSFSS Committee Workplan, as amended.

11.5 Approve the ROG Committee Workplan for the period of August through December 2009.

Documents Filed: Memorandum from Mayor Reed dated June 18, 2009 forwarding the recommendation.

Action: The Committee approved the ROG Committee Workplan.

OPEN GOVERNMENT INITIATIVES

12.2 Adopt the revised narrow construction of the Balancing Test following the Rules and Open Government Committee's discussion on April 15, 2009

Documents Filed: (1) Memorandum from Communications Director Tom Manheim dated July 16, 2009 replacing the "Balancing Test" memorandum and attachment previously distributed and dated June 18, 2009. (2) Memorandum from Communications Director Tom Manheim dated July 16, 2009 to adopt the revised narrow construction of the Balancing Test following the Rules and Open Government Committee's discussion on April 15, 2009.

Public Comment: Bert Robinson, Sunshine Reform Task Force Member, expressed objections to the staff's alternatives to the Task Force's recommendations. He argued in favor of eliminating the balancing test and added that the "mental process principle" provides a loophole. Bob Brownstein, Sunshine Reform Task Force Member, explained that the Task Force's original proposal regarding City Budgets (6.1.C.2) included a reference to "background budget details" and objected to the language being omitted. The Committee agreed to add the language to the section.

Mayor Reed recommended the addition of a statement of intent to read as follows, "It is the intention of the City of San Jose to narrowly construe the balancing test if it limits the public's right of access."

Action: The Committee approved the staff's recommendation to adopt a revised narrow construction of the "balancing test", as amended.

12.3 Status response to Public Records Act Request by Gay Gale, President of City Association of Management Personnel.

Ms. Gale reported that while she has not gotten all the information, she appreciated follow up by City Attorney's Office, City Clerk, City's Public Records Manager in providing the information. She added she hopes to provide positive input based on the data received.

OPEN FORUM

None.

ADJOURNMENT

The meeting was adjourned at 3:58 p.m.



Mayor Chuck Reed
Rules and Open Government Committee