

**RULES AND OPEN GOVERNMENT COMMITTEE**

Meeting Report  
November 18, 2009

**PRESENT:** Mayor Reed, Vice Mayor Chirco, Councilmembers Constant and Pyle.

**ABSENT:** None.

**STAFF:** City Attorney Richard Doyle, City Clerk Lee Price, Chief Deputy City Manager Ed Shikada, Redevelopment Agency Assistant Director Gary Miskimon, Agenda Services Manager Nadine Nader, Mayor Council Agenda Manager Nikhil Warrior and Legislative Secretary Ruth Krantz.

**A. City Council**

**1. Review November 24, 2009 Final Agenda**

Action: None – Meeting Canceled.

**2. Review December 1, 2009 Draft Agenda**

Action: The Committee approved the December 1, 2009 Draft Agenda, as amended.

**B. Redevelopment Agency (RDA)**

**1. Review November 24, 2009 Final Agenda**

Action: None - Meeting Canceled.

**2. Review December 1, 2009 Draft Agenda**

Action: The Committee canceled the December 1, 2009 RDA meeting.

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

**1. Review December 3, 2009 Special City Council Meeting Agenda.**

Documents Filed: Special City Council Meeting Agenda for December 3, 2009.

Action: The Committee approved the Special City Council Meeting Agenda.

**D. Legislative Update**

**1. State**

None.

**2. Federal**

None.

**E. Meeting Schedules**

- 1. Approve additional Study Sessions for the full City Council to discuss and engage with Stakeholders, ideas for addressing the City's structural deficit and new revenue ideas. (Mayor)**

Documents Filed: Memorandum from Mayor Reed, dated November 12, 2009, recommending additional Study Sessions.

Action: The Committee approved the additional Study Sessions during January and February, 2010.

**F. The Public Record**

Document Filed: Memorandum from City Clerk Lee Price, dated November 13, 2009, transmitting the Public Record for the week of October 30 – November 12, 2009.

Action: The Committee noted and filed the public record.

**G. Appointments to Boards, Commissions and Committees**

- 1. Approve re-appointment of James Smith and Miguel Olivo to the Small Business Development Commission to terms ending December 31, 2010.**

Document Filed: Memorandum from Councilmember Nguyen, dated November 12, 2009, forwarding the recommendation.

Action: The Committee approved the re-appointments.

- 2. Approve Appointment of Ramiro Torres on the Historic Landmarks Commission to an unexpired term ending June 30, 2011.**

Document Filed: Memorandum from Vice Mayor Chirco, dated November 12, 2009, forwarding the recommendation.

Action: The Committee approved the appointment.

- G. 3.** Approve Appointment of on the Early Care and Education Commission for Erica Schaefer to fill an unexpired term ending June 30, 2010; Keith Morales and Kathleen McDavid to fill two unexpired terms ending June 30, 2010.

Document Filed: Memorandum from Vice Mayor Chirco, dated November 12, 2009, forwarding the recommendation.

Action: The Committee approved the appointments.

- 4.** Approve Appointment on the Disability Advisory Commission for Francisco Rodriguez to fill an unexpired term ending June 30, 2012.

Document Filed: Memorandum from Councilmember Pyle, dated November 13, 2009, forwarding the recommendation.

Action: The Committee approved the appointment.

- 5.** Approve re-appointment on the Human Rights Commission for Raj Bains for a three-year term ending December 31, 2012 and approve appointments for Megan Young, Jaime Contreras and Margaret Addeniz to fill three three-year terms ending December 31, 2012.

Document Filed: Memorandum from Councilmember Chu, dated November 6, 2009, forwarding the recommendation.

Action: The Committee approved the appointments.

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

**1. Adopt Ordinance Allowing Cultivation/Medical Use of Cannabis in San Jose.**

City Attorney Richard Doyle provided a brief legal analysis. Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti reported that staff is identifying an engagement strategy and expects to return in January 2010 with a work load assessment.

Public Comments: Speaking in support of an ordinance to allow the cultivation/medical use of cannabis in San Jose, were: Pat Knoop, Daniel Hovland (Americans for Safe Access), Erika Montgomery (San Joe Cannabis Collective), Paul Stewart, George Liu, Michelle Hovey, Tina Morrill, Laurie Matthews, Van Hovey (HPMI Cannabis Collective), Carla Nespole (Holistic Pain Management & Cannabis Collective), Roger Gordillo, and Keith Stephenson (Purple Heart Patient Center).

- H. 1. Councilmember Oliverio spoke in support of his recommendation and urged the Committee to refer the matter to the full City Council for consideration.

Action: The Committee referred the matter to the Administration to prepare a full workload assessment for Committee consideration on January 13, 2010.

- H. 2. **Accept Administration's request to defer the discussion of consideration of an amendment to Sections 4.04.020A.3 (b) (c) and (e) of the San José Municipal Code regarding contract authority to the October 28, 2009 Rules and Open Government committee meeting.**  
**DEFERRED TO DECEMBER 2, 2009 PER ADMINISTRATION.**

3. **Approve addition to the Parks and Recreation Commission Workplan a review of the Los Alamos Creek Trail Community Meeting held on October 28, 2009.**

Documents Filed: Memorandum from Councilmember Pyle, dated November 10, 2009, forwarding the recommendation.

Action: The Committee referred the item to the Parks and Recreation Commission with a request to engage the County of Santa Clara in the discussion.

4. **Approve Council Guidelines for Council Invocations.**

Documents Filed: Memorandum from Mayor Reed dated November 12, 2009, forwarding proposed guidelines.

Councilmember Constant recommended a change to the Guideline #2 (change "15<sup>th</sup> of the month" to "two weeks before (the meeting)").

Action: The Committee recommended the repeal of Council Policy 0-17 (Prayer at Council Meetings) and approved the Guidelines, as amended.

5. **Accept the City Auditor's Report on the "Review of American Recovery and Reinvestment Act First Quarterly Reports".**

Documents Filed: Memorandum from City Auditor Sharon Winslow-Erickson, dated November 12, 2009, forwarding recommendation of the Report.

Action: The Committee accepted the Report.

6. **Approve the Auditor's Office Monthly Report of Activities for October 2009.**

Documents Filed: Memorandum from City Auditor Sharon Winslow-Erickson, dated November 12, 2009, forwarding recommendation of the Report.

Action: The Committee accepted the Report.

- H. 7. **Place on the December 8, 2009 City Council Agenda the proposal to authorize the Chief of Police to halt the issuance of driver permits where identified economic indicators demonstrate a substantial decline in demand for taxicab services and direct the City Attorney to prepare the accompanying ordinance.**

Documents Filed: Joint memorandum from Mayor Reed and Councilmember Liccardo, dated November 13, 2009, forwarding the recommendation.

Public Comments: Speaking in support of the proposal and in favor of the item being returned to the Transportation and Environment Committee for further consideration: Lakhbir Singh Pooni, Julia Miller, Bikram Singh, Mekonnen Inoldecovik, Sherry Sing, Kumlacheu Bizunch and Councilmember Rose Herrera.

Speaking in opposition to the proposal: Farhan Ahmed, Yusuf Ahmed, Shakur Buni and Kebede Kaba.

City Attorney Richard Doyle requested that the 10-day noticing requirement be waived for the draft ordinance to allow for this item to be heard at the December 8, 2009 Council meeting.

Action: The Committee accepted the recommendation, waived the 10-day noticing requirement for the draft ordinance, and forwarded the matter to the full City Council on December 8, 2009. Noes: Constant.

- I. **Review of additions to Council Committee Agendas**
1. **Community and Economic Development (CED) Committee**
  2. **Neighborhood Services and Education Committee**
  3. **Transportation and Environment (TE) Committee**
  4. **Public Safety, Finance and Strategic Support Committee**

- **Approve addition to the PSFSS Workplan on December 17, 2009 entitled FY 2008-09 Audit of the Hayes Mansion.**
- **Approve addition to the PSFSS Workplan on December 17, 2009 entitled FY 2008-09 Auditor of the San Jose Convention Center and Cultural Facilities.**

Documents Filed: Memoranda from Director of Finance Scott P. Johnson, dated November 10 and November 12, 2009, forwarding the recommendations.

Action: The Committee approved the addition to the Public Safety, Finance and Strategic Support Workplan.

**J. Open Government Initiatives**

1. **Reed Reforms**
2. **Sunshine Reform Task Force (SRTF)**
3. **Significant Public Records Act Requests**

(a) Clarification requested by the Administration for certain police records (photos) To be posted on the City's website regarding officer involved shooting on May 10, 2009.

Documents Filed: Joint memorandum from Deputy City Manager Deanna J. Santana and Chief of Police Robert L. Davis, dated November 12, 2009, providing clarification on photographs associated with the officer-involved shooting of Daniel Pham.

Public Comments: George Beattie, Vice President of the San Jose Police Officer's Association, urged that photos of police officers not be disclosed at the risk of jeopardizing their safety. Mark Trout spoke off topic.

Deputy City Manager Deanna J. Santana and Chief of Police Daniel Katz provided updates on the outcome of discussions with the Pham family.

Action: No Action. Mayor Reed recommended that the item be tabled due to the broad nature of the request. He added that the committee could consider any particular request for a photo if and when a request is made. City Manager Debra Figone recommended putting an affirmative statement on the City's Website clarifying the City's position on providing photographs of this nature.

4. **Council Policy Manual Update**

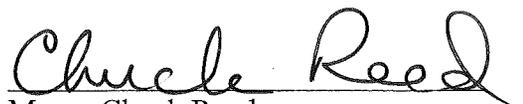
There were none.

**K. Open Forum**

Mark Trout spoke regarding the events of September 11<sup>th</sup>, 2001. David Wall recommended utilizing the City's building inspectors for code inspection rather than cutting positions.

**L. Adjournment**

The meeting adjourned at 4:16 p.m.



Mayor Chuck Reed  
Rules and Open Government Committee