



COUNCIL AGENDA: 9-25-12
ITEM: 2.3(a)

RULES AND OPEN GOVERNMENT COMMITTEE

Meeting Report

August 1, 2012

PRESENT: Mayor Reed, Vice-Mayor Nguyen and Councilmember Oliverio

ABSENT: Councilmember Constant. (Excused)

STAFF: City Manager Debra Figone, Assistant City Manager Ed Shikada, City Attorney Richard Doyle, City Clerk Dennis Hawkins, Successor Agency Managing Director Richard Keit, CMO Agenda Services Gloria Schmanek, Mayor's Council Agenda Manager Sara Wright, and Deputy City Clerk Tamara Davis.

A. City Council

1. Review Final Agenda for August 7, 2012

Public Comments: David Wall discussed Item 3.7 (Sewer Service and Use Charge and Storm Sewer Charges for 2012-2013) and Item 7.1 (Master Consultant Agreement with RMC Water and Environment to Develop a Master Plan for the South Bay Water Recycling Program).

Action: The Committee approved the agenda as amended, with Item 1.3 (Commendation to 1590 KLIV) dropped from the agenda; Sunshine Waivers for Items 3.7 (Sewer Service and Use Charge and Storm Sewer Service Charges for 2012-2013); 5.x (Acceptance of a Donation for the Construction of Soccer Fields in Almaden Valley); 7.1 (Master Consultant Agreement with RMC Water and Environment to Develop a Master Plan for the South Bay Water Recycling Program); and 8.1 (Acceptance of the 2011 Staffing for Adequate Fire and Emergency Response Grant Award.)

Item 5.x (Acceptance of a Donation for the Construction of Soccer Fields in Almaden Valley) will be heard after ceremonial items. The Joint City of San Jose City Council/Financing Authority Agenda will be heard before the consent calendar. The start time for Item 3.2 (Labor Negotiations Update) and Closed Session was changed to 9:00 a.m.

Items 6.1 (Report on Bids and Award of Contract for the 2012 Slurry Seal Project), and 7.1 ((Master Consultant Agreement with RMC Water and Environment to Develop a Master Plan for the South Bay Water Recycling Program) were placed on the consent calendar.

A "Time Certain" was assigned to Items 3.5 (Service Level Restoration Priorities) and 3.6 (Retail Sales and Use Tax Measure) not to be heard before 3:00 p.m.

2. Review of Draft Agenda for August 14, 2012

Action: The Committee approved the agenda as amended.

B. Review of Upcoming Study Session Agenda

C. Legislative Update

1. State

Director of Intergovernmental Relations Betsy Shotwell announced the approval of AB 57 (Beall) regarding Metropolitan Transportation Commission membership and that the Governor signed the bill on July 13, 2012.

2. Federal

Mayor Reed discussed his trip to Washington D.C. and his meetings with Patton Boggs LLC and the United States Patent and Trademark Office. The City of San Jose has been identified as a location for a new satellite patent office.

D. Meeting Schedules

Action: The Committee cancelled the Council Study Sessions for August 13, 2012 and September 10, 2012.

E. The Public Record

Document Filed: Memorandum from City Clerk Dennis Hawkins dated July 27, 2012 transmitting the Public Record for the period of June 8 -- July 26, 2012.

Public Comments: David Wall provided comments on items (m), (n), (s) and (w). Karl Vidt provided comments on item (l).

Action: The Public Record was noted and filed.

F. Boards, Commissions and Committees

1. Appointments

- a. Approve the appointments of Doug Feece, as an At-Large Representative, and Kelly Hattley, as a Private Off-Street Parking Facility Representative, to the Downtown Parking Board. (Councilmember Liccardo)

Documents filed: Memorandum from Councilmember Liccardo to the Rules and Open Government Committee dated July 24, 2012, recommending appointments to the Historic Landmark Commission Downtown Parking Board.

Action: The Committee approved the appointments of Doug Feece, as an At-Large Representative, and Kelly Hattley, as a Private Off-Street Parking Facility Representative to the Downtown Parking Board and forwarded both to the City Council for formal action on the August 7, 2012 City Council Agenda.

- b. Approve the appointments of Darren Wallace as the representative nominated by the San Jose Firefighters, Local 230 (IAFF) and Dave Woolsey as the representative nominated by the San Jose Police Officers Association (SJPOA) to the Deferred Compensation Advisory Committee for the remainder of the four-year terms ending on March 1, 2013 as a result of two seats being currently vacant.
(City Manager/Human Resources)

Documents filed: Memorandum from Deputy City Manager Alex Gurza to the Rules and Open Government Committee dated July 17, 2012, recommending appointments to the Deferred Compensation Advisory Committee.

Action: The Committee approved the appointments of Darren Wallace as the representative nominated by the San Jose Firefighters, Local 230 (IAFF) and Dave Woolsey as the representative nominated by the San Jose Police Officers Association (SJPOA) to the Deferred Compensation Advisory Committee for the remainder of the four-year terms ending on March 1, 2013, and forwarded both to the City Council for formal action on the August 7, 2012 City Council Agenda.

2. Workplans

- a. Approve the City Auditor's Fiscal Year 2012-2013 Work Plan. (City Auditor)

Document Filed: Memorandum from City Auditor Sharon W. Erickson to the Rules and Open Government Committee dated July 26, 2012 recommending Acceptance of the City Auditor's Fiscal Year 2012-13 Workplan.

Public Comments: David Wall provided comments about Assignment #1 – Environmental Services Department, and stated that it is tied to the South Bay Water Recycling Program.

Action: The Workplan was accepted as submitted.

- b. Approve the Airport Commission Work Plan for FY 2012-13 recommended by staff; and The Annual Report for FY 2011-12 Commission Work Plan.
(City Manager/Airport)

Document Filed: Memorandum from Director of Aviation William F. Sherry to the Rules and Open Government Committee dated July 23, 2012 recommending Acceptance of the Airport Commission FY 2012-13 Workplan and the FY 2011-12 Annual Report.

Kim Aguirre, Assistant Director of the Airport Department, reminded the Committee that the decision was made to proceed with the Westside RFP and deal with the configuration issue later. Ms. Aguirre recommended dropping alternative airfield configurations from the Workplan, since the timing is not appropriate.

Public Comments: Keith Graham, Chair of the Airport Commission, strongly recommended the adoption of the plan in its entirety, including the additions proposed by the Airport Commission at the May 14th meeting. Mr. Graham also discussed airport staff adding, amending, and removing items that have been requested to be discussed by the commission.

Frank Sweeny, Airport Commissioner, discussed an alternative configuration of the airport, and stakeholder research that has yielded another option, which would allow the runway and ramp space to remain in place.

David Wall proposed adding a few items to the Workplan, and questioned if the \$12 CPE is attainable. Mr. Wall also questioned what would cause the airport to go past the point of no return financially.

Action: The Workplan was accepted as recommended by staff.

- c. Approve the Advisory Commission on Rents (ACR) FY 2012-13 Work Plan. (City Manager/Housing)

Document Filed: Memorandum from Director of Housing Leslye Corsiglia to the Rules and Open Government Committee dated July 17, 2012 recommending Acceptance of the Advisory Commission on Rents (ARC) Workplan for FY 2012-2013.

Public Comments: David Wall discussed the sewer service and use charges to mobile homes as burdensome and oppressive.

Action: The Workplan was accepted as recommended.

G. Rules Committee Reviews, Recommendations and Approvals

1. Workload Assessment for Council Requests and Referrals – None.
2. Approve the Elections Commission referral for review:
 - a. Consider the removal of the disclosure of electioneering communications on all campaign related signs, buttons, and garments; and
 - b. Review and update various provisions of Chapter 12.06.1000 of the Municipal Code relating to Electioneering Communications. (Councilmember Chu)
(Deferred from June 13, 2012 Rules Agenda)

Document filed: Memorandum from Councilmember Chu to the Rules and Open Government Committee dated June 7, 2012 regarding Elections Commission Referral.

Action: The Committee did not take action on item G2, as the Elections Commission is already reviewing the issues as part of their approved Workplan and overall review of Title 12.

3. Place the following item on the August 7, 2012 City Council Agenda:
 - a. Council discussion and consideration of a Charter amendment to require financial support for the San José Library Department on the November 2012 ballot.
 1. If the Council wishes to proceed, adoption of a resolution of the City Council calling on its own motion for an election to be held on November 6, 2012.
 2. Council discussion and consideration of adopting of provisions to permit rebuttal arguments in the November 2012 Voter's Sample Ballot, pursuant to Elections Code Section 9285.
 3. Council discussion and consideration of adopting provisions to permit any member or members of the City Council to submit arguments in the November 2012 Voter's Sample Ballot, pursuant to Elections Code Section 9282.
 - b. In preparing the ballot question to be approved for the November 2012 ballot measure, City staff should meet with Save San Jose Libraries proponents to discuss potential changes to the Charter amendment language.
(Councilmembers Chu, Kalra, and Campos)

Document filed: Memorandum from Councilmembers Chu, Kalra, and Campos to the Rules and Open Government Committee dated June 15, 2012 regarding November 2012 Ballot Measure. Memorandum from Mayor Reed dated August 1, 2012.

Mayor Reed discussed the mcmo and highlighted the City's \$9 million cushion that is being used to open four new libraries with anticipated opening dates of January 2013. Mayor Reed suggested deferring consideration of the library funding carve-out, and stated that the initiative will take the City in the wrong direction. Mayor Reed stated that the carve-out will be disastrous to other departments, and should not be done at the expense of police, fire, and parks.

Public Comments: Trixie Johnson, a former City Councilmember, stated that the City government has broken its contract with the people, and City staff errors have put the initiative in danger, which does not give the initiative supporters enough time or resources to get this on the November ballot. Ms. Johnson suggested that the committee make right by putting the initiative on the ballot.

Mary McLane, Executive Director of the San Jose Public Library Foundation, provided a background and summary of the Foundation's activities in 2011. Ms. McClain informed the Committee that staff errors have resulted in lost resources, time and money for the Foundation.

Pat Saucedo, San Jose Silicon Valley Chamber of Commerce, stated that public policy by departmental carve-out for budgeting purposes of the general fund is bad policy for the City of San Jose. The Chamber opposes moving forward with the initiative.

Janice Allen stated that elected officials should be held accountable, and the City should right the wrong.

Jane Light, former City of San Jose Library Director, stated that only the City Council can fix the wrong created by staff error, and the Committee should move the matter forward.

David Hook urged the Committee to support placing the initiative on the August 7, 2012 City Council agenda.

Wilma Hashii, President of Pearl Avenue and Seven Trees Friends, and a Library volunteer stated that she volunteered time for the Save San Jose Libraries campaign, and asked the committee to put the measure on the November ballot.

Daniel Allen stated that if the City invested in public libraries they would not need as many police officers.

David Wall stated that the City has destroyed the public investment of the Police Department, and did it on the backs of the libraries. Mr. Wall stated that the issue should be placed on the ballot.

Action: The Committee did not take action on Item G3; it was not forwarded to the City Council.

4. Agendize the following for the August 7, 2012 City Council meeting:
 - a. Amend Ordinance No. 28178 to extend the pilot program for the Neighborhoods Commission to June 30, 2013; and
 - b. Direct the City Clerk to complete the Boards and Commission Structural Improvement Report by December 1, 2012. (Mayor Reed, Vice-Mayor Nguyen, and Councilmember Herrera)

Document filed: Memorandum from Mayor Reed, Vice-Mayor Nguyen, and Councilmember Herrera to the Rules and Open Government Committee dated July 13, 2012 regarding Neighborhoods Commission.

Action: The Committee approved the memorandum and place the item on the August 14, 2012 City Council Agenda for formal action.

5. Adopt a resolution in support of freeway directional signage on US 101 and Interstate 280 directing commuters to Little Saigon Business District on Story Rd. (Councilmember Chu)

Document filed: (1) Memorandum from Councilmember Chu to the Rules and Open Government Committee dated July 13, 2012 regarding Resolution to Support Freeway Directional Signage, and (2) Letter from the Director of the Department of Transportation Hans Larsen to Mr. Bijan Sartipi, Caltrans District 4, dated June 20, 2012 regarding "Little Saigon" Directional Signage.

Director of Intergovernmental Relations, Betsy Shotwell, discussed AB 2095 (Campos) currently in the Senate appropriations committee; the bill allows Caltrans to install freeway signage with support from county and community where it will be placed. Ms. Shotwell mentioned that the bill needs to be on the Governor's desk by August 31, 2012.

Mayor Reed discussed the letter sent to the State of California expressing the City's support for the "Little Saigon" directional sign. The Mayor stated that since the Director of the Department of Transportation has expressed the City's support for the signage, the City does not need a resolution.

Public Comments: Councilmember Chu discussed his memo and his belief that the signs will provide economic benefit to the City and summarized support for the signs by other elected officials.

Barry Do thanked the City's leadership for supporting the signage for the business district.

Tien Nguyen, Dave Hoang, Minh Khanh, Richard McCoy, and Hoang Xuyen Anh urged adoption of a resolution supporting the freeway directional sign.

Van Le questioned the Mayor's statement about needing the resolution, and stated that without a resolution the process will take longer; she urged approval of the resolution.

Vananh Trinh believes the signage will unite the Vietnamese community and attract tourists, and suggested that signage also be added to Highways 280 and 680.

Ton Ngo, Thuong Hoang, Charlie Le, and Doung Nguyen opposed the freeway signage and asked the Committee not to support it.

Action: The Committee did not take action on Item G5; it was not forwarded to the City Council.

6. Direct the City Manager or designee to negotiate and execute a Joint Use Park Agreement with the Santa Clara Unified School District on the Agnews East site in North San Jose, and place the item on the August 7, 2012 City Council Agenda for action. (Mayor Reed and Councilmember Chu)

Document filed: Memorandum from Mayor Reed and Councilmember Chu to the Rules and Open Government Committee dated July 24, 2012 regarding Joint Park Agreement with Santa Clara Unified School District in North San Jose.

Action: The Committee approved Item G6 with a sunshine waiver.

7. Approve the proposed designation of Councilmember Pete Constant, as the alternate voting delegate at the September 7, 2012 Annual Business meeting for the League of California Cities (LOCC). A one-week turnaround to Council is requested so that the full Council may act on this request for this designation to be submitted to the LOCC. (City Manager)

Document filed: Memorandum from Director of Intergovernmental Relations Betsy Shotwell to the Rules and Open Government Committee dated July 24, 2012 regarding 2012 League of California Cities Alternate Voting Delegate at the Annual Business Meeting.

Action: The Committee approved Item G7 with a Sunshine Waiver, and placed on the City Council Agenda for August 7, 2012 for formal action.

8. Refer the review of the proposed revisions to Council Policy #1-17 Donations, Sponsorship, and Fundraising to the full Council for consideration. (City Manager)

Document filed: Memorandum from Jeff Ruster, Director of Strategic Partnerships, to the Rules and Open Government Committee dated July 23, 2012 regarding Proposed Changes to Council Policy #1-17

Action: The Committee approved Item G8 and forwarded to the City Council for formal action on the August 14, 2012 City Council Agenda.

9. Approve the San Jose Jazz Festival Flag Raising as a City Council-Sponsored Special Event, approve expending funds and accepting donations from various individuals, businesses, or community groups to support the event, and place the item on the August 7, 2012 Council Agenda for action. (City Clerk)

Document filed: Memorandum from the City Clerk Dennis Hawkins to the Rules and Open Government Committee dated July 13, 2012 regarding the San Jose Jazz Festival Flag Raising Ceremony.

Action: The Committee approved Item G9 with a Sunshine Waiver and placed on the August 7, 2012 City Council Agenda for formal action.

10. Approve National Night Out as a City Council-Sponsored Special Event, approve and accept donations from various individuals, businesses, or community groups to support the event, and place the item on the August 7, 2012 Council Agenda for action. (City Clerk)

Document filed: Memorandum from the City Clerk Dennis Hawkins to the Rules and Open Government Committee dated July 13, 2012 regarding National Night Out.

Public Comments: Richard McCoy urged the City Council to keep the August 7, 2012 City Council meeting to a minimum, so City Councilmembers can keep their appointments and schedules to attend National Night Out events in their districts.

Action: The Committee approved Item G10 with a Sunshine Waiver and placed on the August 7, 2012 City Council Agenda for formal action.

11. Approve the District 8 Day In The Park as a City Council-Sponsored Special Event, approve and accept donations from various individuals, businesses, or community groups to support the event, and place the item on the August 7, 2012 Council Agenda for action. (City Clerk)

Document filed: Memorandum from the City Clerk Dennis Hawkins to the Rules and Open Government Committee dated July 25, 2012 regarding District 8 Day in the Park Festival.

Action: The Committee approved Item G11 with a Sunshine Waiver and placed on the August 7, 2012 City Council Agenda for formal action.

12. Accept the report on posting of public calendars by City Officials on the City's website. (City Manager)

Document filed: Memorandum from David Vossbrink, Director of Communications, to the Rule and Open Government Committee dated July 27, 2012 regarding City Officials Public Calendars.

Public Comments: David Wall believes that posting these calendars is a waste of time.

Action: The Committee approved Item G12, and requested a report back on reporting of public calendars, and if it can be reduced to twice a year instead of quarterly.

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

1. Community and Economic Development Committee
 - a. Approve the Community and Economic Development Committee Workplan for the period August through December 2012 and setting its meeting schedule on the fourth Monday of each month at 1:30 p.m. in Rooms W118-119. (Mayor Reed and Councilmember Herrera)

Document filed: Memorandum from Mayor Reed and Councilmember Herrera to the Rules and Open Government Committee dated May 23, 2012 regarding the Community and Economic Development Committee Workplan.

2. Neighborhood Services and Education Committee
 - a. Approve the Neighborhood Services and Education Committee Workplan for the period August through December 2012 and setting its meeting schedule on the second Thursday of each month at 1:30 p.m. in Rooms W118-119. (Mayor Reed and Councilmember Pyle)

Document filed: Memorandum from Mayor Reed and Councilmember Pyle to the Rules and Open Government Committee dated July 27, 2012 regarding the Neighborhood Services and Education Committee Workplan.

3. Transportation and Environment Committee
 - a. Approve the Transportation and Environment Committee Workplan for the period August through December 2012 and setting its meeting schedule on the first Monday of each month (except as noted for special meetings) at 1:30 p.m. in Rooms W118-119. (Mayor Reed and Councilmember Liccardo)

Document filed: Memorandum from Mayor Reed and Councilmember Liccardo to the Rules and Open Government Committee dated July 25, 2012 regarding the Transportation and Environment Committee Workplan.

Public Comment: David Wall discussed the Transportation and Environment Committee Workplan and stated that the conditions at the Water Pollution Control Plant are dire and need to be addressed.

4. Public Safety, Finance and Strategic Support Committee
 - a. Approve the Public Safety, Finance and Strategic Support Committee Workplan for the period August through December 2012 and setting its meeting schedule on the third Thursday of each month at 1:30 p.m. in the City Council Chambers, or as noticed. (Mayor Reed and Councilmember Constant)
 - b. Approve the addition of items to the Public Safety, Finance and Strategic Support Committee Workplan. (Mayor Reed and Councilmember Herrera)

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Documents filed: (1) Memorandum from Mayor Reed and Councilmember Constant to the Rules and Open Government Committee dated July 23, 2012 regarding the Public Safety, Finance and Strategic Support Committee Workplan, and (2) Memorandum from Mayor Reed and Councilmember Herrera dated July 25, 2012 regarding Addition of Items to the Public Safety, Finance and Strategic Support Committee Workplan.

5. Rules and Open Government Committee
 - a. Approve the Rules and Open Government Committee Workplan for the period August through December 2012 and setting its meeting schedule as every Wednesday at 2:00 p.m. in the city Hall Wing Committee Meeting rooms 118-120. (Mayor Reed)

Document filed: Memorandum from Mayor Reed to the Rules and Open Government Committee dated July 25, 2012 regarding the Rules and Open Government Committee Workplan.

Public Comment: David Wall expressed his opinion that the Rules Committee should not cancel any more meetings.

Action: The Committee approved Items H.1.a – H.5.a, and cancelled the Neighborhood Services and Education Committee's August meeting.

I. Open Government - None

J. Open Forum

David Wall discussed the Water Pollution Control Plant's inability to hire quality tradespeople and his repeated warnings about a consultant agreement for the Water Pollution Control Plant that went from \$2.2 million to \$5.2 million with five amendments.

K. Adjournment

The meeting was adjourned at 3:57 p.m.



Mayor Chuck Reed
Rules and Open Government Committee