



Memorandum

TO: MAYOR-ELECT CHUCK REED

FROM: Ed Rast, Chair
Dan Pulcrano, Vice Chair

**SUBJECT: SUNSHINE REFORM TASK
FORCE RECOMMENDATIONS**

DATE: December 12, 2006

On behalf of the Sunshine Reform Task Force (Task Force), we wish to thank you for speaking to us at our meeting on November 18, 2006. In response to your request to provide input on your proposed "Sunshine Ordinance Changes," attached you will find our preliminary recommendations.

The Task Force appreciates your work to provide more open, transparent government in San Jose and we look forward to continuing our work together. If you have questions or comments with regards to this information, please do not hesitate to contact either one of us at 408-297-2800 (Ed Rast), or 408-200-1302 (Dan Pulcrano).

Ed Rast
Sunshine Reform Task Force Chair

Dan Pulcrano
Sunshine Reform Task Force Vice Chair

TO: MAYOR-ELECT CHUCK REED

FROM: Sunshine Reform Task Force

**SUBJECT: RECOMENDATIONS ON
SUNSHINE REFORMS CHANGES**

DATE: December 12, 2006

BACKGROUND

City of San Jose Mayor-elect Chuck Reed addressed the Sunshine Reform Task Force at its Saturday, November 18, 2006 meeting. The Mayor-elect expressed his intention to bring forward a series of sunshine reforms to the City Council at its first meeting in January, 2007. Recognizing more detailed work would follow, the Task Force was requested to: 1) evaluate the "Sunshine Ordinance Changes" section of the "Reed Reforms" and provide input at the policy level, and 2) identify any other areas the Task Force has interest in addressing.

Mayor-elect Reed has recommended 34 government reform measures. A complete list of the "Reed Reforms" is attached. The Task Force believes that Items 4 through 21 relate to the development of a Sunshine Ordinance. This memorandum provides input to the City Council on the sunshine reform measures as they pertain to the Task Force's work.

ANALYSIS

The Task Force evaluated the 18 "Sunshine Ordinance Changes" section of the "Reed Reforms" at its meetings on November 18, 2006 and December 7, 2006 and took one of four actions:

1. Accepted the reform proposal and will provide additional recommendations as part of the Task Force's overall work plan.
2. Accepted the reform proposal and recommend continuing or proceeding with implementation.
3. Referred the reform proposal to the City's Elections Commission.
4. Deferred action pending further analysis and discussion.

Below are recommendations for each of the proposals. In those cases where the Task Force has had substantial discussion on the reform proposal, preliminary recommendations are provided.

- 4. Adopt a Sunshine Ordinance that will make it easier for the public to know their rights and easier for the public to find out what the city is doing.**

Task Force recommendation: Accept the reform proposal and provide additional recommendations as part of the Task Force's overall work plan.

5. Prohibit late staff memos so that the public can have a greater opportunity to respond to proposals and fully participate in the debate.

Task Force recommendation: Accept the reform proposal and provide additional recommendations as part of the Task Force's overall work plan. The Task Force has endorsed in concept this reform and preliminarily recommends:

- *Require policy bodies to post agendas at least 10 calendar days before a regular meeting.*
- *Require staff reports and other supporting documents to be posted on the City's public access web site at least 10 calendar days before a regular meeting. In the event that staff reports and other supporting documents related to items on the agenda are not posted 5 calendar days prior to the date action is taken on the item, the item will be deferred.*
- *Require council memorandums to be signed by no more than two councilmembers and posted 3 business days prior to the date action is taken on the item.*

6. Require the Mayor and Councilmembers to disclose material facts before the Council takes action.

Task Force recommendation: The Task Force supports in concept recent revisions to the City's process for disclosing and sharing material facts and conflicts of interest. On April 25, 2006, the City Council approved the Disclosure and Sharing of Material Facts Policy No. 0-32 which requires the Mayor and Councilmembers to publicly share substantive information that is relevant to a matter under consideration by the Council.

Additionally, on November 21, 2006, the Council approved the Declaration of Conflict of Interest Policy which requires disclosure of the conflicts of interest at least 24 hours in advance of a Council or Board/Commission meeting.

The Task Force recommends that the City evaluate enforcement actions for the conflict of interest policy and will provide additional recommendations as part of the Task Force's overall work plan.

7. Require the Mayor and Councilmembers to disclose any political favors or other consideration they are to get in exchange for their votes.

Task Force recommendation: See discussion above for #6.

8. Disclose all offers made to city unions for pay or benefit increases when the offers are made.

Task Force recommendation: Defer action pending further analysis and discussion in regard to the California Meyers-Milias-Brown Act.

9. Disclose the names of people serving on advisory committees.

Task Force recommendation: Accept the reform proposal and recommend proceeding with implementation.

10. Make broader disclosures of what the Council does in closed sessions.

Task Force recommendation: Accept the reform proposal and provide additional recommendations as part of the Task Force's overall work plan. Also see #17 below.

11. Prohibit closed door meetings for city task forces, commissions and committees.

Task Force recommendation: Accept the reform proposal. The Task Force is currently reviewing the list of (seven) bodies that are authorized to conduct closed sessions and will provide additional recommendations as part of the Task Force's overall work plan.

12. Post notices for meetings of committees, boards, commissions and advisory bodies online on one page.

Task Force recommendation: Accept the reform proposal and recommend proceeding with implementation. Additional recommendations may be submitted upon consideration of the technology section of the Task Force's work plan.

13. Disclose the salaries of all city employees by position.

Task Force recommendation: Defer action pending further analysis and discussion, and the outcome of lawsuit regarding a similar matter. The City is in current litigation for refusing to disclose names of employees with specific salaries. The California Supreme Court will be making a decision on a similar case that may have a bearing on this issue.

14. Disclose records of city employee disciplinary actions to the extent allowed by state law.

Task Force recommendation: Accept the reform proposal for discussion and input from the community, and provide additional recommendations as part of the Task Force's overall work plan.

15. Disclose actions taken on complaints received about fraud and abuse.

Task Force recommendation: Accept the reform proposal. The Task Force supports recent revisions to its reporting on complaints received through the Fraud and Audit Hotline.

16. Disclose appraisals used in the purchase or condemnation of property after the terms are agreed to.

Task Force recommendation: Accept the reform proposal and recommend proceeding with implementation.

17. Record all Council closed session meetings electronically and make the information available after the reason for secrecy has passed.

Task Force recommendation: Accept the reform proposal and provide additional recommendations as part of the Task Force's overall work plan. The Task Force has discussed this reform and the general consensus of the Task Force is to audio record closed sessions, and to consider the use of third party review to evaluate the release of information.

18. Store archive copies of email in a form that will allow for easier public review.

Task Force recommendation: Accept the reform proposal and provide additional recommendations as part of the Task Force's overall work plan. Additional recommendations may be submitted upon consideration of the technology section of the Task Force's report.

19. Plug loopholes in the campaign financing ordinance that make it possible to contribute unlimited amounts of money in the form of paid campaign workers.

Task Force recommendation: Refer the reform proposal to the City's Elections Commission.

20. Plug loopholes in the lobbyist ordinance that allow many lobbyists to avoid public disclosure of what they are doing.

Task Force recommendation: Refer the reform proposal to the City's Elections Commission.

21. Disclose the calendars of the Mayor and Councilmembers.

Task Force recommendation: Accept the reform proposal. The Task Force reported on this item at the Joint Study Session on November 30, 2006 and received significant input from the City Council. The Task Force will discuss the comments received and provide final recommendations as part of its overall work plan (public information section).

The Task Force preliminarily recommends:

- *Increase frequency of calendar disclosure to every three days (3-day release of the previous 3 days - every Monday and Thursday recommended).*
- *Include the previous quarter (3 months) in the on-line posting of calendars.*
- *Provide an exemption for the City Attorney's attorney/client privilege.*
- *Broaden disclosure to include (in addition to the Mayor and City Council) Department Heads, City Manager, City Attorney, City Auditor, and the Mayor's Chief of Staff and Budget/Policy Director.*

Task Force Work Plan and Schedule

The “Reed Reforms,” along with the original 22 sunshine reforms approved by the City Council in March 2006 and the additional reform proposals received from individual councilmembers and the public, are being reviewed by the Task Force as they relate to specific provisions in the Sunshine Ordinance. The Task Force anticipates it will bring forward its overall recommendations in two phases. Phase I will include recommendations on requirements for the conduct of public meetings and closed sessions, along with improvements to facilitate access to public information. Phase II will provide recommendations to enhance access to public records, improvements to information technology, provisions for ethics and conduct and a proposal for enforcement. The current schedule for the completion of this work follows:

Table 1. Sunshine Reform Task Force Current Work Plan Schedule

PHASE I

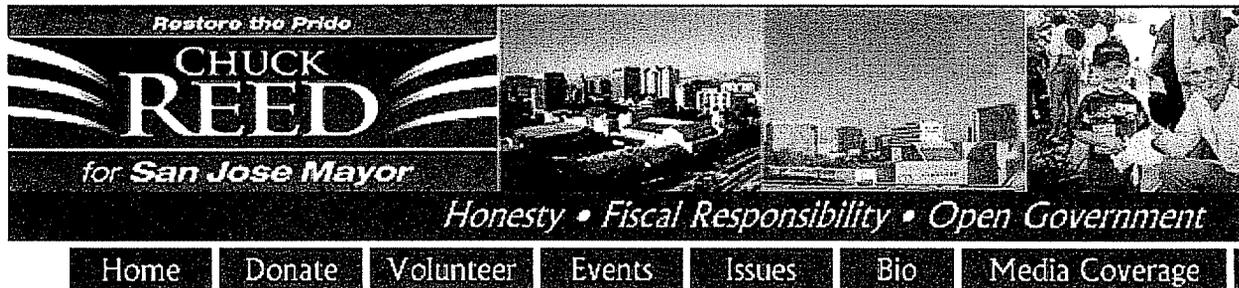
Public Meetings	
Closed Session	
Public Information	February 2007

Phase II

Public Records	
Technology	
Enforcement	
Ethics and Conduct	May 2007

The Task Force has a strong commitment to open government reform in San Jose and looks forward to continuing this important work.

cc: Honorable Mayor and City Council



THE REED REFORMS

Released January 10, 2006

**REED
REFORMS**

**WEEKLY
MESSAGES**

**NEWSLETTER
SIGN-UP**

**PHOTO
ALBUM**

**CHUCK
ON TV**

**VOTING
RECORD**

**REALITY
CHECK**

CHARTER CHANGES

1. Ask the voters to revise the Charter to make it easier to recall the Mayor and Councilmembers for a violati Charter or the Oath of Office.

OATH OF OFFICE CHANGES

2. Revise the Oath of Office to include a pledge to follow the Charter.

3. Revise the Oath of Office to include a pledge to put "service above self" and an honor code: "No lying. No No stealing."

SUNSHINE ORDINANCE CHANGES

4. Adopt a Sunshine Ordinance that will make it easier for the public to know their rights and easier for the p find out what the city is doing.

5. Prohibit late staff memos so that the public can have a greater opportunity to respond to proposals and fully participate in the debate.

6. Require the Mayor and Councilmembers to disclose material facts before the Council takes action.

7. Require the Mayor and Councilmembers to disclose any political favors or other consideration they are to ; exchange for their votes.

8. Disclose all offers made to city unions for pay or benefit increases when the offers are made.

9. Disclose the names of people serving on advisory committees.

10. Make broader disclosures of what the Council does in closed sessions.

11. Prohibit closed door meetings for city task forces, commissions and committees.

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19. Plug loopholes in the campaign financing ordinance that make it possible to contribute unlimited amounts in the form of paid campaign workers.

20. Plug loopholes in the lobbyist ordinance that allow many lobbyists to avoid public disclosure of what they doing.

21. Disclose the calendars of the Mayor and Councilmembers.

CONDUCT CHANGES

22. Require staff for Mayor and Councilmembers to sign a Code of Conduct.

23. Prohibit Mayor and Councilmember interference with the decisions of City Boards and Commissions.

24. Prohibit Mayor and Councilmember interference with the bidding and RFP process.

25. Create a certified training program for Mayoral and Councilmember staff to ensure they are fully aware of ethical standards so they can help their bosses follow the law.

26. Hold regular public hearings on ethical issues around the state so we can learn from our mistakes and the of others.

27. Revise our Ethics Code to specify that it is unethical for the Mayor and Councilmembers not to follow Co adopted policies without approval of the Council.

28. Prohibit the Mayor and Councilmembers from revising draft staff reports without full disclosure.

CHANGE TO A COMMUNITY BASED BUDGETING PROCESS

- 29. Start the budget process with a survey of the public in early January.
- 30. Hold a Conference on Priorities with neighborhood associations in late January.
- 31. Have Council hearings in February on New Initiatives and Unfunded Programs (NIUPS) and have the Council specify their spending priorities.
- 32. Report the results of items 29-31 in the Mayor's March Budget Message.

OTHER CHANGES

- 33. Hold monthly hearings on the status of Council's directives to staff.
- 34. Expand the City Auditor's staff to allow for more performance audits.