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**RULES AND OPEN GOVERNMENT COMMITTEE**

Meeting Report  
December 8, 2010

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

ABSENT: None

STAFF: Assistant City Manager Ed Shikada, City Attorney Rick Doyle, Deputy City Manager Deanna Santana, Redevelopment Agency Deputy Executive Director Janet Kern, Redevelopment Agency Assistant Director Gary Miskimon, Agenda Services Manager Nadine Nader, Mayor's Council Agenda Manager Sara Wright, City Clerk Administrative Manager Mark Gerhardt and City Clerk Staff Technician Tamara Davis.

**A. City Council**

**1. Review Final Agenda for December 14, 2010**

Action: The Committee approved the final agenda, as amended, and waived the 10-day noticing requirement for Item 3.3 (Actions related to a Regional Public Safety Interoperable Broadband System), Item 4.1 (Licensing and Regulating Tobacco Retail Establishments) and Item 4.5 (Rezoning real property located at the southwest corner of East Brokaw Rd. and Old Oakland Rd.)

**2. Review of Draft Agenda for December 21, 2010**

None. Meeting cancelled.

**B. Redevelopment Agency (RDA)**

**1. Review Final Agenda for December 14, 2010**

Action: The Committee approved the final agenda, as amended, and waived the 10-day noticing requirement for Item 6.1 (Approval to increase the construction contingency for the Civic Auditorium Phase 2 Project by reallocating funds.)

**2. Review Draft Agenda for December 21, 2010**

None. Meeting cancelled.

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

None.

**D. Legislative Update**

1. **State**
2. **Federal**  
None.

**E. Meeting Schedules**

1. **Approve Special Meeting Agenda for December 16, 2010 at 8:30 a.m. in the Committee Rooms W118-120.**

Document Filed: Special City Council Agenda for December 16, 2010 meeting.

Action: The Committee approved the agenda for the Special Meeting for the purpose of conducting interviews of applicants for the City's two Retirement Boards.

**F. The Public Record**

Document Filed: Memorandum from City Clerk Lee Price dated December 3, 2010 transmitting the Public Record for the week of November 24 – December 2, 2010.

Public Comment: David Wall pulled his letter, Item (e), to provide additional comments.

Action: The Public Record was noted and filed.

**G. Boards, Commissions and Committees**

1. **Appointments**
  - a. **Approve Mayor Reed's recommendation to appoint Bruce Pinsky and Kris McFarland to be re-appointed to San José Arena Authority Board.**

Documents Filed: (1) Memorandum from Mayor Reed dated November 30, 2010 regarding San José Arena Authority Board.

Action: The Committee approved the appointments as recommended by the Mayor and forwarded them to the City Council for formal action on December 14, 2010.

2. **Workplans**
3. **Annual Reports**  
None.

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

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

- a. Accept the Workload Assessment Report from the City Attorney and provide direction to the City Manager and City Attorney regarding the drafting of a Social Host Ordinance.**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle dated December 3, 2010 regarding the Social Host Ordinance Workload Assessment and (2) Letter from Voices United to Councilmember Pyle regarding a grant awarded to Voices United from Santa Clara County Department of Alcohol and Drug Services (DADS).

City Attorney Rick Doyle provided an overview of the Workload Assessment and a recap of the issues and competing priorities. Mayor Reed voiced concerns regarding staff and resource limitations and mentioned that the City Council would consider workload priorities on February 14, 2011 as part of the budget process.

Councilmember Pyle recommended considering the County's social host ordinance as a model and suggested staff work with Voices United and the Youth Commission to conduct public outreach. Councilmember Constant suggested looking at the State's social host ordinance as well.

Public Comments: Gabriella Antolovich (Voices United) informed the Committee of a grant from DADS, which would provide funding for community outreach. Edesa Bitbadal, Bobby Lorilla, Jacquelyn Nguyen, and Patti Young spoke in favor of the adoption of a social host ordinance and in support of community education and outreach about the dangers with underage drinking. David Wall proposed proactive enforcement and punitive measures.

Action: The Committee accepted the Workload Assessment and provided feedback to staff in furtherance of continued work on this matter.

- 2. Direct staff to apply for funds related to Second-hand Smoke from the Santa Clara County Public Health Department; to amend the workload assessment dated August 26, 2010 to include other resources being offered by the Santa Clara County Public Health Department and other agencies; and to explore additional funding and resource opportunities.**

Documents Filed: (1) Memorandum from Councilmembers Kalra, Liccardo, and Vice Mayor Chirco dated December 2, 2010 recommending that staff apply for funds from the Santa Clara County Public Health Department and prepare a draft ordinance amending the San Jose Municipal Code to prohibit smoking in public service lines and in enclosed common areas of multi-

family residential properties; and (2) Second-hand Smoke Seven-Day Analysis prepared/submitted by Dr. Roger Kennedy.

Councilmember Kalra spoke to the merits of the joint Council memorandum and advocated in favor of the City of San Jose taking the lead on this issue.

Public Comments: Speaking in support of the joint Council memorandum and in favor of the adoption of an ordinance limiting smoking in certain outdoor areas: David Wall, Joshua Howard (California Apartment Association), Emily Lam (Silicon Valley Leadership Group), Sara Miller (Working Partnership USA), Diane Lewandowski and Mary Keenan (American Cancer Society), Neil Klepeis, Yuka Masada, Roger Kennedy (Tobacco Free Coalition of Santa Clara County), Hewitt Joyner and Dennis Acha (Breathe California), carol Baker (Tobacco Free Coalition), Delois Turner and Janie Burkhart (Santa Clara County), Dr. Roger Kennedy and Yuka Masada.

Janie Burkhart, Santa Clara County Public Health Department, responded to questions from the Committee regarding grant funding and other resources (including staffing) available to the City of San Jose.

Committee discussion ensued. Vice Mayor Chirco spoke in favor of moving forward with this matter and utilizing the resources available to the City. Councilmember Constant objected to taking any action on this matter until the Council considers and prioritizes workload priorities/pending ordinances on February 14, 2011.

Action: The Committee forwarded the matter to the Neighborhood Services and Education Committee to add to their Workplan, agreed to evaluate the ordinance as part of the priority setting in February of 2011 and requested the Mayor to write a letter to the County Board of Supervisors urging them to reconsider their funding allocations. Councilmember Constant voted in opposition to the motion.

- 3. Accept the 2011 Legislative Guiding Principles, as edited by the Council Committees, and the Legislative Priorities and Advocacy Issues for the first year of the two-year Legislative Session in Sacramento and the 112<sup>th</sup> Congress, and forward to the City Council for formal action on December 14, 2010.**

Documents Filed: Memorandum from Betsy Shotwell dated December 2, 2010 regarding the 2011 Legislative Guiding Principles, Priorities and Advocacy Issues.

Action: The Committee accepted the memorandum and forwarded the Guiding Principles to the City Council for formal action on December 14, 2010.

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

Documents Filed: Memorandum from City Auditor Sharon Erickson dated December 2, 2010 regarding the Monthly Report of Activities for November 2010.

City Auditor Sharon Erickson provided a brief overview of the report.

Public Comments: David Wall suggested giving the Auditor's Office employees a bonus.

Action: The Committee accepted the Report.

**5. Approve the Challenge Day National Conference as a City sponsored special event to expend City funds and accept donations of materials and services for the event and forward to City Council for formal action on December 14, 2010.**

Documents Filed: Memorandum from City Clerk Lee Price dated November 30, 2010 regarding Challenge Day National Conference.

Action: The Committee approved the Challenge Day National Conference and forwarded the matter to the City Council for formal action on December 14, 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.

**H. Open Government**

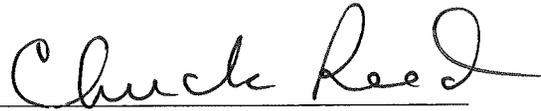
1. Appeals of Public Records Act Requests
- None.

**K. Open Forum**

David Wall praised Vice Mayor Chirco for her service to the City.

**L. Adjournment**

The meeting was adjourned at 3:46 p.m.

A handwritten signature in cursive script that reads "Chuck Reed". The signature is written in black ink and is positioned above a horizontal line.

Mayor Chuck Reed  
Rules and Open Government Committee