

The following transcript is provided for your convenience, but does not represent the official record of this meeting. The transcript is provided by the firm that provides closed captioning services to the City. Because this service is created in real-time as the meeting progresses, it may contain errors and gaps, but is nevertheless very helpful in determining the gist of what occurred during this meeting.

CITY OF SAN JOSÉ RULES AND OPEN GOVERNMENT COMMITTEE MEETING.

>> MAYOR REED: -- THE MEETING TO ORDER. THIS IS RULES AND OPEN GOVERNMENT COMMITTEE FOR APRIL 7TH, 2010. FIRST QUESTION, IS THERE ANY CHANGE TO OUR AGENDA THAT WE NEED TO DEAL WITH?

>> LEE PRICE: MR. MAYOR, NO CHANGE BUT I DO HAVE A CORRECTION, AND WE WOULD LIKE TO MAKE IT, IF I MIGHT. UNDER A-2, REFERENCE TO THE SPECIAL MEETING AGENDA FOR APRIL THE 12TH. THE LAST PHRASE, ONE POSITION WITH AN UNEXPIRED TERM ENDING JUNE 30TH, 2010. THAT SHOULD SAY JUNE 30TH, 2012. MY APOLOGIES.

>> MAYOR REED: OKAY, THEN LET'S TAKE UP THE FIRST ITEM WHICH IS THE APRIL 13TH COUNCIL AGENDA. ANY CHANGES ON PAGE 1? I SEE WE'RE BACK TO OUR 9:30 START TIME. ALTHOUGH ANY COUNCILMEMBERS INTERESTED TO CHANGING TO 8:00 A.M. PERMANENTLY? OKAY, MOTION FAILS, 9:30 IT IS. IT WAS A LOT OF FUN TO START AT 8:00, BUT NOT FOR EVERY WEEK.

>> MAYOR THERE WAS SOME QUESTION AS TO WHETHER OR NOT THERE WOULD BE AN ADDITIONAL PERSONNEL MATTER THAT DAY AND WHETHER OR NOT YOU NEEDED ADDITIONAL TIME.

>> MAYOR REED: WELL IN PART THAT DEPENDS ON WHAT ELSE IS ON THE AGENDA WHICH WE DON'T KNOW YET AND HOW MUCH TIME WE MIGHT NEED FOR THE LABOR STUFF WHICH IS UNPREDICTABLE. SO I WOULD SAY WE PROBABLY OUGHT TO MAYBE START AT 9:00. EXTRA TIME --

>> COUNCILMEMBER CHIRCO: OH -- GOOD THINKING.

>> MAYOR REED: WE'LL GET OUT, LET'S BE OPTIMISTIC. WE'LL START AT 9:00, WE GET OUT AT 11:00, SHORT MEETING. SO 9:00 WOULD BE WISE BECAUSE WE DO HAVE SOME PERSONNEL MATTERS TO DEAL WITH. ANYTHING ELSE ON PAGE 1? PAGE 2 OR 3? PAGE 4 OR 5? LOOKS LIKE A SHORT MEETING, WHAT AM I MISSING? DO WE HAVE ANYTHING --

>> THE SPECIAL EVENTS ITEM FROM YESTERDAY WILL APPEAR ON YOUR SECTION 4.

>> MAYOR REED: THAT'S RIGHT, WE DEFERRED THAT, SO THAT WILL ADD A CHUNK OF TIME TO THE MEETING FOR SURE. I HAVE ONE REQUEST FOR AN ADDITION, ACCOMMODATION REGARDING A FIFTH GRADE CLASS FROM JAMES FRANKLIN ELEMENTARY SCHOOL FROM COUNCILMEMBER HERRERA. ANY OTHER REQUESTS FOR ADDITIONS? CHANGES?

>> COUNCILMEMBER PYLE: MOVE TO APPROVE.

>> COUNCILMEMBER CONSTANT: SECOND.

>> MAYOR REED: MOTION IS TO APPROVE AS AMENDED. ALL IN FAVOR, OPPOSED, NONE OPPOSED, THAT'S AMENDED, APPROVED. APRIL 20TH COUNCIL MEETING IS NEXT. ANYTHING ON PAGE 1?

>> NO.

>> MAYOR REED: YOU GOT IT?

>> COUNCILMEMBER CONSTANT: JUST IN THE WRONG SECTION, I GOT IT.

>> MAYOR REED: 9:30 CLOSED SESSION. PROBABLY OKAY. LEAVE IT AT THERE FOR NOW. ANYTHING ELSE ON PAGE 1? PAGE 2 OR 3? PAGE 4 OR 5? OR 6 OR 7? WE HAVE SOME FINANCING AUTHORITY MATTERS TO DEAL WITH RELATED TO THE FINANCING NECESSARY TO PAY THE STATE TAKE OF \$62 MILLION THIS YEAR FROM THE REDEVELOPMENT AGENCY. ANY CHANGES TO THAT AGENDA? WHICH IS PAGE 8 OR 9 AND 10. JOINT MEETING, CITY AND FINANCING AUTHORITY.

>> COUNCILMEMBER CONSTANT: MOTION TO APPROVE.

>> COUNCILMEMBER PYLE: SECOND.

>> MAYOR REED: MOTION IS TO APPROVE. ALL IN FAVOR, OPPOSED NONE OPPOSED, THAT'S APPROVED. APRIL 12TH SPECIAL MEETING, KIND OF SKIPPED THAT, I DON'T KNOW THAT THERE'S ANYTHING FOR US TO DO. IS THERE?

>> LEE PRICE: MR. MAYOR, JUST TO APPROVE THE FINAL AGENDA FOR THAT SPECIAL MEETING NEXT MONDAY AFTERNOON AT 1:30.

>> MAYOR REED: WITH ONLY ONE ITEM ON THE AGENDA.

>> LEE PRICE: THAT'S CORRECT, JUST THE PLANNING COMMISSION INTERVIEWS AND APPOINTMENTS.

>> COUNCILMEMBER CONSTANT: MOTION TO APPROVE.

>> COUNCILMEMBER CHIRCO: SECOND.

>> MAYOR REED: MOTION IS TO APPROVE. ALL IN FAVOR, OPPOSED NONE OPPOSED, THAT'S APPROVED. SO REDEVELOPMENT AGENCY AGENDA IS NEXT, FOR APRIL 13TH. ANYTHING ON PAGE 1? START OF CLOSED SESSION IS TO BE ADJUSTED TO WHAT WE DID WITH THE CITY.

>> LEE PRICE: 9:00 A.M.

>> WE'LL MOVE THAT TO 9:00.

>> MAYOR REED: ANYTHING ELSE ON PAGE 1, 2 OR 3? PAGE 4 OR 5?

>> MR. MAYOR, MEMBERS OF THE COMMITTEE, GARY MISKIMON WITH THE AGENCY. IF I MAY ITEMS 8.3, 8.5 AND 8.5 WERE ALL DISTRIBUTED THIS PAST MONDAY. HOWEVER THAT, EACH THOSE THAT REQUIRES A SUNSHINE WAIVER BECAUSE WE DID NOT MAKE THE TEN DAY REQUIREMENT. ALL THREE OF THESE ITEMS DEAL WITH THE NORTH SAN PEDRO AREA AND ARE ALL PROP 1C FUNDING. BUT THOSE ARE POSTED ON THE AGENDA, EXCUSE ME ON THE WEBSITE AS OF MONDAY AND THE HARD COPIES WENT OUT MONDAY ALSO. SO WE WOULD ASK FOR THAT WAIVER ON THOSE THREE ITEMS.

>> MAYOR REED: THAT'S 8.3, 4, 5, DEALING WITH THE SEVERAL THINGS WEST ST. JOHN STREET ACQUISITION AND PART OF THE NORTH SAN --

>> ALL THE SAME PROJECT ESSENTIALLY BUT THREE DIFFERENT PROPERTY ACQUISITIONS RELATED TO IT.

>> MAYOR REED: THAT'S SPINNING THE 1C FUNDS WE GOT FOR STRAIGHTENING OUT THE STREETS THERE AND OTHER THINGS.

>> THAT'S CORRECT.

>> MAYOR REED: ANY OTHER CHANGES?

>> MR. MAYOR, IF I MAY ON PAGE 5, ITEM 8.7 WAS DISTRIBUTED JUST AFTER LUNCH TODAY. THIS IS THE ITEM FOR THE INSTALLATION OF NEW FIXED SEATS FOR THE CIVIC AUDITORIUM. AND THAT ITEM BECAUSE OF GOING OUT TODAY WOULD ALSO REQUIRE A SUNSHINE WAIVER SO I'D, ALONG WITH THE FIRST THREE WOULD ASK FOR THE SUNSHINE WAIVER ALONG WITH THE TEN DAY RULE FOR THAT ITEM AS WELL.

>> MAYOR REED: AND THIS RELATES TO AN ACTION THE COUNCIL HAS ALREADY TAKEN WITH REGARD TO THE CIVIC AUDITORIUM, THIS IS A RETURN EXPLAINING HOW WE'RE GOING TO PAY FOR THE FIXED SEATING.

>> THAT'S CORRECT, TO REPLACE THE OLD ORANGE PLASTIC SEATS, THAT'S CORRECT.

>> MAYOR REED: ANY CHANCE OF AUCTIONING THOSE OLD ORANGE SEATS OFF ON EBAY AS HISTORIC COLLECTOR'S ITEMS?

>> I PROBABLY HAVE TO DEFER TO THE ATTORNEYS FOR A LEGAL OPINION IF WE SHOULD USE EBAY OR TO --

>> YOU COULD REFER IT OVER TO GENERAL SERVICES AND THEY CAN SEE WHAT THEY CAN DO.

>> COUNCILMEMBER CONSTANT: KIND OF LIKE ONE FROM MY OFFICE.

>> MAYOR REED: THEY DON'T COME WITH PADS. BEFORE WE DO THAT THERE WERE SOME OTHER ADDITIONS I MISSED, THAT WAS APPROVAL OF AMENDMENT TO THE OPERATIONS AND MAINTENANCE AGREEMENT ON THE TWOY BUILDING TO ADD, AND THEN CHANGE SOME READING ON 111 WEST ST. JOHN STREET FOR THE NORTH SAN PEDRO HOUSING PROJECT.

>> THAT'S CORRECT, MR. MAYOR. JUST TO CLARIFY, THE CHANGE TO READ ON THE 111 WEST ST. JOHN, THE ONLY CHANGE IS THAT THE AGENDA THAT WAS PUBLISHED SAID WEST ST. JAMES, AND SHOULD HAVE SAID WEST ST. JOHN. SO THE AMENDED AGENDA WOULD MAKE THAT ONE WORD CORRECTION WHERE APPROPRIATE. AND THE ITEM 7 THAT YOU MENTIONED, THE CIM TWOY SUBORDINATION FOR THE HUD LOAN, WE DO WANT TO ADD THAT TO THIS AGENDA, IT'S A TIMING ISSUE, AND AGAIN, I WOULD REQUEST A SUNSHINE WAIVER OF THE 10-DAY RULE FOR THAT ITEM, AND WE INTEND TO HAVE THAT OUT AS QUICKLY AS POSSIBLE FOR THIS WEEK.

>> MAYOR REED: WELL, SUNSHINE WAIVER WOULD BE IF WE GET THE STAFF REPORT OUT.

>> THAT'S CORRECT. AND THAT SHOULD BE HAPPENING, I'M HOPING, BY TOMORROW.

>> FOR PURPOSES OF THE BROWN ACT, THOUGH, IT NEEDS TO BE OUT BY FRIDAY. FOR PURPOSES OF SUNSHINE IS THAT THEY'RE REQUESTING IT BE OUT.

>> MAYOR REED: IF WE DON'T MAKE IT BY FRIDAY WE'RE NOT GOING TO HEAR IT.

>> CORRECT, THEN IT WOULD BE A BROWN ACT ISSUE.

>> MAYOR REED: OKAY, AND THAT'S MODIFYING THE EXISTING AGREEMENT TO ALLOW SUBORDINATION.

>> COUNCILMEMBER CHIRCO: JUST A QUESTION. I KNOW THIS WILL BE 8.1, 8.1 ON THIS HAS BEEN DEFERRED. THIS REALLY REFERS TO 8.3 ON THIS AGENDA.

>> EXCELLENT OBSERVATION. I MISSED THAT WHEN WE POINTED THIS OUT. IT WAS CHANGED TO READ 8.3, 111 WEST ST. JOHN INSTEAD OF ST. JAMES. THANK YOU.

>> MAYOR REED: ALL RIGHT SO WE HAVE ONE ADDITION, AND THREE OR FOUR OF THESE THAT REQUIRE SUNSHINE WAIVERS. THAT'S THE MOTION. COUNCILMEMBER PYLE.

>> COUNCILMEMBER CHIRCO: SECOND.

>> MAYOR REED: MOTION IS TO ACCEPT AS AMENDED WITH THE WAIVERS. YOU'VE, OPPOSED NONE OPPOSED, THAT'S APPROVED. APRIL 20TH REDEVELOPMENT AGENCY AGENDA.

>> MR. MAYOR, MEMBERS OF THE COMMITTEE, IF I MAY, HAVING APPROVED THE APRIL 13TH AMENDED ITEMS, THAT IN FACT CONSTITUTES ALL THE ITEMS THAT ARE ON THE 20TH. WE HAVE NO NEW ITEMS THAT YOU WOULD APPROVE FOR THE 20TH JUST THE TWO ITEMS THAT ARE BEING DEFERRED FROM THE 13TH TO THE 20TH, SPECIFICALLY THE CO-OP AGREEMENT ON AUTUMN STREET WHICH IS LISTED AS 8.1, AND THE SOBRATO ITEM, WHICH IS LISTED AS 8.2, BOTH OF THOSE THE COMMITTEE HAS APPROVED PREVIOUSLY OF DEFERRING FROM THE 13TH TO THE 20TH. THERE IS NO OTHER ITEMS ANTICIPATED ON THAT DATE SO IT IS KIND OF A CONVENIENCE COPY TO KNOW WHAT IT WILL LOOK LIKE WHEN IT COMES OUT FRIDAY.

>> MAYOR REED: GOOD. ANYTHING ELSE ON THAT?

>> SECOND.

>> MAYOR REED: MOTION IS TO APPROVE, ALL IN FAVOR, OPPOSED NONE OPPOSED, THOSE ARE APPROVED. ANY ISSUES FOR TIME CERTAIN ON THE REDEVELOPMENT AGENCY AGENDA OR ANYTHING, JUST TAKE IT IN THE REGULAR COURSE, I THINK?

>> THE AGENCY HAS NO NEED FOR A TIME CERTAIN AT THIS STAGE. WE WOULD DEFER TO NEXT WEEK IF THERE IS ANYTHING ON THE 20TH THAT MAY ARISE.

>> MAYOR REED: LEGISLATIVE UPDATE IS OUR NEXT ITEM. WE'LL HEAR SOMETHING ON THE STATE REGARDING AB 1998 CARRIED BY BROWNLEE ON PLASTIC AND PAPER CARRYOUT BAGS.

>> BETSY SHOTWELL: THANK YOU, MR. CHAIR, MEMBERS OF THE COMMITTEE, BETSY SHOTWELL, DIRECTOR OF INTERGOVERNMENTAL RELATIONS. JOINING US IS JO ZIENTEK, DEPUTY DIRECTOR IN THE INTEGRATED WASTE MANAGEMENT DIVISION OF ESD TO PRESENT THE LEGISLATION, AND WE'RE HERE TO ANSWER ANY QUESTION THAT YOU MIGHT HAVE.

>> MAYOR REED: OKAY, I HAD SOME QUESTIONS ABOUT WHAT IS THE STATE OF THIS BILL. BECAUSE I'VE HEARD IT DESCRIBED BEFORE WITH REGARD TO THE GREEN BAG FEE WHICH WAS IN AND THEN OUT AND I UNDERSTAND IS BACK IN, A FEE TO GO TO THE STATE. I HAVE A PROBLEM WITH JUST ANOTHER TAX WHICH THE STATE'S GOING TO TAKE AND SPEND THE WAY THEY USUALLY DO VERSUS A FEE, THAT WOULD REIMBURSE THE MERCHANTS FOR THE COST OF PROVIDING THE BAGS. AND I DON'T KNOW WHERE THIS IS IN THE LEGISLATIVE DRAFTING PROCESS BUT I THINK WE NEED TO BE ENGAGED IN THAT DISCUSSION.

>> THANK YOU, MAYOR. THE BILL IS BEING ACTIVELY AMENDED. IT WAS ACTUALLY AMENDED YESTERDAY TO TAKE OUT THE FEE ENTIRELY, SO IT'S SIMPLY A BAN ON PAPER AND PLASTIC BAGS AT SUPERMARKETS. LARGE PHARMACY RETAIL ESTABLISHMENTS LIKE TARGET, AND CONVENIENCE STORES. BUT THE AUTHOR, AND WE TALKED TO THE AUTHOR'S STAFF TODAY AND SOME OTHER STAKEHOLDERS LIKE CALIFORNIANS AGAINST WASTE ARE INTERESTED IN US DOING A STORE RETAINED FEE SO THE STORES COULD SELL GREEN BAGS FOR SAY 10 CENTS, THE STORES WOULD KEEP THE ENTIRE AMOUNT OF THAT MONEY AND THAT'S ALSO BEEN AN AMENDMENT THAT'S BEEN WRITTEN AND IT'S PENDING. ONE OPTION TO TAKE WITH THIS BILL IS TO SUPPORT IT WITH AMENDMENTS AND MAKE SURE THE AMENDMENTS ALIGN WITH COUNCIL POLICY DIRECTION THAT THEY GAVE US ON OUR SINGLE USE BAG ACTIONS, COUNCIL APPROVED THOSE IN SEPTEMBER 2009 AND THAT WOULD GIVE OUR LEGISLATIVE STAFF IN SACRAMENTO SOME FLEXIBILITY TO MAKE SURE THESE AMENDMENTS COMPLEMENT WHERE COUNCIL WANTED THIS TO GO. BUT THERE IS AN AMENDMENT PENDING TO DO JUST WHAT YOU SAY, ALLOW STORE OWNERS TO CHARGE A FEE, BASICALLY

SELL THE BAG AND KEEP THAT AMOUNT OF MONEY AND IT WOULD BE SOMEWHERE IN THE AMOUNT OF 10 CENTS.

>> MAYOR REED: ANY MORE COMMENTS? PETE.

>> COUNCILMEMBER CONSTANT: I STILL BELIEVE THAT IT'S NOT LEGAL FOR ANY GOVERNMENT AGENCY TO MANDATE A FEE THAT AN INDIVIDUAL BUSINESS KEEPS AND COLLECTS. IT DOESN'T COMPORT WITH THE FEE STRUCTURE AND THE FEE LAWS AND PROP 218. IT'S TOTALLY UP TO INDEPENDENT BUSINESSES TO DECIDE IF THEY'RE GOING TO CHARGE A FEE FOR WHATEVER THEY'RE GOING TO SELL. SO I THINK THAT PART WILL NOT BE LEGAL. I'LL JUST VOTE NO AGAINST IT AS I HAVE IN THE PAST.

>> MAYOR REED: ON THAT QUESTION THOUGH IF THE LEGISLATION WERE TO SAY WE'RE BANNING PLASTIC BAGS BUT RETAILERS CAN SELL PAPER BAGS FOR A FEE, WHATEVER THE COST RECOVERY OR SOMETHING I DON'T KNOW WHAT IT WOULD BE, THAT'S A LITTLE BIT DIFFERENT WRINKLE THAN SAYING YOU MUST COLLECT A FEE, THAT YOU MUST KEEP. SO I DON'T KNOW IF IT MATTERS, AND I SUPPOSE WE DON'T KNOW HOW THIS IS GOING TO TURN OUT. MIGHT BE A LITTLE BIT DIFFERENT, NANCY AND THEN JUDY.

>> COUNCILMEMBER PYLE: I JUST WANTED TO SAY THAT USE ONLY OF THE PAPER BAGS, CAUSES MORE OF AN ENVIRONMENTAL PROBLEM. SO IF WE -- IF WE DO AS SAN FRANCISCO DID, AND THAT IS, JUST BAN THE PLASTIC BAGS BUT ALLOW THE USE OF PAPER, WE'VE SUBSTITUTED ONE PROBLEM FOR ANOTHER. SO THAT -- IT'S NOT CLEAR TO ME, THE STATE IS NOT IN FAVOR OF THAT, EITHER? OR --

>> THE AUTHOR AMENDED THE BILL YESTERDAY, TO TAKE OUT ALL THE FEES ENTIRETY. SO IT'S SIMPLY A BAN ON SUPERMARKETS, LARGE CHAIN PHARMACIES AND COMMUTE STORES. BUT THE AUTHOR IS LOOKING AT WITH SOME OTHER STAKEHOLDERS AT THE TABLE ADDING IN THE STORES COULD SELL GREEN PAPER BAGS WHICH ARE THE ONES THAT COUNCIL DEFINED IN THEIR LAST ACTION TO US, THE 40% POSTCONSUMER BAGS AT A PRICE THAT WOULD BE SET SO IT WOULDN'T BE THE TOO HIGH NOR TOO LOW TO BE AN EFFECTIVE, SOMETHING AROUND 10 CENT NEIGHBORHOOD.

>> COUNCILMEMBER PYLE: UH-HUH SO INDIRECTLY IF THERE'S ANY FEE, IT'S ABSORBED INTO WHATEVER THEY HAVE TO LIMIT AS FAR AS THE PRICE ON THEIR REUSABLE BAGS?

>> YES BUT IT WOULD STILL BE A DETERRENT.

>> COUNCILMEMBER PYLE: GOT IT. AT LEAST IT'S NOT SHIFTING OVER TO PAPER.

>> MAYOR REED: CITY MANAGER HAD A COMMENT.

>> CITY MANAGER FIGONE: AND I THINK IN THAT REGARD, COUNCILMEMBERS, JO, THIS IS SINGLE USE REGARDLESS OF PAPER OR PLASTIC, CORRECT, SO IT'S BANNING ALL SINGLE USE BAGS. THANK YOU.

>> MAYOR REED: JUDY.

>> COUNCILMEMBER CHIRCO: I JUST WANT TO SAY I AGREE WITH YOU CHUCK TO CHARGE THE USE OF THE BAG, SOMEBODY WALKS IN AND THEY NEED FOUR BAGS AND THEY ONLY BROUGHT THREE, THERE IS AVAILABILITY OF SOMETHING TO CARRY THE FOURTH BAG OF MATERIALS OUT. BUT I HAVE TO AGREE WITH CHUCK IF ANY GOES TO THE STATE IT JUST CREATES MORE BUREAUCRACY AND AN OPPORTUNITY FOR THEM TO AGAIN REACH IN AND TAKE IT.

>> YES, SO THAT'S NOT WHAT THE BILL CURRENTLY -- AND THE LANGUAGE UNDER CONSIDERATION WOULD NOT DO THAT EITHER.

>> COUNCILMEMBER CONSTANT: I JUST GOING TO SAY THIS AGAIN, THIS IGNORES IF IT'S SUCH A PROBLEM IT COMPLETELY IGNORES FAST FOOD WHICH IS REALLY THE PROBLEM SO IF THERE IS A PROBLEM OR THERE'S NOT, I DON'T THINK THIS ADDRESSES THE REAL PROBLEM.

>> COUNCILMEMBER CHIRCO: I WOULD LIKE TO MOVE APPROVAL OF THIS WITH THE AMENDMENTS AS YOU HAVE OUTLINED JO.

>> COUNCILMEMBER PYLE: SECOND.

>> MAYOR REED: SO THAT WOULD INCLUDE SAY WE'RE SUPPORTING IT IF AMENDED, IF IT FOLLOWS THE PARAMETERS THE COUNCIL HAS ALREADY GIVEN FOR OUR OWN WORK.

>> EXACTLY.

>> BETSY SHOTWELL: THAT ALLOWS OUR LOBBYIST TO GO FORWARD, RATHER THAN RIGID DIRECTION BUT THAT FLEXIBILITY, APPRECIATE IT.

>> MAYOR REED: FURTHER DISCUSSION, NANCY.

>> COUNCILMEMBER PYLE: I JUST HAVE A QUESTION FOR JO. IS -- DO YOU HAPPEN TO KNOW IF ENVIRONMENTAL SERVICES IS WORKING ON SOMETHING THAT COULD TAKE THE PLACE OF THE STYROFOAM PACKAGING USED FOR FAST FOODS?

>> WE'RE BRINGING A STAFF REPORT ON THAT WHOLE STYROFOAM ISSUE TO TRANSPORTATION AND ENVIRONMENT COMMITTEE ON MAY 3RD AND WE'LL OUTLINE OPTIONS ON WHAT OTHER CITIES HAVE DONE.

>> COUNCILMEMBER PYLE: THANK YOU FOR THAT.

>> MAYOR REED: ANYTHING ELSE? WE HAVE A MOTION, ALL IN FAVOR, OPPOSED ONE OPPOSED, COUNCILMEMBER CONSTANT.

>> LEE PRICE: QUESTION FOR BETSY, DO WE NEED TO TAKE THIS TO THE COUNCIL NEXT WEEK? THE 20TH.

>> MAYOR REED: THIS WILL GO TO COUNCIL ON THE 20TH. NOTHING FROM THE FEDERAL GOVERNMENT?

>> BETSY SHOTWELL: NO, THEY ARE IN RECESS.

>> MAYOR REED: THEY ARE ON RECESS. WE DO APPRECIATE THE ARRA FUNDS THAT ARE COMING IN. WE JUST APPROVED SOME MONEY TO BE SPENT YESTERDAY. THE PRINTING PRESSES ARE STILL RUNNING IN WASHINGTON WHILE THEY'RE ON RECESS, RIGHT? OKAY. NOTHING UNDER MEETING SCHEDULES, PUBLIC RECORD, ANYTHING THE COMMITTEE WANTS TO PULL FROM THE PUBLIC RECORD TO DISCUSS?

>> COUNCILMEMBER CHIRCO: MOVE TO NOTE AND FILE.

>> COUNCILMEMBER PYLE: I WOULD LIKE TO --

>> MAYOR REED: COUNCILMEMBER PYLE.

>> COUNCILMEMBER PYLE: I WOULD LIKE TO THANK DAVID WALL FOR ALERTING THE POLICE TO THE PROBLEM WITH THE VICTORIAN THREE-STORY HOUSE AND THE CHILDREN THAT WERE PLAYING THERE AND THE FACT THAT IT WAS -- I BELIEVE IT'S THE SAME HOUSE, IT WASN'T CLEAR TO ME, YOU HAD TWO DIFFERENT LETTERS. I BELIEVE THAT THAT VICTORIAN HOUSE HAS BEEN LEFT OPEN, TO THE PUBLIC. AND I'M NOT SURE AT THIS POINT WHAT CAN BE DONE TO REMEDY THE SITUATION BUT IT SOUNDS LIKE A DANGEROUS ONE.

>> DAVID WALL: IT WOULD BE FAIRLY SIMPLE, THE BACK OF THE PROPERTY TO BE BORDER UP AND THE FRONT END ONLY ACCESSIBLE TO THE REALTOR AND THEIR GUESTS. AND ALSO, THE REALTOR SHOULD BE PRESENT AND NOT JUST CELL PHONE, AND THE COMBINATIONS, SO THERE WOULD BE SOME FORM OF SAFETY CHECK OF THE PROPERTY PRIOR TO. AND ALSO, SOME FORM OF GATING THOSE BACK STAIRWELLS.

>> COUNCILMEMBER PYLE: COULD YOU PUT THAT DOWN, AND I'LL TRY TO HELP YOU WITH THAT ONE?

>> DAVID WALL: BE GLAD TO. THERE'S ANOTHER LETTER TO THANK THE SAN JOSÉ POLICE IN REGARD -- THERE'S ANOTHER ONE COMING, THAT IS -- IT WILL BE FOR THIS WEEK.

>> COUNCILMEMBER PYLE: THANK YOU.

>> DAVID WALL: THERE'S ALWAYS THANKS FOR THE POLICE.

>> MAYOR REED: ANYTHING ELSE FROM THE PUBLIC RECORD? MOTION IS TO NOTE AND FILE. ALL IN FAVOR? OPPOSED? NONE OPPOSED, THAT'S APPROVED.

>>> WE HAVE NOTHING TO ADD TO COUNCIL COMMITTEE AGENDAS. THEY GOT ENOUGH WORK TO DO ALREADY. WE HAVE ONE ITEM UNDER OPEN GOVERNMENT INITIATIVES, SUNSHINE, ETHICS, WHATEVER, CATEGORY AND THAT'S THE REPORT BACK FROM THE MAYOR'S BIENNIAL ETHICS REVIEW PANEL MEETING FROM FEBRUARY 16TH. CITY CLERK.

>> LEE PRICE: THANK YOU MR. MAYOR, MEMBERS OF THE COUNCIL. THE MEMORANDUM IN YOUR PACKET TODAY IS THE FEEDBACK WE RECEIVED FROM THE MAYOR'S BIENNIAL ETHICS REVIEW PANEL ON FEBRUARY THE 16TH. JUST A LITTLE BIT OF BACKGROUND, AS YOU WILL RECALL ON DECEMBER THE 15TH, 2009, THE COUNCIL CONSIDERED THE MAYOR'S BIENNIAL REVIEW OF THE ETHICS ORDINANCES AND REFERRED FOUR ISSUES, IN PARALLEL TO THE ELECTIONS COMMISSION AND THE ETHICS REVIEW PANEL THAT CONVENED IN OCTOBER OF 2009. SO LISA HERRICK FROM THE CITY ATTORNEY'S OFFICE IS HERE, AND SHE AND I CAN WALK YOU THROUGH THE MEMO IF YOU WOULD LIKE US TO DO THAT, OR ASSUMING YOU'VE READ IT, WE WOULD LIKE TO GIVE YOU AN UPDATE ON WHERE THE ELECTIONS COMMISSION STANDS WITH THE REFERRALS AND SEE IF WE MIGHT ALSO GET SOME DIRECTION FROM YOU

ABOUT WHETHER WE SHOULD PACKAGE THIS ALL UP, ONCE IT'S ALL READY TO GO TO COUNCIL OR IF PERHAPS WE MIGHT BE ABLE TO BRING FORWARD TO THE COUNCIL THE ISSUE ON ANONYMOUS COMPLAINTS.

>> MAYOR REED: WELL, I THINK YOU KNOW THIS IS ONE REFERRAL OUT OF ONE AGENDA ITEM. AND THE ELECTIONS COMMISSION IS STILL WORKING ON IT AND I DON'T WANT TO PUT IT BACK IN FRONT OF THE COUNCIL PIECEMEAL.

>> LEE PRICE: OKAY.

>> MAYOR REED: AND ESPECIALLY WITHOUT RECOMMENDATIONS FROM BOTH OF THE BODIES THAT WERE ASKED TO REVIEW IT.

>> LEE PRICE: CORRECT. THE ELECTIONS COMMISSION HAS WEIGHED IN ON THE FOURTH REFERRAL, LIMITING ANONYMOUS COMPLAINTS TO THE ELECTIONS COMMISSION. AS I MENTIONED. AND AT THEIR NEXT REGULAR MEETING, WHICH IS NEXT WEDNESDAY, APRIL THE 14TH, THEY WILL BE DISCUSSING ONE, TWO AND THREE. AND IT IS OUR HOPE AND GOAL THAT THEY WILL BE ABLE TO FORMULATE A REGULATION AT THAT MEETING. IF NOT THEY MAY HAVE TO CONTINUE IT TO THE MAY MEETING. SO THEN, WITH YOUR ADVICE THEN, WE WILL BRING BOTH THE ETHICS REVIEW PANEL RECOMMENDATIONS AND ALL OF THE ELECTIONS COMMISSION RECOMMENDATIONS FORWARD, AT THE SAME TIME.

>> MAYOR REED: YEAH, I THINK THAT MAKES THE MOST SENSE.

>> LEE PRICE: SHALL WE BRING THOSE TO THE RULES COMMITTEE FIRST OR GO AHEAD AND PUT THEM ON THE COUNCIL AGENDA?

>> MAYOR REED: BRING THEM BACK HERE AND WE CAN MAKE SURE THEY ALL MAKE SENSE AS IT GOES AS A PACKAGE.

>> (INAUDIBLE)

>> MAYOR REED: THE MOTION IS TO, ONCE WE GET THEM ALL PACKAGED UP, TO BRING THEM BACK HERE FROM BOTH OF THESE PANELS AND THEN WE'LL PUT THEM ON A COUNCIL AGENDA. THANK YOU. ALL IN FAVOR OPPOSED NONE OPPOSED THAT'S APPROVED. EVERYTHING ELSE WE'VE TAKEN CARE OF. OPEN FORUM IS THE LAST ITEM. MR. WALL.

>> DAVID WALL: THIS IS IN REGARDS TO ASSISTING YOU WITH THE UNIONS AND THEIR PARTICULAR NEGOTIATIONS. AS A TAXPAYER I FIND IT SOMEWHAT OF A CONFLICT OF INTEREST THAT THE CITY OF SAN JOSÉ ALLOWS OR ALLOCATES RESOURCES TO THE UNIONS TO COLLECT UNION DUES FROM ALL CITY EMPLOYEES. I THINK IN THIS TIME OF BUDGETARY CUTBACKS THAT THIS MIGHT BE LOOKED AT. THIS MIGHT BE CONSIDERED A NEW SERVICE DELIVERY MODEL FOR THE DIFFERENT UNIONS, TO COLLECT THEIR OWN DUES, AND BETTER SERVE THE CITY EMPLOYEES TO WHICH THEY'RE TAKING THEIR MONEY FROM. INSTEAD OF THE CITY, IN MY OPINION. THE OTHER THING IS, THE ADVANCE WATER FILTRATION AND RECLAIMED WATER, THE FUNDING FOR THIS IS GETTING TOO FAR AFIELD FROM THE LANGUAGE OF THE SEWER SERVICE AND USE CHARGE. TO ME PROPOSITION 218 WAS MENTIONED EARLIER. I THINK THE CITY IS RUNNING A VERY, VERY CLOSE LINE OF ENDING UP LIKE THE WATER DISTRICT HAVING TO PAY BACK PEOPLE. UNDER PROP 218. THIS BUSINESS WITH SAN JOSÉ STATE FOR \$422,000, THAT'S FAR IN EXCEEDS WHAT SHOULD BE DONE. THEY SHOULD BE PICKING UP THAT TAB. SANTA CLARA, ALL OF THESE COSTS, TAKING FEDERAL MONEY, TOO, FOR THIS ADVANCE WATER FILTRATION ALSO A STICKY WICKET BECAUSE IT DOESN'T REALLY COVER LONG TERM OPERATIONAL COST. THIS PROGRAM HAS BEEN A FAILURE SINCE ITS START. IT'S CONTINUING TO BE A FAILURE. AND THE BIGGER ISSUE OF A SEWER SERVICE, A SEWER MORATORIUM, HOOKUP MORATORIUM IS WHAT THIS CITY SHOULD BE PURSUING. THERE IS NO MORE WATER. EVERYBODY PAYS ATTENTION TO WHAT THE WATER DISTRICT DOES. THEY HAVE NO WATER. THERE SHOULD BE NO MORE RESIDENTIAL HOUSING PERMITS, SERVICE AREA WIDE, NOT JUST SAN JOSÉ BUT ALL OF THE DIFFERENT CITIES. SO WHEN I SEE THE FUNDING FOR ALL OF THIS, WHEN I LOOK AT THE SEWER SERVICE AND USE CHARGE HOW IT'S WORDED AND PROP 218, THERE'S TOO MANY PROBLEMS HERE. OTHER THAN THAT, I'M GLAD YOU'RE ALL HERE. WE SEE A SPECTER OF COUNCILMEMBER CONSTANT, I WILL TRY TO IMITATE SUCH BEHAVIOR.

>> MAYOR REED: IT IS THE LIQUID DIET RIGHT UP YOUR ALLEY. EVEN THAT RECYCLED WATER HAS NO CALORIES. THAT'S THAT CONCLUDES THE OPEN FORUM, THAT CONCLUDES OUR MEETING, WE'RE ADJOURNED.