

RULES AND OPEN GOVERNMENT COMMITTEE

Meeting Report
October 5, 2011

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

ABSENT: Councilmember Constant

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 11, 2011

Action: None – The meeting was cancelled

Review of Draft Agenda for October 18, 2011

Public Comments: David Wall discussed Items 2.a.1 - 4, Councilmember Liccardo's trips to Dublin, Ireland and China and requested clarification of the transportation related items he will be discussing in Sacramento. Mr. Wall questioned other Councilmembers' upcoming international trips and suggested that lobbyists are trying to gain favor with Councilmembers by funding the trips.

Action: The Committee approved the agenda as amended.

B. Redevelopment Agency (RDA)

1. Review Final Agenda for October 11, 2011

Action: None – The meeting was cancelled

2. Review Draft Agenda for October 18, 2011

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

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

D. Legislative Update

1. State

Director of Intergovernmental Relations, Betsy Shotwell, informed the Committee that the Governor had until Sunday, October 9, 2011 to sign or veto legislation. She informed the Committee that the bills the Council has taken positions on were still on the Governor's desk, along with several hundred other bills.

2. Federal

Director of Intergovernmental Relations, Betsy Shotwell, informed the Committee the Federal government will still be operating until November. Traditionally, October 1 is the deadline for the Federal budget.

E. Meeting Schedules - None

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)
[Deferred from September 28, 2011 Rules Meeting]

Documents Filed: Memorandum from Director of Planning, Building, and Code Enforcement to the Rules and Open Government Committee dated September 19, 2011 proposing a Council Study Session: Draft Envision San Jose 2040 General Plan Plan.

Action: The Committee dropped the General Plan Study Session and replaced it with a Special Council meeting on October 17 to discuss Labor Negotiations update. The Committee discussed the meeting to be conducted as a study session with no action agendized and to include a potential Closed Session. A General Plan Study Session will be considered for November 1 and will be discussed at the October 12 Rules and Open Government Committee meeting.

F. The Public Record

Document Filed: Memorandum from City Clerk Dennis Hawkins dated September 30, 2011 transmitting the Public Record for the week of September 23 - 28, 2011.

Public Comment: David Wall pulled Item (b) regarding email from Emmanuel Abello of LAFCO and provided comments about the water report and the fresh water situation; and his letter Item (g) regarding the California Public Records Act and individuals who request information from the City for their own personal enrichment.

Action: The Public Record was noted and filed.

G. Boards, Commissions and Committees

1. Appointments
2. Workplans
 - a. Approve the Parks and Recreation Commission Workplan for FY 2011-12 and the Accomplishments for FY 2010-11. (City Manager)

Documents Filed: Memorandum from Acting Director of Parks, Recreation, and Neighborhood Services Julie Edmonds-Mares to the Rules and Open Government Committee dated September 28, 2011 regarding the FY 2011-12 Workplan and FY 2010-11 Accomplishments of the Parks and Recreation Commission.

Steve Hammet, Deputy Director of PRNS, informed the Committee that the department presents budget updates at every commission meeting and the department's strategies, goals, and outcomes. He also assured the Committee that the Commission will be a strategic part of the budget discussion.

Committee discussion ensued including suggestions that the Commission analyze budget alternatives and priorities; sponsorships and alternative funding; and address other concerns.

Public Comments: David Wall would like to see an update on the organizational structure of PRNS with reference to consolidation of positions and span of control. He also advocated changing the management structure of the City.

Action: The Committee accepted the report and approved the integration of budget discussion into the Commission's workplan.

3. Annual Reports
None

H. Rules Committee Reviews, Recommendations and Approvals

1. Workload Assessment for Council Requests and Referrals

- a. Approve the addition of the Incubator and Entrepreneur Center status to the City Auditor's Workplan.
[Referred on September 26, 2011 by the Community and Economic Committee]

Documents filed: Memorandum from Councilmember Liccardo to the Rules and Open Government Committee dated August 11, 2011 regarding Incubator Program.

The Mayor informed the Committee that the item has been on the Committee's agenda before and was referred back to the Rules Committee by the Community and Economic Development Committee at its September 26, 2011 meeting. Redevelopment Agency Managing Director Richard Keit provided the Committee with an overview of the transition plan.

Discussion: Councilmember Liccardo suggested that the City Council has not been provided all the information pertaining to the Incubator Program. He indicated that there were reports that were not made available to the City Council and that there is not an independent source to verify the information that has been presented by the Incubator Program. The City only has information that has been provided by the San Jose State University Research Foundation (SJSURF).

Councilmember Herrera, as Chair of the Community and Economic Development Committee, provided introductory comments. Committee discussion ensued with staff adding information as requested.

Public Comment: Mary Sydney assured the Committee that SJSU President Qayoumi is committed to making a successful transition of the Incubators from the City to SJSURF and will make whatever information available to the City it feels it needs and commented on her belief that Councilmember Liccardo's October 5, 2011 memo was filled with misstatements and inaccuracies. Ms. Sydney provided additional details and information for the Committee and responded to questions and comments from Councilmembers.

David Wall believes Managing Director of RDA Richard Keit is owed an apology from the Committee, Councilmember Liccardo, and the San Jose Mercury News. He expressed his opinion that this has become an issue because a Councilmember is in the throes of an election era and this is for personal political gain. He suggested that an audit is not needed because the City Auditor cannot actually do anything.

Action: The Committee denied the request to add a review of the incubator program to the City Auditor's Workplan.

- b. Direct staff to add the development of an ordinance that would allow the City to exercise discretionary review for new retail uses seeking to move into an existing retail space that has been vacated by a previous tenant. Uses covered by the discretionary review should include retail outlets of over 70,000 sq. ft. in floor area that might pose a greater intensity of use than the use that previously occupied the site. (Councilmember Rocha)

Documents filed: Memorandum from Councilmember Rocha to the Rules and Open Government Committee dated September 29, 2011 regarding Public review for New Retail Reuse.

Councilmember Rocha provided comments to the Committee about the old Home Expo Building located at Almaden Expressway and Highway 85 that has been vacant for some time and Wal-Mart is moving in. The building is over 90,000 sq. ft, and since it is an existing retail use, Wal-

Mart may move in under the original approval. The project has proceeded without public or professional review under the originally approved plans. He expressed concerns about the impacts of intensified uses of previously approved developments and summarized the concerns of area residents. He suggested reviewing this issue under a Planning Director's hearing and not sending to City Council.

Committee discussion ensued with staff providing responses. Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti informed the Committee that PBCE will do a workload assessment at the Council's request. She mentioned that the City is under retail by about 21%, which means the San Jose residents leave the city limits to do their shopping in neighboring communities. The addition of new retail brings new sales and property tax revenues to the City.

Public Comment: JoAnne Grey and Darlene Peyton, community residents, expressed their concerns with Wal-Mart moving in and hopes that in the future the City will establish a method for community input.

David Wall expressed his opinion that the City demonstrated callousness and intentional disregard for the communities concerns. He suggested that the addition of Wal-Mart will create another Santana Row nightmare for Highway 85 and Almaden Expressway.

Carol Joyal supports Councilmember Rocha's proposal and believes the addition of Wal-Mart to the area will affect property values.

Brian Jackson supports the Councilmember Rocha's proposal and suggested that the City should have preformed a pseudo EIR on large project changes.

Action: The Committee deferred the item until February 2012 and requested staff brings the item back as part of the City Council Priority Setting Session.

2. Approve the deferral of the Envision San Jose 2040 General Plan Update council hearing one week from October 25, 2011 to the evening of November 1, 2011. (Councilmember Liccardo)

Documents Filed: Memorandum from Councilmember Liccardo to the Rules and Open Government dated September 27, 2011 regarding Envision San Jose 2040 General Plan Update.

Action: The Committee approved the request to move the Envision San Jose 2040 General Plan Update from October 25, 2011 to the evening of November 1, 2011 and to hold an evening Council meeting on November 1, 2011.

3. Discuss potential revisions to the Revolving Door Ordinance. (City Clerk)
[Referral from September 27, 2011 City Council meeting, Item 2.14]

Documents Filed: Memorandum from City Clerk Dennis Hawkins to the Rules and Open Government Committee dated September 30, 2011 regarding Discussion of Potential Revisions to the Revolving Door Ordinance.

The City Attorney Richard Doyle suggested to the Committee that staff will come back to the committee with recommended options.

Action: The Committee referred the item to staff and requested that they return with recommended options regarding the Revolving Door Ordinance.

4. Approval of the Designation of District 6 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 October 18, 2011, for formal action. (City Clerk)

Documents Filed: Memorandum from City Clerk Dennis Hawkins to the Rules and Open Government Committee dated September 30, 2011 regarding Council District 6 Movie Night

Action: The Committee approved the event and forwarded to the City Council for formal action at the October 18, 2011 City Council meeting.

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
 5. Rules and Open Government Committee
- None.

J. Open Government

1. Appeals of Public Records Act Requests
- None

K. Open Forum

Public Comments: David Wall addressed the Mayor about his comments in a Vanity Fair article and suggested that City management uses the tactic, silence implies consent.

L. Adjournment

The meeting was adjourned at 3:59 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