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>> Councilmember Nguyen: I'd like to call the Rules and Open Government Committee meeting to order for April 18th. Move right along to the April 24th City Council agenda. Any changes to the agenda?

>> Councilmember Constant: No.

>> Councilmember Nguyen: Hearing none, let's move right along to the April 24th city council agenda. Any changes to page 1? 2 or 3. 4 or 5. 6 or 7, something for 4.2?

>> Yes, Madam Chair, for 4.2, we've added items B, C and, which are open reports. We've requested a sunshine waiver so it should go out by Friday.

>> Councilmember Nguyen: 8 or 9 and page 10? Okay we have a couple of additions. We have a presentation of commendation to the honorable James Emerson for his volunteer service to -- oh, we have a different one? Sorry. Presentation of a commendation to American Idol contestant de AndrÉ Brackensack from Councilmember Kalra's office and then another presentation of a commendation to honorable James Emerson for his volunteer service the IPA, SJPD mediation program. And then a couple of actions, item related to Mayor Reed's travel to Washington, D.C. and also Councilmember Constant's travel to Boston, Massachusetts. And another item from District 5, the community summit. I think that's all the additions, right?

>> Dennis Hawkins: That's correct, Madam Vice Mayor. And just to note that the language on the add sheet for the commendation on deandre Brackensack. That language will change on the agenda, we just got some revised language. But the topic is the same, the language is slightly different.

>> Councilmember Constant: Just a question. Can we do a sunshine waiver with only two of us?

>> City Attorney Doyle: We'll pass on with the request for sunshine waiver, we'll make sure it's on to council and waived.

>> Councilmember Constant: I'll make the motion for sunshine waiver.

>> Councilmember Nguyen: Mr. Wall, do you want to speak?

>> Good afternoon, madam Vice Mayor, and Councilmember Constant. I may be in error there was a report in T&E that deals with organic composting for the compostable. Is to be commended for a basic framework, if this is the same item and I don't have the report today where I draw umbrage is that they truck the material down to Gilroy for processing. So I don't see how green it is. And also, if this is the exact report, we're talking millions of dollars here. Several 7 to \$10 million range. And so we need to look at that, especially that truck of material to Gilroy for processing. I don't like that. Thank you.

>> Councilmember Nguyen: Thank you. Any changes? We have a motion. All those in favor? Opposed, hearing none motion carries. Move right along to the city council agenda for May 1st, 2012. Any changes to page 1? 2 or 3? 4 or 5?

>> Councilmember Constant: Just briefly. Madam Vice Mayor. On the -- all the terms of agreement with the implementation of terms, just wanted to note that the City Manager -- City Attorney and City Clerk will be working on modified language to ensure that we can bifurcate the two issues because I have to recuse myself on the lowest cost medical per retirees.

>> City Attorney Doyle: And the City Manager's office will be in that discussion as well.

>> Councilmember Nguyen: Page 6 or 7? 8 or 9? I'm sorry, so the joint San José city council Diridon development authority agenda is going to be heard after the council meeting?

>> Heard in order, generally.

>> City Attorney Doyle: Unless the Rules Committee wants to change but it will be at the end.

>> Councilmember Nguyen: Okay. And then we have a couple of additions. We have a presentation of a proclamation declaring the month of May as older Americans month and also a presentation of proclamation declaring the month of May as Jewish American heritage month and also, 9.X strategy and process for the disposition of rural property assets of the successor agency and also, the sale of real property located at 193 East Santa Clara street. A few more on the back, administrative budget for fiscal year 2012-13 for the successor agency and also the successor agency conflict of interest code. Anything else Richard?

>> No, that's correct, Vice Mayor.

>> Councilmember Constant: Just made me think of a question for the City Attorney. Do we have to do a new form 700 for the successor agencies with a new start-appointment date or is that covered under our existing one that we do where we list all our responsibilities?

>> City Attorney Doyle: I haven't seen the conflict of interest report as it is proposed. The code does require the -  
- as a reviewing body that there be a -- approving the conflict of interest code. I suspect it will be officers in the agency, now whether you're including councilmembers as well, I'm not aware of that. And I've been working with Patty on this.

>> Councilmember Constant: Let us know so we --

>> City Attorney Doyle: Whoever it is, you'll have to add another title.

>> Councilmember Constant: Since we've already done it, we'll have to do amendments or whatever.

>> City Attorney Doyle: We'll let you know.

>> Councilmember Constant: Okay, thank you. With that I'll make a motion to approve with the adds.

>> Councilmember Oliverio: Second.

>> Councilmember Nguyen: We have a motion. All in favor, opposed, motion carries. Review of the upcoming study session. I think we have a place holder sometime the end of April or that --

>> Councilmember Constant: The 26th or something.

>> Councilmember Oliverio: Is that cancelled?

>> Councilmember Constant: Is that officially cancelled?

>> It has been official cancelled.

>> City Attorney Doyle: Madam vice chair, when you get a moment, if I can ask you go back to the 24th agenda and the sunshine waiver request for 4.2, you have three members and you can actually waive it as opposed to -- recommending a waiver.

>> Councilmember Constant: So I'll make a motion for a sunshine waiver, on which one was it? On item 4.2 on the 24th.

>> Councilmember Oliverio: That's a time-sensitive item I take it?

>> City Attorney Doyle: It is. It is the oversight board, the CIP and the capital reports and these have been approved and I think they want to take it in conjunction.

>> Councilmember Oliverio: Thank you, second.

>> Councilmember Nguyen: So we have a motion. All in favor, opposed, hearing none motion carries. Okay we'll move down to item C, legislative update. Nothing from the state. Federal. We heard from them last week so --

>> Councilmember Oliverio: Question. Understand at committee the committee passed moving forward with some type of regulation of medical cannabis at the state level versus each city doing their own thing. With the likelihood of that it's out of committee and goes to the legislature is it a straight party vote or --

>> Betsy Shotwell: Thank you, Betsy Shotwell, Director of Intergovernmental Relations. The bill the councilmember is referring to is Assembly Member Ammiano's bill 2312 which would create a state oversight agency for marijuana business. It has an uphill battle, it was 4-2 along party lines in committee yesterday. I would imagine you'll see the same votes play out. As the media indicated, it has a rough road ahead. Law enforcement was out in force yesterday at the meeting in opposition to the bill.

>> Councilmember Oliverio: Okay, great.

>> Betsy Shotwell: Keep you current.

>> Councilmember Nguyen: Thank you Betsy. Item 2, meeting schedules, I don't think we have any under meeting schedules. Item E, the public record. Mr. Wall, you wanted to speak on one of your items, one of your letters?

>> Yes. Item D is a thank you for Ms. Wendy Cassein. She's from park and traffic control which is another essential service nested deep within the very well-managed Department of Transportation. Mr. Mercado, Marco Mercado, senior executive analyst, is also to be thanked for his assistance in helping me to thank other employees. He is in the office of employee relations and I thank him. On item F Mr. Jack Goines, maintenance working number 2 he goes around in a flatbed truck with a crane on it and he picks up mattresses and other debris that people unlawfully discard, illegal dumping. And once again, I don't know if this is a common thread, lightning strikes twice, but Mr. Jack Goines also is from the very well-managed Department of Transportation. The

last item, item G, is something to be very seriously looked at. And this deals with the sewer service and use charge. Currently, there I believe it's up to the lawyers now to haggle this business with use of the sewer service and use charge for a variety of things, mainly the expansion of South Bay water recycling which I do not support. But I think that the way that sewer service and use charge is calculated, is systematically flawed and it's based on estimates and it's not based on flow. And I think that there's going to be significant discussions on that point alone. Thank you.

>> Councilmember Constant: Motion to note and file the public record.

>> Councilmember Oliverio: Second.

>> Councilmember Nguyen: We have a motion to note and file the public record, all in favor? Opposed, hearing none motion carries. We don't have anything on the boards commissions or committees. And move down to item G. G-2, approve support for ACA 23, Perea, local government transportation projects special taxes.

>> Councilmember Oliverio: Motion to approve or to send to council.

>> Councilmember Nguyen: Okay. Second.

>> Councilmember Constant: I'll just speak on this. I think that the California voters have spoken multiple times on this issue. And have been very clear on the two-thirds requirement. And I think that they've expressed themselves multiple times and we should honor that.

>> Councilmember Nguyen: Mr. Wall you want to speak on this?

>> Whereas there is good justification to be concerned about the two-thirds vote, if the City of San José were to come out and be unique, and structure a plan, a designated and dedicated plan to fund transportation related issues such as repair of our streets, and have really an ironclad fund set up for it, that would last for generations,

in perpetuity, because roads are going to collapse over our lifetime, instead of what we have here today, where decades of councilmembers twiddle and twaddle their thumbs. And our roads decay to where they could be swallowed up in a pothole. So you have to first initiate some form of financial plan. And then support this type of legislation where people would have trust. Because the vast majority of problems especially with roads in this town is from decades of councilmembers not doing their jobs. Thank you.

>> Councilmember Constant: I'd just like to make a final comment. You know I think I've probably been the loudest and most frequent voice about the deferred infrastructure backlog since I've been here. But I don't think this is the way to do it. If you remember when we talked about the 911 tax and I advocated that we go to the voters for a special tax and dedicate it to its purpose and that is law enforcement, and people felt it wouldn't pass as a special tax and we put it through as a general tax and it passed far over the requirement that it needed to be a special tax so we could have a tax that was dedicated to public safety. I think that what we need to do as an organization is clearly communicate and educate our residents on how we're going to use their money in a responsible way. And when we do, like we did with the 911 tax, they will approve it. And I think that's the way we should do things.

>> Councilmember Nguyen: Betsy, can I just ask a question in terms of where this bill is right now at the state?

>> Betsy Shotwell: The constitutional amendments as they move through have really a much looser calendar. They don't have the specific deadlines like one is next week to get out of house of origin. The constitutional amendment has that flexibility to be heard at the last minute, if necessary. Now, in the calendar the legislature has until the end of June to place measures on the ballot. But that has often been tweaked and flexed, depending on where they are with all the other debate and issues going on, i.e. the state budget. So that is pretty much where we are. Most constitutional amendments are in a holding pattern right now, and we'll see as it plays out, particularly after the May revise is introduced next month by the governor revising the state budget on May 14th. That will set the stage how all these measures move.

>> Councilmember Nguyen: Thank you. Anything else?

>> Councilmember Oliverio: Quick comment. Betsy or City Attorney, if I remember correctly only other thing that has less than two-thirds is like the school bonds?

>> City Attorney Doyle: Yes, it's -- well, not the only. General tax is 51%.

>> Councilmember Oliverio: I mean as far as --

>> Dennis Hawkins: A special tax is two-thirds with the exception of school bonds which is 55, and this is -- essentially attracts that.

>> Councilmember Nguyen: We have a motion, all in favor, opposed? One opposed.

>> Betsy Shotwell: Could I also add a one-week turn around to go to council?

>> Councilmember Oliverio: Revise my motion to reflect that.

>> Councilmember Nguyen: We don't have anything under the committee agendas or work plans. Open government and public record act requests, nothing. We have one speaker on the open forum, Mr. Wall.

>> I would like to see the PRNS director be queried as to how much fresh vegetables and fruits from all these community gardens could be designated for the senior nutrition program. Almost like a tithe. Their 10% tax of what's grown there how feasible it would be to collect it and distribute it to the seniors. The other thing I would like to see, when you have these reports that have let's say the previous report I talked about, environmental services department. Now, when they use mathematics they should actually have a table of what formulas they're using. Because it's nebulous. They come up with some of these figures and you don't know what type of percentages they're talking about. In other words, the reports are incomplete. In my opinion. It should have mathematical tables, what type of formulas they're using to calculate certain percentages that end up costing

taxpayers millions of dollars in fee increases. I think that's reasonable for all reports. I just use ESD as an example. But there are others. And I go to these committee meetings, as you know, and I routinely see these reports rubber stamped without basically hardly any questioning from the councilmembers. And I think that's bad in itself but I think the reports are incomplete insofar as the mathematics are in my opinion are less than unsound. Thank you.

>> Councilmember Nguyen: Thank you and we are adjourned.

>> Councilmember Constant: Good job, 21 minutes.