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>> Mayor Reed: Good afternoon. I'd like to call the Rules and Open Government Committee meeting to order for April 25th, 2012. Any changes to our agenda order to talk about? No. All right. May 1st council agenda, I'd like to just start by saying we need to move some things off this May 1st agenda to the May 8th agenda. Because there's not much on may 8th and there's a lot on May 1st. Candidates for moving, first is the question about the citizens initiative which I think has been certified regarding the minimum wage. I think I got an e-mail from Dennis saying that was headed towards the council, hopefully not for May 1st.

>> Dennis Hawkins: Unfortunately it is. That's our request, Mr. Mayor. Under the elections code, where it talks about bringing the matter to the board in this case the council at its next regularly scheduled meeting. That's why we would like it on the may 1st agenda.

>> Mayor Reed: Can it be on the 8th?

>> City Attorney Doyle: My understanding is the clerk has the ministerial direction to put it on the 1st but the recommendation to defer it to the 8th for discussion.

>> Mayor Reed: We'll get to that for the adds. Anything on page 1, Pete?

>> Councilmember Constant: Mr. Mayor, just real quick. On the adjournment we're working with the family so there's a possibility that could slide to the 8th, depending on timing with the family member. We'll just play it by ear.

>> Mayor Reed: We'll fix that as it happens. There's four commendations, they're all the month of something or oat. And I don't know that we have that many on the 8th. Maybe we could kick a couple of the ceremonial items.

>> Councilmember Constant: I'll volunteer to move mine.

>> Mayor Reed: Okay so that's 1.3 is the older Americans month. It's the month of may, we're not even there yet. Do we have anything to do for that?

>> We have four ceremonials for the 8th as well.

>> Mayor Reed: We have four already? If we get to the end of the agenda we'll figure out how much we really need to move. All right, Councilmember Oliverio has zero ceremonials on. So that's progress. Everybody could aspire to that. Anything else on page -- pages 2 or 3? Pages 4 or 5? Which are mostly the labor agreements which will take up a good chunk of time I think.

>> Ed Shikada: Mr. Mayor, for the committee's information we do anticipate only having one staff presentation for all the items in that 3.3 to 3.11 I believe it is.

>> Mayor Reed: Right, then I would anticipate taking public testimony on all of the items together since they're all very similar. Okay. Anything else on page 4-5? Page 6 or 7? Page 8 or 9?

>> Councilmember Constant: So in thinking about the ones that can be moved, is there any reason that the trust fund annual report has to be on that day? That seems like one that would be pretty easy to bump a week. And then the other question would be: Is if the consolidated annual action plan has to be, that's on the previous page if they have to be heard on a specific reason or if we could bump?

>> Mayor Reed: We have a schedule we have to meet to meet federal direction but Leslye is here.

>> Leslye Corsiglia: Leslye Corsiglia this is a schedule and this is publicly noticed and all over the newspapers in this day. We add a pretty good cost. The good news is we've only received one appeal this year which is very, very low. And we don't really expect a lot of people there so we think it will be very quick.

>> Mayor Reed: Okay.

>> Councilmember Constant: About the park trust fund does anybody know that that's --

>> Ed Shikada: It can be moved. It's not time sensitive.

>> Mayor Reed: Let's move the park trust fund then.

>> Councilmember Oliverio: (inaudible).

>> Mayor Reed: What was that Monroe street vacation?

>> Councilmember Constant: I could use a vacation.

>> Mayor Reed: Again those probably published notices.

>> City Attorney Doyle: Those I'm sure are published notice.

>> Ed Shikada: And we're not aware of any protracted discussion anticipated. Okay, famous lacewoods.

>> Councilmember Constant: What about the antigraffiti contracted services cost report. That tends to get a lot of discussion.

>> Mayor Reed: Yeah but I think it should probably stay on this agenda based on the interest it's had organizing efforts et cetera. It probably should stay on this agenda.

>> Ed Shikada: Staff will appreciate that.

>> Mayor Reed: It's already been deferred. So the successor agency stuff probably has to happen on this schedule because we're leading up to the oversight board meeting.

>> Yes, pair, our third meeting.

>> Mayor Reed: Okay. I do note that we need sunshine waivers for the legal documents on 9.1, 2 and 3, real property and other matters.

>> The memos for 9.1 and 9.2 have been released and 9.3 we anticipate tomorrow or Friday.

>> Mayor Reed: Okay. Additions and page 10 I guess is the joint city council, Diridon area authority agenda. That is regarding the P bid, public based improvement district. Does that need to be heard on May 1st? That's also part of a much larger --

>> Dennis Hawkins: I believe it does need to be on May 1st because we have the deadline of the hearing and the vote in June.

>> Mayor Reed: Okay. Any else on page 10 or 11? Additions. Approval of a future roots festival as a city sponsored event, district 2 silver skate night event. Initiative we got from the clerk which we just talked about which I think could go on May 8th which we'll have time to talk about and will have public interest, it would be better to have some time on the agenda to do that and then we have the housing opportunity and market stabilization trust fund bill SB 1220 that's back. Any other additions, written or otherwise?

>> Councilmember Constant: Just a quick question. Is 1220 the one with the parcel tax or the document recording fee?

>> City Attorney Doyle: Yes, it's a tax, yes.

>> Leslye Corsiglia: I'm sorry Mr. Mayor I was just going to suggest, that can be moved to the 8th. That's not going to be heard in the legislature until later in the May, the realtors who are we'll be able to give an update when it does go forward.

>> Mayor Reed: Let's go back and look at what we talked about moving and think if that's okay or not. We have at least one proclamation month of May as Older Americans Month. Councilmember Constant thinks it can be moved. How about the Jewish American Heritage Month? Does anybody know anything about these?

>> Dennis Hawkins: I believe that Councilmember Herrera has also planned a reception immediately following the flag raising.

>> Mayor Reed: Right and there's also a specific date in the month I forget that's tied to this. The Asian Pacific American Heritage Month do you think that can be moved?

>> Yes.

>> Mayor Reed: .2 to the 8th.

>> Councilmember Constant and Vice Mayor do you think those could be deferred to the end of the month since the 8th already has items scheduled?

>> Councilmember Constant: I only see two on the 8th, have I missed something?

>> They're already 4.

>> Councilmember Constant: Then they can be bumped to a later date. They should have had their stuff in by now.

>> Fair enough.

>> Mayor Reed: The park trust fund can go to the 8th and the other with one we talked about was the minimum wage initiative item.

>> Councilmember Constant: Can we actually defer that now, or do we have to have it recommended for deferral, Rick? Minimum wage.

>> City Attorney Doyle: Just looking at the elections code and the code requires that the elections official bring it forward and have it certified at the next regular meeting. Again, it has to accommodate your calendars as well. I think that the clerk has a ministerial obligation to bring it not next meeting. I would suggest you place it on the 1st and a recommendation to continue it to the 8th for action.

>> Mayor Reed: Let's talk about actions that might take place if I recall last time we had a meeting to set a meeting, when we had the marijuana initiative, it came to the council, and we didn't take action at that meeting but we set a meeting to take action. So what are the range of things that a council would consider on May 1st or May 8th?

>> Dennis Hawkins: The way that I've written the memo, in consultation with the attorney's office is the action on the 1st would be to accept the certificate of sufficiency. And secondly, to refer the matter to staff to develop options for the council's consideration. So the actual action would be accepting the certificate and referring the matter to come back to the council at a later date.

>> Mayor Reed: Okay, well as I understand it the advocates are trying to convince the council it should be enacted as an ordinance and not go to the ballot.

>> Dennis Hawkins: That is one of the actions --

>> Mayor Reed: But we would not take that that action on May 1st.

>> City Attorney Doyle: Analysis whether council should adopt it or send it out for a vote.

>> Mayor Reed: That would happen sometime later not may 1st.

>> Dennis Hawkins: Correct. is there anything council can do on May 1st, saying yes we acknowledge it it's real now staff do something with it?

>> Dennis Hawkins: The second part is one of the recommendations is council has the option to order a report from staff on the impacts of the opposed ordinance, and that is one of the four options that the council would be considering. The council has 30 days from the certificate of sufficiency in which to receive that report back from staff. We have kind of an absolute deadline to get that report back from counsel, assuming the council accepts that certificate on the 1st by may 31st. There is a time deadline at the end of the process by which the council would need to either place it on the ballot or enact it.

>> Mayor Reed: And that's by May 31st?

>> City Attorney Doyle: That's not done on May 1st. Right now the agenda now is pretty clear. The proposed language is just to accept the certificate of sufficiency and refer staff to come back with options at a later date. And the impact not to come back later than May 31st. So it clearly should be coming back within a window but there's the only action taken is A which is to accept the certificate of sufficiency.

>> Mayor Reed: So looking at our conceptual, May 23rd is the last meeting in May. Because there's no meeting the Tuesday after Memorial Day, right?

>> Dennis Hawkins: No scheduled meeting on May 29th.

>> Mayor Reed: So whether we do it on the 8th or the 1st we're still looking at the same date back for a council decision it seems to me. Because it has to be done by the 31st of May.

>> Dennis Hawkins: One thing we have done in the past is to place this item on the consent where the council would be just be in a consent motion accepting doors -- or we can bring back the next action May 8th or 28th.

>> Councilmember Constant: My question would be we've heard the 30 days couple of times. But the language here calls out May 11th in several spots. So might we end up having an argument ore whether we should be taking one of these and taking action by the 11th which would be at the next Tuesday meeting? Is that a potential?

>> Dennis Hawkins: It's ten days after --

>> City Attorney Doyle: Lisa you have the elections code in front of you.

>> Lisa Herrick: I do. There are a number of options, what the council needs to do is accept the certificate at the next regular meeting and that would be May 1st. I think that's the obligation that the City Clerk has to present to the county of council and the council needs to accept the certificate. Within then there are some time frames to kick in for the council to take some action and it's basically three although one of them have some subparts to it. The first is either adopt the ordinance in ten days after accepting the certificate, that would be May 11th, call an election within ten days that would be by May 11th and that's where that may 31st date comes. The acceptance of a certificate triggers then either these ten-day options or the 30-day option. When you have to seven the ticket is pretty clear that that's got to be the next regular meeting that the council has after receiving the certificate from the registrar of voters.

>> Mayor Reed: We don't have a lot of dates to work with. So we have the 1st, the 8th, the 15th and the 22nd. So we only have four dates in May to work with.

>> City Attorney Doyle: 29th?

>> Mayor Reed: Unless you call a spend schedule, over the holiday. What I don't want to do is have 500 people down in City Hall on May 31st, when all of what we're doing is communicate being the limitation.

>> City Attorney Doyle: Chance to confer with staff but it's possible just to have A on the agenda which is to accept the certificate of sufficiency. The other items are almost self-executing under the statute. There's an obligation to come back, the council needs to know the options it has, I presume there would be a memo which would present the analysis of what those options are. The impact I think, the council has to order what options be done, that could be done on the 8th or at a later meeting there is a time constraint as well. But I think the real issue that needs to be taken is 3X A as City Clerk indicated often that's done, its job and certified the.

>> Mayor Reed: Right, there's nothing to argue there, it's just the ministerial act getting it in front of the council.

>> Dennis Hawkins: I think we could bifurcate it and bring A, the certificate on the it's -- I'm sorry, on the 1st. And then bring back the B options on the 8th so council could have that discussion and give further direction.

>> Councilmember Liccardo: Madison.

>> Vice Mayor Nguyen: If we decide to bifurcate the three items, can we put on then?

>> Dennis Hawkins: Yes.

>> Vice Mayor Nguyen: I think that would clearly set'.

>> Councilmember Constant: So that it's really clear that if you've got a lot to say the 8th is the appropriate time to come.

>> Mayor Reed: Let me talk about the 8th. Since we only have the 8th, the 15th and the 22nd to deal with and if we is the staff to do some work, you need some time to do the work. Can we just say we're going to hear this on the 22nd and the Rules committee be prepared to do do this stuff on the 8th, bring it back on if 22nd?

>> Dennis Hawkins: I think that we're kind of going off the cuff here.

>> Mayor Reed: Yeah, I understand that.

>> Dennis Hawkins: But I think that the council would need to give us direction on the B items, not just the Rules Committee.

>> Mayor Reed: Okay.

>> Councilmember Constant: Let's see if Lisa grace.

>> Lisa Herrick: I'm looking at the legislative code and it says that the legislative body shall do one of two things, order the election, we can talk about that or order the report and the adoption of the ordinance has to be within 10 days after the certification. The election -- essentially you would need to call an election, that doesn't have the ten day dead line or order the report to come back within 30 days.

>> Mayor Reed: But we need to take action within ten days.

>> Lisa Herrick: You need --

>> Mayor Reed: Of May 1st.

>> Lisa Herrick: Not necessarily. This is after the report comes back. Right. Right. The report could come back on May 22nd, and then you've got to do something within ten days. Then it goes back to -- now you've narrowed

your options here. You had three, and one of them was the report and then once that's gone away then you've got to either adopt the ordinance within ten days or call the election.

>> Mayor Reed: Well, we won't have a meeting within ten days of May 22nd. So what I'm getting at is, let's do all this on May 22nd, council will make the decision to adopt the ordinance or call the election and we will essentially have one hearing on the whole package. And.

>> City Attorney Doyle: Staff have enough opportunity to provide the analysis so council knows its options to call an election or adopt the ordinance.

>> Mayor Reed: What I wouldn't see is on the 22nd, we get the report and take another ten days to think about it. Assuming we can get the report ahead of the 22nd with staff's work then the council should be prepared on the 22nd to make the decision. If not then we would have to call a special meeting within the ten-day period. That's a lot of motivation for the council to make a decision if it means having a special meeting.

>> City Attorney Doyle: The decision is to adopt the ordinance as-is or put it on the November election, for all intents and purposes.

>> Mayor Reed: Can I back May 1st we're going to accept the certificate May 22nd we're going to do everything else or do we have to go to the council agenda on the 8th to say on May 22nd we're going to do everything else?

>> Councilmember Liccardo: That seems to be how the elections code reads. It seems to put the option on the legislative body to do one of those following things as opposed to some other smaller committee.

>> Councilmember Constant: How about one other thing, one other option here. What if we as a Rules Committee put -- sometime we get memos out of our differently committees all the time. So what if we had a memo come out by Friday for this Tuesday that was a recommendation of the Rules Committee to accept the

certificate of sufficiency and return on the 22nd for all the other discussion, and have the report come back and that's the recommendation from Rules and put that on the consent calendar?

>> Councilmember Herrera: Of.

>> Lisa Herrick: So that the council is adopting the report?

>> Councilmember Constant: It might be the cleanest way .

>> Dennis Hawkins: Essentially then we'd be recommending, referring the matter for the 9212 report to come back --

>> Councilmember Constant: If that's what it's called, yep.

>> Dennis Hawkins: I think we need to be clear that the action that the council would be taking on the 1st would be accept the certificate and then request the 9212 report. That gives us the additional days in which to do that. The council at that point in time would still have the option to enact the ordinance or call an election. But then that gets us out of the ten daytime frame and into that 30 daytime frame.

>> Councilmember Constant: I think that's the best way for us to move forward, I don't know what you guys think.

>> City Attorney Doyle: And that's still a consent calendar item.

>> Vice Mayor Nguyen: I agree, I think that's the cleanest way to go.

>> Dennis Hawkins: Would the city attorney's office then recraft the memo so that's a clear recommendation that the public will understand what the council's being asked to do on the 1st?

>> Councilmember Constant: So should I put that in an potential motion for you is that what you need?

>> City Attorney Doyle: I think that should be part of this motion, and the agenda would read accordingly.

>> Councilmember Constant: If we're ready I'll make the motion.

>> Councilmember Oliverio: Go for it.

>> Mayor Reed: We have a request to speak on this agenda, let's do that now, that O'Connell.

>> Martha O'Connell chair of the senior commission. I'm requesting that you reconsider leaving the older Americans month on the 1st, because over two months ago 15 other commissioners beside me plus PRNS staff plus we're having a ceremony in the tower on the 1st and then walk down here so I can assure you as chair I won't make a long speech and will be very complimentary to you guys unless you refuse to change it.

>> Councilmember Constant: Maybe we can challenge each other to see who can speak the least at the podium.

>> We can do that.

>> Councilmember Constant: Works for me and Ash.

>> Because all these folks were told you would reconsider it.

>> Councilmember Constant: I didn't know all that part.

>> Ed Shikada: Mr. Mayor I do have a couple of additional pieces of information that might be helpful. Looks like the number 1.1 the happy hollow item could be deferred to the 8th.

>> Councilmember Oliverio: There you go.

>> Ed Shikada: Same true with 3.14 which is the statement of policy related to the new city library, so those are potential deferrals.

>> Mayor Reed: Okay, you want to restate your motion Councilmember Constant.

>> Councilmember Constant: All right, so the motion would be to accept the agenda with the changes, and just so we're all clear, the changes are to defer 1.1, to defer 3.14, to defer 5.1.

>> 1.2.

>> Dennis Hawkins: 1.2.

>> Councilmember Constant: And let me go back and see which one was 1.2. 1.2 and accept the adds that we have here with the recommendation from rules that on 3.X a certificate of sufficiency would be to do, A, and then order a report on the effects of the proposed ordinance, the 9212, to return to the council on the 22nd with a sunshine waiver for that because you'll need that when the time comes. And that's my motion and I'm sticking to it.

>> Vice Mayor Nguyen: Second.

>> Dennis Hawkins: And we had the sunshine waivers in there?

>> Councilmember Constant: That was in there. I spoke really quick at that point.

>> Mayor Reed: One more item that can be moved, that was Leslye Corsiglia's comment on 3X, SB 1220, that can go to the 8th as well. Included?

>> Ed Shikada: And one more. Which is the joint item with the Diridon authority related to the downtown P bid. We'd make the request if it stays on the agenda which it appears that it does, that it be heard immediately after consent.

>> Councilmember Constant: That's okay with me, if that's okay with everyone else.

>> Mayor Reed: That's your motion. You got all that? We got a second. So we have a motion. Anything else?

>> Councilmember Constant: So much for a fast rules committee.

>> Mayor Reed: We're not done but we're almost done. With the first item. On that motion, all in favor? Opposed? None opposed, that's approved. All right. Then: We need to talk about the May 8th agenda. Anything on page 1? Page 2 or 3? Page 4 or 5? Page 6? I have some additions, national travel and tourism week, international compost awareness week. Health care trust, for Police and Fire retirement plan, Federated retirement plan ordinances, any other additions, written or otherwise? Okay. We've already talked about some part of this agenda. Anything else, Dennis?

>> Dennis Hawkins: Just point out, I've asked for a ceremonial item on May 8th after honor of municipal clerks week. Having made your life complicated a moment ago I'll is for my staff's recognition on May 8th.

>> Mayor Reed: May 8th is still pretty light, we won't have the initiative discussion on May 8th, I think we can handle the extra ceremonial items without much trouble. Any changes? Mr. Wall, do you want to speak on this agenda?

>> Items 2.7, 2.8, 2.8 and -- no 2.7, 8 and 9. I'm concerned about the actual price that the City's getting for this land. Item I think that that's a little bit low. The other two properties don't even really say, 4313 square feet, okay, fine. I think there should be a little bit more detail for the property sales. I'm also concerned with 4.1, actions related to the expansion, renovation to park Dallas Podradores by 1stAct Silicon Valley. Did the police authorize the closure of this street? And item 5, park land fees, I'm not sympathetic or charitable with the reduction of park land fees for high density developments. Thank you.

>> Mayor Reed: That includes public testimony.

>> Councilmember Constant: Motion to approve including the City Clerk's adds.

>> Vice Mayor Nguyen: Second.

>> Mayor Reed: Motion to approve. All in favor, opposed none opposed, that's approved. Legislative update, nothing on state and federal, no news is good news. I did report on my trip to Washington, at the council meeting, nothing to add. Meeting schedules nothing, public record. Have a request to speak on the public record. Mr. Wong.

>> Chairman, I wrote a letter to the Russell Committee and I was expecting that the Mitti project would be put into the city council agenda for May the 1st. I was told it was not. Since I was here I would like to make one or two points. In my letter which is public record D I also added a few attachments, my correspondence with the Department of Transportation, and my objection to this project is that the project injects a new element which is about 70 or so inexperienced and young drivers to drive into John meis court during peak season or peak time, sorry. And I expressed this concern with D.O.T. and D.O.T. say well that's not our problem. NN neighborhood transportation, adapt to project traffic modeling and safety study for a future project. Typically this information would be provided by is by the project owner which is. Of PRNS. He says my reading of his letter session presumably he's dealing with existing problems not potential future traffic safety problems. Now at our few public meetings we raised concerns about traffic safety and the PRNS staff says we will raise the matter with D.O.T. and

I've already appended this department of Transportation, PRNS will coordinate with D.O.T. But here in my correspondence with D.O.T. they say it is not my problem, it is the project manager. What I'm hearing is bouncing here and there as to who is responsible. And we have written to the Planning Commission to is them --

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

>> And so far we've had a war of silence. Thank you .

>> Mayor Reed: Comments on the public. Coleman.

>> Councilmember Constant: Like every week he's discussed this, that the PRNS report will address all the issues that have been brought up and will not go in front of council until every issue is addressed. That's a commitment we have from the director of PRNS and from my office and from the City Manager's office. So you will get your answer when the report is out, sir.

>> Mayor Reed: Anything else on the public record?

>> Councilmember Oliverio: Motion to note and file.

>> Vice Mayor Nguyen: Second.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. Next one is boards, commissions and committees. I'm not sure Ms. O'Connell what you want to speak on but I can't read your handwriting so if -- did you want to speak on the senior health fair?

>> I apologize. It's I -- J, I'm sorry.

>> Mayor Reed: Our next issue is approve the district 8 senior health fair and walk as a city council sponsored special event.

>> Vice Mayor Nguyen: Move.

>> Second.

>> Mayor Reed: All in favor, opposed, none opposed, that passes. What's the topic you want to speak on Martha?

>> (inaudible).

>> Mayor Reed: Open forum. I think the open forum is the next item, so unless someone has got something different, open forum. That and David wall.

>> I was at inside remarks about the mayor. I only stayed an hour and then I left. They seemed to think that you guys don't care about seniors and you just are up there cutting programs right left and center. I know from coming to meetings for the last five years that absolutely not true and that you guys are doing the best you can with the terrible budget. So having said that I would encourage you to look at places where you can really cut. I know I sound like a broken record but I'm going to say it again. Some of these boards and commissions, I think we can save a significant amount of money by doing something. But I need you to know that out in the community when I go to these motion I keep hearing that you guys are against the seniors and you're not doing anything and I don't know how we can turn that information around. I do my best when I go to the meetings but the perception is that you're not. And I know you are. So I will continue to speak out. Thank you.

>> Mayor Reed: David Wall.

>> There are three writings for your perusal today. One that deals with that raw sewage pump number 7 that was discussed yesterday. Here are some more poignant interrogatories that you can make inquiries of. I have had leaked oil and that's why it either blew up or blew up its gear box. Also from yesterday, here's some additions to the IPA's statistical model. Now I felt that her presentation was lacking in certain areas. Specifically, dealing with whether people that are making complaints are in the country illegally, for example, and if they're illegally here, and they declare it, they should be turned over to immigration. Also, for people with felonies, it's background characteristickization of the person. above all all complaints should be sworn under the penalty of perjury that their testimony against the San José police is truthful. That's fair so it doesn't waste a lot of taxpayer money and also you know creating untruths. And then the last one is what happened to city desk out there in the wing? I've heard a couple of ideas. One is retaliation because a lot of employees are coming up and telling me things about corrupt acts in their department. The facts aren't there, they do tell me things that I find out are true. Other are about the artwork from Dublin may be going in that spot, and I don't think that that's a wise idea. I think the artwork from Dublin should go in council chambers for two reasons. First it could be very possibly vandalized behind where city desk used to be because of all the traffic that comes in there, especially with reference from a letter of thank you to a police officer who helped me deter vandalism at City Hall.

>> Mayor Reed: Sorry, your time is up. That concludes the open forum, includes our agenda so we are adjourned.