CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

COUNCIL AGENDA: 4-27-04
ITEM: 3.3

MAKING GOVERNMENT WORK BETTER COMMITTEE

Meeting Report
April 14, 2004

PRESENT: Chair Nora Campos, Councilmember Chuck Reed, Councilmember David Cortese, Councilmember Linda J. Le Zotte,

STAFF: Ed Moran, Bill Hughes, Kay Winer, Jennifer Carlino, Christine Silva-Burnett, Chris Constantine, Eduardo Luna, Jerry Silva, Jamie Matthews, Scott Johnson, Stephen Haase, Brooke Myhre, Terri Gomes, Sara Hensley, Irene Ray, Cora Velasco, Barbara Jordan, Rudy Navarro, Ronald January, Lori Popovich, Stan Faulwetter, Vivian Frelix-Hart, Scott Johnson, Kevin O'Connell, Ed Overton, Jeff Clet, Peter Jensen

The meeting was convened at 2:30 PM

a. Public Works Real Estate Division Audit (Auditor) – **Deferred until June**

b. Concentrated Code Enforcement Audit (Auditor)

Jerry Silva, City Auditor gave an overview of the program. He stated the source of funding for the program was through CDBG federal funds. Staffing is made up of six Code Enforcement Inspectors and one Office Specialist. The program provides code enforcement services to low to moderate-income areas of the city. The program is now on a reactive complaint response basis and investigates complaints concerning violations of municipal codes. Inspectors utilize other funding sources to participate in community meetings. In 2002/2003, code enforcement changed the way it provided concentrated code enforcement from a proactive to a reactive basis. The program has shifted into SNI areas and works like other code enforcement inspection services in that it is more reactive to complaints. The change in emphasis hasn't been as clearly communicated to Council as it could. There have been some issues of PRNS documentation to meet federal requirements for CDBG funding and to appropriately monitor activities of the inspectors to ensure that full compliance is being met. The impact of concentrated code enforcement programs and other activities are not being measured regarding blight and other SNI areas. This is another difference in how the program is being done currently versus how it was done previously. Blight surveys were done prior to work and after it was completed so that the impact could be measured and that is not being done now.

Chair Campos asked if it was more effective to do the before and after surveys; and if so, is it for budget reasons that it is no longer being done that way.

Jerry replied that the surveys did have a cost element attached. There are other differences in that the areas in question were smaller, making it easier to survey on a before and after basis. The areas are now essentially SNI areas and much larger. Other activities involved include a

blight survey administration conducted identifying 64,000 violations. It was thought to be a good idea to conduct a similar survey every five years. However, in discussions with some Council members, that was thought to be too long of a time period to wait. But it would at least give an indication of what impact the city's efforts in those SNI areas is having.

Councilmember LeZotte wanted to know what the recurrence would be for going back to the areas that are not necessarily SNI areas. She also stated that she thought five years was too long and believes it's very important (to find out if SNI is working at all when it comes to this type of code enforcement) that it's looked at again. She added that in a couple of her areas, she is already seeing slippage.

Jerry replied that any areas that concentrated code inspectors work must be of low to moderate-income in order to satisfy the CDBG funding requirements due to a stipulation that 70% must go to low to moderate-income areas.

Councilmember LeZotte stated that the results in her district were so good that she is concerned about waiting the five-year period.

Jerry stated that during the risk assessment process, potential problems or threats are identified and aligned against the control structure in place to ensure problems are adequately identified, addressed and prevented from recurring. During this process, a number of threats were identified for which there were very little, or no controls in place and measures are being put in place to address this.

Chair Campos asked how that affects the funding in the mean time.

Jerry replied that it really has no effect on the funding; these threats were more operational in nature. He went on to say there were seven recommendations in the report and the administration had concurred with all seven.

Councilmember Reed asked if the name should be changed from 'concentrated code enforcement' to 'code enforcement' since the program has changed to the extent that none of the original elements exist. He also said that it's very important that CDBG standards are met in order to continue receiving funding.

Kay Winer, Deputy City Manager said that a lot of time was spent discussing that at the Audit Exit Conference to ensure those guidelines were fully understood and abided by.

Councilmember Reed said he thought, having been through that process, the concentrated code enforcement program probably stacked up pretty well against competitive CDBG programs. He expressed concern that the ordinary code enforcement program really is competitive, or even gets evaluated.

Jamie Matthews, PBCE responded that the proposed change to code enforcement service to reactive was due to decreasing general fund support. Outreach activities are not approved for CDBG funding. Eleven positions in code enforcement, or 66% have been eliminated since fiscal 2001. Despite these reductions, there is still the opportunity to develop plans for areas

and to establish priorities. Jamie used Blackford as an example, where three sweeps were conducted over 2160 parcels. Under the current program, there are many more services provided on a proactive basis. 112 violations were abated, proactively. Everything that is done with SNI is carefully tracked and contained in a five-year plan reported out to Council on a quarterly basis, and at budget time. Staff is also conducting vehicle abatement sweeps that are not funded by CDBG; but rather a leveraged activity coordinated because of the SNI. There were 141 vehicles abated, proactively in the Blackford area.

Councilmember Campos wanted to know the size of the area. Jamie responded that it was approximately two square miles.

Councilmember Reed wanted to make sure that Council's expectations of the program are shifted to reflect the way the program itself has shifted from three years ago.

Chair Campos reminded Jerry that it was one of his recommendations to come back to Council with a report on the current operations of code enforcement.

Jerry agreed they would do that and expressed appreciation for the assistance received by the Attorney's Office regarding what does or doesn't qualify as low to moderate-income areas.

Chair Campos asked for a memo to be shared with Council on low and moderate-income census tract.

Councilmember Cortese asked if the tract information could be cross-referenced by council district.

Stephen Haase, Director PBCE stated that the information could be provided in that manner.

Chair Campos asked that they receive that information by district. She then wanted to go back to address Councilmember LeZotte's earlier question regarding the survey (time frame).

Jamie replied that it was a resource issue and not the highest priority at this time.

Councilmember Reed stated there would be no gain in doing a survey considering the program has changed. He wanted to know if the survey would indicate just whether we were doing well or losing ground and if that would justify the time and expense.

Councilmember LeZotte stated that if the same exact area were losing ground, they would want to know so that the appropriate department could become involved.

Councilmember Reed indicated that a formal survey might not be appropriate.

Chair Campos stated that what's being talked about is not necessarily a formal survey, but wanted to know if the SNI's were being leveraged as well as they could for these surveys. She suggested doing a mini survey in between times.

Stephen stated that this was the first year, with the citywide citizen survey, that the data was available by SNI areas.

Chair Campos asked if it was done by district.

Brooke Myhre, QUEST Principle Budget Analyst stated that the SNI area data was split out from the citywide (at no additional cost) so that differences could be compared. City services can be measured every two years when the survey is done.

Chair Campos stated that what was being asked about was how SNI areas in a given council district stacked up against another.

Brooke replied that the survey did not include enough respondents to be able to cut the data that finely.

Chair Campos asked if there was room on the survey to ask what district the respondent was from.

Brooke replied that geographic information, such as cross-streets was included.

Councilmember LeZotte expressed concern that the blight survey, for example, contained more input from staff than from neighbors. She stated that she is more interested in seeing that performance measures are taken and that a fix is put into place for the long term. She believes that the sweeps would address that better than another survey would.

Stephen agreed and added that the perception of the community when counting the data is the indicator.

Councilmember LeZotte and Councilmember Reed reiterated the point that the sweeps taken together with the surveys regarding blight won't do anything towards addressing other important issues in a particular area, such as problems with gangs.

Stephen replied that it could be looked at how to go beyond that together with the Police Department's findings regarding gang detail.

Councilmember LeZotte stated that residents in her district were unaware when meeting on vehicle abatement that there was a problem with gangs in their neighborhoods.

Jamie stated that code enforcement would be willing to partner with other departments such as the police to address that issue.

Councilmember Reed asked what the relationship was between code enforcement and the nuisance ordinance.

Jamie replied that the attorney's office or police department initiates the nuisance ordinance and code enforcement is a major party in implementation

Chair Campos requested that this feedback be taken back as "One Voice" and put into the Work Plan for six months from now.

Kay added that when the departments provide the report, it be a presentation by individuals with specific examples of how they partnered in a "One Voice" approach.

Jamie agreed to this.

Upon motion of Councilmember Reed, seconded by Councilmember Cortese, the Committee accepted the staff report with the request to bring back to the Committee, in September, a follow up report and that it be added to the Work Plan.

c. Airport Concessions Contract Audit (Auditor)

Jerry Silva stated this item is a summary of work that is being done at the airport at the request of the Director regarding car rental agencies and operation of the shuttle services.

Chair Campos asked if the director is currently reviewing this report.

Jerry replied that this is an arrangement that was made to assist with the budget situation. The airport needed an audit function done and Staff agreed to assist with this rather than hire a full time audit position(s).

Chair Campos asked if this would be coming back to the Committee.

Jerry replied that Staff could provide a summary of results once completed and added that specifically, what's being looked at is shuttle operators regarding worker's compensation laws.

Councilmember Cortese asked if part of the scope of work included looking at the expense side of the operation as well. He said he is interested in the wage levels since it's his understanding that living wage has not been applied to these operations and wants to know if there have been any requests for increases based on increased costs of operations. He would like to see the data if it will be available.

Jerry replied that that was not developed as part of this work.

Councilman Cortese stated that he would like to see that become part of future, similar studies.

Terri Gomes, Deputy Director of Aviation stated that the rental car companies have not asked for an increase in wages, but that shuttle operators have asked for additional compensation.

Jerry stated that this is an issue because workers compensation premiums are based on wages.

Councilmember Cortese said that he would like to see the data.

Upon motion of Councilmember Cortese, seconded by Councilmember Reed, the Committee accepted the staff report with the request to bring back to the Committee, in June; or later, if the report has not been completed by that time.

d. Report on CSA Performance Measurements (Manager)

Brooke explained this was a follow-up to efforts over the last year to develop the CSA level reporting process and the first report was released two weeks ago to Council. He thanked Council for their assistance and indicated there would be reports to follow every six months. He stated that as a result of the SNI breakout of the community survey results, respondents were more favorable to the staff than staff on a citywide basis. Statistics show that people thought neighborhoods improved more in SNI areas than they did citywide. The status report on whether internal measures of conditions are staying steady or are starting to drop off combined with perception information should provide good background for upcoming decision making processes. For the future, Staff would like to develop the report further using guidelines of a nationwide project of the Government Accounting Standards Board in which Brooke and Jerry Silva are participating. They have also applied for a grant, available from the same group, for $30,000 that will allow Staff to improve data collection automation and some of the communication with the public.

Councilmember Reed asked if there are some national standards that could be looked at, as items the City should measure.

Jerry replied that several years ago the GASB started a project called Service Efforts and Accomplishments. However, it did not provide specific performance measurements criteria in identifying differences between targets and actual results; discovering why it occurred or how to correct it. Secondly, the other standard that is missing is what the level should be. Staff has been working to determine benchmarks and targets.

Councilmember Reed asked if it is being worked on to determine if the same measure is being used nationwide.

Jerry replied that guidelines have been provided as to what distinguishes a ‘good’ report from a ‘bad’ one. Brooke added that the other effort being made by Staff to address that is with the ICMA. Comparability is one of the most difficult areas to determine.

Jerry stated that Portland, OR has produced an annual service efforts and accomplishments report for about 10 years and have gotten a lot of national recognition. They report by council district on 12 different areas and benchmark against selected cities; largely based on citizen surveys. The problem is they are relying on those cities for reporting levels accurately.

Brooke stated it would be about 10 years before there was something developed that could be trusted to be accurate as these are not being put forth (by GASB) as standards, but as suggested criteria.

Councilmember LeZotte asked if letters of support from the Mayor or Council are attached to the application.

Kay replied that if an application requires Council approval, then there is a resolution. Brooke added that in this case it was something that had not come before Council because the amount on the application did not require Council action. He would welcome endorsements on future applications.

Councilmember Cortese noted that the survey results from respondents indicated their perception of whether and how much things had improved versus Council seeing the results as actual results and asked how this could be addressed.

Brooke responded that Staff would follow up on areas where they could improve and will make these reports accessible electronically and should generate more interest by the public.

Councilmember Cortese asked if Staff had considered inviting two-way communication using the utility bills. Although polling is a better way of getting a higher percentage of response, the bills would be an opportunity to get results from large numbers of people.

Brooke agreed with this and would like to find a balance between the two methods and the next step is to go through the SNI to spread the word.

Councilmember Cortese requested that Staff explore various outreach methods to address this.

Chair Campos added that she would like Staff to test this out on the front line with the "One Voice" when it comes to CSA's.

Upon motion of Councilmember Reed, seconded by Councilmember Cortese, the Committee accepted the staff report.

e. Follow-up Report on the Effectiveness of Current City and RDA Community Outreach (City Manager/RDA) – Deferred until May

f. Special Event Permitting (Parks, Recreation and Neighborhood Services)
Sara Hensley, PRNS Director gave an overview of the process, highlighting issues that Staff is working on:

- Streamline Festival Event Process
- Recognize and Reward Success
- Evaluate City Event Fees and Tiered Fee Structure
- Evaluate Billing Practices for Timeliness and Clarity
- Improve Event Evaluations
- Improve Special Event Grant Process
- Incentives to Increase Event Quality and Quantity

Irene Ray, Office of Cultural Affairs stated that the first step that has gone into streamlining the process is the One Start application which has consolidated the many forms that event producers had to collect and fill out down to just a two-page form which is ready to be distributed to affected city departments. It has been determined that one office needs to be the gatekeeper for events and that is the OCA since it is the one that authorizes most events for the city. Staff is reviewing the private property event approval structure, now in the

Municipal Code, to determine if there can be some shifting of these types of events to the OCA and dropping some minor events out of the permit process that have no impact on neighborhoods or traffic.

Councilmember Reed wanted to know if the distribution to other departments would all be done with paper or was it to be electronic as well.

Sara replied that it would be emailed to departments. She added that part of the streamlining effort that Staff is working on is the single payment issue that was the overriding concern with stakeholders. Irene added that it was determined that an efficiency measure is for applicants to reuse the same form if the event has not changed. The applicant would make a statement to this and not resubmit an application. Sara explained that Staff is still investigating whether to base permit fees on a tiered fee structure that corresponds to that type of event and looking at ways to reduce costs of these events to the city.

Irene added that using outside vendors could be more cost efficient to the organizer than using City staff. There has been success at piggybacking existing services. Sara said that Staff is still looking at evaluating billing practices by using a common billing form (includes all services) in a way that is easily understood by the vendor and completed in a timelier manner. Irene reported that OCA is developing a process to provide feedback within two to three weeks of the event to event organizers.

Sara explained that Staff is working on enacting revisions in the 2005-06 parade grant cycle in response to meetings with stakeholders.

Chair Campos asked if the stakeholders had been named earlier.

Sara replied that those were internal stakeholders and that there are many more external stakeholders and that there has been good communication with all of them. Irene added that there are approximately 120 stakeholders in their database and that during the stakeholder meeting there were residents in attendance giving their neighborhood's perspective, as well.

Councilmember Reed stated that this was great that everyone getting together in one room will increase the quality and quantity of the event. He asked if, for example, a high school wanted to have a festival, if they needed to ask the City's permission and if so, why.

Irene answered that they would not as long as the festival was on their own property. If they loaned or rented the property out to a third party, then they would. Bill Hughes, Assistant City Attorney explained that this is a jurisdiction issue; county or state versus city. Councilmember Reed asked if the City's fees and charges reflect less services on private property.

Sara responded that the fee structure was different under those circumstances.

Councilmember Reed asked, regarding cost recovery, how it's calculated and how it can be made more easily understood, as that would go a long way in making the residents more comfortable with the process.

Sara replied that Staff has and will continue to work on this.

Councilmember Cortese wanted to know if the timing of the grant process was synchronized with the "One Start" program.

Irene replied that if the "One Start" holds and/or underwrites a special event with city money it is a more formalized process and has an annual cycle. The database is used to send out a notice that the grant process is starting for the next fiscal year.

Councilmember Cortese asked if a new "One Start" applicant would automatically receive information regarding what grant opportunities were available.

Sara and Irene replied that it was a very good suggestion.

Chair Campos stated that she would like the committee to be updated on improvements and changes to the process.

Upon motion of Councilmember LeZotte, seconded by Councilmember Cortese, the Committee accepted the staff report.

g. Neighborhood Development Center Regarding CAP Grant Update (Parks, Recreation and Neighborhood Services) – Follow-up to Presentation in February

Cora Velasco, PRNS, Recreation Superintendent gave an overview of changes to the CAP Grant Program:

- CAP grants became part of PRNS' grants unit
- Revision of CAP grant application requirement

Some changes to the guidelines include:

- Eligibility of applicants and activities has been clarified
- Requirements have been clarified/expanded
- Evaluation criteria has been revised/expanded and include a rating system
- Application submission guidelines revised and are available on the web
- Landscaping and beautification requirements clarified
- Application questions revised

To summarize how CAP is better:

- Integrated and efficient service delivery
- Consistency in CAP grant guidelines
- Objective basis for rating projects
- Expanded customer service

Cora added that the new guidelines have been submitted to the Auditor.

Chair Campos asked when the cycle of 18 starts.

Cora replied that it is ready to go.

Chair Campos requested that guidelines be given to Council.

Cora replied that Staff would provide that along with a schedule.

Upon motion of Councilmember LeZotte, seconded by Councilmember Reed, the Committee accepted the staff report.

h. Call Center Information and Referral Services Audit (Auditor) – Deferred to 2004-05 Work Plan

i. School Crossing Guard Audit (Auditor) – **Deferred until May**

j. Single Audit Report (Finance) – **Deferred from February**

k. Management Letter (Finance) – **Deferred from February**

Scott Johnson, Finance Director stated that there would be two reports given by the city auditor. He explained that the report that was previously called the 'Management Letter' is now called the 'Report of Internal Controls'.

Kevin J. O'Connell, Partner, Macias, Gini & Co., LLP explained that the single audit is required any time there are federal awards in excess of $300,000 in a year. They include a financial audit and a federal compliance audit. Expenditures in '02/'03 were $61 million of which five major programs were audited using risk based methodology. The results showed no significant findings. There were some compliance findings related to sub-recipient monitoring for Housing Opportunities for People With Aids (HOPWA) program. Other findings were on the Davis Bacon Act compliance, regarding wages and missing payroll certifications and an instance of not getting required certification regarding someone that was suspended or debarred. Scott stated that Staff has been looking at how controls can be improved regarding compliance issues and have begun changing processes and procedures.

Chair Campos asked if Staff has already begun to monitor the HOPWA compliance issue.

Scott replied that Staff has been working with several departments on that issue.

Vivian Frelix-Hart, Homeless Coordinator, explained that the HOPWA program consisted of two agencies that provided funds to people with aids. She added that as a result of the audit, staff has been going out and monitoring compliance. A memo was sent to Council last year regarding an agency that had gone out of business, so Staff was working with the Board Chair, who then passed away.

Chair Campos wanted to know how that information relates to an audit.

Kevin replied that Staff had dialogue with that department and no information was provided at the time of the audit, but there were subsequent follow-ups and going forward is not an issue. He summarized the structure of the second report on internal controls. The first section is on required communications under professional standards. This is a firm policy, required on a

yearly basis even if there is nothing significant. The second section relates to recommendations that have been made during the course of the audit. Regarding the OPEB rules, there will probably not be an impact to the city for another three and a half years. However, it was brought up because there will be an increase in annual required contributions for post employment benefits for retirees.

Scott explained that currently this is a proposed rule by the Government Accounting Standards Board and has not been adopted yet.

Councilmember Reed wanted to know how this makes a difference in how things are being done now and how it affects the budget.

Kevin replied that San Jose's pension plan advances funds and makes contributions based on a longer projection period than other governmental agencies, in general. However, the GASB says that the total obligation must be looked at with no specified cutoff date.

Ed Overton, Director of Retirement Services explained that when the city first instituted health plan benefits for retirees, it was determined that some funding would be required. So, it was indicated that the actuary should take a reasonable look out 10 – 15 years fund that ahead of time; and then looked at every two years thereafter. The GASB has determined that it should be looked out for as long as for other pension benefits and that would be 30 years.

Councilmember Reed asked when the news would be known and if Budget Director, Larry Lisenbee has this included in the five year forecast.

Ed replied that the actuaries are deliberating whether to do a study now or wait two years and that he didn't believe this was included in the forecast. He added that funding structure did not have to be changed it just has to be recognized on financial statements. Scott stated that it would be a policy decision for Council to make.

Kevin stated that this would not be a totally unfunded liability; it's that when the standard takes effect, if the city decides to underpay, that number will be booked and thus the number will grow quickly.

Councilmember Cortese commented that one of the benefits of a longer look is that on the return side, it gives a more stabilized look at ROI. However, it doesn't look well adjusting for contribution fluctuations on the expense side.

Councilmember Reed wanted to know if any liability that's booked would show in the CAFR.

Kevin replied that it would.

Upon motion of Councilmember Reed, seconded by Councilmember Cortese, the Committee accepted the staff report.

l. <u>Semi-annual Audit Recommendations (Auditor) – Inadvertently dropped from the Work Plan</u>

Jerry Silva gave an overview of the semi-annual recommendation follow-up report covering the period from July 1st through December 31st, 2002. There were 106 outstanding recommendations, of which 35 were implemented, 56 were partly implemented and 15 were not implemented. As of December 31st, 2003, there were 71 outstanding recommendations, of which two was Priority 1, 28 were Priority 2; and 41 were Priority 3. Of the 15 unimplemented recommendations, six were Priority 2 and nine were Priority 3. Jerry brought to the committee items regarding budget. There were recommendations to develop a process accounting for works in progress to ensure proper management of building program revenues and cost; and, establishing a policy and process to pay for long term capital or asset acquisitions. Administration responded that in order to implement the recommendations, an enterprise, or special revenue fund would need to be established; and, that given the current economic situation, it is not likely to happen. The request was then made to defer the recommendations until June 2006. Staff concurred with these requests. There are two other recommendations that should be dropped: one is the audit of the Hayes Renaissance L.P.'s compliance with the lease agreement for the Hayes Conference Center; and two, propose to the tenant amending the lease agreement to explicitly include in the calculations of gross revenues, for lease payment purposes, the portion of service charges retained. These should be dropped as the tenant is no longer involved and the city has a new operating agreement with Dolce International.

Councilmember Reed wanted to know, on the audit of the Property Management Operation of the City of San Jose's Department of Public Works – Real Estate Division, regarding leases the city has with for profits relating to below market leases that hadn't been looked at in a long time, if any implementation had been done.

Chris Constantine replied that there was an informational recommendation. Kay added that came about after the audit in the form of an inventory, or list. She stated that it is now with General Services and she will speak with them to determine the status.

Councilmember Reed stated that he would like to see a follow-up report.

Upon motion of Councilmember Reed, seconded by Councilmember Cortese, the Committee accepted the staff report with the direction to cross-reference Appendix B, HIT Report on the April 27th Council agenda.

m. Oral Petitions
None

n. Adjournment
The Committee was adjourned at 4:30 P.M.

Councilmember Nora Campos, Chair,
Making Government Work Better Committee