



RULES AND OPEN GOVERNMENT COMMITTEE

Meeting Report

April 1, 2008

PRESENT: Mayor Reed, Vice Mayor Cortese, Council Members Chirco and Constant.

ABSENT: None.

STAFF: City Attorney Richard Doyle, City Manager Debra Figone, City Clerk Lee Price, Director of Communications Tom Manheim, Senior Deputy City Attorney Lisa Herrick, Redevelopment Agency Assistant Director Gary Miskimon, Assistant City Manager Christine Shippey, Agenda Services Manager Nadine Nader, Council Agenda Manager Alicia Bosco and Legislative Secretary Susan Davis.

I. Open Government Initiatives

Review of remaining provisions of Sunshine Reform Task Force Phase I/Part II Recommendations.

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated September 2007, regarding the City Attorney's Response to referral dated August 29, 2007 from Rules and Open Government Committee. (2) Packet from the Sunshine Reform Task Force itemizing discussion Items (a)-(f) as described in this document.

Mayor Reed called the meeting to order at 9:06 a.m.

Director of Communications Tom Manheim provided an overview of the remaining provisions of the Sunshine Reform Task Force Phase I/Part II recommendations.

(a) Provisions about Agenda Packet

Senior Deputy City Attorney Lisa Herrick outlined the draft provisions for the agenda packet, including memoranda, contracts, draft ordinances and resolutions, and reports from consultants.

Action: The Committee approved the provisions.

I. (b) Other Advisory Entities

Director of Communications Tom Manheim summarized the three groups of other Advisory entities: (1) Subject to the Brown Act. (2) Open to the public but not subject to the Brown Act. (3) Not open to the public and not subject to the Brown Act. Discussion followed regarding the definition of "standing committees" and a "kitchen cabinet". Council Member Constant suggested that the definition for "groups that solely advise elected officials" be expanded to include political advisors. Mayor Reed requested that the definition of "standing committee" be revised for greater clarity.

Action: The categories of other advisory entities were approved, as amended.

(c) Decision Making Bodies (Quasi-Judicial)

Senior Deputy City Attorney Lisa Herrick provided the background on the decision making bodies and outlined the staff recommendations.

Public Comments: Ed Rast, Chair of the Sunshine Reform Task Force, voiced objection to the Staff's recommendation to not place Staff's recommendation on the agenda for evidentiary hearing matters.

Action: The following recommendations were accepted by the Committee. The decision making bodies are required to: (1) post an agenda 7 days in advance of a regular meeting. (2) Post an amended agenda for a regular meeting, if necessary. (3) Call a special meeting on 24 hours notice, when appropriate. (4) Identify the recommended action for an evidentiary hearing in the Staff report, when appropriate, but not on the agenda. (5) Post written reports generated by staff 7 days before the date of the hearing. (6) List all documents associated with an agenda item, unless they are confidential. (7) Record all meetings/hearings and retain the recordings for 2 years. (8) Prepare action minutes in draft form 10 days after meeting.

(d) Non-Governmental Bodies

Director of Communications Tom Manheim presented an overview of the Non-Governmental Bodies.

Discussion followed about performance review and reporting measures. Vice Mayor Cortese requested an information memorandum outlining the number of leases with nonprofits that are not included on the list of Non-Governmental bodies.

Public Comments: Ed Rast, Chair of the Sunshine Reform Task Force, spoke in favor of a reporting mechanism to a Council Committee as a way for non-profits to bring forward issues.

I. (d) Non-Governmental Bodies (Cont'd.)

Action: The following recommendations were accepted by the Committee: (1) Do not apply Task Force requirements to Non-Governmental bodies. (2) Maintain current structure for administrative oversight of Non-Governmental bodies. (3) Strengthen Non-Governmental bodies oversight through posting of audited financials and partnership for strategic civic engagement and annually reporting to the appropriate Council Committees.

(e) Closed Session

Senior Deputy City Attorney Lisa Herrick presented the following discussion topics. (1) Should entities like the Retirement Boards be permitted to file amicus briefs independent of the City. (2) If other entities may file amicus briefs, may they consult outside counsel rather than the City Attorney. (3) May the Retirement Boards be exempt from the requirement that the real estate transactions be approved in Closed Session. (4) Should the Council record Closed Session. (5) If the Council decides to record Closed Session, should it do so for the purpose of having the recording available to review for possible violations of the Brown Act. (6) If the Council decides to record Closed Session for possible future release, should the disclosure be in the form of a transcript.

In-depth discussion followed.

Susan Devencenzi and Tom Webster provided arguments in support of Staff's recommendation to not require the Retirement Boards to approve in open session real estate negotiations.

Mayor Reed, Vice Mayor Cortese and Council Members Chirco and Constant strongly objected to the audio recording of Closed Session proceedings involving personnel and labor negotiations. Council Member Chirco requested information about procedures in other cities.

Action: The Committee made the following decisions: (1) Entities like the Retirement Boards should not be permitted to file amicus briefs independent of the City. (2) Other entities may not file amicus briefs and may not consult outside counsel. (3) Retirement Boards are not exempt from the requirement that real estate transactions be approved in open session.

Action: Upon motion by Council Member Chirco, seconded by Vice Mayor Cortese and carried unanimously, decisions regarding Items (4) – (6) as outlined above were referred to the full Council.

(f) Items for Clarification

Action: Continued to April 2, 2008 Rules and Open Government Committee Meeting.

**RULES AND OPEN GOVERNMENT COMMITTEE
MEETING REPORT
Page 4**

April 1, 2008

J. Public Comments

Ed Rast (Chair, Sunshine Reform Task Force) stated the City has done a tremendous job of making more information available on its web site, especially for comparison purposes with other cities.

K. Adjournment

The meeting was adjourned at 12:09 p.m.



Mayor Chuck Reed
Rules and Open Government Committee