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>> Mayor Reed: I'd like to call the meeting to order. This is the Rules and Open Government Committee meeting for December 5th, 2012. Any changes to the agenda order? Nope. First will be the December 11th, 2012 meeting agenda. Anything on page 1 that we should talk about? Anything on page 2 or 3? Page 4 or 5? Page 6 or 7?

>> Dennis Hawkins: Mr. Mayor, we'd like to drop item 3.. I've been advised by the police department that there is no person or persons that would be due a reward, that the crimes in question were solved by as chief Moore said, good old fashioned police work. So we would recommend pulling this at this time. And I would also ask for a sunshine waiver on 3.4, working on the work plan we'll have that memo distribute by Friday.

>> Mayor Reed: Pete.

>> Councilmember Constant: Can I ask as a follow-up are we going to come one a policy on how we would deal with these type of situations in the future? So that we don't have to take maybe set of parameters where we don't have to necessarily do a council action if there's something of significance that we want to deal with or do we just want to leave it as-is and have it taken up by the council if and when we ever have situations? Because we've seen two of these recently.

>> Mayor Reed: Right, we had a violent crime a year ago that we actually paid out a reward on. So it's not the posting of the reward that requires council approval. As we put up the money out of my budget. But actual paying it. Need some sort of council approval just because we don't have a line item for that.

>> Councilmember Constant: I would just say I know there was a council office that did something similar too and I don't ever remember seeing the paperwork go through so that's why I just was wondering how we want to go forward. If you remember the dog-napping. An individual council office advertised a reward. I don't know if it was ever paid out or anything like that. Just wondering how we're going to deal with it or not.

>> Dennis Hawkins: If I could answer. In the case of the previous rewards that have been paid out generally those were lesser amounts as the ones I recall were in the 500 to \$1,000 range. They are also facilitated with the

council office making a grant to crime stoppers or other nonprofit entity. So it went through as a council grant. In this particular one the one that was just approved by the council we did reach out to some nonprofits but given the amount and some other complexities they were not comfortable using that mechanism to pay the reward. So that's why we had to bring forward council action. One option that the council could consider is, creating something in the council expenditure and reimbursement policy that would authorize payment of rewards. The challenge that we have now is that there -- it's not a permissible expense under the council expenditure and reimbursement policy. So that's why under the policy we need to bring it forward for full council approval. So I think there's an alternative which is to update the policy. And we probably need to do that anyway. It's been three years since we've last revisited that policy.

>> Mayor Reed: But in the short run this works. This would do it.

>> Dennis Hawkins: Right. I had to come up with a solution that would work to facilitate the last reward and given the timeliness of this one that's why we moved forward. But again in this particular instance it's not necessary according to the police department.

>> Councilmember Constant: Okay.

>> Mayor Reed: Well, I don't know if I want to hang this on the council redoing of the policy because that will take some effort and time. We have a workable solution in the meantime.

>> Dennis Hawkins: Frankly that is one of the reasons I brought this forward in the most recent example because we need to create a precedent and a framework for which those kinds of matters could be handled by the council.

>> Mayor Reed: Okay. So the policy and the practice would be that if a reward is offered, it has to be approved by the council before it can be paid.

>> Dennis Hawkins: Correct.

>> Mayor Reed: Essentially what it is now?

>> Councilmember Constant: And I'm even completely fine with that as long as it's articulated to all of the council offices so we are all operating under the same ideas. Especially since we have new people in and there's going to be a lot of turnover in the next few years.

>> City Attorney Doyle: I would note sometimes there's a time sensitivity. Usually something happens and you want to get the word out right away. You want to get it through Rules and to the council.

>> Mayor Reed: I don't think you can do that at the time you are offering the reward. It is not the offering of the reward, it is the paying of the reward. It is subject to chief determining or somebody determining whether or not it qualifies. So anyway I think having a council approval step in there, if this particular award if we were going to do it would come from a recommendation by the chief.

>> Dennis Hawkins: This is the way I wrote this, pending final approval by the chief and recommendation by the mayor. There is a mechanism to do it.

>> Councilmember Constant: Pyle good.

>> Mayor Reed: Anything else on page 6 or 7? Page 8 or 9?

>> Councilmember Constant: Mayor on item 11.3, it's the only evening item. Has that been particularly noticed for the evening already, or sit something that can be moved?

>> Mayor Reed: It's the tree removal ordinance changes.

>> Councilmember Constant: I don't think you're turned on.

>> This one was noticed for the evening because of the level of interest that was on it. But in talking at agenda review today my recommendation would be to consider putting this on for a later date. It is not extremely time-sensitive but I think there would be some community interest on it. So the question is, from staff okay putting it on the afternoon of the 18th and consider a time certain with it.

>> Councilmember Oliverio: I think moving to the 18th would be fine.

>> City Attorney Doyle: The only thing I notice you have three ceremonials in the evening and whether those could be moved. Two on the add list and one on the agenda.

>> Councilmember Oliverio: I think there's only one ceremonial in the evening.

>> Mayor Reed: More to be considered.

>> Councilmember Oliverio:

>> On the add sheet. Approximately well they haven't been added yet.

>> Mayor Reed: Did we bump anything from yesterday's meeting to the 11th that would go onto the evening? We didn't have much on the evening agenda to bump. I don't think we bumped anything.

>> Councilmember Constant: So maybe we could look at that time 18th and decide if we could -- I haven't looked at it yet, to see if we could bump something like that.

>> Mayor Reed: Part of the problem with the 18th is it tends to be really crowded and to the extent we can deal with something on the 11th or in January it's usually good to move them one direction or the other. Maybe we

could come back to this after we see the 18th. And I don't know about the ceremonial items. We'll take a look at those, as well. So anything else on page 8 or 9? Page 10? Have some requests for additions. A commendation to Mt. Pleasant Overfelt and officer training corps to be heard in the evening. Commendation sharks ice bantam, B division, winning the division silver stick regional qualifying, to be heard in the evening. Add to put back on my travel to Des Moines request. So I don't know about the sensitivity of those two items, in the evening. Anybody have any information on the two of them? Typically, they're on there in the evening for a reason, I can see that, it's kids.

>> Since they're youth, the first one they said they would be able to do January and I can talk to the second group and see if they would be able to be moved as well.

>> Mayor Reed: What's our first evening meeting in January?

>> Dennis Hawkins: I believe it's the 15th.

>> January 15th.

>> Mayor Reed: That's the Mt. Pleasant Overfelt Silver Creek item.

>> Yes.

>> Mayor Reed: And so can we check realtime on the sharks bantam folks?

>> I'll check right now.

>> Mayor Reed: Why don't you do that and we'll come back to the question when we get done with the 18th. Any other requests for additions? All right, let's just table that and we'll come back after we look at the 18th. Moving to the 18th agenda, anything on page 1? There's another Harker school item on there I see.

>> As you predicted.

>> Councilmember Constant: Very regular.

>> Mayor Reed: I can see the future. Anything on page 2 or 3? Page 4 or 5? Just been thinking about the agenda, and the length and things, item 2.9 action he related to taxicab permits, I don't think we've ever done anything with taxicabs that didn't draw some comments. So that's one that may take some time. Anything else on page 4 or 5?

>> City Attorney Doyle: That's why it's on consent.

>> Mayor Reed: I think the consent calendar is going to be longer than the regular agenda. Page 6 or 7? Page 8 or 9? Page 10 or 11? And 9.2 is approval of purchase and sale agreement of sale of four successor agency action, go to the oversight board for consideration, the sequence of those?

>> City Attorney Doyle: I think it's going to be going to oversight board first on December 13th and then come back to the council. The council needs to basically be the one that authorizes going ahead and signing it. We need both approvals but the council is one, the successor agency board --

>> Mayor Reed: These were originally scheduled to be heard by the oversight board tomorrow but it's been postponed.

>> Councilmember Oliverio: Sara has been postponed?

>> Mayor Reed: I just got an e-mail that it's not going to happen tomorrow. There will be a meeting on the 13th. Anything else on 10 or 11? Page 12 is the joint financing authorized agenda item. Request for ads or

changes. I have nothing in writing. So the 18th agenda, looked like it could accommodate. An additional item from the 11th if we wanted to do it that way.

>> Councilmember Constant: I was just going to ask, I know as a last calendar year meeting, we know there's a lot coming forward, anything else that we know coming forward?

>> Ed Shikada: Nothing else coming forward.

>> Councilmember Constant: Unless a lot of stuff gets pulled off of consent, none of them appear to be too controversial, but you never know, I think we could handle it.

>> Mayor Reed: So that leaves open the question of the sharks team recognition, whether or not we can move it to January 15th. My guess is, it's not really an issue. They're not school schedule related. They're outside of the school schedule. Get an answer on that?

>> The team was hoping for December, because they have a tournament coming up in January.

>> Mayor Reed: So they might not be here on the 15th?

>> They may be here on the 15th, I think they'd -- more interested in the timing of December to be before the tournament.

>> Councilmember Oliverio: Could the mayor present the commendation at the facility?

>> Mayor Reed: Lot of different ways to do those things. We presented them on multiple occasions, more than once.

>> But I was working with them to schedule it. So I could let them know either way.

>> Mayor Reed: All right, so let's go back then and look at the 11th. We have the commendations, if this is another 7 p.m, yes so we have another 7 p.m, that's the Dr. Martin Luther King association. Commendation to support to be heard in the evening. And then we have the two commendations we've talked about. And the one tree removal ordinance requirement. That's the only -- yes, that is only land use matter. So if we moved everything to the 18th, we could offer people a choice, in the afternoon of the 18th or the evening of the 15th or some other time.

>> So long as you're okay since there's already a full schedule of ceremonials on the 18th.

>> Mayor Reed: Right, so that -- how many do I already have on the 18th?

>> We have four.

>> Mayor Reed: We already have four on the 18th. So we would be adding maybe a ceremonial on the 18th. Or the 15th. I think that would work on the 18th, we ought to be able to get it done within the usual time frame. I suppose next week we could consider whether or not we start earlier.

>> I have two on the 18th. And mine would be very, very brief so it wouldn't take that long. It's okay to add another one for the 18th.

>> Councilmember Constant: I'll keep mine short.

>> Councilmember Oliverio: I'm not doing one.

>> Councilmember Constant: There's a surprise.

>> Mayor Reed: Shortest of all. So we could move everything as discussed on the 11th if you want to do that, I think that would work. So let's go back to the 11th agenda and get a motion on -- we had a sunshine waiver on 3.4 that we need to include.

>> Councilmember Oliverio: Motion to approve the agenda of the 11th with the additions and the sunshine waiver on 3.4 with the deferral of that other item to the 18th.

>> Vice Mayor Nguyen: Second.

>> Mayor Reed: So we have a motion which omove all of the evening stuff off of this agenda so we would then cancel the evening portion. Right? There would be no evening meeting on the 11th. We just had an evening meeting last night as a matter of fact, I remember it well. Okay comments on that. Is there a card? Mr. Wall you wanted to speak.

>> Yes, sir. With reference to 3.5, I'd like to see a name change to this, not just a award but a bounty. And if the money is not collected buy private person I would recommend very heartily that the money be given as incentive bonuses to the team members of the police who solved this crime. After all, you've taken away a lot of their money and if they can -- if you put out a bounty for \$10,000 and they just happen to solve the crime why not just give them a little extra in their paycheck with a big hearty thank you. Also, this business about rezoning on 4.2, 4.3, I have very big concerns about that, especially 4.3. Here we see another devise to where a property owner chops up two properties or two houses and puts three of them on there. I don't know if this considers blight or should be noticed to the surrounding neighbors. I certainly wouldn't want to see that type of a development in my neighborhood. And I'm also very concerned about this rezoning business that's in this cursed 2040 envision plan, these urban village type zoning issues. Where you take a planned development zoning district to commercial neighborhood zoning. I think that, too, should qualify as noticing to property owners. Because they may not want an urban village next to their house. I certainly wouldn't want an urban village next to my house because it will be blight, and it will take away the property value. But so you should consider that whenever you see these zoning things. Thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion to approve the December 11th agenda with the changes we've discussed in the sunshine waiver on that motion all in favor? Opposed? None opposed, that's approved. Do we need a motion to cancel the 7:00 meeting? Since there's nothing on that agenda?

>> So moved.

>> Second.

>> Mayor Reed: We cancel the 7:00 portion of the evening agenda on that motion all in favor? Opposed, none opposed, all right that's done. December 18th.

>> Councilmember Oliverio: Motion to approve the December 18th agenda with the item 11.3 being asked to be heard not before 3:00 p.m.

>> Joe Horwedel: That sounds good. I did want to ask for an item 4.-3 we are just finishing that report so it has not gone out yet so I think it would trigger a sunshine waiver on it. So that's my last while I'm standing here.

>> Councilmember Oliverio: Last item to add a sunshine waiver for 4.3.

>> Mayor Reed: When do you think you will get the report out?

>> Joe Horwedel: The attorneys office we are look looking at the comments that the housing director and I had done this morning so it's coming to the being attorney's office today so it will be out tomorrow.

>> Mayor Reed: It's not meeting the 14 days, that's fine, as long as we get it out it will be plenty of sometime. We are adding to the 18th possibly one of the ceremonials. And the tree ordinance removal discussion not before 3:00. Any other changes on the 18th? We have a motion to approve it with that. Mr. Wall.

>> Sir, with reference to 4.3, I would recommend that you just shift all of the affordable housing units into an ash can, trash can, just get rid of them. You need tax revenue, you don't need giveaway schemes. These apartments or whatever they all should be all at market rate and you know you are really doing the city a disservice by this affordable housing business because affordable housing you can afford to live in Los Altos hills if you have the money. Can you afford to live in San José if you have the money. So why don't you call it government subsidized housing units and give the developers a real break and let them make some money off of their investment and for the taxpayers get some tax revenue. With reference to 4.1 I continue on my quest to save your mortal soul from the being damned into hell by seizing \$325,000 from the Jesuits. Now you give developers breaks all the time. Yesterday you gave MACLA, a \$650,000 in-kind service break. I'd like you see give back to God what is God's and that's land. God made the firmament. San José just renamed it Emery street. Give them back the land. It's not going to be used for anything. It would benefit this college preparatory consume. In addition they give out scholarships to all sorts of people that can't afford to go to private school. Of all different races. So this is well served by giving the land back it's a good gesture. But putting your hand into God's collection plate Mr. Mayor and the rest of you up there is going to come back to haunt you on judgment day because you've been warned repeatedly about this. Give some thought. Actually drop it, just give them the land, drop off the issue never vote on it, so there's no record, just give it so you'll be rewarded later on it, thank you.

>> Mayor Reed: That concludes the public testimony on this item. There is a motion to approve on the changes and the waiver on that motion all in favor, opposed, none opposed, that's approved. Upcoming study session agendas, the next one is December 10th, with the Water District we previously approved that agenda. Who's tasked with communicating with the Water District, so they have some of the discussion we had yesterday about the nitrogen fee and other things we've been doing with them?

>> Ed Shikada: I'd be happy to --

>> Mayor Reed: I don't want them to be surprised that it might come up.

>> Ed Shikada: Will do.

>> Mayor Reed: Legislative update we have none. As I mentioned yesterday in the council meeting, I was in Washington this last week. Meeting with members of Congress and the administration. Talking about San José's interests. Most of the conversation started with the fiscal cliff and ended with the fiscal cliff but in between there were things of interest to us. And it's pretty clear, that something will be done about the fiscal cliff but nobody seems to know what. But we'll have to wait and see. Nothing else on that. Meeting schedules nothing to discuss. I think if committee took care of that last week. The public record. Councilmember Constant.

>> Councilmember Constant: Just real quick. I wanted to follow up, a couple of weeks ago, maybe over a month ago, I don't remember when Rick, we had a public record item about the bike riding on the sidewalks. And you were going to look into the status of the state code and the Muni code and where we ended up.

>> City Attorney Doyle: I know we've looked at it from a code enforcement standpoint. I owe you and the council a response so we'll get that out.

>> Councilmember Constant: Just wanted to make sure that came through when I was gone. Thanks. I was going to make a motion to note and file.

>> Mayor Reed: Go ahead.

>> Councilmember Constant: Motion to note and file.

>> Vice Mayor Nguyen: Second.

>> Mayor Reed: We have a motion to note and file. Mr. Wall you wanted to speak.

>> Another council meeting, councilmember Rocha came up with a good idea about having study sessions to look into the reuse of the community centers. Councilmember Liccardo didn't seem to understand why that was such a big idea but I think Councilmember Rocha is right-on. I think some of these community centers from my perspective don't have enough money set aside for capital improvements to keep the buildings up you know just maintenance-wise and I think you're going to have to sell some of them. So I think you better start thinking what Councilmember Rocha says is a pretty good idea to study these things for the cost so you have analytical information to get rid of these things as the case may be. The other item B deals with murder most foul. Now that deals with blowing away of the birds at the airport. I understand the necessity for doing that but also nested in here, too, is a slight discussion about Bellarmine. And how the \$325,000 should be waived or given away as a gift. So I would read all the public record is worthwhile but accolades to Councilmember Rocha for his desire to look into, first of all, wanting more issues on study session agendas and for his accolade for you know, the cost of these communities -- these things are give away programs. People like free things. But free things are no longer available in this town, Mr. Mayor because you don't have any money. So make them market rate, whatever you do, study it. Thank you.

>> Mayor Reed: That concludes the testimony on the public record. We have a motion to note and file. All in favor. Opposed, none opposed, that's approved. I want to go back to the meeting schedules. Study session question. As I lost track of what we decided we do with the request to have a priority setting or at least a discussion of potential study session topics and where that's going to fit into our schedule. I don't know if we figured that out or not but --

>> Ed Shikada: Our plan is to bring forward the work plans for the council committees in January so at that time we thought it would be good for staff to advance those topics that we felt were conducive for study session.

>> Mayor Reed: Yes, I now remember that, that we were going to try the do those together, thank you. Item F we have nothing on committee appointments. Category G, I have we've already dealt with. My travel request that's --

>> Councilmember Oliverio: Motion to approve G-2.

>> Vice Mayor Nguyen: Second.

>> Mayor Reed: Motion is to approve that, on that motion, all in favor, before we do that Mr. Wall wanted to speak on that item, I believe.

>> Just for clarity and completeness Your Honor, when you talk about pension reform in the various venues that you go, and you have your well -- entitled for your opinion and your accomplishments, do you give the full story behind your presentation? Now, what I mean or reference by, is the ancillary costs that were, for example, discussed yesterday on items 3.4 and 3.5 collectively on yesterday's city council agenda, with legal services cost, labor cost, in other words do you identify all the cost when you go on these pension reform junkets to discuss this wherever you go, San Diego, Wise, Washington, it is your purview to do this. I'm just asking do you identify the entire cost of this program with reference to the unfunded liabilities that you, over the years as a councilperson, and other councils, failed miserably to do your duty to fund city employee retirements, and that's the cause of all this shenanigans that is now culminated in measure B. So I was just hoping you would tell the whole story and I don't know, I would assume you do because as far as I know you're an honest guy but there's no record of you saying hey, you know, this is costing us a ton of money. We have to hire outside counsel, we have to do this, we have to do that. And I don't know if the governor of Wise heard that side of the story. So that's what I'm asking you if you told the whole story. Thank you.

>> Mayor Reed: That concludes the public comment. We have a motion to approve the authorized travel. All in favor, opposed, none opposed, that's approved. Item G-3, my proposal to agendas the independent police auditor's compensation package for December 12th, 2012, this is not a resolution --

>> City Attorney Doyle: It is a resolution. We need a sunshine waiver for the resolution to be posted.

>> Mayor Reed: Well there's no reason this has to go ton 11th. It can go on the 18th.

>> Councilmember Oliverio: 18th is fine.

>> Mayor Reed: We won't need a sunshine waiver if we do it on the 18th. Mr. Wall, you want to speak on this one?

>> Yes, sir. An issue still has yet to be resolved, her honor appeared on television during the election cycle advocating a position against the death penalty, I forget which measure it was. But she did so, in her capacity as independent police auditor. In what appears to be her office, I will quote, in uniform because whatever she wears is her uniform but representing the city. In other words representing all of you as a city policy. Now, if a police officer or a firefighter were to do such a thing they would be fired instantaneously. So I would like to know, where -- does rank have its privilege here? Can a director of a department come out and say hey, I like the death penalty or I don't like the death penalty? So that bothers me. Also what bothers me is a four-year term. This should be year to year because there's too much shenanigans going in that IPA office. That IPA office is exceeding the scope of what it's supposed to. It's becoming more of a political arm for the criminal element to gain free discovery to assist their attorneys to sue the city. And I would suggest that you -- that office just strip it of its funding. The voters wanted it, fine. You have a \$23.1 million budget deficit looming. Strip your funding for that office. You yourself as a lawyer some you know you have to put in so many hours of pro bono work, and that office should be run pro bono, should be run for free. Those people that are that dedicated to screw over police officers, they can do it for free. The taxpayers should not have to pay for it and shouldn't be able to give the criminal element free discovery means. Now she's stepping into the police department, about a tee shirt controversy. That's outside the scope of her authority or her purview and this is really irritating to me Mr. Mayor. Thank you.

>> Mayor Reed: That concludes the public testimony on that. Do we get a motion? Have we got a motion to put it on the December 18th agenda? On the motion, all in favor? Opposed? None opposed, that's what we'll do. Open forum. I believe is the last item for us today. Martha O'Connell.

>> The health and safety subcommittee of the senior commission invited John Brazil and somebody else to speak. The issue was senior safety on the streets due to restless bicycle riding particularly on Santa Clara and this is what Mr. Brazil brought to the meeting and he spent most of his time talking about the children. It made it sound like they were little girls the training wheels and pink helmets driving up and down Santa Clara. I told him this is not the case, I've never seen any children driving with training wheels on Santa Clara, and it was largely males driving recklessly. I was hit, a number of people have been hit, there have been articles in the Mercury News. I just wanted to point out this will be on the agenda for the December senior commission meeting and hopefully we'll get a recommendation out. But this was insulting And I said sir with all due respect sir this is not the youth commission, you are at the senior commission. And he had not one single idea to help seniors. Thank you.

>> Mayor Reed: David Wall.

>> Two items. First item, on your way to the airport on Coleman street blanketed by Hedding street, west Hedding, there are an enormous numbers of tents. This has become a shanty town out there, as well as on the other side of the bank of the Guadalupe River. Now, I can't because of my disabilities get down and dirty down in the river like I used to in the old days. But from my vantage point Mr. Mayor this is out of control. People coming into the City of San José are seeing the shanty towns out there and these place are base camps for criminal activity. The other issue, was at T&E this week, biosolids dewatering facilities. Mr. Mayor, this is costing the taxpayers millions of unnecessary dollars, to dewater this. Now I know you and Vice Mayor, are on the side of the McCarthy folks, McCarthy ranch and the Irvine company from TPAC three years ago or so about dewatering. This is a horrible waste of taxpayer money. This is the least thing that you should touch the water pollution control plant. The odor issue out there has been resolved. The mainly odor issue is that huge mountain called Newby island which you have already approved it to go skyward I think another 150 feet. Mr. Mayor this is a ton of money. Do you realize they're going to dedicate a 4.7 megawatt gas turbine engine for a power source to dewater this stuff when the sun does it for free? In addition the dewatering doesn't dry it enough to where it can be used immediately at top cover at Newby island? In other words it's too wet they can't get it down dry enough. So look at all the energy that you're going to be using. All the money. Mr. Mayor this goes so against your Green Vision I don't understand why you would even entertain it. But it's on page 3 of this document that was at T&E this week

and I advise to you read it. Especially the part where the city is going to solicit an owner's engineer consultant in other words --

>> Mayor Reed: Sorry, your time is up. That concludes the open forum, concludes our meeting we're adjourned.