



## RULES AND OPEN GOVERNMENT COMMITTEE

Meeting Report  
September 14, 2011

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

ABSENT: NA

STAFF: Deputy City Manager Norberto Duenas, City Attorney Richard Doyle, City Clerk Dennis Hawkins, Redevelopment Agency Managing Director Richard Keit, CMO Agenda Manager Leanna Bieganski, CMO Executive Analyst Gloria Schmanek, Mayor's Council Agenda Manager Sara Wright, and Deputy City Clerk Tamara Davis

### A. City Council

#### 1. Review Final Agenda for September 20, 2011

Action: The Committee approved the agenda, as amended. The Committee set Closed Session to start at 9:00 a.m. The Committee approved the addition of items noted and moved Item 4.3 (Habitat Conservation Plan) to be heard after Item 4.4 (Public Hearing and Special election on the Community Facilities District No. 14, Raleigh-Charlotte). The Committee deferred the San Jose Financing Authority agenda to September 27.

#### Review of Draft Agenda for September 27, 2011

Action: The Committee approved the agenda, as amended with additions and Sunshine Waivers for Items 4.2 (Actions related to the Purchase and Sale Agreement with Union Pacific Railroad for Three Creeks Trail Development) and 9.1 (Citywide Insurance Renewals). The Committee noted that the San Jose Financing Authority agenda will be heard on September 27.

### B. Redevelopment Agency (RDA)

#### 1. Review Final Agenda for September 20, 2011

The agency does not have an agenda for September 20, 2011, but staff noted they will be available for any Joint City/Agency and/or closed session items.

Action: The Committee cancelled the meeting except for closed session and any Joint City/Agency items.

**2. Review Draft Agenda for September 27, 2011**

Action: The Agency did not have an agenda ready for September 27, 2011, but indicated that they will have several items (Adoption of a resolution to approve the revised FY 11-12 Capital and Operating Budgets and the Enforceable Obligation Payment Schedule), which will be made available at the September 21 Rules Committee meeting. No action was taken.

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

**D. Legislative Update**

**1. State**

Director of Intergovernmental Relations Betsy Shotwell informed the Committee that Governor Brown has 600 bills on his desk for review and October 9<sup>th</sup> is the deadline for the Governor to take action. She noted that special session bills are in another category and are on a different timeline for review. Ms. Shotwell mentioned that the bill that adds layers of requirements and new methods of contracting out county libraries has passed the Legislature, but is not yet on the Governor's desk.

**2. Federal**

Document Filed: Memorandum from Betsy Shotwell to the Rules and Open Government Committee dated September 7, 2011 transmitting the Patton Boggs, LLP report.

Director of Intergovernmental Relations Betsy Shotwell informed the Committee that the House passed HR 2887 providing for clean extension of surface transportation and aviation programs. The transportation piece expires at the end of the month, and if not extended, the authorization to collect certain transportation funds will end. She also summarized the Patton Boggs, LLP report.

Mayor Reed asked about the President's jobs bill. Ms. Shotwell reported that the bill includes \$4 billion for the COPS office to rehire laid-off police officers from across the country, which does not require local matching funds, and will also provide an additional \$1 billion for fire departments. The bill includes \$10 billion funding to provide the National Public Safety Broadband system, which is a key City interest. The Mayor reported that he will be traveling to Washington next week with the Silicon Valley Leadership Group and has several meetings scheduled on these and other topics.

Councilmember Oliverio asked about the formula for the COPS grants, noting that the City, due to our relatively lower crime rate, has been disadvantaged in the past with formulas based on that factor and matching fund requirements. Ms. Shotwell reported that the regulations on the proposed plan have not yet been written, but that the COPS office reports that it will be designed to get back police officers who have been laid off.

Public Comment: David Wall suggested the City get rid of Patton Boggs, LLP, and have Congresswoman Zoe Lofgren provide this information to the City. He suggested using the \$600,000 that would be saved to keep police, fire, attorney, or PBCE staff.

Action: The Committee accepted the report.

**E. Meeting Schedules - None**

**F. The Public Record**

Document Filed: Memorandum from City Clerk Dennis Hawkins dated September 9, 2011 transmitting the Public Record for the week of September 2 - 8, 2011.

Councilmember Constant pulled Item (a) regarding a public records act request from Mr. Harold Furtado, and informed the Committee that the Public Safety, Finance, and Strategic Support Committee has a workplan item for an 18-month follow-up review of the changes to the gaming ordinance and implementation.

Public Comment: David Wall pulled his Item (f) regarding "Is the Environmental Protection Agency pleased with ESD's Source Control Program," and provided additional comments. He also advocated holding chairs of committees and council committees accountable for Committee performance and suggested rotating the chair of the Transportation and Environment Committee.

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 Assessment for Council Requests and Referrals - None
2. Staff report on clarification of responsibilities to the residents of parcel and requirements to enable the change of address related to 1270 Campbell Ave. (Councilmember Liccardo)  
*[Continued from August 17 & 31, 2011 Rules Meeting]*

Documents Filed: Memorandum from Councilmember Liccardo to the Rules and Open Government Committee dated August 11, 2011 regarding 1270 Campbell Ave.

Chief of Police Christopher Moore informed the Committee that the property in question is partially in San Jose and partially in Santa Clara. He stated the SJPD does not have objections to Santa Clara Police and Fire taking responsibility for

the property. However, until an agreement is reached or the property de-annexed or annexed from one city to the other, that both agencies will respond to 911 calls and the jurisdiction in which the property resides will be responsible for the incident.

Deputy City Manager Norberto Duenas informed the Committee that the developer is in the process of filing an application to donate the property to Santa Clara University. He doesn't believe that the issues require Council action at this time, but that staff still continues to work with all parties and return to the Committee as necessary.

Councilmember Liccardo's memo requested that the Council decline to oppose the efforts of the City of Santa Clara. The City Attorney indicated that silence is consent.

Public Comment: David Wall suggested that the City agree to any request from Santa Clara University. He also said that any time another city can take over a chunk of our city that benefits the entire region, it should be supported and suggested the City has too many things to do than to worry about this matter.

Action: The Committee did not take action.

3. Approve the recommended City positions for six (6) resolutions to be considered at the Annual League of California Cities (LOCC) Conference to be held in San Francisco September 21-23. Request a one-week turnaround to City Council for formal action. (City Manager)

Documents Filed: Memorandum from Betsy Shotwell to the Rules and Open Government Committee dated September 2, 2011 regarding the 2011 League of California Cities Resolutions.

Intergovernmental Director Betsy Shotwell provided an update about the proposed resolutions. She informed the Committee that Council's direction will help the voting delegate at the conference and serve as a resource for Councilmembers who serve on policy committees.

Public Comment: David Wall discussed alternative noticing requirements for City meetings, stating his belief that social networking and social media web sites can be useful. However, he cautioned against taking the San Jose Mercury News out of the loop.

Action: The Committee approved the recommendation and forwarded to the full City Council for action on September 20, 2011.

4. Direct staff to provide an info memo, which would include staff analysis previously only provided in closed session that details the negotiation position of the Council majority adopted at the June 24, 2011 City Council meeting as put forward in the memorandum from Mayor Reed, Vice-Mayor Nguyen,

Councilmembers Herrera, Constant, and Liccardo under item #2, entitled "All Other Current Employees Who Decline to Opt-In." (Councilmember Rocha)

Documents Filed: Memorandum from Councilmember Rocha to the Rules and Open Government Committee dated September 8, 2011 regarding Transparency and Consistency in Labor Negotiations.

The Mayor stated that he doesn't believe that the costing analysis done on that memorandum regarding the version of opt-in had been published yet, and staff may not have a final version yet. He did suggest it is information that can be made public, provided that what was discussed in closed session or advice given, or anybody's negotiating comments not be made public.

The Mayor directed staff to provide an informational memo.

Public Comment: David Wall suggested what should be made public is a good definition of the work product rule associated with the deliberative process.

Cay Denise MacKenzie, President of CAMP IFPTE, Local 21, thanked the Committee for providing and discussing an information memo that costs out the opt-in plan that has been discussed by the Council.

Action: The Committee approved the request.

5. Response to Referral from the Rules and Open Government Committee about Voluntary Expenditure Limits. (City Attorney)

Documents Filed: Memorandum from City Attorney Richard Doyle to the Rules and Open Government Committee dated September 9, 2011 regarding a response to referral from the Rules and Open Government committee about Voluntary Expenditure Limits.

Currently, the Voluntary Expenditure Limits (VEL) is \$.75 per City resident for Mayoral Candidates and \$1.00 per District resident for City Council candidates per election. The current VEL has not been adjusted since 1997. San Jose's current contribution limits vary depending on whether a candidate has accepted the VEL. Contribution limits are subject to periodic adjustment based on the Consumer Price Index (CPI)

In an effort to gauge whether San Jose should consider raising the limits, City Staff compiled data regarding expenditure limits among major California cities. In addition, staff conducted stakeholder outreach via an on-line survey and an input meeting.

The City Attorney recommends that the City Council increase the VEL slightly for City Council candidates, maintain the VEL at the current amount for Mayoral candidates and add a CPI adjustment provision. It is also recommended that City Council adopt one set of contributions limits and delete the provision that triples

expenditure limits based on the receipts of expenditures of a non-VEL candidate or the expenditures of independent committees.

City Clerk Dennis Hawkins suggested council action on this item as well as setting the expenditure limits by late October because the campaign fund raising period for the June 2012 election starts in December.

Action: The Committee directed the City Attorney and City Clerk to move forward in drafting the recommended changes and bring them to Council in a timely manner, so they can be in effect before the 2012 election cycle.

6. Approval Of District 3 Saint James Park Movie Night As A City Sponsored Special Event, To Expend City Funds and Authorization To Accept Donations Of Materials and Services For The Event. Forward to City Council for September 20, 2011, for formal action. (City Clerk)

Documents Filed: Memorandum from City Clerk Dennis Hawkins to the Rule and Open Government Committee dated September 9, 2011 regarding District 3 Saint James Park Movie Night.

Action: The Committee approved the event and forwarded to the City Council for formal action on the September 20, 2011 agenda.

**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
  - a. Approve modification to the August – December 2011 Public Safety, Finance, and Strategic Support (PSFSS) Committee Workplan to broaden the verbal monthly report on Bay Area Regional Interoperable Communications System (BayRICS) to include overall Public Safety Communications Initiatives. (City Manager)

Document Filed: Memorandum for Assistant City Manager Ed Shikada to the Rules and Open Government Committee dated September 9, 2011 requesting a modification to the Public Safety, Finance, and Strategic Support Committee's (PSFSS) August-December 2011 Workplan.

Action: The Committee approved the modification to the PSFSS August-December 2011 Workplan.

5. Rules and Open Government Committee  
None.

**J. Open Government**

1. Appeals of Public Records Act Requests

**K. Open Forum**

Public Comments: David Wall thanked Ralph Rodriguez of the nonpoint source group at Environmental Services Department for responding to potential hazardous waste on N. 10<sup>th</sup> St. He thanked Planning, Building and Code Enforcement Department Director Joe Horwedel and Todd Waltrip of PBCE for resolving many problems in his neighborhood. He also discussed the San Jose Police Chaplaincy program, stating that the program is funded by gifts and contributions and suggested posting a link on the City's and Council Districts web pages to allow for donations.

**L. Adjournment**

The meeting was adjourned at 2:53 p.m.



Mayor Chuck Reed  
Rules and Open Government Committee