

**RULES AND OPEN GOVERNMENT COMMITTEE**

Meeting Report  
September 8, 2010

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

**ABSENT:** City Clerk Lee Price

**STAFF:** Assistant City Manager Ed Shikada, Assistant City Attorney Ed Moran, Assistant City Dennis Hawkins, 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 14, 2010**

Action: The agenda was approved, as amended.

**B. Review Draft Agenda for September 21, 2010**

Action: The agenda was approved, as amended.

**B. Redevelopment Agency (RDA)**

**1. Review September 14, 2010 Final Agenda**

Action: The agenda was approved, as amended.

**2. Review September 21, 2010 Draft Agenda**

None.

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

None.

**D. Legislative Update**

**1. State**

Mayor Reed provided an update on efforts to ensure San José has representation on the Metropolitan Transportation Commission.

**2. Federal**

None.

**E. Meeting Schedules**

Document filed: (1) Memorandum from Joseph Horwedel to the Rules and Open Government Committee dated September 1, 2010 requesting an evening meeting on Wednesday, October 5, 2010. (2) Memorandum from Councilmember Pyle to the Rules and Open Government Committee dated September 1, 2010 requesting the rescheduling of the November Community and Economic Development Committee meeting from November 22, 2010 to November 29, 2010.

Action: The Committee approved the addition of an evening on October 5, 2010 and agreed to reschedule the November Community and Economic Committee meeting from November 22, 2010 to November 29, 2010. (Note: This meeting date was later changed to November 22, 2010).

**F. The Public Record**

Document Filed: Memorandum from City Clerk Lee Price dated September 3, 2010 transmitting the Public Record for the week of August 27, 2010 - September 2, 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. Direct the City Auditor and City Manager to expand the scope of the Team San José audits.**

Documents Filed: (1) Memorandum from Councilmember Licarrdo dated August 23, 2010 recommending that the City Manager and the City Auditor expand the scope of the Team San José audit.

City Auditor Sharon Erickson indicated a willingness to expand the audit but noted some concerns regarding timing. To date Councilmember Licarrdo suggested a bifurcated approach where those items that are already time-sensitive are worked on sooner and matters less time-sensitive done later. City Manager Debra Figone added that staff will provide an update to the Council on October 5<sup>th</sup>, 2010 as part of the response to Civil Grand Jury.

Public Comments: David Wall suggested that Team San José reimburse the City for the cost of the audit and attorney fees.

Action: The motion to expand the scope of the Team San José Audit was approved.

- 3. Direct the City Manager and City Attorney where possible to clarify and memorialize in City policy any change in implementation of ordinance revisions relating to business development, including permits, legal non-conforming uses, hotels, and parking incentives.**

Documents Filed: Memorandum from Councilmembers Licarrdo, Herrera and Madison dated September 2, 2010 directing the City Manager and City Attorney to clarify and memorialize in City policy any changes in implementation of ordinances.

Assistant Director of Planning, Building and Code Enforcement (PBCE) Laurel Prevetti provided staff's response to the recommendations outlined in the joint memorandum. She noted that some suggestions to improve communications can be handled internally, explained that further evaluation is needed, and a workload assessment's required. Ms. Prevetti recommended that the matter be referred to the Community and Economic Development Committee and that staff be provided an opportunity to organize all the ideas into a cohesive work plan for process improvements in Development Services. Committee discussion ensued.

Public Comments: David Wall suggested that the City look into the matter of sale of alcohol after hours in downtown areas. He also recommended that the City adjust the cost of business licenses to reflect City responses to public nuisances.

Action: The Committee referred the recommendations outlined in the joint memorandum to the Community and Economic Development Committee.

- 4. Approve the City Auditor's Office Monthly Report of Activities for August 2010.**

Documents Filed: Memorandum from the City Auditor Sharon Erickson to the Rules and Open Government Committee dated September 3, 2010 reporting the City Auditor's Monthly Activities Report for August 2010.

Action: The Committee approved the report.

- 5. Approve District 2 Resource Fair as a City Sponsored Special Event; Approve and accept donations from various individuals, businesses, or community groups to support the event; and place item on the September 14, 2010 Council agenda for action.**
- 6. Approve District 2 Community Fest as a City Sponsored Special Event; Approve and accept donations from various individuals, businesses, or community groups to support event; and place the item on the September 14, 2010 Council agenda for action.**

Items H5 & H6 were heard concurrently

Documents Filed: (1) Memorandum from the City Clerk Lee Price to the Rules and Open Government Committee dated August 27, 2010 requesting approval of District 2 Job Resource Fair as a City Sponsored Special Event; Approve and accept donations from various individuals, businesses, or community groups to support the event; and place item on the September 14, 2010 Council agenda for action; and (2) Memorandum from City Clerk Lee Price to the Rules and Open Government Committee requesting Approval of District 2 Community Fest as a City Sponsored Special Event; Approve and accept donations from various individuals, businesses, or community groups to support event; and place the item on the September 14, 2010 Council agenda for action.

Action: The Committee approved both requests and forwarded the items to the Council for formal approval on September 14, 2010.

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

1. Community and Economic Development Committee
  2. Transportation and Environment Committee
  4. Neighborhood Services and Education Committee
  5. 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 from Nicholas Todd Shackelford for Police records and 9-1-1 recordings of an incident on August 2, 2010 (See Requested dated September 1, 2010 for details).**

Documents Filed: (1) Letter from Nicholas Shackelford to the San José Police Department requesting Police Department Records related to a 9-1-1 call on August 2, 2010; and (2) Letter from Sgt. Fred Miller to Nicholas Shackelford dated August 25, 2010 regarding Public Records Act Request for Police Records.

City Attorney Lisa Herrick advised that the 9-1-1 tape is a record exempt under the Public Record Act; the San José Police Department has, however provided Mr. Shackelford with a summary of the call and CAD data. Deputy Chief of Police Ngo and Sgt. Fred Mills responded to questions. Committee discussion followed.

Action: The Committee denied the appeal.

**(b) Consider an Appeal by John E. Colby, PhD for records of communications between San José Police Department and other governmental agencies about a specific individual (See request dated August 31, 2010 for details.).**

Documents Filed: (1) Email from John E. Colby, PhD to Mayor Reed and Council dated August 31, 2010 regarding Request Appeals process for California Public Records Act (CPRA) submitted to the SJPD; (2) Supplemental from SJPD; (3) Supplemental from Appellant

City Attorney Lisa Herrick reported that the SJPD has no further records to provide beyond what has already been provided. She suggested that this item would be more properly addressed with the District Attorney's Office. Committee discussion followed.

Action: The Committee denied the request.

**K. Open Forum**

David Wall discussed owls and suggested that the City Manager put forth a plan to cut government and fund the 49 firefighters who were laid off.

**L. Adjournment**

The meeting was adjourned at 3:06 p.m.

  
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Mayor Chuck Reed  
Rules and Open Government Committee