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**RULES AND OPEN GOVERNMENT COMMITTEE**

Meeting Report  
September 1, 2010

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

**ABSENT:** None

**STAFF:** Assistant City Manager Ed Shikada, Assistant City Attorney Ed Moran, City Clerk Lee Price, Redevelopment Agency Assistant Director Gary Miskimon, Agenda Services Manager Nadine Nader, Mayor's Council Agenda Manager Sara Wright, Staff Technician Tamara Davis.

**A. City Council**

**A. Review Final Agenda for September 7, 2010**

Action: The Regular Council meeting was cancelled. The Council Special Meeting to interview the applicants for the Civil Service Commission was changed to a 2:30 p.m. start time. The Special Meeting agenda was approved, as amended.

**B. Review Draft Agenda for September 14, 2010**

Action: The agenda was approved, as amended, with Item 6.1 "High Speed Rail Project" to be heard last.

**B. Redevelopment Agency (RDA)**

**1. Review September 7,, 2010 Final Agenda**

None-Meeting Cancelled

**2. Review September 14, 2010 Draft Agenda**

None -The Agenda was approved.

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

None.

**D. Legislative Update**

**1. State**

Director of Intergovernmental Relations Betsy Shotwell provided an oral update on pending legislation regarding municipal bankruptcies, disclosures of compensation and performance reviews, and single use bags. In addition, she presented a brief update on the state budget.

**2. Federal**

Document Filed: Memorandum from Patton Boggs, LLP Attorneys at Law to Mayor and Council dated August 20, 2010 regarding Status of Notable Federal Legislation Relevant to Local Government Interest – August Recess 2010.

Betsy Shotwell Director of Intergovernmental Relations provided a brief overview and responded to questions regarding public safety interoperability. Councilmember Constant asked staff to watch this issue.

Public Comment: David Wall voiced concern about City spending on lobbyists.

Action: The Committee accepted the report.

**E. Meeting Schedules**

None.

**F. The Public Record**

Document Filed: Memorandum from City Clerk Lee Price dated August 27, 2010 transmitting the Public Record for the week of August 20, 2010 - August 26, 2010.

Councilmember Constant pulled Item (a), regarding the pending annexation of Cambrian 36 to propose that this annexation may not be the best course of action for the City. He suggested that staff seek input from the City of Campbell. Assistant Director of Planning Laurel Prevetti reported that the matter is set for public hearing on the evening of October 5, and noted that the staff report will outline policy options for Council consideration and public engagement.

Public Comments: Mike Krisman expressed concern regarding proper community notice, pre-zoning and services to the area. He asserted that the October 5, 2010 meeting date is premature.

Action: The Public Record was noted and filed.

**G. Boards, Commissions and Committees**

1. Appointments

Documents Filed: (1) Memorandum from City Clerk Lee Price dated August 27, 2010 forwarding the recommendation to ratify the process for the selection of nominees for Council appointment of the Fire Retiree Representative to the Board of Administration of the Police and Fire Department Retirement Plan. (2) Email from Jay Wending, President of the Police and Fire Retiree Association, dated September 1, 2010 regarding the nomination process.

Assistant City Clerk Dennis Hawkins clarified the nomination process and verified that only Fire Department retirees have the right to nominate the Fire Retiree Representative.

Action: The Committee ratified the process and forwarded the matter to the City Council for formal action on September 14, 2010.

2. Workplans

3. Annual Reports

None.

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

**1. Workload Assessments for Council Requests and Referrals**

**(a) Approve the Retirement Reform Work Plan**

**2. Updated Membership of the General Fund Structural Deficit Elimination Plan Stakeholder Group.**

Documents Filed: (1) Memorandum from City Manager Debra Figone dated August 27, 2010 outlining the Retirement Reform Work Plan. (2) Memorandum from Mayor Reed and Councilmember Constant dated August 27, 2010 recommending an update to the Membership of the General Fund Structural Deficit Elimination Plan Stakeholder Group.

Items H1(a) and H2 were heard concurrently

City Manager Debra Figone provided an overview of the work plan.

Public Comments: George Beattie, (President of the Police Officers Association), commented that retirement reform is an issue that needs to be thoroughly investigated and vetted out. He suggested staff conduct a nationwide search of best practices in retirement systems.

Pat Dando, (Executive Director of the San Jose/Silicon Valley Chamber of Commerce) suggested that Task Force consider what's happening nationally, examine best practices in the private sector, and find a way out of deficit spending without layoffs and cuts to services.

Bob Brownstein, (Working Partnerships USA), expressed support for the work plan, but pointed out that November 18 may be too soon for a Council decision.

Ed Rast suggested that the Task Force take a look at total compensation and how it compares to other cities. He also asked that information be made available to the Task Force as soon as possible so that Task Force members are adequately prepared.

David Wall voiced objections to a two-tier retirement system.

Action: The Committee approved the Work Plan and the updated membership of the General Fund Structural Deficit Elimination Plan Stakeholder Group. Both matters were forwarded to the City Council for formal action on September 14, 2010.

**H1(b) Approve the Workload Assessment for the Proposed Ordinance Prohibiting Smoking in Outdoor and Common Areas.**

Documents Filed: (1) Memorandum from Assistant City Manager Ed Shikada dated August 26, 2010 forwarding the Workload Assessment for a Proposed Ordinance Prohibiting Smoking in Outdoor and Common Areas. (2) Joint memorandum from Councilmembers Kalra and Campos dated June 9, 2010.

Assistant City Manager Ed Shikada and Assistant Director of PBCE Mike Hannon provided the staff report and recommendation to approve alternative #C, as outlined in the memo.

Public Comments: Janie Burkhart (Santa Clara County Public Health Department) stated that the County is interested in partnering with the City, but isn't authorized to set policy for cities; and therefore won't act as the lead agency on this issue. She reported that the City is eligible for grant funding and explained more information is coming out via the Cities Association and letters to all City managers about the funding opportunity. She offered a variety of other resources available through the County.

Dr. Roger Kennedy (Chair of the Tobacco Free Coalition of Santa Clara County) urged a countywide approach and offered assistance.

Dennis Acha reported survey results of San Jose restaurants reveal that 83 percent would not oppose smoking restrictions in outdoor eating areas. He also expressed concern about second-hand smoke in Multi-residential units.

Joshua Howard (California Apartment Association) suggested that there might be a way to bifurcate this issue to ensure balance between rights of rental property owners and tenants, versus the burden on businesses by dealing with restaurants and multi-family residential units separately.

Sara Muller (Director of Health Policies and Community Development at Working Partnerships USA) urged support for the proposal and immediate action to take advantage of the grant funding opportunity.

Carol Baker urged the Committee to support the policy and commented on the dangers of secondhand smoke.

Committee discussion ensued. Councilmember Kalra urged the Committee to support the drafting of a City ordinance and to take advantage of assistance offered.

Action: The Committee agreed to hold this proposal at this time and reconsider prioritization as part of the Spring 2011 Council committee Workplans or the 2011-12 Proposed Budget.

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

1. Community and Economic Development Committee
  2. Transportation and Environment Committee
  3. Neighborhood Services and Education Committee
  4. Public Safety, Finance and Strategic Support Committee
  5. Rules and Open Government Committee
- None.

**I. Open Government**

1. Appeals of Public Records Act Requests
- None.

**K. Open Forum**

David Wall suggested that the City consider the use of water trucks during emergency situations and argued for public disclosure of the names and selection process for members of the Police Chief Recruitment Review Panel.

**L. Adjournment**

The meeting was adjourned at 3:38 p.m.



Mayor Chuck Reed  
Rules and Open Government Committee