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>> Good afternoon. I'd like to call the meeting to order. This is the committee meeting for January 25th. Any changes to our agenda ordered? All right. None. Let's take up the January 31st council agenda. Anything on page 1? Page 2 or 3? Page 4 or 5? I have some questions for the environmental procurement policy and the council meeting needs to go up on the eps stuff. We need to deal with more redevelopment agency matters, first of all, obligations to payment schedule and some declaration and amendments to the agency's budget. We need a sunshine waiver on those two items, but we have no choice. They need to be heard on the 31st and the district annual flag-raising event. I'm sorry. Discovery 7. We'll come back to that. The other additions or changes on the 31st.

>> We also need a sunshine waiver on the environmental procurement policy issue as well.

>> Okay. Sunshine waiver on eps policy. So I'll make the motion to approve the agenda with the additions and the sunshine waivers on those three additions.

>> Second?

>> Most approve with the amendments and waivers. All in favor?

>> Aye.

>> Opposed? None opposed and that is prove. Go to February 7th, hang on page 1. Page 2 or 3. The marijuana business tax. I'd say that's highly unlikely to be ready to move ahead with the marijuana-related items on February 7th, and in light of the fact that the supreme court has now taken review of four cases from the courts of appeal, I think that adds uncertainty in terms of the timing of this. So I don't know exactly what date to move this to.

>> It really is your timing. If there's something by March 6th in terms of the referendum issue, that's independent. If you want to take the tax issue up with that, it requires that you have a meeting and then two

weeks before you could have a hearing adopting the increase in tax. So that's the calendar that you should see. I recommend deferring to the 14th and deferring in the next couple of weeks if we're ready to go so we can at least act on the 6th.

>> So if we defer to the 16th and we have another meeting after that.

>> Or the tax would have to be dealt with.

>> Okay.

>> So -- yes.

>> At least two weeks. You could have a meeting and come back six weeks later.

>> Why don't we kick this to the next meeting date and within a few more day, I think we'll have an idea of the timing of some sort of a decision making, but definitely not on the seventh. Anything else on page 2 or 3? Page 4. There's -- we have some committee items that we'll deal with specifically. We have some stuff with title 16 coming out of public safety and perhaps this will be on this agenda?

>> If the committees asked to be cross-referenced then it will be on the agenda.

>> Yeah. And then there was something on yesterday's committee meeting -- or Monday's committee meeting, I forget what it was.

>> It was a cross reference of the ced on Monday of the stream like of the real estate.

>> There it is. The other changes I have, the one request to add regarding approval of the district annual Greek flag raising event to the February 7th meeting. Have we dealt with that on rules or is that on the rules agenda today?

>> It's just here as an add. No different than we've done in the past.

>> Yes, it is different. Normally we put it on rules and then to the subsequent council meeting, but we have the request to add it in addition to the seventh and we're using a slightly different process for this particular item.

>> Why?

>> I think it was a timing issue.

>> Okay. I just thought the process was working okay.

>> It generally is. We're trying to get it on a timely manner and we flexed the process a little bit.

>> Any other waivers or anything else we might need?

>> I'll make a motion to approve with the deferral indicated on the one item in the addition of the flag raising event.

>> Okay.

>> We have a motion to approve. I have one request to speak on this, MR. Wall.

>> Briefly, sir, on item number 3.3, the marijuana business tax, a couple of inspectors have come to me and enforcement people and they're looking at some of these business licenses that are taken out and people may be

lying to the city when they come to apply for a business license saying it's gardening or growing plants and they get a business license for that and it's going to put code enforcement people in a bind and cause the city some embarrassment. Not that he's doing anything bad or people lied or didn't know. I would say that they lied, so I want you to be made aware of that and to run a sort to find out how many of these business licenses for these businesses are coming up as if they were gardeners or growing plants, and that's just for your information.

>> It's the public comment. We have a motion to approve changes. All in favor?

>> Aye.

>> Opposed? None opposed. It is approved. Agency agendas and nothing out of the ordinary that we just talked about. Joint actions?

>> That is correct. Agendas? Nothing to talk about at this point? Let's have an update with the Sacramento update.

>> Betsy Shotwell. MR. Mayor and members of the committee, clearly, we are watching very closely activities in Sacramento related to the redevelopment dissolution and legislation that is -- has been introduced, but hasn't been assigned yet. Sb-659 the dissolution date with April 15th. It's paramount that this needs to be heard, voted on and signed by the governor by midnight Tuesday, I believe. So this would allow us, of course, to maximize our time to pursue legislation come our priorities. Either way, we will be working and we are currently working with that, and thank you, Rick, your team on language to clean up some ambiguities and all of the other things in ab-626 and the supreme court upheld. So that's in play. We're using the process to indicate support for that, and I'll have a memo next week, should our lobbyists have the opportunity to speak to that bill if it is heard. It's the rules committee in Sacramento tomorrow to be heard. It's hour to hour and day to day right now at this point in time.

>> Questions? It can happen at the last minute. You just never know.

>> Absolutely.

>> Yes.

>> In fact, a lot of things happen at the last minute. Things happen at the last minute.

>> We don't know where this is going to end up and the timing -- I guess timing is kind of important on this one, because February 1st, when the clock strikes midnight, turn back into a pumpkin, is that the way it works on this one?

>> And they're in the session tomorrow and Monday and all of the days in between the first?

>> Yes. And there will be rules, waivers -- yeah. To expedite things.

>> Okay. Anything else on that? Federal update?

>> Thank you, mayor.

>> This report is basically a summary of the things that did not get resolved in 2011. If you could just say it like it is. Clearly, we're watching a number of issues that are pending and monitoring some important key milestones right before the holiday recess and they get a lot of extensions including the federal aviation administration and reauthorization that was extended until the end of January. Yesterday, they extended it to the middle of January and the whole issue with the unemployment insurance that was put over with the social security payroll tax as well into the end of February. Keep in mind, if something like that doesn't go through, I was reading today, if 600,000 Californians will be without insurance. These are huge issues, and then, of course, the issue related to reauthorization of the transportation funding piece. They extended that -- congress extended that to March 31st, and I think we'll start to see some movement on that and there are differences of opinion how to go about it,

whether to have a two-year approach and five-year approach and we'll pay for it out of revenues which may not be supported by the both parties and then the whole piece of how to fund it just in general and if you don't get it, how do you come up with the 12 billion? This will play out throughout the entire election year. I did it on the state of the union yesterday and how they see the election year playing out which I'll be getting out an info memo in order to be timely.

>> Anyone else on federal?

>> Okay. Request for the public to speak on this item, all right, and we'll turn to we need schedules and nothing on the public record?

>> Motion not filed and the request to speak on the public record. MR. Wall?

>> Wrong packet. There were a couple of items here. Excuse me. I have to get to the public record. Okay. Item number d speaks for itself to eliminate the offices of cultural affairs and for good reason. Item number e, let's read the title of that one. Should the city manager and assistant city manager resign over the Applegate-Johnson matter? Item number f, titled accurate clothing allowances for city employees are fair to enforce a dress code. These are interesting items in themselves, but I believe the more poignant one here is item c where it says week three. City manager has yet to publicly thank city attorney for bailout on the environmental innovation center. Miss Wright, how much time do I have left?

>> A minute.

>> A minute. So I'd like to stand here and dedicate this less than a minute time to give the opportunities to the city manager to say thank you to the city attorney for all his efforts in bailing out the environmental intervention center which, by the way, Mr. Mayor, on page 38 of the Boggs report you will see the new market tax credit was allowed to expire the program by congress. I filled out a card to be able to speak on that, but this was a big mess. I think that the city manager should take time. She's right here. To say thank you to the city attorney for, you know,

bailing them out. Of course, you wasted \$440,000 free money, MR. Mayor. What's the difference between free money and winning the lottery? One dollar. You have to buy a lottery ticket. This was free money handed to you and you wasted it and the city manager should thank the city attorney, really. I think it's fair.

>> Your time is up.

>> We'll try next week.

>> Anybody else want to speak on the public record or have any other cards?

>> I have one comment on the public record including the order from Keenan land company that I think should be responded to. Not point by point, we don't need a ten-page response, but something from the lawyers or the planners or somebody --

>> Our office will work with the planning department during the response.

>> This is obviously heavily lawyered, and I think we ought not to leave it lie because there's certainly some misunderstandings, I think, of our plan. And the public record we have it on file. All in favor? Opposed. Not opposed? That's what we'll do. Road, commissions and committees. We have an appointment with Franco to the screening committee.

>> Approved?

>> Second? On the motion, all in favor?

>> Aye.

>> Opposed? Not opposed? That's approved. Work plan, amendment for the community development advisory commission.

>> Motion to approve. MR. Wall, you want to speak on this one?

>> On the third page under workload assessment, quote, the housing department and the city attorney's staff was c, the potential of a minor workload impact with the creation staffing of a grandstanding subcommittee, period, closed quote. Since your new successor agency for housing which is the successor agency for the redevelopment agency to consolidate costs and also share in the revenues created from the housing portfolio, it would seem that this is a new revenue stream to offset this cost where the subcommittee and other functions to make sure that our attorneys are well compensated for this housing matter business without having to do it for a pro Bono type issue. So I think the whole issue about the portfolio for the housing department and the revenue stream that follows it should really be used for the administrative costs for the entire administration of the redevelopment, successor agency, housing agency and all related attorney matters. Thank you.

>> That's the public comment on that? We have a motion to approve. All in favor.

>> Aye.

>> Opposed? None opposed. That's approved.

>> Looks like the next item is the Winn's memorandum requesting that we do some work on the ordinance regarding unattended donation boxes and items related to that. We have -- would you like to speak that, vice mayor?

>> Thank you, mayor. On January 19th I distributed a memo along with council member payo regarding points of regulations of unintended donation boxes, and if I may I want to talk a few minutes to talk about why it's important for us to update it and perhaps look at some of the surrounding cities in our state to see what kind of ordinance do

they have because it has been working for them. So over the past few years in San Jose alone, we have seen a proliferation of unattended donation boxes. By some estimates, there are more than 100 or more in the city without any real understanding of the rules and regulations that govern the boxes in terms of the land use regulations. Especially whether our regulations address issues relating to visual plight, hazard waste disposal, trash and other health and safety concerns. I submit to you just two pictures of just what these donations, unattended donations boxes look like from our city, and obviously, it's not a pretty sight. So it is my understanding that the city actually currently has some policies in place to regulate these unattended boxes, but I also am aware that cities like Richmond, Sacramento, Chino and southern California actually have stricter regulations in terms of how we can regulate some of these unattended donation boxes. So my memo is actually to address staff to provide information memo detailing the city's current ordinance and regulations related to the unattended boxes and number of administrative permits on file and for us to perhaps place this on the city council senior staff budget-setting session in February, to be added to the Stafford Nance to take a look at this. I believe two weeks ago we saw in the news reading tree. I think this is -- it's an issue that's very similar to this where we can't really distinguish whether these boxes come from a non-charitable organization or for-profit organizations. It is not the same thing with some of these donation boxes. I think it is unfortunate that people take the opportunity to collect used clothing and new clothing and instead of donating, they make a huge profit off of people's generosity. So I'm hoping that if we can somehow address this issue, it would really help us and help organizations like goodwill to really give adequate clothing and donations to people that actually need it.

>> Thank you. I appreciate mayor Winn. Can this be coupled with anything to do with news racks? They're sort of similar. They're the objects that were placed sometimes in public and sometimes in the private property, et cetera?

>> We already have on the books, regulations that deal with what we call a small collection facility, and I think the real issue that we would need to research is the ability to regulate for profit or non-profit organizations that are putting these out. There is a permitting requirement that the administrative permit in most cases to put these on private property and they're not allowed in the public right away and we have the news rack. I think the news rack issue is more sign-related which is more Blythe, nuisance-related.

>> So you would take them as separate items?

>> Yes.

>> Okay. Thank you.

>> If any people want to speak on it. I'll take them now. Mike fox?

>> MR. Mayor, committee members, my name is Mike fox, I'm the CEO of goodwill Silicon valley based here in San Jose. We're working to improve the lives of people by providing critical work for development services including career readiness and vocational medication. Contained in the memorandum from vice member Nguyen, council members Rocca and Pyle. The unregulated donation boxes is a major issue for goodwill as well as other charities. Salvation army reported that their donations were down about 15%. One of the reasons is goodwill's core business efforts supports our community-based programs is our retail business which I have a particular focus with clothing and books and related items. These very wide, it was estimated that just one of these quasi non-profit for profit organizations collected over 5 million pounds in the bay area. That's just one. Just to give you an example, that's about what we collected last year in Silicon VALLEY. Translate it -- unattended donation boxes are mostly -- seems to be kind of this profit-non-profit world. I sent this to council members to show that it's a very gray, shady kind of business, but it does take jobs away from local San Jose businesses especially the non-profits, and it also takes away services that we're able to provide for those with barriers to employment. So I urge you to support efforts to strengthen the local control over these unattended boxes and thank you for the opportunity to speak on this issue.

>> David wall?

>> The photographs here are very nice. This is an outstanding first memo and we will give thanks and glory to council MBA Rocha in absentia. Do these boxes constitute a separate business entity requiring a business

license? And I don't know if director vardell, if this group does have a business license to begin with or if this is in a gray area, maybe legislation is required from learned lawmakers to require a single business license for each one of these. I support getting rid of them outright. I think they're right for blight, but also theft and other sort of NEFARIOUS practices. Not to mention it cuts into the revenue stream for salvation army in the goodwill. We're providing a source of services otherwise coming here asking for grant money. Thank you.

>> Thank you for your testimony. Anything else to add from the staff or vice mayor? I would just like to say I'll support this and we'll try to deal with it. Clearly, it's a problem and it's a good memo and a place to stop the analysis.

>> I would like to make a motion moving forward.

>> A motion to move it forward as requested by the memorandum. All in favor?

>> Aye.

>> Opposed?

>> Not opposed?

>> It's approved.

>> MR. Mayor, I would suggest that most of the boxes that are of concern. We are doing that research, do we have administrative permits, but with the address so the public call in and if there is not permanence, we haven't gotten proactively which was the question.

>> I'm curious, is what do these people do with all of the junk that gets left beside them? I know goodwill and salvation others have to deal with the junk and it's an expense. I'm just curious as to how these other providers

deal with that? Are they taking it to the dump or are they taking it over to goodwill or something like that? So it would just be part of the information --

>> Right. We'll come back with what the court requires that does address that.

>> Okay.

>> MR. Mayor, Joe, will you get the info memo out before the 13th? I think that will be helpful in the process.

>> My recommend is to put this in with the prior position, and Michael gots, they're ready in the note, we just got a upon little work on it. And the possibility of a valid ballot measure.

>> Thank you, MR. Mayor and all of the members of the committee. I'm requesting this as a follow-up to a memo that I put out on January 9th, and we know that very soon we'll be ready with a reform package and a reform ballot that will be on the ballot in June. The convincing residents were that pageants was the main reason we couldn't provide services is probably the easy part of what it was that we're doing. However, helping residents to understand that we do not have adequate revenue will be much more difficult. So it would seem that council needed to have as many public conversations about shrinking revenue as we had about ballooning pension costs. All council members will need to help pass any text designed to income to the city.

>> A common perception is the tax measure has a greater success for November. Unfortunately, we're living in a new age where they're conceding a multiple tax. My recreations in the memo would -- this would not be an easy conversation to have, but we've shied away from tough decisions and I certainly don't think we're about to start now. So I would like to make that request that we have just a public conversation about all of the matters.

>> Are there comments? I had a couple. First to answer the question about the date. Right now the polling worked that's on track in order to get this to the council before the 14th. So I think the 14th is a good date for that presentation of the polling results and the discussion. Just a couple of comments about what it takes to run a

successful ballot measure campaign since I had some experiences, mayor, and some experiences council members. The first is it's really important to start with good polling. So you have a reasonable hope of getting a majority for that. We'll have an answer to that soon, but that's just a starting place because you have to have for tax measure, a broad coalition of support and the narrower the coalition and the less likely it is that you're going to succeed and that broad coalition of support diffuses some of the opposition and depending on how much opposition, you have to raise a lot of money for the measures j & k campaign which I raised a little over \$300,000 and that was with no organized opposition to speak of. Where there's opposition the price tag goes up from there in order to overcome the opposition. So \$500,000, \$1 million, and there's a lot of money to be raised and it takes time to did that. So to the extent that the council will discuss this on the 13th. These are my concerns about trying to do it in June. November is a different time, but finely, get the fiscal reforms, dumb, and being able to use the proceeds of this sales tax to restore services I think is the strongest argument with the public. And if they think it's a track and if you get the tax measure, then that won't help when you're trying to get it passed. Those are just some comments on it. Pete?

>> I have a problem with the approach of rushing to get ours on the ballot before others because I think we have to think about the residents of San Jose and the cumulative impact of all things that may occur and we already know that the residents will start paying an eighth of a cent more because of the Bart extension and that will be taking effect in just the next couple of months potentially as early as March or April of this year and then if we were to go out in June and get -- and be successful which I highly doubt would be and then in November there is a state tax measure that as council member Pyle said is a half a cent, our residents in San Jose could see one cent increase tax which is a significant tax increase, pretty much all within a short period of time, so I think we do need to look at the context of everything. I -- I understand that several points here in the memo it talks about keeping up with inflation. I just want to point out that had our pension contributions kept place because it is outpaced personal, and until I've attached the revenue issues, I don't support this at this time.

>> It contemplates going to the voters and asking for some sort of revenue increase. You need a plan and it's the timing of it. So my concerns for councilman Pyle's benefit, and I think February 14th is the good time to have the discussion.

>> I want to thank council member Pyle and she's been consistent in terms of advocacy to find ways to generate revenue in order to solve some of the ongoing budgetary issues. I guess my question is to the student manager. In terms of the information containing the memo and the things that council member Pyle will request, will council members come up with a detailed analysis in terms of, you know, coming up with ways where it can help us raise revenue because I just don't want staff to rush and bring back something that's not detailed and then we can't have a very productive discussion and from now until June 14th, that's, like, two, three weeks away. If we can't come up with a detailed analysis I would rather to push this back, to do more research rather than give us an overview where we can have a thorough discussion at the February 14th meeting.

>> Sure. Let me tell you, and I've talked to council member Pyle.

>> When we had my intent, bring to the status of where we are with the budget, but more consistent with the typical senior staff council discussion we have which is what does next year look like? What is our game plan and in that context we'll talk about where we are with the fiscal reform plan and they can be updated with the scorecard which does have a revenue component. And so we could talk about what we already know and that is what would a quarter and a half-cent generate. Where are we in the discussions that we're having with the business community right now and we can also, at that meeting, tee up or just respond to the polling discussion on the 14th and remind us all that when we've gone to the ballot before, what has been the decision making process that the council has used because we've done this now a few times and based on the polling, it tends to filter down and start narrowing the scope where the council would be on a path to bring a measure or two forward, but it's usually been based on the polling information. So I think that's really pretty key to the -- to the front end discussion, and I think it would be key to -- because in my mind this is less technical and more political, who will raise the money and will the support be there? I think without doing a lot of work, share with you what we know and then really the ball is in the council's court in terms of the policy discussions.

>> Thank you. So if I understand it we will have a discussion about the half-cent plans, and that dovetails nicely with the polling hosts.

>> We can really move it up to June or November. That's it because you have to have little -- but even though November sounds like a far time away, if we were to do more polling and drilling down to get you positioned to have language on for a November ballot, that has to be approved by the first week in August and your deep polling has happened in July in preparation for that language being approved.

>> Thank you.

>> Anything else? I have one request and the public will take that now. MR. Wall?

>> I think council member Pyle's been very good. Think about couching it in. Revenues to create annuities for police and fire only so you can move police and fire off the fund in perpetuity. That is uncertain how much money it would take and how much tax it would be in with guaranteed, restricted uses to set up this financial instrument. Council member was correct as far as spending, but let me read sentence out of here. Quote, the costs include the second ballot measure in June election according to the city clerk is just \$401,000 period, closed quotes. Learned council member, your vote the other day to waive \$440,000 of free money that could have paid for this and maybe gave \$30,000 to the attorney's office or to the clerks or to a lonely citizen for a newest is overalls, but too many people, they have smiles on their faces who also voted to waive the \$440,000 with the exception of the leader of the rules committee, council member olivario who saw the ill of this and voted appropriately. So you had money for it. The city manager's office wasted it and refused to thank the attorney for saving it. The new market tax credit which even congress doesn't want. Thank you.

>> Good public testimony. Any further discussion on this referral?

>> That suits me mine. March 14th, we'll be able to have a discussion about this, and I think that would be great.

>> February 14th.

>> Thank you.

>> Council meeting February 14th.

>> Motion?

>> Motion to approve.

>> Motion approved, opposed -- I'm sorry. One opposed. Peripheral vision wasn't good enough.

>> I'm sorry. I thought there was a second. Rice mayor. On the motion all in favor?

>> Aye.

>> One opposed. A counter bidder. Next item is an item for approval of additional council appointments and a supplemental memo and now to change the supplemental memo because they're given us different information about how it is they'll reappoint and I'll get another memo until we get it sorted out for sure, but basically, we need to reappoint councilman Ricardo and campo to the advisory board. Let's not take any action on this, and I'll get it sorted out with the vta for the reappointments. For that for a week, and I think the next item is the open forum. MR. Wall? We did? H -- oh, I'm sorry. H-5 which is the spring cleaning donations and any event is a special event. We had a motion and a second. All in favor? Aye.

>> Opposed. None opposed and now open forum. MR. Wall?

>> I would think that with the fire sale going on at the innovation center that you might want to make inquiries to see what instruments that the water pollution laboratory can use. There might be a need, Mr. Mayor, to expand the toxicology section of the laboratory for future investment to look at the toxicity coming into the plant. They might need some of that instrumentation. The microbiology section might like one of those high-end microscopes

and I would like lastly to make inquiries why council isn't investigating this environmental innovation business. MR. Mayor, page 38, Boggs clearly states the United States congress walked away from the new market tax credit instrument. Those are the biggest spin threats on the planet. They waste money more than anybody, and if they walked away from it, why do you embrace it? I mean, I don't want you to look bad. Page 18 of the same report, it has something to apply to the nine-page machine farce. You're talking, MR. Mayor. The staff doesn't even come up with a number of hundreds of garbage trucks per day to feed that thing, particulate matter, diesel. MR. Mayor, it's going smell. You're not getting help from your staff. I like you, I think you're a good guy, but you've got to start holding these people accountable especially with Lou wolf, performance, accounts. It's easy to measure. You're paying for nonperformance and you'll reap that harvest. I'm just the messenger. Thank you.

>> Are you O'Connell?

>> I'm not a person who gives up, but I'll tell you, after seeing the board commissions I went home very depressed. If you guys don't stand strong nothing will be accomplished. I'd like to commend Dennis for keeping his head while all about him, everybody else was moving theirs. I can't think of one single commissioner that got up that didn't say, golly, gee, if this goes through I won't have my position and my commission needs to stand alone. In my opinion there was maybe two of us that took a broad view of what this means for the city of San Jose. All we heard is I've been on these commissions for 20 years jumping from commission to commission. These people need to get a life, quite frankly. Secondly, the youth commission violated council policy 0.36 and made ageist statements which are on a tape and I did transcribe, and I went to the commission and they apologized, but the people staffing the youth commission have got these kids confused about the difference between youth advisory councils and the commission. Speaker after speaker got up Monday when Dennis was presenting his plan and they said if you do this the councils are going to go. They're not going to go. So be prepared, folks, when you hear this. All these folks are going to get up and explain to you why each one of these commissions needs to stand alone and we're right back to square one. So, please, stay strong. Be prepared. You're going to get an onslaught.

>> That concludes the open forum. That concludes our meeting. We're adjourned.