

To: Sunshine Task Force
From: Bob Brownstein
Subject: Public Information on Public Subsidies
Date: April 11, 2007

To assist the Task Force in responding promptly to the City Council's expression of interest in our views on the public subsidies issue, I would like to offer some adjustments to the proposal adopted in concept last month.

First, it may be helpful to review the background on this subject. There seems to be some confusion on the part of city staff regarding the timing and source of the original idea to improve public access to information about subsidized projects and large city expenditures as part of San Jose's Sunshine Reforms.

It was on March 6, 2006, that City Council members initially presented a list of potential reforms that included expanding opportunities for public review for expenditures over \$1 million dollars and items of "significant public interest." These matters were forwarded to staff for evaluation. On June 21, 2006, City Manager Les White and RDA Director Harry Mavrogenes submitted a Sunshine Reform Implementation strategy to the City Rules Committee that included additional time for public review of expenditures over \$1 million dollars and also included improved outreach and the use of a cost-benefit analysis and economic impact report for items of significant public interest.

Following the formation of the Sunshine Task Force, in September of 2006 Phaedra Ellis-Lamkins, then a Task Force Member, submitted a major list of suggested data that should be presented to the public when publicly subsidized projects were to be considered.

After I joined the Task Force, I submitted a public subsidies proposal substantially smaller in scope. That proposal was discussed at the Task Force's first presentation to the City Council in November of 2006 and a formal written proposal was circulated to Task Force members for consideration in December of that year.

It is noteworthy that ALL of these steps occurred BEFORE the Mayor's Transition Team produced its proposal for a cost-benefit analysis in January of 2007. In fact, the current staff cost benefit analysis proposal is a relative late arrival to this long standing discussion, a discussion that has continued for over a year.

Considering this background, it is certainly appropriate for Task Force members to challenge the assumption that this late staff proposal should be viewed as the *only* valid approach to increasing transparency and opening government procedures regarding large-scale public subsidies.

Having read the Staff Response on Cost Benefit Analysis dated April 6, 2007, I believe the following modifications of my original proposal satisfy many of staff's

concerns while retaining the commitment to substantially improve public access to city decision-making.

1) Public Input

The standard period for public review of projects receiving a subsidy of more than \$1 million dollars should be thirty days. However, in exceptional circumstances where there is a risk that this 30 day period may jeopardize a high priority project, staff can request a waiver to move the issue forward in 21 or 14 days.

By adopting this approach, the city can still provide sufficient time for public review on the vast majority of projects for which time pressures are not acute. For example, at the City Council meeting on April 3rd, city staff suggested the following seven potential targets for a cost-benefit analysis: convention center expansion, Hayes Mansion, city-owned golf courses, arts stabilization fund, disposal of old city hall, FMC RFP responses, and soccer stadium. *None* of these projects would be put at risk if the public were provided with a 30-day review period. In the unusual case where an expedited process is needed, staff can secure a waiver simply by making the case for a rapid decision to the city council.

2) Basic Information

a) Net Job Impact

Instead of information on the specific jobs generated as a result of subsidized projects, staff will only have to report on the number of jobs in each of the following salary categories: \$1 to \$20,000; \$20,000 to \$40,000, \$40,000 to \$60,000, \$60,000 to \$80,000, and over \$80,000. As regards health insurance, staff will only have to indicate whether the employer provides health insurance to full time employees. This is a “yes” or “no” question.

b) Fiscal Opportunity Cost

Staff’s proposal to replace fiscal opportunity cost with “source of and restrictions on proposed funds” is reasonable. All that will be required is an indication of the source of funds and any restrictions on the use of funds from that source.

c) Net Housing Impact

Staff should report the number of units constructed or demolished by the project categorized by level of affordability. In addition, staff should state the number of units of Extremely Low Income (ELI) housing that would be needed for workers employed directly at the project. This number can be readily calculated from the job data noted above. ELI units are those affordable to people earning 30% of median income.

d) Impact on Neighborhoods

Staff can rely on the project EIR and the project traffic analysis for data on issues covered by those documents. However, staff should report on the impact on other public infrastructure, such as use of community centers, libraries, parks, etc.

The other components of the original proposal are sound, and I recommend their adoption. In particular, I wish to emphasize two of them.

First, these open government requirements should apply to all projects that receive a subsidy of \$1 million dollars or more. At a time in which public resources are scarce and city budget decisions involve the reduction of valued public services, the people of San Jose are entitled to sufficient time and information to determine whether high cost, special allocations are justified. Secondly, whenever a large public subsidy is granted, the public should be provided with a description of the options available to the city if the project fails to generate the projected returns. Without this information, neither the public nor the City Council can determine how much risk is associated with the proposal.