

**RULES AND OPEN GOVERNMENT COMMITTEE**  
Meeting Report  
September 15, 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, and Staff Technician Tamara Davis.

**A. City Council**

**A. Review Final Agenda for September 21, 2010**

Action: The Committee approved the final agenda for September 21, 2010, as amended, and waived the 10-day noticing requirement for the Agreement with San José Convention Center and Visitors Bureau (Item 4.2) and Agreement for the Former FMC Property Located at 1125 Coleman Ave. (Item 4.3)

**B. Review Draft Agenda for September 28, 2010**

Action: The Committee approved the draft agenda for September 28, 2010.

**B. Redevelopment Agency (RDA)**

**1. Review September 21, 2010 Final Agenda**

Action: The meeting was cancelled.

**2. Review September 28, 2010 Draft Agenda**

Action: The Committee approved the draft for September 28, 2010.

**C. Review of Upcoming Study Session Agenda(s)**  
None.

**D. Legislative Update**

1. State
  2. Federal
- None.

**E. Meeting Schedules**

Document filed: Memorandum from the City Manager's Office to Rules and Open Government Committee dated September 9, 2010 requesting (a) Approval of the revised study session schedule for September-December 2010, with set topics for each session included; and (b) Approval of a request to cancel the November 18, 2010 Public Safety, Finance and Strategic Support (PSFSS) Committee meeting.

Councilmember Constant objected to cancelling the PSFSS Committee meeting because there are many agenda items pending.

Action: The Committee approved the request, as amended, with direction to staff to reschedule the November 18, 2010 PSFSS Committee meeting.

**F. The Public Record**

Document Filed: Memorandum from City Clerk Lee Price dated September 10, 2010 transmitting the Public Record for the week of September 3, 2010 to September 9, 2010.

Action: The Public Record was noted and filed.

**G. Boards, Commissions and Committees**

1. Appointments
  2. Workplans
  3. Annual Reports
- None.

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

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

2. (a) **Direct the City Manager to terminate her internal investigation into Fire Department Deputy Director Geoff Cady's oral presentation entitled, "Resource Planning and Development/San José Fire Department."; and authorize an immediate independent investigation to determine the accuracy of Mr. Cady's statements in regard to specific decreases to emergency response times, the ability of SJFD to contain fires to their room of origin, and other statements made during his presentation.**
- (b) **Memo from City Manager Debra Figone to the Rules and Open Government Committee dated September 10, 2010 regarding the Fire Department Investigation request.**

Documents Filed: (1) Memorandum from Councilmembers Kalra and Campos to Rules and Open Government Committee dated September 9, 2010 directing the City Manager to terminate her internal investigation into the Fire Department Deputy Director Geoff Cady's oral presentation entitled, "Resources Planning and Development/San Jose Fire Department" given at the Navigator 2010 Conference; (2) Memorandum from City Manager Figone to Rules and Open Government Committee dated September 10, 2010 acknowledging receipt of Councilmembers Kalra and Campos' request for an independent review of the various issues arising from a presentation made at the Navigator 2010 Conference; and (3) Supplemental provided by Deputy City Manager Santana and prepared by Fire Chief William McDonald dated September 13, 2010 transmitting the August 2010 San Jose Fire Department Operational Performance.

Items H2(a) and H2(b) were heard concurrently.

City Manager Debra Figone provided an in depth oral report and presented several video clips of previous budget study sessions (May 2009 & May 2010) at which time Dynamic Deployment was discussed by the City Council.

Deputy City Manager Deanna Santana provided an overview of the staff report and related attachments. Fire Chief William McDonald responded to questions from the Mayor regarding response time performance of Dynamic Deployment during the first month following implementation.

District 2 Chief of Staff Joseph Okpaku (on behalf of Councilmember Kalra) indicated that the request for an independent evaluation was not an indictment or an assessment of the City Manager, but rather a request to reaffirm the City's commitment to Open Government.

Public Comments: Representatives of the San José Firefighters Local 230; George Palma, Christopher Murphy, Jeff Welch, Joel Thelan and José Guerro spoke in favor of Councilmembers' Kalra and Campos joint memorandum calling for an independent investigation. Reasons stated included concerns that the City did not

disclose detailed information about the impacts of implementing Dynamic Deployment.

David Wall voiced disapproval of what he believes to be a character attack on the City Manager. He stated that the City's main responsibility is to protect City residents and suggested that the City hire back the 49 laid off firefighters.

Action: The Committee denied the request for an independent investigation.

3. **Approve the Designation of the Youth Job Fair as a City Council Sponsored Special Event; Approve and accept donations of materials and services for the event; and place the item on the September 21, 2010 Council agenda for action.**

Documents Filed: Memorandum from City Clerk Lee Price to the Rules and Open Government Committee dated September 7, 2010 requesting approval to designate the Youth Job Fair as a City Council Sponsored Special Event and related actions. Approval of the acceptance.

Action: The Committee approved the request and forwarded the matter to the City Council for formal action on September 21, 2010.

**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.

**J. Open Government**

1. Appeals of Public Records Act Requests
  - (a) **Consider an Appeal to Rules and Open Government Committee – Civil Suit from Cary-Andrew Crittenden regarding the denial of information related to the Police Chief Recruitment.**

Documents Filed: (1) Email from Assistant City Clerk Dennis Hawkins to Public Records Manager Tom Norris dated September 10, 2010 regarding the Appeal to Rules and Open Government Committee; and (2) Addendum from City Clerk Lee Price to Rules and Open Government Committee dated September 10, 2010 regarding Appeal to the Rules and Open Government Committee – Civil Suit from Mr. Cary-Andrew Crittenden.

Public Records Manager Tom Norris provided the staff report and confirmed that there are currently no formal applicants for Police Chief. Senior Deputy City Attorney Lisa Herrick responded to questions regarding the legal authority for withholding certain

information under the deliberative process. She added that applicants should not be subject to scrutiny if they are not appointed.

Public Comments: Cary-Andrew Crittenden suggested that making the Police Chief recruitment more open would provide more faith in the process.

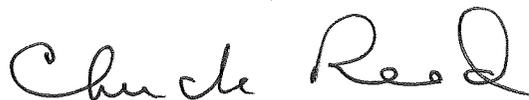
Action: The Committee denied the appeal.

**K. Open Forum**

David Wall recognized the City Manager for her service to the City, suggested the garbage bill be expanded to allow donations to other City Services, in addition to the Healthy Neighborhoods Venture Fund, and proposed that the City do away with speaker cards.

**L. Adjournment**

The meeting was adjourned at 3:30 p.m.



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Mayor Chuck Reed  
Rules and Open Government Committee