

RULES AND OPEN GOVERNMENT COMMITTEE

Meeting Report
September 28, 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 Managing Director Richard Keit, CMO Agenda Manager Leanna Bieganski, Mayor's Council Agenda Manager Sara Wright, and Deputy City Clerk Tamara Davis

A. City Council

1. Review Final Agenda for October 4, 2011

Action: The Committee approved the agenda, as amended. The Committee set the Closed Session time for 8:30 a.m. The Committee set a time-certain for Item 3.3 (Appeals Hearing Board Interviews) not to be heard before 2:30 p.m. Item 8.1 (Ordinance Amending Title 16, Gaming Control) was dropped from the agenda and referred to the Public Safety, Finance, and Strategic Support Committee. The Committee added a Ceremonial item, Food Allergy Awareness Day.

Review of Draft Agenda for October 11, 2011

Action: None – The meeting was cancelled.

B. Redevelopment Agency (RDA)

1. Review Final Agenda for October 4, 2011

Action: The Committee approved the agenda, as amended with a time change for the Closed Session to start at 8:30 a.m.

2. Review Draft Agenda for October 11, 2011

Action: None – The Agency did not have an agenda, but will be available for Closed Session items.

C. Review of Upcoming Study Session Agenda(s)

1. Approve the proposed Council Study Session: Draft Envision San José 2040 General Plan Plan for Monday, October 17, from 1:30 p.m. to 5:00 p.m. in the City Council Chambers. (City Manager)

Documents Filed: Memorandum from Joseph Horwedel to the Rules and Open Government Committee dated September 19, 2011 regarding Proposed Council Study Session: Draft Envision San Jose 2040 General Plan Plan.

Action: The Committee deferred this item to the October 5, 2011 Rules meeting to review the availability of November 1, 2011 as the new meeting date.

D. Legislative Update

1. State

Director of Intergovernmental Relations, Betsy Shotwell, informed the Committee that the State's school administrators are suing the State for the \$2.1 Billion taken out of the Education Budget and that advocates for persons with disabilities are also planning to file legal action against the State. In addition, she noted that the Governor has less than 600 bills approved by the Legislature under review and that City staff is following items of interest to the Council.

Chief of Police Christopher Moore issued a correction of the record on statements he made at the September 21 Rules Committee meeting regarding California Assembly Bill 353 (Allen and Cedillo). The California Chiefs Association and the California Peace Officers Association do support the measure, with the notation that there are some Chiefs that do not support the measure. He re-iterated his stance on SJPD's policy giving officers more discretion. Additionally, he informed the Committee that San Jose will receive a federally funded COPS Grant which will restore the positions of three previously laid off police officer positions. He noted that the City had requested funding for ten positions and that the decision was based on crime statistics. In comparison with other cities, San Jose has less than one-half of the violent crime rates than that of San Francisco and one-fifth of Oakland's violent crime rate. He reported that staff will be working with federal representatives to shape the allocation formulas for future grants, including the President's proposed Jobs Bill.

Mayor Reed stated that whenever City representatives go to Washington they need to check in with the people who are drafting the legislation.

Councilmember Constant thanked Chief Moore for his clarification on AB353 and indicated that underscored his concern that the City Manager's Office has an opportunity to do a full review of legislation before it comes before the Committee. He further explained that he will be discussing the COPS grants at the National League of Cities Crime Prevention and Public Safety Committee meeting in November.

Chief Moore also reported that the House Energy and Commerce Subcommittee on Technology will be reviewing legislation in the next week regarding the "D block" and they expect some action within a few weeks.

2. Federal - None

E. Meeting Schedules - None

F. The Public Record

Document Filed: Memorandum from City Clerk Dennis Hawkins dated September 23, 2011 transmitting the Public Record for the week of September 16 -22, 2011.

Public Comment: Councilmember Constant pulled Item (a) and referred to Intergovernmental Relations Director, Betsy Shotwell to get an analysis of AB 69. Ms. Shotwell reported that the bill is on the Governor's desk and that such legislation has been a City priority for a number of years. She indicated that the bill would go through the expedited process.

David Wall pulled his Item (e) regarding "The Ghetto Life: Update on the SCEP" and discussed the proliferation of shopping carts in the downtown area. He believes that if criminals do not have access to shopping carts they will be less likely to commit crimes and transport their ill-gotten goods.

Richard McCoy, the Vice-Chair of the Senior Commission, spoke in support of AB 69, which the Senior Commission unanimously endorsed. The Commission believes the bill would partially offset some of the City's costs of the Senior Nutrition Program. He briefly highlighted a conversation he had with Assemblyman Jim Beall on the subject, who expressed willingness to take administrative action to see if the program could apply to help raise funds for San Jose City nutrition to offset cost.

Marie Hater pulled Item (c) and further discussed the continued support of the community center boutiques at Southside and Willow Senior centers.

Martha O'Connell, Chair of the Senior Commission, expressed concern that the issue of the Senior Center Boutiques is an example of an issue that should have been referred to the Commission, but was not. did not come to the Senior Commission, since they act as an advisory body to the Council. The whole issue could have been avoided.

Acting Assistant Director of Parks, Recreation, and Neighborhood Services, Angel Rios, informed the Committee that the non-compliance issue has been resolved and that both Southside and Willow Glen Boutiques will stay and that the agreement will be formalized with a Memorandum of Understanding (MOU).

Action: The Public Record was noted and filed with the direction of an expedited review of AB 69.

G. Boards, Commissions and Committees

1. Appointments

- a. Approve the re-appointment of Robert Coelho, Bob Leininger, Dan Orloff, and John Veargason to the San José Arena Authority Board. (Mayor)

Documents Filed: Memorandum from Mayor Reed to the Rules and Open Government Committee dated September 23, 2011 regarding re-appointment of members to the San Jose Arena Authority Board.

Action: The Committee approved the recommendations of re-appointment of Robert Coelho, Bob Leininger, Dan Orloff and John Veargason to the San Jose Arena Authority.

2. Workplans

3. Annual Reports

None

H. Rules Committee Reviews, Recommendations and Approvals

1. **Workload Assessment for Council Requests and Referrals - None**

I. Review of additions to Council Committee Agendas/Workplans - None.

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
5. Rules and Open Government Committee

J. Open Government

1. Appeals of Public Records Act Requests

- a. Recommendation to deny the appeal from Terry Moe to waive the fee assessed by the Finance and Retirement Departments for producing requested information.
(City Manager)

Documents Filed: Memorandum from Tom Manheim to the Rules and Open Government Committee dated September 20, 2011 regarding a Public Records appeal from Dr. Terry Moe

Tom Manheim informed the Committee that the cost of the request submitted by Mr. Moe was \$1,825. The demographic research Dr. Moe is requesting goes beyond what the City's website currently shows in terms of the scope of available data available on City employee compensation and the time period requested. He also informed the committee that Dr. Moe has a research budget, but is trying to preserve it. Mr. Manheim also informed the Committee that he directed Dr. Moe

to the website which has three years worth of information as well as other reports that have been provided to the media. In addition, Dr. Moe's request includes compensation data for employees who have retired.

Public Comments: David Wall believes this request uses City mechanisms for personal and corporate enrichment, and supports the denial of the request.

Action: The Committee denied the appeal of Public Records Act Request by Terry Moe with staff directed to provide him whatever information is readily available.

- b. Recommendation to deny the appeal from Metro Newspaper of Silicon Valley to waive the fee required by the San José Police Department (SJPD) for producing requested information. (City Manager)

Documents Filed: Memorandum from Tom Manheim to the Rules and Open Government Committee dated September 22, 2011 regarding Public Records Fee Appeal from Metro Newspaper of Silicon Valley.

Tom Manheim informed the Committee that the Chief of Police was interested in the information and had the records department extract the information. Since it has been pulled it will be provided to the Metro at no cost.

Mr. Manheim pointed out that, as a policy, in fact only the Rules Committee has the ability to waive the fees, which has sparked an internal discussion about who actually has the authority to waive the fees.

The Chief of Police, Christopher Moore informed the Committee that most of the City's crime stats are available online through www.crimereports.com. It provides a year's worth of real-time data and is updated every 24 hours.

City Attorney Richard Doyle clarified that the City does not distinguish between requestors of information – private citizens or media representatives – what or why someone is requesting specific information.

Public Comments: David Wall expressed his opinion that the City has an obligation to provide something as basic as crime stats whether it is to the media or the public and should have them readily available.

Dan Pulcrano, publisher of the Metro, and Josh Koehn, reporter, discussed their information request, why access to the data is important and expressed appreciation to the Chief of Police for his responsiveness and the Committee for its understanding of the issue.

Martha O'Connell spoke in support of the appeal. She stated that she found it insulting for the administration to suggest the City could not waive a \$42 fee given the current fiscal situation, when the Council voted to send a Councilmember to Dublin, Ireland. She stated her public records request for

information on how much money is being spent on travel. She also asked what happens if you're poor and you want to petition your government? Are only the rich going to have the information they need to petition their government?

Action: The Committee approved the appeal of the Public Records Fee and waived the fees for the information requested by Metro Newspaper of Silicon Valley. The Committee referred the issue to staff to report back to the Rules Committee with a modification to the ordinance that would enable staff to waive fees of less than a certain amount.

K. Open Forum

Public Comments: David Wall discussed the possibility of students growing food at schools that can be integrated into the science program, as well as being used for the Senior Nutrition Program. He suggested that the Mayor ask for food stamps for students at schools and also for seniors, that taking the cost of food out of the equation and that would stimulate the economy.

L. Adjournment

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



Mayor Chuck Reed
Rules and Open Government Committee