



COUNCIL AGENDA: 8-17-10
ITEM: 2.3(a)

RULES AND OPEN GOVERNMENT COMMITTEE

Meeting Report
July 28, 2010

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

ABSENT: None.

STAFF: City Attorney Richard Doyle, Deputy City Manager Ed Shikada, Assistant City Clerk Dennis Hawkins, Redevelopment Agency Assistant Director Gary Miskimon, Redevelopment Agency Executive Director Harry S. Mavrogenes, Agenda Services Manager Nadine Nader, Mayor's Council Agenda Manager Sara Wright and Deputy City Clerk Ruth Krantz.

A. City Council

1. Review August 3, 2010 Final Agenda

- **Potential November Ballot Measure regarding City/Redevelopment Agency Participation in a Downtown Ballpark Project**

Action: The Mayor modified his request, recommending that the ballpark ballot measure not be placed on the City Council's August 3 Agenda, rather this measure be placed on a special election ballot in the Spring of 2011. The Mayor recommended that a resolution of support for Major League Baseball moving to San José be drafted, and that the City's negotiating principles for the proposed ballpark be modified. The Committee waived the 10-day noticing requirement for the proposed resolution to be provided by the City Attorney's Office and placed the matter on the Agenda for August 3, 2010.

Public Comments: Speaking in support of a measure authorizing the City and Redevelopment Agency to use Redevelopment funds to participate in a downtown ballpark project were Blage Zelalich (Downtown Association), Michel Mulcahy (Baseball San José), and Pat Sausedo (San José/Silicon Valley Chamber of Commerce). Susan Bailey spoke in opposition to the timing of this particular measure. David Wall suggested greater clarification of the timeline for the Redevelopment Agency's involvement in land acquisition for the ballpark.

- **Potential November Ballot Measure regarding Sales Tax Increase and Marijuana Business Tax**

Action: The Committee forwarded both measures to the full City Council for consideration and action on August 3, 2010.

A (1) Cont'd.

Public Comments: Speaking in opposition to a measure authorizing a sales tax increase were Susan Bailey, Jerry Mungai and Pat Sausedo (San José/Silicon Valley Chamber of Commerce).

Public Comments: Speaking in opposition to the Marijuana Business Tax Measure authorizing a 10 percent sales tax were Paul Stewart (MC3), James Anthony (CannBe/MC3), Kim Cue (Americans for Safe Access and the 408 Compassion Center), Dave Hodges (SJCBC), and Susan Bailey.

- **Potential November Ballot Measure regarding an Amendment to, or Repeal of Charter Section 1111 regarding Binding Arbitration**

Action: The Committee waived the 10-day noticing requirement for a memorandum to be provided by the City Attorney's Office and placed the matter on the Agenda for August 3, 2010.

Public Comments: Speaking in opposition to a measure regarding an amendment or repeal of Charter Section 1111 regarding binding arbitration, were Nancy Ostrowski (IFPTE Local 21 for AEA and CAMP), Randy Sekany (SJFF Local 230), Bob Brownstein, Henry Servin (AEA), and George Beatty (SJPOA). Susan Bailey, Jerry Mungai, Larry Pegram and Mike Randolph spoke in support of the measure.

- **Potential November Ballot Measure regarding Modifications to Charter Section 1504 and 1505 regarding minimum benefits and contributions/cost sharing for pensions**

Councilmember Oliverio cited changes to the text of his memorandum of July 19, 2010 in order to allow more flexibility in hiring date options. Councilmember Pyle recommended further exploration of this issue in a follow-up City Council study session.

Action: The measure was placed on the Agenda for August 3, 2010, as amended. The City Attorney's Office was directed to provide legal analysis regarding Sections 1504 and 1505 of the City Charter.

Public Comments: Speaking in opposition to the ballot measure as recommended by Councilmember Oliverio were Randy Sekany (SJFF), Yolanda Cruz (AFSCME MEF), Linda Dittes (AFSCME MEF & CEO), Bob Brownstein, Tom Cochran, Cay Denise MacKenzie (CAMP), Nancy Ostrowski (IFPTE Local 21 for AEA and CAMP), Henry Servin (AEA) and George Beattie (SJPOA). Speaking in support of modifications to pension reform and supporting Councilmember Oliverio's recommendation were Susan Bailey, Jerry Mungai (Almaden Valley Community Association) and Jim Eller (ChamberPAC).

The Committee approved the balance of the August 3, 2010 Final Agenda.

2. Review August 10, 2010 Draft Agenda

Action: The Committee approved the August 10, 2010 Draft Agenda, as amended.

B. Redevelopment Agency (RDA)

1. Review August 3, 2010 Final Agenda

None – Meeting Canceled.

2. Review August 10, 2010 Draft Agenda

Action: The Committee approved the August 10, 2010 Draft Agenda, as amended.

C. Review of Upcoming Study Session Agenda(s)

None.

D. Legislative Update

1. State

None.

2. Federal

- (a) Accept Status Report from the City's Federal advocacy firm of Patton Boggs, LLP, regarding status of Notable Federal Legislation Relevant to Local Government Interests – July Recess 2010.

Documents Filed: (1) Memorandum from Intergovernmental Relations Director Betsy Shotwell dated July 21, 2010 recommending acceptance of the status report. (2) Status report from Patton Boggs, Attorneys at Law, dated July 14, 2010, regarding "Notable Federal Legislation Relevant to Local Government Interests".

Intergovernmental Relations Director Betsy Shotwell offered a verbal report on the status of Notable Federal Legislation relevant to local government interests.

Mayor Reed reported on his participation in the Brookings Institute Forum in Washington D.C. and his meeting with the President of the Export/Import Bank regarding the establishment of a branch in San José.

Councilmember Pyle commented on her meeting with Congress Member Zoe Lofgren regarding bank loans.

Action: The Committee accepted the reports.

E. Meeting Schedules

None.

F. The Public Record

Document Filed: (1) Memorandum from City Clerk Lee Price dated July 23, 2010 transmitting the Public Record for June 18 – July 22, 2010.

Councilmember Constant pulled Item C, a letter from the Senior Citizen's Commission, regarding reducing the frequency of scheduled meetings, and the Assistant City Clerk responded to questions. The matter was referred to the City Clerk.

Councilmember Constant also pulled Items I and P regarding the resignation of two members of the Civil Service Commission. He expressed appreciation to Commissioner Busse for stepping down to make it easier for the City to fill positions on the Commission due to the gender-split requirement of the Charter.

Mayor Reed pulled Item J, a letter from Chairman of the Board, President & CEO of Southwest Airlines Gary Kelly regarding the opening of a new terminal, to comment on a plan for engaging the CEO community and Council to help rebuild passenger traffic at the airport.

Aaron Resendez pulled Item Q, to comment on his letter regarding an incident on May 21, 2010 at City Hall. Sammy Castillo spoke in support of Mr. Resendez and his campaign ethics. District 5 Chief of Staff Ryan Ford spoke in defense of his actions on May 21 at City Hall. City Attorney Richard Doyle advised that Councilmember Campos is the appointing authority and suggested the matter be referred to her for any follow-up action, as appropriate.

Action: The Public Record was noted and filed with Items C and Q referred as noted.

G. Appointments to Boards, Commissions and Committees

1. Approve appointment of Leo Cortez to the Small Business and Development Commission. (Chu)

Document Filed: (1) Memorandum from Councilmember Chu dated July 21, 2010 forwarding recommendation for an appointment to the Small Business and Development Commission.

Action: The Committee approved the appointment to the Small Business and Development Commission and forward it to the City Council for formal action on August 3, 2010.

H. Rules Committee Reviews, Recommendations and Approvals

1. Agendize November 2010 Ballot Items for Council consideration at the City Council Meeting of August 3, 2010.

Document Filed: (1) Memorandum from Mayor Reed dated July 22, 2010 forwarding the recommendation to place five ballot measures on the November ballot. (2) Joint memorandum from Mayor Reed and Councilmembers Liccardo, Herrera and Pyle dated July 23, 2010, recommending placement of a Downtown ballpark project on the November ballot. (3) Joint memorandum from Mayor Reed, Vice Mayor Chirco and Councilmember Herrera dated July 23, 2010 to place a ballot measure on the November ballot to amend the Charter Amendment to Limit the Power of Outside Arbitrators.

Action: See actions as outlined in Item A1

2. Approve preparation of ballot language for a Pension Reform Ballot Measure.

Document Filed: (1) Memorandum from Councilmember Oliverio dated July 19, 2010 recommending a ballot measure be placed on the November 2010 ballot regarding Pension Reform. (2) Letter from Joan R. Gallo, Hopkins & Carley Law Corporation, dated July 27, 2010, offering suggestions from Working Partnership USA regarding the proposed ballot measure.

Action: See actions as outlined in Item A1

3. Approve the Auditor's Office Monthly Report of Activities for April 2010. (Auditor)

Action: Cancelled. Item previously heard during the June 23, 2010 Rules and Open Government Committee Meeting.

4. Response from the Elections Commission to Referral from the City Council about "Pay to Play" Regulations.

Documents Filed: Memorandum from City Clerk Lee Price dated July 19, 2010 providing the Response from the Elections Commission to a Referral from the City Council about "Pay to Play" Regulations.

Senior Deputy City Attorney Lisa Herrick summarized the Response and recommendation by the Election Commission to take no action to implement "Pay to Play" regulations.

H. 4. Response from the Elections Commission to Referral from the City Council about "Pay to Play" Regulations (Cont'd.)

Public Comments: Ben Field (South Bay Labor Council) voiced objections to the Election Commission's recommendation and asserted that there is a policy issue that needs to be addressed. He proposed that regulations are needed to ensure that those bidding for City contracts have no real or perceived influence on Council decisions.

Action: The Committee accepted the Response.

5. Response from the Elections Commission to Referral from the City Council about Voluntary Expenditure Limits.

Documents Filed: Memorandum from City Clerk Lee Price dated July 19, 2010 providing response from the Elections Commission to Referral from the City Council about Voluntary Expenditure Limits.

Senior Deputy City Attorney Lisa Herrick provided a verbal report. Councilmember Constant noted that expenses to communicate with voters (i.e. postage) have increased. He asserted more research is needed on the "purchasing power" of the expenditure limits.

Mayor Reed noted that due to inflation, the limits may be outdated and possibly subject to legal challenge. He suggested an inflation index may be an option to consider.

Action: The Committee referred this item to the City Attorney for further analysis.

6. Approve District 2 Indian Flag Raising and Cultural Show as a City sponsored Special Event, to expend City Funds and Authorization to Accept Donations of Materials and Services for the Event and place item on the August 3, 2010 Council Agenda for action. (Kalra)

Document Filed: (1) Memorandum from Councilmember Kalra dated July 20, 2010 forwarding the recommendation.

Action: The Committee approved Item H6 and forwarded it to the City Council for formal action on August 3, 2010.

- 7. Approve District 2 Start! Walking Day as a City sponsored Special Event, to expend City Funds and Authorization to Accept Donations of Materials and Services for the Event and place item on the August 3, 2010 Council Agenda for action. (Kalra)**

Document Filed: (1) Memorandum from Councilmember Kalra dated July 20, 2010 forwarding the recommendation.

Action: The Committee approved Item H7 and forwarded it to the City Council for formal action on August 3, 2010.

I. Review of additions to Council Committee Agendas

1. Community and Economic Development (CED) Committee

Documents Filed: Memorandum from Mayor Reed and Councilmember Pyle dated July 14, 2010 forwarding the recommendation.

Action: The Committee approved the CED Committee Workplan.

I. Review of additions to Council Committee Agendas (Cont'd.)

2. Transportation and Environment (T&E) Committee

Documents Filed: Memorandum from Mayor Reed and Councilmember Campos dated July 15, 2010 forwarding the recommendation.

Action: The Committee approved the T&E Committee Workplan.

3. Neighborhood Services and Education (NSE) Committee

Documents Filed: Memorandum from Mayor Reed and Councilmember Liccardo dated July 14, 2010 forwarding the recommendation.

Action: The Committee approved the NSE Committee Workplan.

4. Public Safety, Finance and Strategic Support (PSFSS) Committee

Documents Filed: Memorandum from Mayor Reed and Councilmember Nguyen dated July 14, 2010 forwarding the recommendation.

Action: The Committee approved the PSFSS Committee Workplan.

J. Open Government Initiatives

1. Appeals of Public Records Act Requests

There were none.

K. Open Forum

David Wall advised that import/export banks should be mandatory in San José since it is a free trade zone and warned of the environmental hazards of compact fluorescent light bulbs (CFL's). He also suggested that Major League Baseball, including agents, principals, third party vendors or anyone connected with them, be registered in San José as lobbyists.

L. Adjournment

The meeting adjourned at 3:46 p.m.



Mayor Chuck Reed

Rules and Open Government Committee