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>> Mayor Reed: Government committee meeting for October 28th, 2009. My first question is whether or not there are any changes to the agenda order.

>> Councilmember Pyle: Move to approve.

>> Mayor Reed: None, okay. We'll plow through, with starting November 3rd, 2009, council meeting agenda. Anything on page 1? Note the 9:00 start-time for closed session. Anything on 2 or 3?

>> Councilmember Constant: Just for the clerk on item 1.4 if you can add me in with the mayor on that one, please.

>> Lee Price: All right.

>> Mayor Reed: Page 4 or 5. Ings page -- sure.

>> Councilmember Constant: I'm sorry. I have a question for the clerk. Can we take all the reports of the committees and just put them in the consent calendar? Is there any reason why we have to not have them on consent?

>> Lee Price: I think the reason that they're not now is just your council rules of conduct resolution sets forth the order for the agenda. But we're in the process of drafting some revisions for the Rules Committee to consider next month, so we could certainly look at that.

>> Mayor Reed: I think that would be a good item.

>> Lee Price: If the committee would like to do that.

>> Mayor Reed: I think we hardly ever discuss them. Consent calendar is a good place to refer to them.

>> Lee Price: I'll make note of that.

>> Mayor Reed: Anything else on 4 or 5, page 6 or 7? Or page 8? No evening meeting. Any requests for additions or changes? I have nothing in writing. Anything else?

>> Lee Price: No additions.

>> Councilmember Pyle: Move to approve.

>> Councilmember Constant: Second.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed, that's approved. Next we'll take up November 10th council meeting. Anything on page 1? Again 9:00 start of closed session. Is appropriate?

>> City Attorney Doyle: Mr. Mayor, I think that could be a 9:30 meeting because I think the evaluation that was set has been continued until January.

>> Mayor Reed: Okay.

>> City Attorney Doyle: We'll verify that but I think --

>> Mayor Reed: Probably 9:30. I know Councilmember Pyle has a different traffic issue.

>> Councilmember Pyle: I do. It would be much easier.

>> Councilmember Constant: Would it be better to make it 7:00 a.m. for you?

>> Mayor Reed: 7 o'clock would work as well but it wouldn't be good for any other councilmembers. Okay, anything on page 2 or 3? Page 4 or 5? One question on the independent police auditor recruitment, draft profile, when will that be published?

>> By Friday.

>> Mayor Reed: Friday of this week?

>> Uh-huh.

>> Mayor Reed: Anything else on 4 or 5 or page 6? I had a question on 7.1, the special event venue recycling report, we had that discussion, a brief discussion about that before. And item C is to establish a green events grants program. Is there a budget decision somehow with that? Or does the budget precede or follow this?

>> We'll follow up with staff.

>> Mayor Reed: Okay. Because I do recall one of the sources of funding was a bill that the governor vetoed. Page 6 or 7? Anything else? We also have the city council financing authority agenda, Brookwood family apartments, Orvieto family apartments. Both items, anything on either of those pages? Actually page 8, 9 and 10 of this set of materials. Couple of requests for additions, excused absences for Vice Mayor Chirco on a couple of medical matters. Any other additions?

>> City Attorney Doyle: Mr. Mayor, if we can go back to the 3.4. Which is an ordinance which will allow the IPA to have contract authority in the event there's a conflict. And this is per council direction. Item B is where we will be changing that. The independent police auditor has conflict provisions, we've been working through them with her. And they're internal procedures that she's adopted as the independent police auditor. They will come forward to council for comment, but not approval.

>> Mayor Reed: Because she's an independent police auditor, right? The language is not to approval policy, it's just --

>> City Attorney Doyle: It will be information. And then council can comment and make suggestions but not -- it's not there for approval.

>> Mayor Reed: So there will be a discussion as opposed to approval. Any other changes?

>> Councilmember Constant: Move to approve.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed, that's approved. Redevelopment agency item agenda for November 3rd.

>> Mr. Mayor, and member of the committee, Gary Miskimon of the redevelopment agency. We would recommend cancelling the November 3rd afternoon session for the agency. We have no items scheduled until November 10th. This is closed session or joint, anything that comes up joint with the city we would still meet there.

>> Mayor Reed: Okay, any objections to cancelling that meeting?

>> Councilmember Pyle: None.

>> Councilmember Constant: So moved.

>> Councilmember Pyle: Second.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. November 10th redevelopment agency agenda. The closed session time just needs to be consistent with whatever we do with the city. Anything on page 2 or 3?

>> Abi Magamfar: Mr. Mayor, on page 2, 8.1, we'll be making correction to both the title and recommendation, issues referred to 2010-2015 CIP, rather than 2009-2013, and then another reference to 2014, that's for the budget consideration.

>> Mayor Reed: Is there an evening meeting on November 10th?

>> Abi Magamfar: That's the only item for November 10th.

>> Mayor Reed: We're not scheduled for a council evening meeting on the 10th.

>> November 17th, that's the evening meeting.

>> Mayor Reed: Do we want to have this particular hearing in the evening? Because it says to be heard in the evening, even though there is no evening meeting scheduled.

>> Abi Magamfar: At the pleasure of the council.

>> Mayor Reed: Then put it on the afternoon agenda, then.

>> Councilmember Constant: Motion to approve as amended.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approve as amended. All in favor, opposed, none opposed, that's approved. Next item is the November 5th special city council meeting agenda. Study session, special meeting -- well, pretty simple agenda.

>> Lee Price: If I could just tell the committee, that we actually have already posted this and distributed most of the materials, but this is for your formal approval.

>> Mayor Reed: And the other item of note is, at one time we were talking about having it in the morning. This is in the afternoon, starting at 1:30 p.m. for anybody who is trying to keep track of it. All in favor, opposed, none opposed, that's approved. Review the November 9th, city council joint budget study session on the redevelopment agency budget in a simple agenda that will be more complicated when we get into the work, but relatively straightforward. That will be what time of day, 9:00 a.m.?

>> Abi Magamfar: That's correct, 9:00 a.m. and is scheduled to conclude by noon.

>> Councilmember Constant: Motion to approve.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approve, all in favor, opposed, none opposed, that's approved. Taking us to legislative update. State, we have Senate Bill number 88 by de Saulnier regarding local government bankruptcy. Betsy.

>> Betsy Shotwell: Thank you, Mr. Chair, members of the committee, Betsy Shotwell, director of Intergovernmental Relations. You have before you a recommendation to opposed SB 88 which, if passed, would prevent local governments from filing for bankruptcy under Chapter 9 of the Federal Bankruptcy Code without first receiving the approval of the California Debt and Investment Advisory Commission. This bill did pass the senate and is awaiting assignment -- excuse me -- it passed the senate and is waiting assignment in the assembly when they go back in session in January. We wanted to -- similar to the recent bill the finance department brought before you, have this discussion now, and a

recommendation presented to the Rules and the council, so that when session does resume in January, we can -- our lobbyist can be directed to act accordingly. And staff is here to answer any questions that you might have.

>> Mayor Reed: I have none.

>> Councilmember Constant: Well, I hope we never need it, but --

>> Betsy Shotwell: Exactly.

>> Councilmember Constant: But I'll make the motion to support, to oppose.

>> Mayor Reed: This is another instance of state taking away local control.

>> Councilmember Pyle: Second.

>> Mayor Reed: We have a motion to approve the staff recommendation and this would be on the council agenda for the 3rd.

>> Betsy Shotwell: Next week.

>> Councilmember Pyle: I'm basically willing to bring it forward. Not to necessarily agree.

>> Mayor Reed: All in favor, opposed, none opposed, put it on the council agenda. November 3rd.

>> Betsy Shotwell: Thank you very much.

>> Mayor Reed: Legislative update federal, I just have to report that I was in a conference call with the vice president yesterday, with three other mayors, and a couple of county supervisors, from around the country, talking about the federal stimulus package, and how it's being handled at that time local level. And I took the opportunity to complain to the Vice President about the fact that in several rounds of stimulus package funding in the energy area, California got zip. I pointed that out to him and he did agree to check into it and get back to me as to why California, the innovation leader in the country is not getting money in some of these grant areas. So other than that I did find out about a county in Oregon that was on the conference call. County with 26,000 people, that's for the whole county, has received \$54 million in federal stimulus funding. Compared to the \$76 million we are going to receive for our 1 million people. I don't know how and why they did that. But it was interesting.

>> Councilmember Constant: That's government accounting. [Laughter]

>> Mayor Reed: Anything else on state or federal legislation? Nancy?

>> Councilmember Pyle: Well, I'd just like to totally agree with you mayor and in light of the latest issue of "Time" magazine, probably there's another one out, but it's talking about how California's driving edge in the United States, it is the eighth largest economy in the world. No other of the 49 states even qualified to be considered. So the fact that we're treated as the distant uncle is very worrisome. So --

>> Mayor Reed: I think so. I did point out to the vice president that, while we are not happy about it, we are very proud to export jobs to the rest of the country because that's what we do here. And using the example of Fiscar which he just welcomed to Delaware the day before, yesterday, we're happy to have the jobs in Delaware but if we don't get support in the federal government we're not going to be able to generate as many jobs for the rest of the country. He's going to check into it and get back to us. Anything else? Okay, completes the legislative report.

>> Thank you.

>> Mayor Reed: Meeting schedules, request or recommendation from staff to cancel some regular meetings in November and December and schedule rules-in-lieu meetings. City Clerk has a memo.

>> Councilmember Constant: I don't know what I'm going to do with that extra ten hours of my life but I'll make a motion to approve.

>> Councilmember Pyle: Second.

>> Mayor Reed: I have a question about what happens at Rules-in-lieu meetings. Because what I don't want to have is things that just go on the council agenda automatically with purely a piece of paper without the Rules Committee having a chance to consider how the agenda gets handled. So could you talk a little bit about rules and the rules for rules-in-lieu?

>> City Attorney Doyle: Rules-in-lieu is limited to reviewing the agendas, not adding items that are nonroutine. I think the -- probably ceremonial items are probably the only limitation that they can add, but any substantive item needs a full Rules Committee discussion and a decision whether to put on the agenda or to refer to staff. So there wouldn't be anything -- and the only caveat to that is sometimes there may be an emergency item, let's say a grant, and that would be something that we'd pass on.

>> Mayor Reed: Okay. We have a motion to approve, all in favor? Opposed? None opposed? That's approved. Next item -- I'm not exactly sure what my note means here. Request a study session on the sign code update. The recommendation now is to not set that for November 13th?

>> Lee Price: That's correct. We're going to drop that item, and the administration will bring back a proposal for either another date, or will put it on a regular council meeting date.

>> Mayor Reed: Do we have a schedule for sign code updates in the ordinance form that you've been working on and will be bringing back to us at some point?

>> Laurel Prevetti: I'm Laurel Prevetti, assistant director for planning, building, and code enforcement. The purpose of the study session is to review our draft findings from the outreach and analysis that we have done and we're actually just seeking council direction before we craft the actual ordinance language. So as the clerk mentioned, we will be pursuing some alternate dates, so that way the maximum number of councilmembers and the mayor can participate in this discussion.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I just wanted to comment. I'm concerned with how long we've been taking on this. I know you guys have some challenges going on in your department, but this is something I really think we need to keep on, because these are tools that we have a lot of businesses in San José waiting to use. You know, I'm obviously partial to the needs of my Stevens Creek auto row. But these are things we really need to keep pushing forward. And I know prior to this study session being set it was almost ready just to come to council for action. And I really want to urge it -- urge you, and the administration, to get it to us quickly. I know we've talked about it, we've had several meetings about the sign code. The council's given direction before. And I'm a little confused as to why we need more direction. So I'd like to see us get this on a agenda sooner, rather than later. And we've got some very short council meetings that we just reviewed. And I'd really like to see this get on 'em.

>> Laurel Prevetti: And we would be happy to not do a study session, if that's the will of the Rules Committee. Further discussion with other city offices, it was thought that a study session might be a better venue. But if it's the will of the committee, we would be more than happy to work with the administration to get this onto a regular agenda.

>> Mayor Reed: Well, my reaction initially was, you can have a study session but I wanted the council to take some action so we need to set it up as a special meeting. If you have ten questions and you get ten answers then you move on as opposed to we just talk and talk and talk and nothing happens. If we're going to take the time and you want direction let's try to set it up so we can take and give direction on whatever it may be.

>> City Attorney Doyle: Just my observation. This is a significant change. The staff memo's approximately 40 pages and while it doesn't qualify as health care, it is something that is significant, and if there is a case just last week out of Menlo Park where the done side of not getting great specificity as to what you want in your sign code results in signs you don't want being along a corridor and you can't do anything to control it. So there's always the legal, the First Amendment issue. Cities have struggled, LA has struggled, San Diego has struggled. And we just want to come forward, and the council knows full well what it's going to do, and I think that's the reason for the study session was, it's a time slot that will take some time. But it can be a regular council meeting, just knowing that there may be an hour or two discussion just to get the clear direction, so we can move forward.

>> Mayor Reed: Well, I don't care if it's a regular council meeting or a study session that's noticed as a special meeting. I want the council to be able to take action if that's what we want to do so we can say okay, Laurel's done the work, they've done the work, here it is, yes or no? So we either put it on or take it off the table.

>> Laurel Prevetti: We are looking at some of the dates coming up in November and December for that very purpose. So it may not be that a study session is needed, but we'll work with the administration to determine whether there is a quote unquote light agenda coming forward so that we can have the discussion and we are seeking direction and action so we can actually then write the new code.

>> Mayor Reed: Okay, well I think it's useful to have that direction before you start trying to draft the ordinance which in and of itself is a big anchor even after we've taken direction. We're taking no action other than this discussion. Public record, anything the public record the committee wants to pull for discussion?

>> Councilmember Constant: Move to note and file.

>> Mayor Reed: Motion is to note and file. All in favor? Opposed? None opposed, that's approved. Appointments to boards, commissions, committees, we don't have any to discuss today. Some other items to approve, and that's a -- I think a recommendation from the staff to defer to November 18th, the discussion of the contracting authority.

>> That's correct.

>> Mayor Reed: Which started out with a memo from councilmembers a while back. But just defer that to November 18th?

>> Yes.

>> Councilmember Constant: Motion to defer.

>> Councilmember Pyle: Second.

>> Mayor Reed: Okay, the motion is to defer it to our Rules Committee agenda November 18th. All in favor, opposed, none opposed, that's approved. Next item is a request that I've made which is that we begin the process of discussing methods to amend our park land agreements with developers that are in default or have upcoming payments of park land in-lieu fees, even though their projects are not going to start construction any time soon, probably not for a long time. And I wanted to have us direct the staff to do a workload assessment for developing recommendations on that. So it's here today to talk about the issue, try to scope it a little bit. And seeing if it's worth pursuing and getting a workload assessment. The question for me is, most things that we require of developers have to be done before they pull building permits. So if their project is delayed, then those things get delayed as well. The park land in-lieu fee has a specific date by which it has to be paid that is not connected to the issuance of a building permit. And knowing that we have 8,000 units in North San José alone that are moving towards something, but no one's going to pull a building permit any time soon. And some of those, I understand, are already in default. And the question is, what are we going to do about that? And do we need to have the money now, as opposed to when they pull the building permits.

>> City Attorney Doyle: And the way Rules -- you've alluded to it is one year after final map, or when they pull building permits. And the fact that they're not pulling the permits is due and owing. So it is something that I think staff is prepared to address, and make recommendations, not today, but at the least do an assessment and come back with a recommendation.

>> Mayor Reed: Well, the issue on the building side is hardly anybody has money until they get close to construction. They're never going to get financing to pay these kinds of things. Typically they would try to do it out of their construction budget when they have a real project and in today's market nobody seems to have a real project.

>> Ed Shikada: Mr. Mayor, Ed Shikada, chief deputy City Manager. I believe staff has looked at the issue and believe it's specific enough to be able to come back with a report rather than to have to do a workload assessment. So we could reduce that by one step, and have staff come back in December, I believe.

>> Mayor Reed: Matt, did you want to add?

>> Yes, Matt Cano, division manager. Parks, Recreation, and Neighborhood Services. We can come back by December 8th to council with a recommendation.

>> Mayor Reed: Back to Rules, or be ready for a council agenda?

>> To council, if that's -- or we can come back to Rules as well, but one of the fees is actually -- one of the bigger fees for Morrison Park Project is actually due on December 8th, so it would be a -- there's an urgency here to get a recommendation and a resolution. So I'd like to be back to council by December 8th with a representation, if possible.

>> Mayor Reed: Then that would be on the Rules Committee agenda a couple of weeks prior, would be the first.

>> City Attorney Doyle: As long as it's not the rules in lieu.

>> Councilmember Constant: It would have to be the 18th of November, is the only one we'd really have a chance before the 8th.

>> Mayor Reed: When would the staff memo need to be out for doing something on the 8th of December, and are you prepared to meet that schedule, I guess, is the real question.

>> Yes, we are.

>> Mayor Reed: Okay.

>> City Attorney Doyle: Yes, that would be the two-week agenda. You'd still have December 1st, which would be one week before. It would be on the agenda -- well, you'd have to -- December 1st would be the earliest the Rules Committee could look at it.

>> Mayor Reed: Okay, well if staff -- staff has already done a lot of work in this area, if they're prepared to meet that December 8th schedule, then I think -- okay, let's set it for December 8th. And if you can't meet that schedule, then we'll deal with it in Rules Committee on one of our times when we have a meeting, since you don't need to do a workload assessment.

>> Ed Shikada: That will be fine. We'll just go forward.

>> Mayor Reed: So target the December 8th date?

>> Councilmember Constant: That would be my motion.

>> Councilmember Pyle: Second.

>> Mayor Reed: Okay, that's the motion, December 8th. All in favor. I have one request to speak on that before we take the vote. I'm sorry, David Wall.

>> David Wall: Good afternoon. In this economy, with the money supply going to be tightened next year, it's foreseeable that these construction project will probably have enhanced encumbrances. It is my opinion that San José already has a tremendous glut of housing. These high density projects are going to probably collapse and go into bankruptcy. We have already noticed from your memo that some of these projects are already in default. It is very foreseeable, even if they start or have this in-lieu fee postponed, that they're going to go in bankrupt and the city will never get their money, anyway. What I believe you should do, especially with what's going on here, budget-wise, is to get this money up front, and cash that check, and have it in the bank before you give any permits whatsoever. Thank you.

>> Mayor Reed: That concludes the public testimony on this item. We have a motion to approve the December 8th date. All in favor? Opposed? None opposed, that's approved. Our next item is, to consider adding to the Community and Economic Development Committee agenda, the citywide monuments policy for December 14th meeting of the committee.

>> Councilmember Pyle: Move to approve.

>> Councilmember Constant: Second.

>> Mayor Reed: I guess that's okay with the chair of the committee, since she made the motion. And just all in favor? Opposed? None opposed? That's approved. I think that's the only committee agenda item. Open government initiatives, I had a couple of questions about public records act requests. I know there's some pending around the Fung Ho case and the Daniel Pham case. And just people who are watching this will know that we've requested, I've requested that we take up the Daniel Pham case on November 4th. Because the grand jury has completed its work, and that we consider the Fung Ho case as soon as the investigation is done, whenever that may be. And so what I'd like to know, I think on the 4th agenda, when we take up the Daniel Pham case is, what is the schedule for the work on the investigation in the Fung Ho case. Because you said the chief may be done with it this week, the DA probably won't be done with it on November 4th but at least we might have some idea what the schedule looks like and people will be able to what and when we'll be able to take that up. Anything else under open government, I think not. Open forum, we have two requests for the public to speak on open forum. Teresa, I can't read your last name, Teresa. Okay, come on up and tell us what your last name is, I'm sorry, my bad eyes and your bad handwriting, one or the other is responsible.

>> Probably my bad handwriting. My name is Terese Kolerer, and I reside at 285 Washington Street in San José. I'm here because, please forgive me, I don't know the protocol you all operate. I came last week and only two members were here. I came to present a petition with 40 signatures on it from the general population of San José. We the undersigned urge you to follow the recommendation of the San José human rights commission in their meeting of October 15th, 2009, to support and join as amicus or in other means as permitted by the court in support of plaintiffs in case Number 09-CV-2292-VRW, United States district court for northern district of California, Perry and Steer, Patami and Zurillo, plaintiffs vs. Schwarzenegger and Dennis Hollingsworth, as official proponents of prop 8. This evidently, because I'm ignorant, you guys already pretty much put in public record and no further action, do I understand that correctly, just now?

>> Mayor Reed: Right.

>> The reason the petition was signed and the reason the letters were written, the reason the human rights commission spent more than two months talking about it was to ask you again my understanding, limited to please put this before the city council, to consider. This is a serious matter for everyone's civil rights, I do believe but particular for same sex couples who want to be married in the state of California. So we're just asking that it be put before the whole city council, as an item to be voted on and discussed. So I just -- I had brought this last week, and it didn't make it into today's record. So I will present it again. Thank you very much.

>> Mayor Reed: Thank you. If you'll give that to the clerk. Mark trout and then Kathy Brandhorst.

>> I am here to get this mayor and council to hopefully put on the agenda next week or soon thereafter some kind of proclamation in regards to 9/11. I know officially our lawyer here Mr. Doyle will tell me I'm in the wrong department. I should go to Congressman Mike Honda, I did, I wrote him a letter, he wrote me back. The buildings fell by fire, okay? He is not going to do anything. I'm hoping that you will make some

sort of a proclamation about building 7, you know, building 7 is that ultimate smoke gun if you will at the crime scene of 9/11. What do I mean by that? Larry silverstein, who bought the property at -- I wish we had a -- do I get two minutes?

>> Mayor Reed: Yes you do.

>> Said they decided to demolish the building, that is lingo, for take it down by bombs in regard to Building 7. That means this building that fell at 5:20 in the afternoon was brought down by well-placed bombs, okay? The fact of the matter is, is the twin towers fell by bombs. I learned this in June. Some of the guys like the Alex Jones show, this guy has been yelling about it for years. We need to have an investigation. You know, our former mayor, Norm Mineta, who I have really no respect for, he's a homo-loving gun-grabbing baby killer, but nevertheless he didn't seem to be lying when he said that Dick Cheney whipped his head around to this young man that said the so-called plane is, you know, 10 miles out, do the orders still stand? And Mineta did not seem to be lying. You can verify this if you high-speed an hour and 18 minutes into Fabled Enemies by Jason Bermis, one hour and 18 minutes, as the testimony of Norm Mineta, who is now a bigwig and who was with Condoleezza Rice at the pentagon when that missile I believe hit the pentagon. So I want to put this on the agenda, Mayor Reed, I want you to do something about it.

>> Mayor Reed: Thank you, your two minutes is up.

>> Yes or no.

>> Mayor Reed: Your time is up.

>> That's not an answer. Can you say yes or no?

>> Mayor Reed: This is public testimony. This is not a time to make decisions, so your time is up. Kathy Brandhorst.

>> Hi, yes, hi, my name is Kathy Brandhorst, Lisa Marie Presley, Jonbenet Ramsey, John Steele, and I'm also the United States president. I just wanted to let you know, jobs are being stolen, I do, own the shopping center. We are having problems by throwing out the United States born out of the jobs. We are United States born because we work here, we live here. We work for our children. That's why we have a job here. You cannot throw us out of our jobs and steal our payroll checks either! Child molesters, yes, you're all child molesters in this city, too. You do not belong here. You need to return to Mexico. Also, I just wanted to let you know: I am now in the superior court, trial for homeless, because you are forbidding me to move into my own home! I've moved into my home five to ten days after I arrived at the little orchard. But my mail is still going to my apartment! I still live there! But you've thrown me out by putting a bullet hole in my back. The emergency housing consortium is having a hard time because they feel --

>> Mayor Reed: Your time is up.

>> They steal the houses --

>> Mayor Reed: Your time is up.

>> Okay, thank you.

>> Mayor Reed: That concludes the open forum. We are adjourned.