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**RULES AND OPEN GOVERNMENT COMMITTEE**

Meeting Report  
November 4, 2009

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

ABSENT:

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 Deputy City Clerk Nora Pimentel.

Changes to the Order of the Agenda: Mayor Reed announced that the order of agenda would be modified to move Item J.3(a) up on the agenda to be heard following Item E.

**A. City Council**

**1. Review November 10, 2009 Final Agenda**

Documents Filed: (1) Memorandum from City Clerk Lee Price dated October 28, 2009, recommending naming a new park. (2) Memorandum from City Clerk Lee Price, dated October 28, 2009, recommending renaming a senior center.

Action: The Committee approved the November 10, 2009 final agenda, as amended.

**2. Review November 17, 2009 Draft Agenda**

Action: The Committee approved the November 17, 2009 draft agenda, as amended.

**B. Redevelopment Agency (RDA)**

**1. Review November 10, 2009 Final Agenda**

Action: The Committee approved the November 10, 2009 RDA final agenda.

**2. Review November 17, 2009 Draft Agenda**

Action: The Committee canceled the November 17, 2009 RDA meeting.

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

None.

**D. Legislative Update**

**1. State**

None.

**2. Federal**

None.

**E. Meeting Schedules**

None.

**J. Open Government Initiatives**

**3. Significant Public Records Act Requests**

**a. Consideration of Release of 911 Tapes and Police Reports of fatal shooting on May 10, 2009.**

- Approve the Request for Release of the 911 tapes sought by the Mercury News.
- Correspondence from Bert Robinson requesting the Committee to consider the release of the police report.
- Email correspondence from City to Raj Javadev (Silicon Valley De-BUG), et. al. regarding Public Records Request for 911 Tapes, Police Records, and other Records,

Documents Filed: (1) Memorandum from Mayor Reed, dated October 20, 2009, recommending approval of the request for release of the 911 tapes sought by the Mercury News. (2) Correspondence from Bert Robinson, dated October 21, 2009, requesting the Committee to consider the release of the police report. (3) Memorandum from Communications Director Tom Manheim, dated October 30, 2009, regarding the Pham Records Request.

Public Comment: Ross Signorino objected to the release of the 911 tapes and police records. Bert Robinson argued in support of the release of the actual tapes and police reports. Teresa Nguyen (Attorney for the Pham family) requested that the Pham family review the 911 tapes before they are released to the public. Van Le (VACNORCAL), Richard Konda (Asian Law Alliance), and Raj Javadev (Silicon Valley De-BUG) spoke in support of the entire case file, including tapes and reports.

Action: The Committee agreed to the release of the 911 tapes and police reports, redacted as appropriate to protect the privacy of the victims and witnesses; directed the City Clerk to post the audio and reports on the City's website by Friday, November 13, 2009 at noon; directed Staff to work with the County Coroner on the release of the Coroner's Report, subject to appropriate redaction; and, further, to report back in two weeks if there are any delays.

**F. The Public Record**

Document Filed: Memorandum from City Clerk Lee Price, dated October 30, 2009, transmitting the Public Record for the week of October 23-29, 2009.

Action: The Committee noted and filed the public record.

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

There were none.

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

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

Documents Filed: Memorandum from Councilmember Oliverio, dated October 27, 2009, forwarding the recommendation.

Public Comment: The following spoke in support of Councilmember Oliverio's memorandum and in favor of responsible regulations: Pat Knoop, Ron Kirkish, Matt Lucero, James Anthony, Ellen Young, Hector Gonzalez, Evan Megrath, Tina Morrill, Lauren Vazquez, Marnie Regen, Alexander Woon, Daniel Hovland, Erica Taylor Montgomery, Dave Hodges, Sterling Larnerd, Leland Dowden, Roger Jacowitz, Ross Signorino, and Chris Schumb.

Action: The Committee directed staff to do a workload assessment and return to the Committee in two weeks with a status report on the scope of the workload assessment and legal analysis.

**I Review of additions to Council Committee Agendas**

**1. Community and Economic Development (CED) Committee**

- **Return to the CED Committee in November, or at the earliest opportunity thereafter to identify strategies and policy changes to reduce the burdens of city fees on nonprofits, neighborhood organizations, and other sponsors of events.**

Documents Filed: Memorandum from Councilmembers Liccardo and Pyle, dated October 26, 2009, forwarding the recommendation.

The City Manager indicated that this is not a new issue and that staff is already working on this effort.

Public Comment: David Wall shared concerns about the Office of Cultural Affairs.

Action: The Committee approved the addition to the CED Committee December 2009 agenda.

2. **Neighborhood Services and Education Committee - None**
3. **Transportation and Environment (TE) Committee - None**
4. **Public Safety, Finance and Strategic Support Committee - None**

**J. Open Government Initiatives**

1. **Reed Reforms - None**
2. **Sunshine Reform Task Force (SRTF) - None**
3. **Significant Public Records Act Requests**
  - b. **Consideration of Release of Police Records of arrest made on September 3, 2009.**

Documents Filed: Memorandum from Mayor Reed, dated October 26, 2009, forwarding the recommendation.

Public Comment: David Wall objected to the release of police records including the 911 tapes. Richard Konda (Asian Law Alliance) urged the Committee to release the same records released as in the Pham case.

Action: The Committee agreed to have this request return to the Committee once the investigation is complete.

4. **Council Policy Manual Update - None**

**K. Open Forum**

David Wall provided a suggestion for revenue generation for animal care services (trash bill "endowment").

**L. Adjournment**

The meeting adjourned at 3:56 p.m.



Mayor Chuck Reed  
Rules and Open Government Committee