

RULES AND OPEN GOVERNMENT COMMITTEE

Meeting Report
December 7, 2011

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

ABSENT: Councilmember Constant

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, Mayor's Council Agenda Manager Sara Wright, Assistant City Clerk Toni Taber, and Deputy City Clerk Tamara Davis

A. City Council

1. Review Final Agenda for December 13, 2011

Public Comment: David Wall spoke on item 2.14 regarding contractual positions in the Environmental Services Department. He stated his opinion that these positions should be filed with displaced City employees.

Action: The Committee approved the agenda, as amended with 10-Day Sunshine Waivers for Items 2.x (Appropriation Ordinance Amendment for the Airport Law Enforcement Services: Outsourcing Update, Proposed Staffing Plan, and Budget Updates); 2.x (Appropriation Ordinance Amendments for the Three Creeks Trail Project); and 4.x (ADMINISTRATIVE HEARING on Appeal of Certification of a Final Environmental Impact Report (FEIR) and Appeal of Approval of a Conditional Use Permit for the Proposed Project, Moe's Stop Gas and Service Station, File No. CP11-049); and 14-day Waivers for Items 7.x (Grant agreement with the United States Department of Commerce Economic Development Administration for the Construction of a Photovoltaic Project at the San Jose Environmental Innovation Center) and to place this item on the Consent Calendar) and 8.1 (Actions Related to Public Safety Broadband System). The Committee changed the Closed Session start time to 8:30 a.m.

Review of Draft Agenda for December 20, 2011

Action: None – The meeting was cancelled

b. Redevelopment Agency (RDA)

1. Review Final Agenda for December 13, 2011

Action: The Committee approved the agenda, as amended.

2. Review Draft Agenda for December 20, 2011

Action: None – The meeting was cancelled.

C. Review of Upcoming Study Session Agenda(s)

Action: The Committee dropped December 12, 2011 from the Study Session Calendar.

D. Legislative Update - None

1. State

- a. Sacramento Update (Verbal Report). (City Manager)

2. Federal

- a. Washington D.C. Update (Verbal Report). (City Manager)

Director of Intergovernmental Relations, Betsy Shotwell, informed the Committee that the Congressional Super-Committee failed to come up with a deficit reduction plan of \$41.2 billion. If nothing is done before 2012, automatic cuts will take place in defense and domestic spending. Ms. Shotwell mentioned other items of interest including the continued funding of the Department of Transportation's SAFETEA-LU program which expires March 31, the ongoing funding for the Federal Aviation Administration (FAA) which expires January 31, the expiration of the unemployment funding, and the expiration of Social Security payroll tax reductions. The Congress is scheduled to go on Christmas recess December 16, 2011.

E. Meeting Schedules - None

F. The Public Record

Document Filed: Memorandum from City Clerk Dennis Hawkins dated December 2, 2011 transmitting the Public Record for the week of November 22 – December 1, 2011.

Public Comments: David Wall pulled his Items (b), (g), (h), and (i) and provided additional comments. Additionally, he suggested changing the City Charter so that the City Police and Fire departments are in charge of safety at all City-owned buildings, specifically, the Airport.

Action: The Public Record was noted and filed.

G. Boards, Commissions and Committees

1. Appointments

- a. Approve the appointment of June Ellen Cooley to the Traffic Appeals Commission to a term expiring on June 30, 2014, and place the item on the December 13, 2011 Council Agenda for action. (Vice-Mayor Nguyen)
[Deferred from November 16, 2011 Rules Agenda]

- b. Approve the appointment of Elizabeth Pope and John Legois to the Disability Advisory Commission to terms expiring on June 30, 2014, and place the item on the December 13, 2011 Council Agenda for action. (Councilmember Pyle)
[Deferred from November 16, 2011 Rules Agenda]
- c. Approve the appointment of Kristen O'Kane to the Parks and Recreation Commission to an un-expired term ending on June 30, 2013, and place the item on the December 13, 2011 Council Agenda for action. (Councilmember Pyle)
[Deferred from November 16, 2011 Rules Agenda]
- d. Approve the appointment of Matthew Quevedo, Robin Martinez, and Sean O'Brien to the Human Rights Commission to terms expiring on December 31, 2014, and place the item on the December 13, 2011 Council Agenda for action. (Councilmember Chu)
[Deferred from November 16, 2011 Rules Agenda]
- e. Approve the appointments of Stephen Reiss and Raj Bhanot to the Small Business Development Commission to terms expiring on December 31, 2014, and place the item on the December 13, 2011 Council Agenda for action. (Councilmember Chu)
[Deferred from November 16, 2011 Rules Agenda]
- f. Approve the appointments of Maria Davis to an un-expired term ending on June 30, 2013, and Janet Thorsud and Nguyen Sanders to terms expiring on June 30, 2014, to the Early Care and Education Commission, and place the item on the December 13, 2011 Council Agenda for action. (Councilmember Pyle)
- g. Approve the re-appointment of Donna M. Cox to the Mobilehome Advisory Commission to a term expiring on December 31, 2014, and place the item on the December 13, 2011 Council Agenda for action. (Vice-Mayor Nguyen)
- h. Approve the re-appointments of David William Clancy and Leo Cortez to the Small Business Development Commission to terms expiring on December 31, 2014, and place the item on the December 13, 2011 Council Agenda for action. (Councilmember Chu)

- i. Approve the re-appointments of Joshua Stanley Barousse and Wendy Lee Ho to the Human Rights Commission to terms expiring on December 31, 2014, and place the item on the December 13, 2011 Council Agenda for action. (Councilmember Chu)
- j. Approve the re-appointment of Lee Jack Ellak to the Housing and Community Development Commission to a term expiring on December 31, 2014, and place the item on the December 13, 2011 Council Agenda for action. (Vice-Mayor Nguyen)
- k. Approve the re-appointment of Ashok Naidu to the Advisory Commissions on Rents to a term expiring on December 31, 2014, and place the item on the December 13, 2011 Council Agenda for action. (Councilmember Herrera)

Documents filed: (1) Memorandum from Vice-Mayor Nguyen to the Rules and Open Government Committee dated November 3, 2011 regarding the Traffic Appeals Commission appointments, (2) Memorandum from Councilmember Pyle to the Rules and Open Government Committee dated November 7, 2011 regarding the Disability Advisory Commission appointment, (3) Memorandum from Councilmember Pyle to the Rules and Open Government Committee dated November 7, 2011 regarding the Parks and Recreation Commission appointment, (4) Memorandum from Councilmember Chu to the City Clerk, Dennis Hawkins dated November 10, 2011 regarding the Human Rights Commission appointments, (5) Memorandum from Councilmember Chu to the City Clerk, Dennis Hawkins dated November 10, 2011 regarding the Small Business Development Commission appointments, (6) Memorandum from Councilmember Pyle to the Rules and Open Government Committee dated November 14, 2011 regarding the early Care and Education Commission appointments, (7) Memorandum from Vice-Mayor Nguyen to the Rules and Open Government Committee dated December 1, 2011 regarding the Mobilehome Commission re-appointment, (8) Memorandum from Councilmember Chu to the City Clerk, Dennis Hawkins, dated November 30, 2011 regarding the Small Business Development Commission re-appointments, (9) Memorandum from Councilmember Chu to the City Clerk, Dennis Hawkins, dated November 30, 2011 regarding the Human Rights Commission re-appointments, (10) Memorandum from Vice-Mayor Nguyen to the Rules and Open Government Committee dated November 30, 2011 regarding the Housing and community Development Commission re-appointment, and (11) Memorandum from Councilmember Herrera to the Rules and Open Government Committee dated December 2, 2011 regarding the Advisory Commission on Rents re-appointment,

Action: The Committee approved items G.1.a – G.1.k and forwarded to the City Council for formal action on December 13, 2011.

2. Workplans
3. Annual Reports
 - a. Approve the Airport Commission FY 2010-11 Report and FY 2011-12 Workplan. (City Manager)

Document Filed: (1) Memorandum from Airport Director, William F. Sherry, A.A.E, to the Rules and Open Government Committee dated November 30, 2011 regarding the Airport Commission FY 2010-11 Report and FY 2011-12 Workplan, (2) Letter from Doug Rice to the Rules and Open Government Committee dated December 7, 2011 regarding Airport commission request to establish a Sub-committee, and (3) Letter from Frank Sweeney to the Rules and Open Government Committee dated December 7, 2011 regarding the Airport Commission Ad Hoc Committee on West Side Development Workplan.

Assistant Director of the Airport, Kim Aguirre, informed the Committee that the Airport has done extensive outreach to date and has had quite a few commission meetings. She mentioned that there will be an extensive review process with the commission, City Council, and the FAA, who will review the technical issues before recommendations are made to the City Council. She also reminded the Committee that the FAA will have the ultimate determination of the technical issues.

Public Comments: Doug Rice does not believe that the Airport has provided the City Council with accurate, timely, or really in-depth analysis as to their plan. He stated that the consultants have been biased, inaccurate information and have admitted to him that their information was incomplete. He further stated that the users and businesses at the airport do not support staffs' recommendations.

David Wall believes it is unreasonable to put the Airport under an unattainable \$12 Cost Per Enplanement (CPE). He suggested that the City focus on the lucrative business of corporate aircraft as part of the West Side development.

Frank Sweeney, Airport Commissioner, believe that the West Side development is the most important issue facing the Airport right now, since the completion of the \$1.3 billion terminal project. He does not believe that the format of the Airport Commission meetings is conducive for thorough informed discussion of various technical issues.

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

- H. Rules Committee Reviews, Recommendations and Approvals**
1. Workload Assessment for Council Requests and Referrals

2. Accept the 2012 Legislative Guiding Principles as edited by the Council Committees, and the Legislative Priorities and Advocacy Issues for the second year of the two-year Legislative Session in Sacramento and the 112th Congress; and forward to the City Council for formal action on the December 13, 2011 agenda. (City Manager)

Documents filed: Memorandum from Director of Intergovernmental Relations, Betsy Shotwell to the Rules and Open Government Committee dated November 29, 2011 regarding 2012 Legislative Guiding Principles, Priorities and Advocacy issues.

Roxanne Miller, the City's Sacramento representative, informed the Committee that the 2011 legislative session foreshadows another difficult year and the budget still remains unbalanced. Statewide unemployment figures are expected to remain high and are currently over 11%. The State Supreme Court has an impending decision about the Redevelopment Agencies, which will be issued in January 2012. Another issue before the State Supreme Court is the ruling on the Vehicle License Fee (VLF) case. Governor Brown is proposing a tax increase over a ten-year period to help pay for public safety. The increase includes a half-cent dedicated increase in the sales tax, and then an increase in the personal income tax for households earning over a \$500,000 annually. It is expected to generate \$7 billion each year. The current fiscal budget and through July 1, 2013, is expected to be out of balance by \$13 billion.

Director of Intergovernmental Relations, Betsy Shotwell, informed the Committee that the guiding principles have gone through all four Council Committees for input and review.

Action: The Committee accepted the 2012 Legislative Guiding Principles as edited by the Council Committees, and the Legislative Priorities and Advocacy Issues for the second year of the two-year Legislative Session in Sacramento and the 112th Congress and forwarded to the City Council for formal action on December 13, 2011.

3. Direct the City Manager to assess and consider a recommendation for a potential contract services agreement with the San Jose Downtown Association (SJDA) for FY 2012-13 promotions, events and marketing programs. (Councilmember Liccardo)

Documents filed: Memorandum from Councilmember Liccardo to the Rules and Open Government Committee dated November 30, 2011 regarding Potential Contract Services Agreement with San Jose Downtown Association.

Public Comments: Art Bernstein, President of the Downtown Association, spoke in support of the memo. He believes that the parking fun might be a

reasonable source of some financial support from the City to the association.

David Wall believes this request should have gone through either the Transportation and Environment or the Community Economic Development Committees before coming to Rules. He believes this recommendation presents an opportunity for government to enter into a specific contract for services that could be used as a model for other sectors of the City.

Action: The Committee forwarded the memo to the Community and Economic Development Committee to be heard at the January 2012 and direct the City Manager to assess and consider a recommendation for a potential contract services agreement with the San Jose downtown Association (SJDA) for FY 2012-13 promotions.

4. Accept the status update and direct the City Clerk to conduct stakeholder outreach regarding policy and strategic alternatives for the potential elimination or consolidation of boards, commissions, and committees and the implementation of structural improvements to the City's Boards and Commissions program and report back to the Committee in February 2012; and Provide other direction to the City Clerk as appropriate.

Documents filed: (1) Memorandum from City Clerk Dennis Hawkins to the Rules and Open Government Committee dated December 2, 2011 regarding Structural Improvements and Potential Consolidation or Elimination of Boards and Commissions, (2) Memorandum from City Clerk Dennis Hawkins to the Rules and Open Government Committee dated December 7, 2011 regarding Structural Improvements and potential Consolidation or Elimination of Boards and Commissions – SUPPLEMENTAL, and (3) PowerPoint presentation – Rules and Open Government Committee: Boards and Commissions dated December 7, 2011.

The City Clerk, Dennis Hawkins, provided the Committee with the history of the Structural Improvement Project and presented the recommendations for the structural improvements and potential consolidation or elimination of the City's Boards and Commissions. He presented a PowerPoint presentation highlighting the changes and recommendations. He informed the committee of two stakeholder outreach meetings on January 18, 2012 and January 30, 2012. Both meetings are at 6:30 p.m. and will be held at City Hall in Committee Room Wing 120. He also stated that a daytime meeting will be added to accommodate individuals who may have a hard time attending an evening meeting.

Public Comments: Martha O'Connell expressed her support for the report presented by the City clerk. She advocated that the senior Commission be

merged with the Youth Commission, Human rights Commission, and the Disability Commission.

Marie Hayter urged the Committee to schedule a daytime meeting for individuals who cannot attend evening meetings.

Mike Graves he believes the report lacked a few items, particularly on the Mobile home side. He discussed the revenue that mobile homes generate to support and uphold the rent control ordinance.

Tamara Alvarado expressed her commitment to reach out to the networks to engage with the City about the structural improvements of the Boards and Commissions.

Richard McCoy expressed support for the report and the standardization of bylaws. He is in favor of going back to monthly meetings if the commissions are consolidated and made more effective.

Booby Yount and Ted Lorraine suggested that the Arts Commission be removed from the consolidation process and be left in its current state.

Patricia McDonald spoke about the diverse nature of the Arts Committee and the role they play for the City.

David Wall believes the Arts Commission has a lot of economic potential for the City if done properly.

Action: The Committee accepted the status update for the Structural Improvement Project and directed the City Clerk to conduct stakeholder outreach and to report back to the Rules Committee in February of 2012 with the inclusion of information concerning Boards and Commissions which provide input on economic development and those who recommend the spending of public funds.

5. Approval of the Operation Prom Dress as a City Council sponsored Special Event, Approve the Acceptance of Donations from various individuals, businesses or community groups to support the Operation Prom Dress; and Place the item on the December 13, 2011 Council Agenda for action.

Document Filed: (1) Memorandum from City Clerk, Dennis Hawkins, to the Rules and Open Government Committee dated December 2, 2011 regarding Operation Prom Dress.

Action: The Committee approved Operation Prom Dress as a City Sponsored Special Event and forwarded to the City Council for formal action on December 13, 2011.

6. Approve the District 6 Willow Glen History Night as a City Council sponsored Special Event, Approve the Acceptance of Donations from various individuals, businesses or community groups to support the event; and Place this item on the December 13, 2011 City Council Agenda for action.

Documents filed: (1) Memorandum from City Clerk, Dennis Hawkins, to the Rules and Open Government Committee dated December 2, 2011 regarding District 6 Willow Glen History Night.

Action: The Committee approved District 6 Willow Glen History Night as a City Sponsored Special Event and forwarded to the City Council for formal action on December 13, 2011.

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 - None

1. Appeals of Public Records Act Requests

K. Open Forum

Martha O'Connell voiced her appreciation for the Council's actions at its meeting on December 6 regarding pension issues stating that not everyone who is for pension reform is anti-union, indicating that she was a union member for 23 years and Chief Steward during that time. She asked the Council to refrain from getting up and walking around while people are talking during Open Forum, that it is not very courteous.

David Wall suggested a reformulation of parcel taxes. He cited an example of a 100 unit apartment complex which pays one parcel tax, that each unit should be paying the tax because each unit takes services. He also suggested some reformulation of funds paid to the City Attorney's Office, that they should receive revenue from each fund and that the attorneys receive a bonus on a sliding scale when they receive a judgment in favor of the City.

L. Adjournment

The meeting was adjourned at 3:50 p.m.



Mayor Chuck Reed
Rules and Open Government Committee