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>> Vice Mayor Nguyen: This is the Rules & Open Government Committee for Wednesday, October 24th 2012. Are there changes to the agenda? No? We will start with October 30th, city council agenda for October 30th, 2012. Changes to page 1? 2 or 3? Or 5? 6? I believe we have a couple of additions here. We have one for a proclamation declaring the month of October as breast cancer awareness month and excused absence for Mayor Reed, who is in San Diego for the --

>> Madam vice mayor if you can start listening but you won't be able to take action until you have the third party so you can't add any items.

>> Vice Mayor Nguyen: Oh, okay.

>> You would just have to refer them all to the council, and the council would have to include them in orders of the day, as opposed to having it approved by this board and moving forward.

>> Councilmember Oliverio: Question, vice mayor.

>> Yes.

>> Councilmember Oliverio: City Attorney, may we make a motion and sort of leave it in suspense until we get to other items and when we have a third colleague join us --

>> The third party would then have to reconstitute his or herself, understand what the motion is, then vote on it, otherwise that person wouldn't know what he or she is voting on at that time.

>> Councilmember Oliverio: Thank you.

>> Vice Mayor Nguyen: Okay, well, we'll go through and listen to the item and when Councilmember Herrera gets here we'll go back. If that's okay. We'll move down to item city council agenda for November 6th, 2012. Are there changes to page 1? 2 or 3? 4 or 5? 6 or 7?

>> When we get to approve the agenda we will need a waiver on item 4.1 a 14-day sunshine waiver.

>> Vice Mayor Nguyen: 4.1, okay. Then I also have a request to move the little Saigon highway sign resolution to the consent calendar but we'll do that when Councilmember Herrera gets here. Okay, we'll move down to -- I'm sorry. In wall you put in a card to speak on item A-1 and A-1-A.

>> Yes, madam Vice Mayor. This is in reference to the Samsung deal and I have a memo signed by his honor, Mayor Reed. Quote, while the city could reimburse Samsung for the staff who attended it, would be somewhat inappropriate to do so. Since it was done as gesture of appreciation. For just appropriateness sake I think that this should be reflected and reviewed. On the October 30th agenda, item 2.8, amendment to the agreement with HDR engineering incorporated for consultant services. This raises an interesting question. It appears, because we see all these different studies using the integrated waste fund, fund 423, that there's a profit built in by the city for the collection of garbage to be able to fund a bunch of different projects and I think that should be reviewed since ratepayers get hit with rate increases and they don't know that the money that they're paying for goes into a questionable -- lets just say am, a quote questionable fund to be used for all sorts of purposes other than getting rid of their garbage. Item 2.9, increase funding for EHC life builders downtown homeless outreach and engagement program. This seems to be quite a boondoggle for the city. You keep spending all this money for these consulting groups or these special interest groups for homeless issues --

>> Vice Mayor Nguyen: Mr. Wall, your time is up.

>> Councilmember Oliverio: Madam Vice Mayor, may I make a motion to approve the October 30th council agenda with the additions, as well as the November 6th council agenda with the additions and sunshine waiver for item 4.1.

>> Councilmember Herrera: Second.

>> Vice Mayor Nguyen: Can we put the 6.1 on the consent calendar?

>> Councilmember Oliverio: And on the November 6 calendar, moving 6.1 to the consent calendar.

>> Councilmember Herrera: Second.

>> Vice Mayor Nguyen: We have a motion and second to move those, all in favor, opposed, motion carries.

>> Councilmember Oliverio: November 6th that item might have been postponed by the Planning Commission. I just ask that you check. Thank you.

>> Vice Mayor Nguyen: Mr. Wall you want to speak on A-2?

>> November 6th, vacation of a portion of Emery street from Stockton avenue to Laurel street. I hope this goes through this time without incident. The Jesuits have done a great job for the city and the world, in my opinion, and since in God's holy Roman Catholic Church this is a year of faith, I would suggest that you go forward with this and thank them for all the effort and good works they've done for the City of San José. Thank you very much.

>> Vice Mayor Nguyen: Thank you.

>> Dennis Hawkins: Excuse me, madam Vice Mayor, I wanted to clarify the motion. Did that include the add-sheet for the October 30th items?

>> Councilmember Oliverio: Yes, it did, City Clerk.

>> Vice Mayor Nguyen: We will move to item B the review of the upcoming study session agenda. And we have a study session scheduled for Monday, October 29th, for the homeless encampments. So Mr. Wall did you want to speak on this?

>> If you review the agenda, it says you mention it that's included in today's packet. You don't see anything about funding. What funding sources that are going to be used, all we see is defining the issue, three perspectives, past approach to cleanups, phase 1 result and lessons learned, phase 2 moving forward policy alternatives. 5 is public comment, 6 is adjournment. But the key issue here is your funding source. In the past you've used environmental services department whose base funding is from a variety of restricted use funds even though they've used grant money to do the cleanup there's still the accounting that has to be done on that particular issue. So I would think that you would want foremost and up front is your funding sources and list the funding sources, identify them. And I think this is a sad situation, because I don't think it's going to take you four hours to go through this meeting, because I don't know where the money's coming from. And I don't think the council knows where the money's coming from. And without knowing where the money's coming from I guess you can forget that meeting as being anything substantive outside of talking about it. But thank you anyway.

>> Vice Mayor Nguyen: Thank you. Just have a quick question for staff. Is there going to be a memo released just kind of talking about some of the things we're going to be discussing at the study session or will there be a presentation?

>> The current plan is to only do a presentation so it will really be a forum for discussion.

>> Vice Mayor Nguyen: Questions? Motion to approve?

>> Councilmember Herrera: Motion to approve.

>> Councilmember Oliverio: Second.

>> Vice Mayor Nguyen: We have a motion to approve. All those in favor?

>> Councilmember Oliverio: Just a quick question for clarification Is this an informative study session, or is this a take-action study session?

>> Most study sessions are informative, they provide you with the information you need to be able to take action in the future. They give you four hours to talk about one subject as opposed to taking four hours to talk about one subject at a regular council meeting. You can give the direction to the city staff to come back with some recommendation on a particular issue or have no direction just simply have information.

>> Councilmember Oliverio: Okay so the wording on this allows, provide direction to staff to come back rather than, we are voting to implement a specific plan on that day?

>> Correct. With the information you get, you can give direction and action will be taken at a future council meeting.

>> Councilmember Oliverio: Great.

>> Vice Mayor Nguyen: We had a motion to approve. All those in favor? Opposed? Hearing none motion carries. We'll move down to legislative update. Betsy Shotwell is not here so I guess we have no update today. We'll move down to meeting schedules. Do we have anything? No. Foreseeable future. Public record. Mr. Wall.

>> Yes. The only public record that we have this week is, entitled SJPOA, that's the San José Police Officers Association and San José firefighters need councilmembers to expose Rose. And it's to give often and generously. In this piece, it speaks calmly for itself, there are web pages listed for the San José police officers, and San José firefighters, both web pages, that have interesting information on councilmember Rose Herrera, and I only put make your own informed decision by visiting these web pages because of electioneering that's

going on. I also state for the record many times that I'm not a spokesperson nor an agent or a principal of San José Police Officers Association or San José firefighters and I make no recommendation on who to vote for. I just say check out this information. And check it out for yourself. Other commentary that's included within the four corners of the memorandum are just simple opinion. My own. Expressed as they are. And I'll leave it at that. Thank you very much.

>> Vice Mayor Nguyen: Thank you. Motion to note and file?

>> Councilmember Oliverio: Motion to note and file.

>> Councilmember Herrera: Second.

>> Vice Mayor Nguyen: We have a motion to note and file, all those in favor, opposed, thank you. Any boards commissions or committees? Anything? No. G 2, approve the various council district 4 community activities as a city sponsored special event.

>> Councilmember Oliverio: Question for the City Attorney, is this a blanket approval since it's not a specific event? Looking into the writing on this they are broken into specifics, okay, motion to approve.

>> Councilmember Herrera: Second.

>> Vice Mayor Nguyen: All those in favor, opposed, hearing none motion carries. Item H review of additions to council committee we have nothing. Open government nothing. Open forum, Mr. Wall.

>> Yes you have two memoranda on the record today, the first one involves the office of the independent police auditor. I'm a proponent for free speech and the expression of free ideas and opinions. On channel 11 I saw on her IPA what appeared to be in her office campaigning against or giving her opinion however you want to express it on measure 34, against the death penalty. She's entitled to her opinion but I don't know if she's speaking for

council. It appears to be using city property for the furtherance of a political position. I don't know if it was her office, it appeared to be. But I also note that if a San José police officer or firefighter or practically any city employee that would use their office to campaign for a particular item, they would be fired forthwith. I mean they would be fired the same day. So the issue of rank has its privileges, circumstances. The other issue is another opinion piece by myself about the firefighters and the police officers and the information that they have garnered on Councilmember Herrera which is, in my opinion, fairly damning but that's just opinion. And we've had our first flush this year and yet out of a 30 thousand plus storm drains only 116 storm drain inlets are protected from garbage and other debris entering into the creeks and rivers of San José. So I wonder, since the municipal regional national pollutant discharge elimination system permit has been in operation since 2009, I don't want the mayor to come blubbing to the taxpayers if we start getting hit with sanctions and fines, because the environmental services department has failed as usual to do their job, is not held accountability by the transportation and environment committee and the honorable councilmembers who sit before me.

>> Vice Mayor Nguyen: Sorry Mr. Wall your time is up and that will adjourn our meeting, thank you, everyone.