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>> Mayor Reed: I'd like to call this meeting to order. This is Rules and Open Government Committee meeting March 23rd, 2011. One change to the agenda. Item G 2A, the amendment to the memo to amendment on mobile home advisory work plan, has been dropped. Anybody who wants to speak on it can speak on it to open forum, which we'll be at pretty quickly because it's a pretty short agenda. Any other changes to the agenda?

>> Councilmember Nguyen: Mr. Mayor, I believe there are two proclamations that Councilmember Pyle and myself will sponsor, one going to the Iranian New Year celebration and another one recognizing the Assyrian new year in the City of San José.

>> Mayor Reed: Add those to the 29th agenda?

>> Councilmember Nguyen: Right. Did my office get that language to you, Dennis?

>> Dennis Hawkins: Mr. Mayor, members of the committee, yes, we did get a communication on those two items, and I was going to bring this up when we talked about the agenda. There is also a deferral of the Greek celebration from this past Tuesday, to next Tuesday. So there are actually 30 ceremonial items being added to the 29th.

>> Councilmember Nguyen: Okay.

>> Mayor Reed: Okay, so we have the Chavez family vision, plus the three we just mentioned on the 29th for ceremonial items. Are there more than that?

>> Dennis Hawkins: That's all that we're aware of and it is Greek Independence Day, I apologize, I forgot the holiday.

>> Mayor Reed: Okay, the March 29th agenda. Anything on page 1? Besides the ceremonial items we just talked about? Anything on page 3 William.

>> Yes, mayor, the fuel cell item went out, and we need a waiver on that item.

>> Mayor Reed: It went out today, we have a week --

>> Little less than a week.

>> Dennis Hawkins: Mr. Mayor if I could, I understand that item 2.7 is being deferred to May 3rd.

>> Mayor Reed: 2.7 is the couch guy incorporated lease of some property?

>> Dennis Hawkins: Yes to May 1st.

>> Mayor Reed: 4.1, the sunshine item on the fuel cell is there no reason that can't get out a week?

>> I know there are some timing issues related to getting it quicker.

>> Ed Shikada: Not specifically but there is an issue with the tax credit they're trying to obtain for the project.

>> Mayor Reed: Okay. Anything else on page 2 or 3? Page 4 or 5? Or anything else? I have a couple of requests for additions. I have an excused absence request for Councilmember Constant's absence -- today. And the -- an addition for the San José innovation center project. Any other requests?

>> We'll need a sunshine waiver on that item as well, since we're adding it, rejecting bids and there are timing issues on this one as well to receive the grant funds on time.

>> Mayor Reed: But the recommendation is to reject all bids which means we'll go out and rebid and we might run out of time.

>> Right.

>> Mayor Reed: Anything else in the way of additions or changes to the 29th agenda? That looks like everything. Is there a motion?

>> Councilmember Herrera: Motion to approve March 23rd and the 29th and sunshine on 2X on also 4.1.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion to approve, all in favor, opposed, that's approved. April 5th, anything on page 1? Page 2 or 3? Page 4 or 5? Or 6? Then we have housing authority of the City of San José agenda at the end, a couple of items. Anything changed on that? Any other requests?

>> Councilmember Herrera: Excuse me, mayor, did you have the adjournment for Father John on that? I know that was added on.

>> Mayor Reed: We have adjournment on --

>> Dennis Hawkins: We're just I waiting for the final language on that but there will be an adjournment of the April 5th meeting.

>> Mayor Reed: Okay. Anything else on April 5th?

>> Councilmember Nguyen: Motion to approve.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion is to approve as amended. All in favor, opposed, none opposed, that's approved. Redevelopment Agency for March 29th.

>> Mr. Mayor, members of the committee, Gary Miskimon, with the agency. The agency has no items scheduled for March 29th and we would recommend that the council allow us to cancel that afternoon session. We'll still remain available for the closed session in the morning with the city council as well as any joint items that could be added in the afternoon.

>> Mayor Reed: Okay, is there a motion?

>> Councilmember Herrera: Motion to approve.

>> Mayor Reed: The partial cancellation?

>> Councilmember Herrera: The partial cancellation.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion is to approve the partial cancellation. All in favor, opposed, none opposed. That's approved. April 5th.

>> Mr. Mayor, the agency has no items.

>> Mayor Reed: State update, Betsy Shotwell is here.

>> Betsy Shotwell: Yes, thank you, Mayor, members of the committee, Betsy Shotwell, Director of Intergovernmental Relations. And since I reported last week, the state legislature has approved around 14 -- or I should say has approved either the cuts, transfers, or loans of \$14 billion of the \$26 billion deficit. They, in the

assembly, fell one vote short of passing the legislation to eliminate the Redevelopment Agencies. And they are able to take it up again at some point. We don't know when. The senate did not take it up so we don't know yet either, with that body, what the vote may be. We have learned that the senate will go into session tomorrow. They are scheduled also for Friday and that call on Saturday and Sunday. Monday is a state holiday, it's when the state recognizes Cesar Chavez, and so there is some time frames there that they are looking at, as well of course is if they were to go to the June 7th ballot with tax extender legislation, they really need to get that passed as soon as possible. The governor continues to negotiate to try to get the two votes on each side to -- or excuse me in each house to support putting it on the June 7th ballot but time is running out. They need to mail the provisional ballots out of the country 60 days ahead of time which means April 7th. So now of late we've learned yesterday and of course it is in the paper today that the governor's thinking perhaps of putting an initiative on the November ballot now. These would not be tax extenders anymore they would be new taxes. There's lots of discussion whether or not with the majority vote whether they could perhaps put these measures on the June ballot. Again there's lot of discussion about whether that's legal or not. There are a lot of attorneys who say that is, leg counsel says it is. Members of the Republican committee wanting to include pension reform, spending caps, perhaps a reduction of some of the regulations in place with the CEQA Environmental Quality Act. So it's day to day, hour to hour, we'll just continue to work on this. There is a proposal the CRA -- the redevelopment associations proposal that's being promoted that would keep the agencies intact with a number of reforms in place, and other conditions that we're reviewing and analyzing but certainly would keep us -- keep us going and would allow us to have the authority to continue.

>> Mayor Reed: Is it settled one way or the other whether or not they need a two-thirds vote on redevelopment?

>> Betsy Shotwell: What I read is, the two-thirds vote -- the majority vote could take place for the elimination piece, but the actual transfers of the property tax I've read more than once would require the two-thirds. As they broke it out, they were to break it out.

>> Mayor Reed: Okay, anything else on Sacramento or federal? Federal I'll just report on my trip last week but I mentioned yesterday in the council meeting, we did meet with collectively between Pete Constant and Ash Kalra

and myself, probably 20 members of Congress. I guess the short answer is nothing is going to happen for a while because they spend all their time on continuing resolutions two weeks and three weeks and two weeks kinds of things. But there is quite a bit of positive comments about the repatriation of foreign earnings issue, which could be a huge benefit to San José and Silicon Valley because we have companies that have tens of billions of dollars of profits they've made overseas that they won't bring back because they pay an extra 25% in taxes. So there's a lot of interest in that in Congress. But that is not likely to move because nothing is moving. I don't know what to do about that.

>> Betsy Shotwell: Yes, right. And they are in recess this week, they'll be going back, and do I have a report in Patton Boggs to bring you, to give you the lay of the land until the next recess in April.

>> Mayor Reed: I did have some e-mail exchanges with Zoe Lofgren. She's been engaged in working on the SAFR grant issues, helping us do what we can on that grant application process. So we're making some progress on that but we don't have an answer yet.

>> Betsy Shotwell: Thank you very much mayor, as well, for your participation on this. It's been very appreciated.

>> Mayor Reed: Anything else on the legislative update? Okay, thank you.

>> Betsy Shotwell: Thank you then.

>> Mayor Reed: We have a request from City Clerk to identify the great American litter pickup event as a city sponsored special event to accept donation of materials, et cetera.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion is to approve. All in favor? Opposed, none opposed that's approved. We have a request from the City Manager to add the CPLE quarterly report to the Public Safety, finance and strategic support committee agendas for April 21st.

>> Councilmember Nguyen: Motion to approve.

>> Councilmember Herrera: Second.

>> Mayor Reed: I'm sorry, I did skip the public record. We'll come back to that. On this -- we have a motion to approve this and on this item, get all my letters, capitals, numbers and lower case, I believe Mr. Wall wants to speak on item I-4-A which is the one we're on. So --

>> David Wall: The subject of the yellow card would have been made a little easier --

>> Mayor Reed: It would have, if I'd have looked at that first.

>> David Wall: That's okay. Sir. This is in relation to the Consortium for Police Leadership in Equity. As a taxpayer I have never accepted this group. I believe they have materially misrepresented their, quote, research aspects of their program. Their program was nothing more than to try to convince local authorities that, using local police agencies, for cross-deputization and immigration matters, this is already a matter of federal law, that this is -- that their police officers are allowed to do this. But CPLE came in saying they wanted to look at the department from a scientific point of view. That's how it was put forward. That was not the case at all. Their report at behest of Vice Mayor Nguyen was censored from the web page. The report was paid for in kind by the taxpayers of San José. You have a dedicated police lieutenant, and other officers, to create this report with budgetary cutbacks to the police department, as a taxpayer I demand that this -- I demand that CPLE's arrangement with City of San José be terminate forthwith with that appropriate 60-day notice. You don't have the money for this business, and they lied from the very start when they came in here, and you're propagating the lie by not putting it out for people to know what they've been doing. Thank you.

>> Mayor Reed: We have a motion to approve the change to the work plan. All in favor? Opposed? None opposed, that's approved. Back up to the public record, anything the committee would like to pull for discussion? Yes, we have a couple, Councilmember Herrera and --

>> Councilmember Herrera: I'd like to pull D.

>> Mayor Reed: D is the notification letter on gas transmission distribution lines. Councilmember Oliverio?

>> Councilmember Oliverio: Letter from the library commission.

>> Mayor Reed: Library commission is A, I believe. And Mr. Wall you wanted to speak on item number F.

>> David Wall: Actually, I'll speak on both E and F. First on E, it has been communicated to me, first of all Mr. Mayor, you have nothing to do with any type of censorship that I allege or that went on. However you want to describe it, you had nothing to do with this so I want to make everybody known that you didn't interfere with in. This dealt with the City Manager's employment contract. Being attached to a memo. The issue then turns it's already a matter of public record and therefore it's not going to be posted on the City's web page. I reject the argument in kind because it is part of an argument in chief and that people need to see what I talk about or anybody who talks about it for that matter, anybody. Now, with reference to the City Manager's contract it stands as it is. She's entitled to get everything that you agreed to give her on behalf of the City of San José taxpayers. I have no problem with that. Including your sick time payout. But I just don't like the idea that there's a policy in flux, however, I understand that it can be reasonable. And I want to be charitable in all matters because I support our City Clerk. And so therein lies the dogma or the problem. Is it arbitrarily and capriciously done? I do not know. Now with reference to number F, if time permits, I do not know if I have a couple of seconds.

>> Mayor Reed: Just a couple.

>> David Wall: There is an error that I made. There is a position known as the general operating supervisor. One of which was a retiree for some length of time. I believe two years. Where my error is, the new one is a rehire of a person I thought was retired. But that is my mistake. That is not true. That is a new employee which opens up a bigger can of worms Mr. Mayor that the administration is not following your guideline, your budget guidelines. You should not have new employees being hired.

>> Mayor Reed: Sorry your time is up. On the public record, the letter from the library commission.

>> Councilmember Oliverio: Thank you, mayor Reed. As the liaison to the library commission, I just wanted to point out the letter regarding the budget. Obviously single use advocacy is a little bit difficult during times when we don't have any extra money, but nonetheless it is some unique ideas about selling naming rights to libraries. So really essentially who would be the highest bid where would want to pay for it. So if someone would be open that to that, I think that would be interesting. I think the installation of solar panels to reduce electricity cost to open libraries are a return on investment several years out, and that's sort of unlikely. And then finally I think they took an opinion here that I think many people in San José have said to me before which is if you can't have the money to open a facility to operate it then you should probably delay the construction of it. And I think that's a pretty sober message from the commission that's supposed to be advocating for libraries, I just wanted to point that out.

>> Mayor Reed: Okay, the other item was the letter from the PUC.

>> Councilmember Herrera: Yeah and I just want to make a comment on the library one, too. In disagreement of their point number 3 of delaying construction of southeast branch. That is not going to be under construction any time soon. The actual design work is ongoing. But the funding that contributes to that cannot be used in the General Fund or used to supply any other services specifically for building libraries and Evergreen has only one library which is greatly overcrowded. Highly used by the public and so I don't think that is a great idea. And some of the other ideas as far as solar panels and doing those kinds of things I would strongly support. So the other item I wanted to comment on was item D. And I want to -- I want to share my disappointment with PG&E's public outreach for this meeting. In San Bruno next Tuesday April 5th I want to acknowledge our Public Works

department is really on top of this and are posing a number of questions directly to PG&E. And they're very concerned that they're not getting answers. So I just want to probably mention this, and I'm also going to be putting a letter together to PG&E and PUC. So this not only affects residents in my district, District 8, but also District 4 and 5 because we have pipelines running through those district on the East Side of San José. And before the area was developed it was an open area and so probably wasn't contemplated that one day there would be residents in and around and very important facilities in and around these pipelines but that is the case today. So I have serious concerns about the safety of PG&E gas lines in San José including the records. I'm concerned with the perceived absence of construction records of transmission and distribution lines in San José and this includes the age, pipe term, sizes and construction characteristics of these lines. Condition assessment we need to understand the current condition of transmission and major distribution lines in San José and under operating pressure I need assurance that safe operating pressures are not being exceeded. At what pressures are these lines being operated and how does this compare with the currently authorized legal limit and any reductions mandated by the CPUC. Also emergency shutoff. For the safety of my residents I must be confident that an emergency will be met with certain and rapid response. Is there a shutoff plan for each defined segment in case of a rupture? Does the San José fire department have detailed knowledge of these shutoff plans as well as valve locations and contact phone numbers for emergency coordination? Where are the first responders stationed and what is the maximum response time for an emergency shutoff that can be expected? This is critical information for ensuring the safety of residents in my district and in San José and in every city that is affected by this issue. We need more from PG&E, and now I move to note and file this item.

>> Mayor Reed: Okay, anything else? All right, motion is to note and file the public record with these comments. All in favor? Opposed? None opposed, that is approved. Taking us to I believe the open forum is the last item. Martha O'Connell. If you squeeze the handle, it will slide down.

>> Okay, sorry.

>> Mayor Reed: That's okay. It will slide back up too.

>> Okay, Martha O'Connell, homeowners organized to maintain equity, representing mobile home residents. First of all I'd like to thank and acknowledge Vice Mayor Nguyen's help in removing the amendment proposed amendment to the MAC work plan. Secondly had we not been told that was being taken off there would have been lots of people behind me including an attorney to talk about what I'm going to tell you. I'm just here today because everybody else said they weren't going to come because it wasn't on the agenda. The minutes of the MAC meeting are inaccurate. They do not reflect the vote that was taken. Of course I have a word for word transcript and I can give it to anybody who wants it. The chair of the MAC meeting, MAC commission Michael Graves have already advised the city that the minutes are inaccurate. So the memo that was released from the Department of Housing is based on a motion that did not occur. In fact I've talked to two of the commissioners and they've both told me that had that been the motion, they would have voted no. Furthermore I was present at the meeting and had that been my understanding of the motion I would have stood up to the mic and taken my two minutes and a whole bunch of people that were with me at that meeting would have also stood up and opposed it. So you need to know that the minutes are not accurate. As submitted by the city for the Mac meeting. The chairperson has so advised the city around hopefully we can clear this up at our next meeting because that is not what the Mac requested. Thank you for pulling the items and protecting the rights for us to affordable housing.

>> Mayor Reed: David Wall.

>> David Wall: I've spoken several times at different meetings about minutes not being accurate --

>> Mayor Reed: Just a little bit higher, because it's not picking up.

>> David Wall: How about this. I've been before you at council meetings before that minutes aren't accurately recorded. Now accurately is a conundrum. I mean these are paraphrased notes or whatnot. I think the system needs review and refinement, and to what extent it's possible to have a clear, accurate picture of what's going on. What Martha represented though is very dastardly and should be looked into, and appropriate steps should be made sure, if people lie, falsify public records, that they should be dealt with very severely, very timely. Prop 218, noticing is coming up again for a variety of services or variety of funds. This goes back, and it's very germane to

these employee pay cuts and benefit cuts that are linked to prop 218 from the last time around. So even though you've done your budget stuff, environmental services department is separate and distinct because of their funds. And I don't think very many people pay too much attention to these things. And cutting employees' benefits and salaries on these funds are integral to prop 218. So go before the voters and say hey voters, we got prop 218 for these variety of fees, then later, start cutting people's benefits and salaries for whatever reason, that goes against the grain of prop 218. You should be up front and stick to it. And have a formulation and stick to it. I would think that is better accounting and honesty from the start. Lastly I want to thank all of the councilmembers. You're all good people. None of you want people to go lose their jobs or anything. This is not what you're about. And this is really sad because you know you bear this burden and there's a lot of bad blood out there and people don't understand. And so somebody has to stand forward and tell you that you are good, and to keep up whatever good fight you can --

>> Mayor Reed: I hate to interrupt you on that note but your time is up.

>> David Wall: All right, then you're condemned.

>> Mayor Reed: That doesn't get you any more time. That concludes the open forum, concludes our meeting, we're adjourned.