



RULES AND OPEN GOVERNMENT COMMITTEE

Meeting Report
November 5, 2008

PRESENT: Mayor Reed, and Council Members Constant and Nguyen.

ABSENT: Vice Mayor Cortese, Council Member Chirco. (Excused)

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

A. City Council

1. Review November 11, 2008 Final Agenda.

None. Meeting was canceled.

2. Review November 18, 2008 Draft Agenda.

Action: The Committee approved the November 18, 2008 City Council Draft Agenda with the following additions:

- Presentation of a commendation to San José State University's Silicon Valley Center for Entrepreneurship for their commitment to promoting innovation, entrepreneurship and the international visibility and economic vitality of the City of San José.
- Request for an excused absence for Councilmember Chirco from the Regular Meeting of the Rules and Open Government Committee on November 5, 2008 due to Personal Business.
- Request for an excused absence for Councilmember Williams from the Special City Council Meeting on November 10, 2008 due to Personal Business.
- Item 36, Council appointments to the Retirement Boards was removed from the Agenda.
- Public intoxication policy review and discussion, to be heard in the evening no earlier than 7:30 p.m.
- California Gang Reduction, Intervention and Prevention Grant Application.
- Acceptance of the Silver Leaf Neighborhood Action Agenda.

B. Redevelopment Agency

- 1. Review November 11, 2008 Final Agenda.**
- 2. Review November 18, 2008 Draft Agenda.**

Action: The Committee approved the November 18, 2008 Draft Redevelopment Agency Agenda. The November 11, 2008 Meeting was canceled.

C. Legislative Update

- 1. State**
 - a. Sacramento Update (verbal report) (Manager)**

Director of Intergovernmental Relations Betsy Shotwell reported the Governor had called for a special session of the legislature to reopen the State Budget.

- 2. Federal**

There was no update.

D. Meeting Schedules

- 1. Approval to cancel Rules Committee Meetings in November and December and set dates for "Rules In-Lieu" Meetings. (City Clerk)**

Documents Filed: Memorandum from City Clerk Lee Price, dated October 30, 2008, recommending canceling the Regular Rules and Open Government Committee meetings for November 26, 2008 and December 17, 2008 at 9:45 a.m. and set the following Rules in Lieu meetings for November 25, 2008 and December 17, 2008 at 1:00 a.m.

Action: The Committee approved the recommendations.

- 2. Approval of the City Council Meeting Schedule for the period January to July 2009. (Manager)**

Documents Filed: Memorandum from Deputy City Manager Deanna J. Santana, dated October 31, 2008, recommending approval of the City Council Meeting Schedule for the period January to July 2009.

Action: The Committee approved the City Council Meeting Schedule with two changes: (1) the March 3, 2009 evening session was canceled. (2) Council Policy Priority Setting Study Session for Friday, February 13, 2009 was extended to 5:00 p.m.

E. The Public Record

Documents Filed: Memorandum from City Clerk Lee Price, dated October 31, 2008, transmitting items for the Public Record for the period of October 24-30, 2008.

Action: The Committee noted and filed the Public Record, with the exception of Item (e) regarding the 15% senior discount allowed on taxi rates, which was referred to the Department of Transportation.

F. Appointments to Board, Commissions and Committee

There were none.

G. Rules Committee Reviews, Recommendations and Approvals

- 1. Direct the City Manager to report back to the Rules Committee with a status update, or possible action, on the Street Light Shutoff Program which was implemented as part of the City's 2008-2009 Budget. (Pyle)**

Documents Filed: Memorandum from Council Member Pyle, dated October 29, 2008, directing the City Manager to report back to the Rules Committee with a status update, or possible action, on the Street Light Shutoff Program.

Action: The Committee recommended approval of the staff report and directed Staff to return on November 19, 2008 with a status update.

- 2. Reconsideration of the date the City Council will review and discuss the Public Intoxication Policy. (Mayor)**

Documents Filed: (1) Memorandum from Mayor Reed, dated October 31, 2008, recommending a discussion by the City Council on November 18, 2008 on the Police Department's public intoxication policy. (2) Letter from the American Civil Liberties Union of Northern California, dated November 3, 2008, regarding possible racial profiling in public intoxication arrests. (3) Letter from the Blanca Alvarado, Supervisor, Second District, County of Santa Clara Office of the Board of Supervisors, dated November 4, 2008, regarding the referral related to the impact of public drunkenness arrests on the justice system.

Public Comments: Speaking in favor of the Mayor recommendation: Trina Collins (Coalition of Latinos), Esau Herrera (Silicon Valley Latino Democratic Forum), Raj Jayadev (DE-BUG) and Del Castenano.

Action: The Committee recommended that the Police Department's policy on public intoxication be placed on the November 18, 2008 evening Agenda, not to be heard before 7:30 p.m. The Independent Auditor was directed to provide supplemental memorandum on the issue.

G. 3. Approval of Retirement Board Supplemental Questionnaire. (City Attorney)

Documents Filed: (1) Replacement memorandum from Deputy City Manager Deanna J. Santana, dated November 3, 2008, providing the correct version of the Retirement Board Supplemental Questionnaire. (2) Letter from the Association of Retired San José Police Officers and Firefighters, dated November 4, 2008, expressing strong opposition to the recommended Retirement Board supplemental questionnaire.

Public Comments: Expressing objections and concerns about a change in the selection process were Jeff Walsh (San José Firefighters Association), Bobby Lopez (President, San José Police Officers Association), Bruce De Mers (President, Association of Retired San José Police Officers and Firefighters), John Tenney (General Counsel for San José Police Officers Association) and John McCarr (Architects and Engineers Association and the City Labor Alliance).

Extensive discussion followed.

Action: The Committee directed that the City Attorney review any potential legal issues relative to "Meet and Confer" requirements with the lawyers for the Retirement Boards and the labor associations, and return to Rules and Open Government Committee on December 3, 2008 with a status report.

H. Review of additions to Council Committee Agenda

- 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**

There were none.

I. Open Government Initiatives

- 1. Reed Reforms**

There were none.

- 2. Sunshine Reform Task Force (SRTF)**

Review of SRTF Phase II Report and Recommendations

- a. SRTF Phase II Report and Recommendations.**
- b. Staff's Response to Phase II Report and Recommendations of the SRTF.**
- c. SRTF Chair's Response to the Staff Report responding to Phase II Report and Recommendations of the SRTF.**

I. (2) (Cont'd.)

Documents Filed: Staff and Taskforce presentations of Administration and Accountability, Proposed Records Appeal Process and Statistical Reports prepared by the San José Fire Department, dated November 5, 2008.

Dave Zanker, Sunshine Reform Task Force Member, summarized the Sunshine Reform Task Force's Public Records Subcommittee recommendations regarding the Fire Department's statistical reports. San José Fire Department Administrative Officer Geoffrey Cady responded to questions.

Action: The Committee provided feedback to Staff on the flowchart for the proposed appeal process for public records and agreed to wait to take any action on the Fire Department Statistical reports recommendation until after the Fire Department has begun using its new RMS system and generated its first round of reports to provide them information on the resources it would require to generate and post those reports quarterly.

- 3. Significant Public Records Act Requests**
- 4. Council Policy Manual Update**

There were none.

J. Open Forum

None were presented.

K. Adjournment

The meeting was adjourned at 3:45 p.m.



Mayor Chuck Reed
Rules and Open Government Committee