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>> Mayor Reed: Time to call our meeting to order. This is Rules and Open Government Committee meeting for January 18th, 2012. Any changes to our agenda order?

>> No.

>> Mayor Reed: All right. First item is to review the January 24th council agenda. Anything on page 1? I think the lunar new year celebration proclamation needs to be deferred to February 7th, item 1.1.

>> City Attorney Doyle: And we had mentioned about closed session if we should start earlier. I think 9:00 is fine.

>> Mayor Reed: Okay, that's good news. Anything on page 2 or 3. Page 4 or 5. Page 6 or 7? Item 6.3, the minimum standard for airport west side general aviation department, I understand we need to do something with that to push it out again?

>> Ed Shikada: Yes, Mr. Mayor, staff would recommend dropping this and bring it back to council. We'd like to prepare a more comprehensive report that will address some of the questions that have been raised.

>> Mayor Reed: Time sensitiveness of getting this to council, I assume we're going to get it back pretty quickly because we need to get this rolling so we can get the revenues, et cetera.

>> Ed Shikada: Yes.

>> Mayor Reed: Anticipate like February 13th meeting probably?

>> Ed Shikada: As an order of magnitude probably that sounds about right. I'll confirm that with staff to make sure we've got that all covered and on track.

>> Mayor Reed: There are a complicated series of things happening. That will be just renoticed.

>> Ed Shikada: Yes.

>> Mayor Reed: Anything on 6.7?

>> Ed Shikada: Mr. Mayor, 6.7, trash load reduction, you had asked last week for a report from TPAC. The TPAC had a meeting last week. This is not directly related to the responsibilities of TPAC, but nonetheless the director of ESD noted this upcoming item to increase the awareness of members.

>> Mayor Reed: Yes because we have multiple NPDES permits, and this doesn't affect the treatment plant part of it.

>> Ed Shikada: That's correct. Thank you.

>> Mayor Reed: Okay. But the TPAC will receive the reports, I think. Anything else on 6 or 7? Page 8 or 9?

>> Councilmember Oliverio: Mayor, i request to defer Item 11.2 to the next night meeting mprobably in February.

>> Mayor Reed: That's the east side of Morse Street?

>> Councilmember Oliverio: Correct.

>> Mayor Reed: Do we know when the next evening meeting is? Does it have to be an evening meeting?

>> City Attorney Doyle: It has been noticed for evening meeting, there is a lot of neighborhood concern so we can check with planning.

>> Ed Shikada: Laurel, if you could note whether there is any time sensitivity to this action.

>> Laurel Prevetti: There is no time sensitivity to this action but we did have a fair amount of public comment at the Planning Commission and I imagine the public would want an opportunity to participate in front of the council.

>> Mayor Reed: So evening would be better, that's your recommendation, Councilmember Oliverio? So pick an evening date. It will be one in February, sometime in there.

>> Dennis Hawkins: February 28th, Mr. Mayor.

>> Mayor Reed: February 28th.

>> Councilmember Oliverio: So it is.

>> Mayor Reed: Then that leaves only one item on the hearing for the evening session. Right, that's the only thing we have is 11.1?

>> City Attorney Doyle: It's a consent calendar item too.

>> Councilmember Oliverio: Can we do it in the afternoon?

>> Laurel Prevetti: Mr. Mayor, if I may we did notice this one for the evening, and given the short turn around, there's no way we could renote and publish it for the afternoon.

>> Mayor Reed: Is it time-sensitive?

>> Laurel Prevetti: No, it is not time-sensitive but again we're trying to work all our projects through at the speed of business.

>> Mayor Reed: Right. That's not time sensitive for us but it might be for the developer, property owner, right? They're always a little more sensitive to time. So we have -- that's the only item in the evening.

>> Ed Shikada: If I might suggest, Mr. Mayor, perhaps we could renote at the next available afternoon meeting rather than have it push all the way to the 28th of February, since I understand this is not expected to generate much discussion.

>> Mayor Reed: If we could -- next afternoon meeting would be when?

>> Ed Shikada: I believe it would be the 31st.

>> Mayor Reed: You're saying you can't renote for that time period for the 31st? What does it mean to notice anyway? Let's go over it again. It's been explained to me before but I always forget.

>> Laurel Prevetti: According to our municipal code, when we change the zoning on a piece of property, it's essentially like adopting a new ordinance. So for all ordinances to title 20 we do not only notice to affected property owners but we also publish in the newspapers. We have significant lead time working with the Clerk's office as well as our own staff to make that thing happen. For the Quimby road project I don't know what the developer's time constraints are. I know he's very pleased to see his project moving along. So I think it would be preferable if it could stay on the evening of the 24th. I know that would, you know, add an evening to the council's calendar. But I any there is an expectation that that's the schedule that that developer will be adhering to.

>> Mayor Reed: Why do we notice them that way?

>> Laurel Prevetti: Well, we notice our land use items for the evening. Because in general, consistent with our public outreach policy the thought is that the public will want to be able to participate, clearly if there's an economic interest or the applicant and the community have acknowledged that an afternoon session can work

with their needs and their ability to communicate and participate with all of you, then we can do it that way. But it's been our practice, for land use items, that they are heard in the evening, to allow for that public involvement.

>> Mayor Reed: I'm just thinking of the notice part of this. If the neighbors know about it and are 500 foot radius or whatever the radius we use, that's not the same thing as the noticing you're talking about.

>> Laurel Prevetti: Right.

>> Mayor Reed: So this is more notice on top of of the individual notice and is it really necessary I guess is the question to put ourselves in a box where we can't notice it because it takes too long to notice it even for an afternoon meeting.

>> Laurel Prevetti: It is one thing to think ahead, already our staff is working on items that will be going to Planning Commission in February, then coming to you on the evening of the 28th of February. So as we're looking at that calendar we'll make sure now that we're finding you know this is causing difficulties for the committee, make sure that it's a useful time for the council to convene an evening session. So we'll do a little bit better agenda management. I think what our challenge is, is when we get so close to a hearing date and then need to make a change or there's a desire to make a change to an afternoon session, that's where it gets a little more challenging for us.

>> Mayor Reed: Well why don't we give ourselves a little more flexibility with how we do this, and when there are circumstances like this where there's not a lot of community interest, there's maybe three people who care about it, do we have to box ourselves in, that we have to treat that one the same as the next one, which has a lot of community interest and we're going to have it in the evening because of that? And we have no flexibility under the ordinance, they all have to be treated exactly the same, and why not give ourselves some flexibility?

>> City Attorney Doyle: And I think we need to work with staff on what changes, and i.e., this apparently has no opposition.

>> Laurel Prevetti: Not the Quimby road one. But again, plannings is an indication, we haven't heard any opposition. So I think this one will be fine. It's really, I think, day forward, what can we learn from this. And as you know even in 2011 we were bringing land use items to the council in the afternoon. Because we were thinking ahead. So I think that's really the message that I'm hearing this afternoon, is, for us to continue to be thinking ahead, and making sure that the evening sessions are truly for those items, that do generate public interest.

>> Mayor Reed: Can we notice them that it will be in the evening unless changed or something?

>> City Attorney Doyle: Or --

>> Mayor Reed: We write the ordinances don't we?

>> City Attorney Doyle: I think we can do what courts do, 1:30 or as soon as the matter can be heard, and let the council give a direction that this is coming in the evening, that's when it will be heard, unless otherwise -- and that way you've covered yourself.

>> Laurel Prevetti: We'd be happy to work with Rick and his staff on that kind of language.

>> Mayor Reed: We're just making it difficult for ourselves to be flexible when there's no need for this particular application to be heard in the evening. So far there's no argument that would make any difference, whether it's afternoon or evening. We've boxed ourselves in, so we might not do something like that, and then the week before at Rules Committee we can say, does this need to be heard in the evening, in which case then maybe we do something else differently. But Planning Commission tends to run how much ahead of the council meeting?

>> Laurel Prevetti: It's two or three weeks.

>> Mayor Reed: So we have some sense of the public controversy you about the time it gets to the Rules Committee meeting. All right so we're stuck on this one correct?

>> Councilmember Oliverio: Mayor, may I? Laurel, what's the current backlog, are you looking towards the February time frame, do you see just some subdividing lots, do you see anything major coming to council?

>> Laurel Prevetti: We will have a major item coming to council in March which will be the Almaden ranch.

>> Councilmember Oliverio: For February?

>> Laurel Prevetti: February I don't see anything that major yet. We will have some ordinances coming to council as well but I'll definitely go back to the calendar after this conversation and make sure that we're giving ourselves the flexibility.

>> Councilmember Oliverio: Thank you, Laurel.

>> Laurel Prevetti: Thank you.

>> Mayor Reed: This item 11.1 stays on the agenda for the evening meeting of February the 4th.

>> Excuse me, Mr. Mayor.

>> Mayor Reed: We have an important commendation to be heard.

>> Commendation, I think I deserve one right now! The action related to 9.1, we're on schedule to get that memo out. They just yesterday afternoon in a meeting with the finance and budget director, the budget office urged us, they thought it would be best if we could get -- an agency budget amendment out on the 24th. We had always envisioned we go through the process of addition solution, do the budget amendment on the 31st. We will be

trying to get a memo out but since they just started working on it today, I may want to absolutely make sure it's accurate, looking at our fund balance and cash balance and explaining that to the council. So obviously we'd need a sunshine waiver but we probably won't know till tomorrow whether we can really get an accurate budget amendment on the 24th. That's our hope.

>> City Attorney Doyle: The final agenda goes out on Friday. The idea is to get the appropriate budget items that sort of memorialized all the actions necessary at the same time as the main memo.

>> Mayor Reed: So what we need is a sunshine waiver of the ten-day rule on staff reports and documents, et cetera?

>> Agency budget adjustment.

>> Mayor Reed: For agency stuff.

>> City Attorney Doyle: Any necessary legal documents, resolutions and otherwise.

>> Mayor Reed: Right, so those would come out on Friday? All right, had a couple of additions, requests, proclamations, January 24th for health for humanity day. Commendation to Oak Grove red warriors for their winning season to be heard in the evening. Because we don't have anything else to do in that evening, I guess we can do that, two items on the agenda. Any other requests for additions or changes? No, okay. Can I get a motion with the sunshine waiver?

>> Councilmember Herrera: Motion to approve with the sunshine waiver.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion to approve with the changes and sunshine waivers as noted. All in favor, opposed, none opposed, sorry, I have a request to speak on it I think, Alex antiveros.

>> Good afternoon, committee. Yeah, I'd like to request for a time-certain on 7.1, recommendation C. And specifically, for the restaurant owners, that maybe a 3:00 time frame would be -- work better for them so it's not too early in the afternoon so they're not you know leaving their restaurants and it's not too late in the evening where they're having to you know be out of their restaurants.

>> Mayor Reed: That's the short term trash reduction plan?

>> That's right.

>> Mayor Reed: Staff, how long do you think the rest of the meeting is going to take before we've taken some stuff off? 2:30, might be -- not before 2:30 could be about the right time. Anybody else think we'll -- well we do have some other things we could take ahead of that stuff.

>> City Attorney Doyle: The RDA stuff may take a little bit of time.

>> Mayor Reed: Maybe 3:00 is okay.

>> Thank you.

>> Mayor Reed: Okay any other public comments on that?

>> Councilmember Herrera: Adjust that to make that time certain at 3:00.

>> Mayor Reed: Let's look at the rest of the agenda. I don't want the council to sit around and wait for 3:00 then come back with two items at 7:00. They'll think we're not managing our time very well. But if we -- the con plan action plan was dropped to be renoticed.

>> City Attorney Doyle: 3.4 may have some discussion.

>> Mayor Reed: The CalPERS contract stuff will generate some discussion. The west side airport stuff dropped to be renoticed. Well, there's not much on there before 7.1 and then really, the redevelopment stuff is the only other substantive stuff. So I'd say 2:30.

>> Councilmember Herrera: Make it 2:30.

>> Mayor Reed: You're going to make council come back in the evening, so let's be a little --

>> Councilmember Herrera: So let's make time certain 2:30, 7.1C.

>> Mayor Reed: Okay, that's a motion. All in favor, opposed, none opposed, that's approved.

>> Dennis Hawkins: Mr. Mayor, if I could just clarify, not before --

>> Councilmember Herrera: Not before 2:30.

>> Mayor Reed: Not before 2:30, we will try to take it up at that time, if we can, we will. Next agenda would be January 31st. Anything on page 1? 9:00 start-time still make sense, we'll adjust it if we need to.

>> City Attorney Doyle: I think so.

>> Mayor Reed: Anything on page 2 or 3? Item 3.3, the marijuana business tax. I've been in the process of having conversations with the industry representatives about the ordinance that we need to either rescind or put on the ballot. I don't know that we ought to get the marijuana business tax discussion ahead of that. I don't know if we'll be ready for something by the 31st. So we want to just note that, it's not likely to happen on the 31st or pick a date in February to notice? Just to notice it for a different date? Defer it for a couple of weeks, perhaps?

>> City Attorney Doyle: Yeah, I think the only concern is that if the March 6th date is a drop-dead date we need to have the first hearing two weeks prior. At least two weeks prior. So it could be February 7th, or whatever the next meeting is, that's two weeks before.

>> Mayor Reed: Why don't we go for February 7th.

>> City Attorney Doyle: Okay.

>> Councilmember Oliverio: Mayor.

>> Mayor Reed: Yes, Councilmember Oliverio.

>> Councilmember Oliverio: Just want to mention when we get to intergovernmental affairs, I understand there's a bill about to be introduced in the legislature, not a ballot but a bill in the legislature that would actually regulate medical cannabis by the state, so I hope we'll follow that to see if that might be what we need vs. reinventing.

>> Mayor Reed: The California attorney general has thrown in the towel and said the legislature needs to solve these problems and deal with some of the complications. So perhaps her opinion will move the legislature to action. I rather doubt it. Considering we've been asking them to do this for years but you never know. But there also is a ballot initiative that has been filed for title and summary that would kind of do the same thing. There are things that are going on that we need to deal with the ordinance before March 6th so we've got our own time

frames. So I think if we defer this to February 7th that will give us a little more time to try to figure out which direction we go.

>> Dennis Hawkins: Mr. Mayor, if I may point out we do not have a council meeting on February 21st. It's the Tuesday following a Monday holiday. So that does limit our options a little bit on taking a look at scheduling things in February.

>> Mayor Reed: Okay. On page 2 or 3, North San José development incentive item, 4.2, I think we need a sunshine waiver on that. 14-day waiver.

>> That's correct.

>> Mayor Reed: Are the documents out, staff report out? What's the timing on getting that out?

>> They should be coming shortly, either today or tomorrow.

>> Mayor Reed: They'll be out in time. Anything else on page 2 or 3? Going to page 4, item 4.3, development services staffing needs, we need a sunshine waiver on that. Again that's a waiver of the 14-day.

>> Correct.

>> Mayor Reed: And I think that's ready. Is that already out, the staff report?

>> It has been.

>> Mayor Reed: Okay. Almost done. I think that's it for the 31st agenda at this point. Anything -- I have no written requests for additions. Anything else? Motion with sunshine waiver?

>> Councilmember Herrera: Motion to approve with -- we had the deferral on 3.3 and sunshine waivers for 4.2 and 4.3.

>> Mayor Reed: Okay, the motion is to approve the changes and the sunshine waiver as noted, waivers as noted. All in favor? Opposed? None opposed, those are approved. We have no Redevelopment Agency agenda, separate agenda items, correct? We're dealing with them on the joint agenda a couple of places. Upcoming study session agendas. We have, let's combine that with the meeting scheduled discussion and come back to that. And take up legislative update, Sacramento update, Betsy Shotwell is here.

>> Betsy Shotwell: Thank you, mayor, members of the committee, Betsy Shotwell, Director of Intergovernmental Relations. This morning the governor presented his state of the state message, which is traditionally done of course every January by the governor. It was 20 minutes long. He opened with a very optimistic, upbeat tone in his voice. He did open of course with the discussion over his proposed budget, with major cuts and his proposed ballot measure for temporary tax increases. He was upbeat about the state's potential to stimulate the economy, create jobs, citing the increase in renewable energy projects as one of a number of examples. He reiterated his support for high-speed rail. He urged the legislature's support and compared it to the 1930s when at that time the state was considering major highway and water system proposals. And that did not get the universal applause that the other items of course had gotten. He also discussed the need for a state water project so that the state has a reliable source of water. And that the need for the delta restoration, spoke briefly on some public education items as well. Related to his ballot measure yesterday the governor did score a victory when the think long committee decided to drop their tax reform tax increase ballot measure and that follows about two weeks ago when the county group, CSAC, decided to drop their tax increase proposal. So with that, the governor immediately I heard flew down to Los Angeles and he'll be really pushing his ballot measure with various groups and bodies in the next few weeks to get the necessary signatures to put it on the November ballot. With that, be happy to answer any questions.

>> Mayor Reed: Questions, Rose.

>> Councilmember Herrera: I kept hearing rumors that the ballot was going to be very cluttered with a number of different tax proposals. You mentioned some that were dropped. How many are still left, do you have any idea?

>> Betsy Shotwell: Thank you. I looked this morning, we have about 79 ballot measures in play. A huge number that have been cleared for circulation, and 20 that are still on the attorney general's desk waiting for summary and title. So all said we have about 79, and to your point there is still another tax increase measure that is out there.

Molly Munger's measure, and she's pursuing a broad income tax increase to bolster public school financing, so that is still in play and I understand the governor going to be trying to persuade her to also drop her measure now. And to the mayor's point there is a number of marijuana legalization, and just every issue you can think of, just about.

>> Councilmember Herrera: So that's encouraging that we're getting fewer of them, because then it will be less confusing for the public to make a decision and perhaps you know us an opportunity look at one locally too.

Exactly right. One measure versus four or five or civil makes a huge difference.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Did the governor mention anything about the status of redevelopment or court case or what's bubbling in the legislature?

>> Betsy Shotwell: Unfortunately the California Channel flipped out about 15 minutes into the speech and I missed the last five, but nothing in any reports or text have I seen since he mentioned it briefly at the budget preview two weeks ago. And he didn't really mention, the reporter asked him and he said well it is what it is. He welcomed to discuss. But that was again two weeks ago so.

>> Councilmember Herrera: What's the latest on the extension, the proposed bill by Steinberg to extend the redevelopment to April 15th? I heard it's not going anywhere, is what I heard.

>> Betsy Shotwell: Well, the extension bill by senator padilla introduced or went into print Friday has been assigned, according to our lobbyist, to a committee next Wednesday. But whether it's going to go moving forward remains to be seen.

>> Councilmember Herrera: I heard there was less momentum, I was sort of interested in what was happening with that, but I heard there was less momentum. I don't know.

>> Betsy Shotwell: There may be a lot of momentum, but it's behind the scene. To your point I know senator Steinberg is coming out with his idea for son of and I haven't heard any quotes or direct quotes from the speaker yet and I believe that's what we were informed as -- also we don't know yet how the speaker will be responding. I imagine we'll hear soon and the Governor's Office has been silent so.

>> Councilmember Herrera: I wanted to make one comment and I'll tie it in with this even though it's not technically on the agenda. MSNBC highlighted that San José is doing great things for small business and moving at the speed of business. That was national about maybe an hour ago.

>> Betsy Shotwell: Excellent.

>> Councilmember Herrera: Thought I would mention that, so that was great. We got plugged nationally.

>> Mayor Reed: Although we are dragged back by California. So I guess that was the news, right, some cities are doing better in California. And certainly the net job growth that we're seeing here in the valley is good news faster than the Bay Area and faster than the state and that's good. I just want everybody to know that Roxann and Betsy are working hourly I think on redevelopment issues whether there's an extension or son of redevelopment or whatever it's going to be called. So it is just happening in real time. And I know that our redevelopment staff as well as city staff are all working together to prepare us for February 1st, if nothing happens, and prepare us for February 1st if something happens. And we don't really know what that might be. Because the speaker and the governor and the president pro tem are keeping it pretty close to the vest, as to what they're really intending to

do. But the big ten mayors did issue a letter a couple of days ago, around the idea that whatever you guys do, we still need to have the tools that redevelopment had, in order to do economic development. So whether there's an extension or not we have to deal with the fact that local government needs the power to do some things in order to create jobs. And so that discussion will undoubtedly go on whether or not there's a discussion. A lot of people think it will be easier if there's an extension. We I guess are fortunate that we started a couple of years ago in winding down or Redevelopment Agency due to the realities of the economy. Many other cities are not. And they're having to do it in very short order. So Oakland has issued a couple hundred -- well they expect to lay off a couple hundred but they've issued notices to practically half of their workforce because of --

>> Councilmember Herrera: Like 1500.

>> Mayor Reed: -- the bumping kinds of issues. And of course you all read about Los Angeles saying they're not going to take over the responsibilities as the successor agency because they have some pretty big liabilities that they're concerned about. So we are better prepared to move ahead on February 1st but there's still a lot of things that are loose ends that we don't know the answer to. But our staff is doing a really good job of trying to be prepared and we'll have it on our agenda on the 24th and the 31st actions to be taken so that we're ready to go on February 1st, whatever happens. Anything else, Sacramento, Washington, that's it?

>> Betsy Shotwell: Thank you.

>> Mayor Reed: Then let's turn to meeting schedules and agenda for study session topic. A couple of things hi requested that we have a study session for IBM operational efficiency study for January 30th. I don't think we're going to be ready to do that on the 30th so we need to pick a different date for that. We have I think precalendared February 13th and February 21st as possible dates of study sessions. There was some question about whether or not we might need to do something, study session like around the airport issues, which is to be determined. And then I have another item that I think maybe just goes on a regular council agenda, maybe it's a study session, and that is the retirement boards' plans, comprehensive annual financial reports which have been published, we should have a hearing on city and agency comprehensive reports, and I think it would be good to

have one on the retirement boards, have the boards come, their consultants and their presidents come and explain their CAFRs to us like they would since their CAFRs are bigger than our CAFR. We ought to at least have some chance to discuss that. And whether that's a study session or just a council agenda item is in there, I don't know what the appropriate time would be, but considering the numbers that the retirement boards are dealing with, we should have some time to explain to us what the CAFR said and perhaps, by mid February, we will know what the boards are doing with the analysis that's been done about next year's rates. I think Federated is having a meeting tomorrow or Friday, and then there's another Police and Fire board. So I'd like to just throw those out and try to sort out when we might do it. January 30th is probably too early. I don't know if we have any other candidate topics for January 30th. But we do have February 13th and 21st, I think. We had items on the calendar already, so --

>> Dennis Hawkins: On February 13th we have the council senior staff budget priority setting session.

>> Mayor Reed: Okay, well, that one's taken, because we're going to be busy. We have work to do on that for sure. So the 21st is the Tuesday when we don't have a regularly scheduled council meeting. So we could possibly do a study session then. That's probably the best time to try to do the IBM --

>> City Attorney Doyle: The only other item that's outstanding is the airport West item that they want to do a study session sometime in the near future.

>> Mayor Reed: That may work its way around to a regular council agenda item, because we do need to make some action.

>> Ed Shikada: We could organize it in either way.

>> Mayor Reed: Do you think we need to have a study session for the retirement boards to come explain their CAFRs? We just typically do that on the council agenda for the other CAFRs. I think it will take a little bit of time but it's really not a study session requirement. The IBM presentation, I think, really is a study session, kind of a

topic. That might be the best for February 21st and then try to get the retirement boards in there. Because I haven't talked to retirement staff or anybody about when they might be prepared to talk to us about what they're doing. But we have some council dates we could probably fit it into. So if I could just ask the staff to ask that question, to the retirement staff, as to when they might be able to do it, and then we could pick a date for council meeting.

>> Ed Shikada: Very good, be happy to do that.

>> Mayor Reed: And so I guess my recommendation, would be, we move the January 30th study session for IBM to February 21st, and then reconsider the other items as need may be for study session or council agenda. Does that work?

>> Ed Shikada: Very good. We'll follow up and come back with a recommendation on schedule.

>> Mayor Reed: Okay, anything else on that? Get a motion?

>> Councilmember Herrera: Motion to change the date, the IBM operational efficiency to February 21st.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion to move the IBM to February 21st. All in favor, opposed, none opposed, that's approved. Public record is the next item. I have a couple of people who want to speak on the public record, Martha O'Connell would be first.

>> Martha O'Connell chair of the senior commission speaking to item D. There was a strong and unanimous motion to endorse the proposal by Dennis Hawkins that we be merged with the disability awareness human rights and youth commission. If those were our only choices. I can promise you there will be strong opposition, myself included if somebody tries to merge us with PRNS. Because we really don't think that is in our best

interest. Taking off my hat as chair and putting on my hat as citizen I ask you guys to please do something. This has been on our agenda for two years. The senior commission has not been able to do its bylaws, because we were told we couldn't do anything until the template came down. Two of our emeritus commissioners are in limbo. Please don't put this off much longer, do something, okay, thank you.

>> Mayor Reed: David Wall.

>> Good afternoon. First, we'll start off with item I. Lew Wolff's article in 2003, September 16th, he's my hero now. You're a really great guy. Of course he owes thanks, probably a monument of thanks to the Redevelopment Agency for the money he makes. I want to quote, in his letter, quote, process cannot be the end product. Actually two sentences. Performance is relatively easy to measure and performance is what counts, period close quote. Now, let's fast forward to item number F entitled will the City Manager publicly thank the office of the City Attorney for the bailout of the environmental innovation center. Look at performance. Who in the office of the City Manager screwed up so royally as to throw away \$440,000 of free liquidated damage money? And not only that, three out of the four councilmembers that sat before me today voted to go ahead and throw that money away. So there's a couple of little performance items right there. Then we go over to performance, another issue, item H, is treated sewage and industrial wastewater to be marketed as purified water to mislead the public? And we go into the attachment from our friend at the water district, who Tamera -- no, excuse me, Teresa Alvarado, in which, quote, we should carefully consider a facility name that helps instill confidence in the water produced at the facility. McPherson et al found that derivatives of the word "pure" such as purer than, very pure, and purified have a great power to reassure the people that water is safe. On the contrary, the words recycled water and reclaimed water are the least reassures period close quotes.

>> Mayor Reed: Sorry, your time is up. Marie Hader.

>> Yes, I'd like to speak to the senior citizen commission request that you ask the proper authorities to paint the barriers in the parking lot that stop the wheels. Now, those that are at an edge, at a wall, at a flower arrangement, those are no problem. The ones that are a problem are the ones that are in the open area, where cars park like

this, and then like this. And there. And the barriers in between are trip hazards. People get out of the car here, head for the building and don't realize there's a barrier stopping the car that parks right there. Now, some people ask they be removed entirely, it is a lot safer to drive straight through than to back up. The commission considered, just having them painted a bright fluorescent color, sometimes, sometimes they are painted yellow, black stripes on them, something to cause them to draw attention so people don't go tripping over them especially in the senior centers where the older people are so frail.

>> Mayor Reed: Thank you. That concludes the public comments on the public record. Anything else the committee would like to pull or deal with otherwise?

>> Councilmember Nguyen: Motion to note and file.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion is to note and file the public record. All in favor, opposed, none opposed, so done. So done, did we do it? Yes, we did. Rules Committee items. We have request from Councilmember Rocha to direct City Manager and City Attorney to rerelease information regarding prop 209. I'm not sure what that was because I don't think I was here when it was released. City Attorney do you have any comments on that?

>> City Attorney Doyle: I wasn't here either. The -- there have been, yeah, we've gone back and we've identified some memos. You may remember and I was there for this, the high voltage decision came out of the Supreme Court. We're looking to resurrect some of the decision, some information may be confidential attorney client, some may be public. We'll get it, I don't know if the administration has any independent documents but I think we're looking to try to come up with what we have, it is basically going back to the archives.

>> Mayor Reed: I think the issue is what information do we have after the high voltage cases cited by the California Supreme Court, because that probably changed some of our theories.

>> City Attorney Doyle: That is certainly the case. And the statute or the constitutional amendment on its face just prohibits hiring decisions based on ethnicity, gender, et cetera, but it doesn't mean you can't do outreach.

And it really is how you craft that outreach. So this has come up in the past with former City Manager Borgsdorf. We had conversations about that, and I worked with Mark Linder on the issue as well. So we can go back and you know, not reinvent the wheel, probably come back and the council can decide what it wants to do. The question is, do you want to release it to the council, to the committee or just -- might be just Beth best to get whatever we have to the council and decide what to do from there.

>> Mayor Reed: Well I think somebody has exercised discretion what we released what you thought was the law before the high voltage case that maybe you think that changed, so I don't want somebody picking up an old memo and reading it, without having a stamp on it that says, hey, the law has changed since we wrote this. And I don't know how you keep us from getting -- going down the wrong path on something.

>> City Attorney Doyle: We would go through that. To the extent that it's either old law and shouldn't be released or do we need to make sure we have a cover memo correcting the issue. But it's not a difficult issue, we just need to get the information out.

>> Mayor Reed: Councilmember Rocha just came in. Do you want to speak on your memo, councilmember Rocha? We were just talking about how staff is working getting around the documents so they can be rereleased?

>> Councilmember Rocha: Thank you, mayor. No, not necessary as all. I had a conversation with the City Manager and she talked about that and I've also had a conversation with the City Attorney.

>> Mayor Reed: Okay, we'll just refer this to staff and staff is working on it. Anything else you need to do?

>> Councilmember Rocha: Thank you.

>> Mayor Reed: Is there a motion?

>> Councilmember Herrera: Motion to refer to staff. To continue to work on it.

>> Mayor Reed: Motion is to refer to this to staff, all in favor, opposed, none opposed, that's done. Request to approve the celebrate Cambrian festival as a council sponsored special events, so we can accept contributions.

>> Councilmember Oliverio: Motion to approve.

>> Councilmember Herrera: Second.

>> Mayor Reed: We have a motion to approve, no comments, all in favor, opposed, none opposed, that's approved. That brings us to, I believe, the open forum. Martha O'Connell.

>> Throughout the budget thing, we only had one minute, so I wanted to make one other comment. I was delighted when Councilperson Pyle said one of the solutions to bring more revenue into the City of San José. My eyes lit up and then she gave me the second part, second sentence which was to increase the sales tax. Please don't do that. The seniors are already struggling in the city and the sales tax is the most regressive, punitive tax there is, because everybody pays the same. Especially because in your packet, the water company is now asking for a 21% raise in water rates next year and once again, what's going to happen to affordable housing because all of these charges are being passed to the folks in the mobile home parks. Please don't raise the sales tax.

>> Mayor Reed: David Wall.

>> This is from an interesting document. Civic plaza redevelopment area. It is the redevelopment plan traffic estimates. I will quote one tense. Quote: In addition the City of San José will continue to provide ecopass transit passes to employees period close quotes. The ecopass has undergone some turmoil of late. Just who's going to fund it or if it's going to be funded? Now, with \$440,000 that was thrown away, by the office of City Manager, was

previously discussed, that would have paid for the ecopass for a couple of years. So we have to have a form of atonement here getting back to performance. So I think that it's prudent, if you look at the councilmembers that voted for this, to throw away the \$440,000 that the City Manager's office screwed up, that a belt-tightening from these councilmembers have voted this, as well as people in the office of City Manager's office who screwed up, and who else because I've got to ask questions, who else in the organization screwed up? The belt tightening means that you lose part of your salary. To compensation for the ecopass because San José has to have something green. San José has nothing of greenness anymore. So we have to look into that process. It will be painful and embarrassing, but it will get you back onto the path of green salvation. I'm going to have to ask the baseball commissioner to step in Mr. Mayor in case there can be some deal that can be made, thank you.

>> Mayor Reed: That concludes the public comment in open forum, that's the end of our business, I believe, so we're adjourned.