

**RULES AND OPEN GOVERNMENT COMMITTEE**

Meeting Report  
April 27, 2011

PRESENT: Mayor Reed, Vice-Mayor Nguyen and Councilmembers Constant and Oliverio

ABSENT: NA

STAFF: Assistant City Manager Ed Shikada, City Attorney Richard Doyle, City Clerk Dennis Hawkins, Redevelopment Agency Assistant Director Gary Miskimon, CMO Agenda Services Manager Nadine Nader, Mayor's Council Agenda Manager Sara Wright and Deputy City Clerk Tamara Davis

**A. City Council**

**1. Review Final Agenda for May 3, 2011**

Action: The Committee approved the final agenda, as amended and with 10-day Sunshine Waivers for Item 2.x (Setting Public Meetings for Proposed increase to Downtown BID Assessments for Fiscal Year 2011-2012) and Item 4.2 (Review of North San Jose Residential Activity and Consideration of Potential Changes to Reservation and Allocation Process)

**2. Review of Draft Agenda for May 10, 2011**

Action: The Committee approved the draft agenda.

**B. Redevelopment Agency (RDA)**

**1. Review Final Agenda for May 3, 2011**

Action: – the Committee cancelled the meeting.

**2. Review Draft Agenda for May 10, 2011**

Action: The Committee approved the draft agenda.

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

**D. Legislative Update**

**1. State**

Director of Intergovernmental Relations Betsy Shotwell reported that State personal income tax collected was \$6 billion higher than the Governor's Finance Office had estimated. Corporate taxes were down by about \$600 million. The State Controller's office will finalize the numbers around May 10. She also reported that the Governor will issue his May Budget Revise on Monday, May 16.

**2. Federal - None**

**E. Meeting Schedules - None**

**F. The Public Record**

Document Filed: Memorandum from City Clerk Dennis Hawkins dated April 22, 2011 transmitting the Public Record for the week of April 15-21, 2011.

Martha O'Connell pulled her letter Item (l) and discussed revisions to Title 9 to allow mobilehome residents to share their garbage and recycle carts on a voluntary basis and advocated for the reduction in garbage and recycling fees for Mobilehome residents.

David Wall pulled Items (c), (n), and (o) and made comments regarding his displeasure over budget cuts to the City Attorney's Office; advanced water treatment and potable water; and reducing specialized city communications staff to fund firefighters and police officers.

Action: The Public Record was noted and filed.

**G. Boards, Commissions and Committees**

1. Appointments
2. Workplans
  - a. **Approve the Elections Commission Workplan for FY 2010-11 and 2011-12.**

Document Filed: Memorandum from City Clerk Dennis Hawkins to the Rules and Open Government Committee dated April 22, 2011 regarding the Elections Commission FY 2010-11 and 2011-12 Workplan.

City Clerk Dennis Hawkins informed the Committee that the Instant Runoff Voting issue is being dropped from the workplan.

Action: The Committee approved the Elections Commission Workplan for FY 2010-11 and 2011-12.

3. Annual Reports  
None.

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

1. Workload Assessment for Council Requests and Referrals  
None.

2. **Approve staff to apply the Re-Use Policy to Bascom Community Center and or incorporate the unique services clause if appropriate. (Deferred from 4/20/11) (Councilmembers Oliverio/Constant)**

Documents Filed: Memorandum from Councilmembers Oliverio and Constant to the Rules and Open Government Committee dated April 13, 2011 regarding Applying the Re-Use Policy to the Bascom Community Center.

Councilmember Oliverio elaborated on his memo and discussed the opportunity of using the unique service clause for closed City facilities and making them available to third parties to provide services to community residents.

The Committee discussed private use restrictions and project financing through general obligation tax exempt bonds.

Parks, Recreation, and Neighborhood Services department staff indicated that they would be presenting this along with other reuse facilities during the CSA budget study session.

Public Comments: Michael LaRocca expressed support for the memorandum as it would help the City open a facility for the youth and community to use.

David Wall expressed support for the memo and suggested that the City turn this into a profitable venture that funds other community centers.

Action: The Committee directed staff to prepare an MBA and provide recommendations and have the City Attorney's office review issues of private use restrictions related to the tax-exempt bond financing of the project.

3. **Response to Referral from the Rules and Open Government Committee about Instant Runoff Voting (City Attorney/City Clerk)**

Documents Filed: Memorandum from City Attorney Richard Doyle to the Rules and Open Government Committee dated April 22, 2011 regarding the Instant Runoff Voting.

Senior Deputy City Attorney, Lisa Herrick, provided the Committee with an update about Instant Runoff Voting (IRV) also known as "Ranked Choice Voting (RCV)." The City Attorney's Office presented the Elections Commission with information about campaign finance reform and requested they review and comment. The Elections Commission discussed IRV, heard extensive testimony from proponents and opponents and collected many documents about IRV. The Commission was unable to come to consensus on the issue of IRV and issued a memo to the Rules Committee on May 20, 2010, indicating its recommendations.

The Rules Committee, based on the Elections Commission memo, made the following referrals to staff:

1. Determine which jurisdictions have enacted and then repealed IRV and why;
2. Work with County of Santa Clara Registrar of Voters to determine:
  - a. How IRV-capable voting machines can be certified by the State;
  - b. Determine cost associated with certification;
3. Report on the outcome of IRV elections scheduled for November 2010.

It was determined that Santa Clara County's voting equipment is not currently federally certified for use in IRV/RCV election; that once federally certified, the equipment would need to be certified by the California Secretary of State with the costs of certification passed onto local jurisdictions; and that the costs for voter education and outreach implementing any change of voting systems for San Jose would significantly exceed the \$1.04 million expended by Alameda County and the cities of Oakland, Berkeley, and San Leandro for the November 2010 elections.

Vice-Mayor Nguyen indicated that IRV/RCV has both advantages and disadvantages; that she is concerned about the costs to implement IRV/RCV, which could increase the City's deficit; and that voting should be simple and IRV/RCV has been confusing to many voters. Therefore, she suggested the City take no further action on the issue.

Public Comments: David Wall expressed his thoughts about IRV.

Action: The Committee decided not to take any further action related to Instant Runoff Voting.

4. **Approve the Celebrate Cambrian Festival as a City Sponsored Special Event, to Expend City Funds and Accept Donations of Materials and Services for the Event; Forward to Council for formal action on May 10, 2011.**

Documents Filed: Memorandum from City Clerk Dennis Hawkins to the Rules and Open Government Committee dated April 21, 2011 regarding the Cambrian Festival.

Action: The Committee approved the memorandum and forwarded to the City Council for formal action of May 10, 2011.

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

1. Community and Economic Development Committee
2. Neighborhood Services and Education Committee
3. Transportation and Environment Committee
4. Public Safety, Finance and Strategic Support Committee

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**J. Open Government**

1. Appeals of Public Records Act Requests  
None.

**K. Open Forum**

Public Comments: David Wall provided comments about legal nonconforming shacks in Council District 3. He suggested relocating the City Hall Security Staff to the water pollution control plant, since the City is looking to contract out security at City Hall. Additionally, he suggested augmenting security at the plant with light duty police officers.

Martha O'Connell expressed her concerns about boards and commissions, specifically, the Arts Commission. She also suggested the City look at the 43 boards and commissions to decide which ones are important and are taking action. She also advocated getting rid of commissions if they are duplicating efforts or do not serve a purpose.

**L. Adjournment**

The meeting was adjourned at 2:44 p.m.



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Mayor Chuck Reed  
Rules and Open Government Committee