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City of San José Rules and Open Government committee

>> Mayor Reed: Order. This is Rules and Open Government Committee meeting for June 2nd. Any changes to our agenda order from what we've got printed? Okay. Start then with the June 8th agenda. Anything on page 1? Anything page 2 or 3? Page 4 or 5? Page 6 or 7? Page 8 or 9? I have one request for an addition, excused absence for Councilmember Constant, due to business with Santa Clara County Lafco meeting which happens about the same time. And then we have some sunshine waivers, those are for June 15th. Do we have any for June 8th? We have a lot less things on the agenda for the 8th. Any other changes or conversation on any of the items on the 8th? All right, is there a motion?

>> Councilmember Chirco: Move approval.

>> Councilmember Pyle: Second.

>> Mayor Reed: Okay, we have a motion to approve the 8th agenda as amended. All in favor, opposed, none opposed, that's approved. On to the 15th of June agenda. Page 1, my guess is we need to start closed session earlier, and try to start their earlier session earlier. Anybody have estimates on what those times ought to be?

>> I think we had said 8:00 for closed session and 10:00 for the open session.

>> Mayor Reed: I think if we do that, we'll get rid of the afternoon session during the afternoon, probably, without having to bump too much into the evening, which would be good. But there are a couple of things that maybe should go into the evening just so we know where they are. We can get to those as we get through here. Anything else on page 1? The financing authority item should probably be taken up right after the consent calendar because we have bond counsel here as I understand it.

>> City Attorney Doyle: Usually we have a host of consultants, financial advisors and bond counsel.

>> Mayor Reed: So the note here that the financing authority will meet in joint session following the afternoon council session -- would be following the consent calendar, I guess. All right, anything else on page 1? Page 2 or 3? Page 4 or 5? Looks like an awfully short consent calendar for this time of year but that's okay.

>> Councilmember Chirco: We'll make for it elsewhere.

>> Mayor Reed: Page 6 or 7? The three-point series of items on here, fee we have everything, so the unit 99 is on, item 3.8. We have one other return I'm trying to get a memo out on with a recommendation, that is the previous decision on council, mayor, council appointees, we approved the 10% but we didn't specify the details, that needs to come back and that needs to get on the agenda here sometime in this three point series on the 15th. And staying -- page 6-7, we're still on the three point series on page 8, the budget message, if we start the meeting at 10:00 in the morning, and Rules mit rub -- or closed session might run longer, it might be 11:00, at least get an hour and a half worth of work done in the morning. What I'd kind of like to do is to start all of the budget-related stuff at 3:00, and then just work through the rest of the agenda, until 3:00. There's plenty of other things on there to fill in the time. If we start that at 3:00 we should be done by 6:00.

>> Lee Price: Beginning with 3.9?

>> That's the first part of the budget discussion, just all the items to be heard together?

>> Lee Price: Or beginning with -- yeah.

>> Mayor Reed: We need to start with 3.2 at 3:00.

>> So all of the --

>> Mayor Reed: Because they're all tied into the budget discussion. And then anything else on page 8 or 9? The medicinal use of cannabis item recommended to be heard last in the evening. Anything on page 10 or 11? Page 12 or 13? Page 14 or 15? I have one question on that, that's the joint item, report the Alameda, a plan for the beautiful way. Is that a half-hour show-and-tell with the residents and businesses?

>> Abi Magamfar: More like ten minutes, Mr. Mayor. Short presentation and probably a couple of different individuals from the Alameda business association and the neighborhood participate.

>> Mayor Reed: Okay. And then we have the evening session. He page 16 and 17, general plan and land use items. Which thankfully don't look too long. FTC.

>> The baseball EIR.

>> Mayor Reed: Famous last words.

>> City Attorney Doyle: The baseball SEIR is 11.6.

>> Mayor Reed: 1.6. Any other comments or changes? I have a commendation keep San José beautiful steering committee from Councilmember Nguyen to be heard in the evening and then we have sunshine

waiver issues because of the schedule here at the end of the year. We have the labor items, 3.2, 3.4, 5, 6, 7 and 8, all dealing with compensation.

>> City Attorney Doyle: Mr. Mayor, if I could add 9 to that which is going to be your memo. On the exception for councilmembers and appointees. The actual documents, the ordinance and resolution may need a sunshine waiver as well.

>> Mayor Reed: Okay, so that would be for mayor, councilmember and things. And then there's some budget items for sunshine waiver in order to keep them on the 15th, library parcel tax rates, sewer service and use charges, many water system rate increase, the 10-11 operating capital budgets, schedule of fees and charges. And then I've got a note here about the medicinal use of cannabis, not that that's a surprise it's on the agenda, it's the actual ordinance-level work that might be --

>> And that item probably won't be out until next week and we are asking for a waiver for all the staff memo.

>> City Attorney Doyle: It is a 15 plus page memo.

>> Mayor Reed: When next week?

>> Hoping for Monday or Tuesday.

>> Mayor Reed: Oh, so early next week.

>> As well as 3.6 and 3.7, staff will be hearing more information about these two items on Friday so the memo won't probably be out until Monday.

>> Mayor Reed: But that's still more than a week from the meeting. Anything else that needs a sunshine waiver?

>> Then mayor I was just look through the memo and I'm just not sure if 3:00 may be a little bit late to start on these items but just looking through it.

>> Mayor Reed: Yeah, if we start at 10:00.

>> Not with these items though.

>> Mayor Reed: Yeah but if we start the meeting at 10:00, 3:00 probably is a little bit late.

>> Oh, maybe -- right.

>> Mayor Reed: 2:00?

>> We're not going to do the ceremonial items.

>> Lee Price: Ceremonial items after lunch.

>> 2:00?

>> Mayor Reed: Take 3.1 through 13 it looks like. If there are things we didn't get to we'll take them up after we deal with the budget items and try to get them done before we break for dinner. Any other changes to the draft?

>> Councilmember Pyle: Move to approve.

>> Second.

>> Mayor Reed: Motion to approve as amended including the sunshine waivers, all in favor, opposed, none opposed, that's approved. Next would be June 8th redevelopment agency anything on page 1? Page 2 or 3? Or 4? We have the recommended deferral of the inclusionary housing policy to June 15th? I haven't seen the June 22nd agenda I think it's shorter than the June 15th agenda.

>> I don't know about that.

>> City Attorney Doyle: We're coming back with some retirement ordinances, the board governance, they shouldn't be that time consuming.

>> Abi Magamfar: Mr. Mayor, I would defer, in response to your question, to the City Attorney since the memo was written by the attorney's office with respect to 8.2 and the timing of it.

>> City Attorney Doyle: You're looking at what item? Oh, the inclusionary, we can wait another week on that, yes.

>> Mayor Reed: Okay, looking at June 15th, waiting another week on anything would be good. Anything else on the June 8th redevelopment?

>> We have no other changes sir.

>> Mayor Reed: Is there a motion?

>> Councilmember Pyle: Move to approve.

>> Councilmember Chirco: Second.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. June 15th, anything except the change of times for the starting of the meetings? 8:00 and 10:00. Anything on page 2 or 3? And when in the sequence of budget do we take up the agency budget item here? After the city budget is done and where would that fall in the agenda we've just laid out?

>> Abi Magamfar: Mr. Mayor, the agency's budget contemplates providing funding on the city side for the first three months. So the city and agency budget approval pretty much tied together.

>> City Attorney Doyle: Either before the city budget or simultaneous with the city budget. So that the moneys are there, available to the city, so you can take the necessary actions.

>> Mayor Reed: Okay, so we should take that up as part of the series of budget actions.

>> Abi Magamfar: That would be the right time Mr. Mayor.

>> Mayor Reed: Then we do the rest of the redevelopment items when?

>> Abi Magamfar: If it's okay with the mayor and the committee, perhaps right after the budget we take the rest of the redevelopment items including 9.1 on the city side.

>> Mayor Reed: Or we could just do them all in the morning. Is that what you're saying Nadine? I think that's the way we did it last year.

>> Yeah, I think that makes more sense. (inaudible).

>> Mayor Reed: The financing authority. There's really not much on there. That way --

>> Abi Magamfar: That would work.

>> I think there's time in the morning too.

>> Lee Price: RDA after the financing authority?

>> Mayor Reed: So we would do consent calendar, financing authority, redevelopment agency, and then start through the council agenda, get as far as we can before lunch and then come back and start the budget and then finish the council afternoon agenda we hope, take a dinner break, come back, and it's looking wonderful, isn't it? I'm so glad July is not far away. Any other changes on this besides the inclusionary housing policy will be to the 22nd.

>> Mr. Mayor, you're correct, that item will drop from this agenda, it will just be deferred automatically to the 22nd. You will not see it when it's published on this agenda.

>> Mayor Reed: Anything else that we need to -- in the way of sunshine waivers on this?

>> No sunshine waivers at this time and hopefully we won't need them next week either.

>> Councilmember Pyle: Motion to approve as amended.

>> Second.

>> Mayor Reed: Motion to approve as amended. All in favor, opposed, none opposed, that's approved. Next item is legislative update, state and federal, none I believe. That's correct. Public record, anything committee wants to pull from the public record for discussion?

>> Ed Shikada: Mr. Mayor, I would like to note on item A, a letter from Mr. Ridamoso, the staff has received been noted the concerns the staff is following up directly with the owner.

>> Mayor Reed: That was regarding the blue mango restaurant?

>> Ed Shikada: Yes.

>> Councilmember Chirco: Move to note and file.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to note and file the rest. All in favor, opposed none opposed that's approved. Taking us to appointments to boards, commissions and committees. We had discussion last week on the first one that was the airport commission applications. And we still had one open spot. And we'd ask for information from the clerk. Rather than going out for reapplication to take a look at the pool of applicants, for that third spot, and I see several people in here that I think could do a decent job. Or probably better than a decent job so I think we ought to just go ahead and fill it rather than leave it vacant and go through the whole process again because we had half a dozen at least to choose from.

>> Councilmember Chirco: I know just that there's one that is highly recommended. And there's --

>> Mayor Reed: This is from the project diversity screening committee?

>> Councilmember Chirco: Yeah. It's the Lee Price memo.

>> Mayor Reed: Yes. Lee's memo from the 27th, most highly recommended, recommended or not recommended from the diversity screening committee.

>> Lee Price: Mr. Mayor, and I just wanted to make sure that the members of the committee also received the supplemental memorandum from the city attorney's office clarifying the conflict of interest issue regarding the applicant who was here last week, Georgia Panter Nielson. I just wanted to make sure you received that.

>> Mayor Reed: I haven't seen that, sorry.

>> Lee Price: Let me give you my copy -- Rick will give you his copy, and if I could just point to page 2.

>> City Attorney Doyle: It recognizes the fact that the Pension Benefit Guarantee Corporation assumes responsibility for the United airlines pension and so there no longer is a financial conflict.

>> Mayor Reed: Okay. So if an airport commissioner was a pensioner from one of the airlines, that would create the potential?

>> City Attorney Doyle: There is a potential of conflict of --

>> Mayor Reed: Or if they were an employee of one of the airlines, same issue.

>> City Attorney Doyle: If there was some -- a current employee, yes.

>> Mayor Reed: So that's not an issue, but we do have some recommended and highly recommended people from the project diversity screening committee. Want to take a flier at it, Judy?

>> Councilmember Chirco: Well, I would move approvability for Spencer Horowitz. Since he does come with the high recommendation from the project diversity screening committee.

>> Councilmember Pyle: Second.

>> Mayor Reed: The motion is to approve the appointment of Spencer Horowitz based on the project diversity screening committee recommendation. Any discussion on that? All in favor, opposed, none opposed, send it on to the council on next week's agenda. And then we have others, as well, to join that. We have a recommendation from Councilmember Nguyen to approve the appointment of Alice Salee to the housing and community development advisory commission. A recommendation from Councilmember Nguyen to approve the appointments of Mark Blaszczyk and Stephen Gifford to the traffic appeals commission. A recommendation by Councilmember Oliverio to approve the appointment of Hoa Nguyen, David Hook and Tony Nguyen to the library commission.

>> Councilmember Chirco: Move approval.

>> Second.

>> Mayor Reed: Motion is to approve the rest, and that would put them on next week's council agenda on the consent calendar. All in favor --

>> Lee Price: We can just add them to the other batch that you've already forwarded.

>> Mayor Reed: Yes. All in favor, opposed none opposed, those are approved. Next is request item H-1, request to approve district 2 Canadian flag raising as a city sponsored special event. Councilmember Kalra is here making that request, is here to speak.

>> Councilmember Kalra: I'm actually here for H-2. But if anyone has any questions on H-1 I'm happy to answer them as well.

>> Councilmember Chirco: Move approval.

>> Second.

>> Mayor Reed: Motion is to approve that special event, all in favor, opposed, none opposed, that's approved. Next item is a recommendation for staff to draft language to provide analysis regarding e-waste recycling and certification. Councilmember Kalra's recommendation, you wanted to speak to that.

>> Councilmember Kalra: Thank you, mayor. And on this one, it is an opportunity for us to put into policy what has traditionally been the practice of our environmental services department which is to do their best efforts to ensure that any of the E-waste recyclers we do use had pledged to be E-Steward certified. The pledge -- the E-Steward program is from a group called the Basel Action Network. The pledge program is now over and what I'm asking staff to analyze and ultimately approve is that we ensure that all the e-waste recyclers we use are E-Steward certified and that all operators, e-waste operators in the City of San José ultimately are E-Steward certified as well. We obviously have a high rate of consumption of technology and technology equipment. If we're not confident of the ending place of that equipment, much of which ends up in developing countries and causes a huge amount, and not just environmental, but human suffering, if we're not confident in that, then I think that it really -- it dampens our efforts to try to be responsible citizens of the world, and certainly it hinders our opportunity to be responsible as the capital of Silicon Valley and in touting a lot of our green goals, that that's one area that I think would be quite -- would not be too burdensome for us to put in a policy to require it and to make sure that we do all of our efforts when we recycle our material that they go to E-waste recyclers that are responsible. Right now there is no -- other than the E-Steward program, there is no way of being able to track to make sure that the e-waste ends up and is handled in a responsible manner. State certification does not track where e-waste goes, and so once it leaves our city, we have no idea where it goes, unless they are certified appropriately through the E-Steward program. And so this will allow the opportunity for staff to offer their thoughts on it, as well. I did have a chance to talk to John Stufflebean. He expressed support for the memo, and I think that going forward, we can make sure we do it in a way that's not only responsible but it's respectful of the e-waste recyclers to give them the opportunity and the time to come into compliance, as well.

>> Mayor Reed: Judy.

>> Councilmember Chirco: I think this is probably an excellent concept. I was just wondering if it would be appropriate to send it to T&E so that the staff could do the report-out in T&E and bring forward to council.

>> Mayor Reed: It's probably a good place to do it. But I'd like to know what the workload assessment is, if staff has done a workload assessment, where this falls within the many things we've asked staff to do.

>> Ed Shikada: Let me lead off and then perhaps Joe can elaborate. We have had a chance to chat with ESD, and staff believes that this work is very compatible with work that's already ongoing through the work plan on Green Vision. I think in terms of the approach, having the T&E committee flesh it out from a policy perspective would be very helpful. The time frame that John Stufflebean and I had discussed would be to put it in the spring such that as we are already wrapping up the fall work plan, it looks like the spring would be the best next available opportunity.

>> Mayor Reed: Joe, did you have anything to add? Okay. There are some people who want to speak on this item. I'm going to stay that public testimony at this time. Melanie Pearson, John Nemec and Marcy Gerson. Whoever wants to go first can go first.

>> Thank you, Mr. Mayor, and members of the committee --

>> Mayor Reed: Bend that down just a little bit. There you go, that's better if you get a little closer.

>> Thank you, Mr. Mayor, members of the Rules committee, council and staff.

>> Mayor Reed: I don't think that microphone's picking up. We can hear fine but the audience at home, there's a vast audience of tens of people, perhaps, watching at home, you want to make sure they can hear it.

>> Now I can tell right now, once again, Mr. Mayor, members of the Rules Committee, other councilmembers, staff members, thank you very much for hearing us today, and thank you Mr. Kalra for bringing this memorandum to the committee. I'm a member of the Tempel Emanuel Ti-cun-o-lam committee, working with PACT, which is people acting in community together, which I know is an organization you've heard of. Ti-cun-o-lam by the way means repair the world, and it is our social action and social justice committee. We had an event last night which hopefully you heard about. But we had an event last night on exactly this issue. Which is about responsible e-waste recycling. And in preparation for that meeting we actually have met a couple of times with Jeff Jansen, Mayor Reed's policy analyst, as well as other people including the environmental services department and lots of other people including E-stewards, and other agencies, I won't bore you with the details. But the bottom line is we have determined as has Mr. Kalra, that in order to be truly responsible environmental citizens, which we are trying to do in the city of San José, and we have such a great track record of that with the Green Vision, in order to truly be responsible citizens with our E-waste, we really need to use a certified recycler for e-waste. Not for the city's e-waste, but that is created, and you guys have a lot of computers and cell phones, but for all recyclers within the city. The only standard that we learned in all of our research, and we've been researching for almost two years, that really follows the tracks to the end of life of e-waste is this E-Steward certification. And this year they created it as an audited certification process. It will cost the city nothing. It will mean that we are, in the City of San José, really looking environmentally, forward.

>> Mayor Reed: I'm sorry, your time is up.

>> Okay, I really want to thank you again.

>> Mayor Reed: We have a couple more speakers who probably can finish the thought.

>> I'm sure they will, thank you. I wasn't sure how much time I had.

>> Mayor Reed: I'm sorry. It's two minutes.

>>> Ah, thank you, thanks again.

>> Thank you, mayor and councilmembers for having us here. I'd like to focus on the human rights issue of this e-waste recycling. There a Basel action network video that is quite -- brings tears to your eyes to see where people are living in squalor and their local water supplies are being polluted from the E-waste that they recycle. Much of the materials that go offshore to these poor people is burned. Its pollutes the water supplies locally and it pollutes the air. I think there's an urgency in this issue, because it is a human rights issue. And that's one of the tenets of our Ti-cun-o-lam committee is to correct these kinds of uses. Thank you very much.

>> Mayor Reed: Thank you. Our last speaker, I believe -- I only have three cards, so I am guessing this is the last speaker.

>> Yes, thank you, mayor, and councilmembers and other interested parties. One thing that we would like to draw to your attention is that you are already using E-Steward certified recyclers, but this is just not a policy at this time. So what we look for your doing is actually making it a policy so that it's guaranteed

that it would continue. And it's just a responsible thing to do, so that our, you know, consumer items do not end up polluting the world and harming other people, which I'm sure is something that no one wants.

>> Mayor Reed: Thank you. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor, and I'm respectful of the comments made and certainly cognizant and respectful of the amount of work that staff has to do. So I'll follow the suggestion of staff as to how quickly, obviously it's the quicker the better, but I'm cognizant of that. So the suggestions of staff are appropriate as far as I'm concerned, and I'll also, you know, defer to the committee in terms of where it should return to. I think going to T&E sounds fine to me, as long as we can move it forward, I think that's something that I find to be important. So thank you.

>> Mayor Reed: Okay. Since we're already doing most of this, apparently there is not an immediate rush for our purposes, which is good to know.

>> Councilmember Chirco: So I would make that motion that it be directed to T&E --

>> Mayor Reed: For the spring work plan?

>> Councilmember Chirco: Yes, for the spring work plan.

>> Second.

>> Mayor Reed: Okay, we have a motion to send this to the T&E Committee's work plan. All in favor, opposed, none opposed, that's approved.

>> City Attorney Doyle: Mr. Mayor can I go backward on an issue?

>> Mayor Reed: Of course.

>> City Attorney Doyle: Sunshine waivers, I'm reminded that the June 15th meeting, we have 4.1, the sign ordinance. All the waivers didn't include that. We have asked also, we might need -- the ordinance might be a little bit late getting out, but it is -- there is some time sensitivity in getting some of these in place for the summer.

>> Mayor Reed: Right, and this is an ordinance, we've already had the discussion, the study session.

>> City Attorney Doyle: Many, many sessions.

>> Mayor Reed: Many, many times bringing it back. Can we get a sunshine waiver on that?

>> Councilmember Pyle: Move to incorporate meeting reference.

>> Councilmember Chirco: Second.

>> Mayor Reed: Okay, we have a motion to add that to the sunshine waivers for the sign ordinance. All in favor, opposed, none opposed, that's approved. Nothing to add to other council committee agendas besides the one we just discussed. I think that takes us to the open forum, unless I missed something, staff, no, open forum.

>> Lee Price: Mr. Mayor, I was just going to point out that way back at the beginning of the agenda, item A-2 was actually a review of the June 14th draft special meeting agenda which I failed to bring forward so you could actually review it. But it is your annual public hearing on the budget. And that is the one and only item on the agenda. So this is really more than anything a reminder that we have a meeting on Monday night at 7:00 p.m. in the council chambers.

>> Mayor Reed: It's a very simple agenda. Have a hearing on the budget.

>> Lee Price: A week from Monday.

>> Mayor Reed: I don't think we need to review that agenda in detail with only one item on there. On to the open forum, David Wall and then Bill Chew.

>> David Wall: It is always a pleasure to be in the presence of Your Honors and assorted other officials. I came up with an idea of creative use of the T.O.T. tax to stimulate the economy in the downtown. This is in reference to a free billet for air crews that are coming into the airport. This also helps out the airport. Now, what I mean by free billeting is the fact that the occupancy rates of our finer hotels are -- they're low, very low. And if you could provide free room to the air crews coming in from various airlines, that would offset the T.O.T. tax, as far as keeping the hotels occupied, to a small degree. But it would also free up revenue from these air crews, because of their per diems, to spend more money for food and whatnot downtown. But what the city would get from this is a lot of goodwill from these air crews. And they will talk, Mr. Mayor, you're a pilot, you're tired, coming in late, coming into San José. And if you knew you got free taxi service to the Fairmont, free lodging, and all you had to do was go down to Original Joe's, I think you might like that. And this would also carry on to the airport or airline management. These folks would be saying, hey, San José is a real friendly place, they took care of our crews. Maybe it would increase airline traffic. I don't know. But at least, I'm thinking about trying to help you out with this airport. And I think you need all the help you can get. And hope you have fun today. Thanks.

>> Mayor Reed: Bill Chew is our last speaker.

>> Good afternoon, my name is Bill Chew. I'm a candidate for mayor of San José. I would like to thank my friends and neighbors for nominating me. I am doing my best to be worthy of your trust. I decided to run for mayor this year to give the voters an alternative. If you are satisfied with the way things are at City Hall, you can vote for the status quo. If you are looking for a change, I am your candidate. Check out my Website, www.fitcity.com. That is F-i-t-c-i-t-y. Fitcity.com. There's only six more days till the election. Please vote Bill Chew for mayor. On June 8th. Thank you very much.

>> Mayor Reed: That concludes the open forum, that concludes our meeting, we're adjourned.