

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.

>> Mayor Reed: This is Rules and Open Government committee meeting for February 23rd. Any changes to our agenda order? All right. First item would be the March 1st agenda for the city council meeting. Anything on page 1? Please note the 9:00 start-time. We have more time for the labor items on the agenda. Anything on page 2 or 3? Page 4 or 5? Looking at the consent calendar reminds me, I would like to add a place holder item 2.something or other on our consent calendar agenda for the liaison to the retirement boards, to just bring us up to date on any reports or anything that's at the retirement boards, just to close that loop, to make sure councilmembers are better informed about what's happening. It would just be whatever the news might be. Yes, whatever it is. And that would be in addition to whatever else might formally be brought to the council.

>> City Attorney Doyle: Is that a 3 item, or a consent calendar item?

>> City Manager Figone: I would assume, Mayor, it's like 2.5, city council travel reports where you can report on it as needed.

>> City Attorney Doyle: So that you can always pull it off consent and have that conversation.

>> Mayor Reed: Otherwise, it would go without comment as opposed to -- the alternative would be the 3.1 report of the City Manager, we get the report every week from the City Manager.

>> City Attorney Doyle: Yeah. She does a verbal as opposed to a written report.

>> Mayor Reed: Let's put it on the consent calendar then. Anything else open 4 or 5? 6 or 7, have a note on public hearing on an environmental determination hearing someplace, I'm not sure where it is, somewhere here, there's an address, Airport Parkway and Old Bayshore Highway, should be deferred to the 8th.

>> And it already appears on the 8th.

>> Mayor Reed: Okay. Anything on else on 6 or 7 or page 8 which is the last page. I this some request for additions, excused absence for Vice Mayor Nguyen, for the council study session and this meeting due to illness. Any others?

>> Motion to approve.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed, that's approved. March 8th, we're at the agenda. Anything open page 1? Closed session start time I think we can evaluate that and see if there's going to be a labor item.

>> City Attorney Doyle: I think the Rules Committee every week is going to have to determine whether it wants labor or not.

>> Mayor Reed: So we have enough time.

>> Right now it's noted you'll see on page 4 when we get there is 9:30 but we can change that.

>> Mayor Reed: But really it's whether or not we need the extra time. This far ahead it is awfully hard for Alex to predict. Anything else on page 1? Page 2 or 3? Page 4 or 5. 3.4 is the election commissions reviews, how many?

>> Dennis Hawkins: We have six, Mr. Mayor. All six candidates received four or more indications of interest.

>> Mayor Reed: So that amounts to about an hour and a half of interviews.

>> Would that be best to hear that item last?

>> Dennis Hawkins: We are going to suggest a time certain or to be heard last.

>> Mayor Reed: Let's come back, circle back to that when we see what else is on the agenda. Anything else on page 4 or 5 or 6? I have no requests for additions. Let's go back and think about the timing of those elections commission interviews. So we'll do those in chambers or? I mean, it's just adding onto the end of the meeting, so we'll do it in chambers. It's at the end, that's one thing, would it be heard before 2:30?

>> City Manager Figone: Mayor, do you imagine 8.1 to be an extensive item? That's the UASI item. I know Deanna is in the audience.

>> Mayor Reed: That's a six-month extension. Deanna can tell us how long it will be.

>> I think a couple of meetings will inform how long it's going to be so we'll be prepared to take it to closed session. We'll be prepared either way.

>> Mayor Reed: It could take a while if we get into the issues and all the angles of it. Well, I would say just put it last. And we'll see how it goes.

>> And there is a Redevelopment Agency board agenda that day. So we could take it after that.

>> Mayor Reed: I'm trying to avoid having a 45-minute break. Because we're giving them -- trying to make it easy for them but I also don't want to have the council waiting for 45 minutes.

>> I think if we do it to be heard last I think that gives the council the most flexibility.

>> City Attorney Doyle: You can take this up next Wednesday, if you have any uncertainty.

>> I would suggest after next week's meeting.

>> Mayor Reed: We could say after 2:30. That saves them an hour. Let's consider it next Wednesday then how long those items will take. Any other changes on the 8th?

>> Motion to approve.

>> Second.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. March 1st, Redevelopment Agency.

>> Mr. Mayor, members of the committee, Gary Miskimon with the agency. We have no items scheduled for March 1st, and with the committee's concurrence we would recommend cancelling the afternoon session for the agency and if there's any agency items to be heard under the closed session or during the joint session with the city, we'd be there for that, but not a separate agenda for the agency.

>> Motion.

>> Second.

>> Mayor Reed: Motion is to cancel, all in favor, opposed, none opposed, that's approved. March 8th redevelopment agency agenda, anything on page 1 other than start time and closed session might vary. Page 2 or 3?

>> Motion to approve.

>> Second.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed, that's approved. Legislative update. Betsy Shotwell is here to give us an update on Sacramento.

>> Betsy Shotwell: Thank you, Mr. Mayor, members of the committee, Betsy Shotwell, Director of Intergovernmental Relations. Probably should be rephrased as "budget update." It seems to be the issues obviously of the day and hour. Last week towards the end of the week the senate and assembly budget committees met and passed their budgets, and the senate did vote to eliminate redevelopment out of the budget, and the assembly budget did not. They are now in conference committee mode. They met this morning for the first time, members of the senate, members of the assembly, and within the budget parameters, and which I did observe they're meeting every day, they're scheduled every day through Sunday. They're questioning today, similar to today, the previous hearings I've observed'observed do -- have lots of concerns. The \$1.7 billion questioning where that estimate has come from, versus other estimates, that some of the large cities have proposed or put forward. And there's still just a lot of ambiguity. There's nothing in writing to speak of. It continues to be that way so we proceed through these hearings. And it is likely that we'll probably see some sort of floor vote perhaps either the first or second week of March. The governor still desires of having a budget passed by March 10th, as well as the measures for the June ballot to extend the VLF sales tax income tax. But those measures of course as I've said in the past required a two-thirds vote and that would require in each house an additional two members of the Republican party in each house to get the two-thirds, if all the Democrats were to support that. So that's where we are. We're obviously continuing to work very closely with our delegation, following up on issues and questions as they come up as well as other legislators and interest groups and also looking for opportunities to provide information to the administration and the legislators. We as you know we were in Sacramento last Wednesday, with the Vice Mayor and councilmembers Kalra, Rocha and Pyle as well as Harry and Roxann and we were able to meet with all 11 of our delegation. They were very appreciative, lot of materials, lot of facts with regard to our messaging with the Redevelopment Agency's successes as well as the enterprise zone. So that's where we are.

>> Mayor Reed: The conference committee on the budget does not have anybody from our delegation on it, right?

>> Betsy Shotwell: That's correct. I noted senator Leno from San Francisco today, however, did ask some questions that I think that we've -- I know we've been also asking with regards to this \$1.7 billion estimate. And other questions as well. So there is a big city representation on the committee but you're right, nothing, no one from Santa Clara County.

>> Mayor Reed: Other questions for Betsy?

>> Councilmember Herrera: Is the enterprise zone is that included in this bill to kill RDA or is that separate?

>> Betsy Shotwell: It is included in the budget proposal of the governor and to eliminate enterprise zones so that is another front we're fighting.

>> Councilmember Herrera: That's not included in the measure that's going to be voted on by March 10th?

>> Betsy Shotwell: Oh, well, it would be in the budget package to be passed possibly by March 10th, yes, that would be an issue but how it comes out of conference committee I can't predict at this point, still fighting the fight.

>> Mayor Reed: Any other questions or comments? All right, big 10 mayors continue to work together, somewhat as a group, I think all ten of us got on a letter last week. I know there were ten logos on there, I don't know that we ended up with ten sixths but maybe in the final draft that I saw there were ten of us expressing our opposition to the proposal to eliminate Redevelopment Agencies so it's the first time all ten of us have gotten a signature on one document I think in the four years that I've been working with the big ten mayors so that was good. And of course we'll continue to try to protect our redevelopment funds and other funds that the state might try to take.

>> Betsy Shotwell: Thank you very much.

>> Mayor Reed: Anything else on legislative update? Okay, meeting schedules. We have nothing. Public record, anything from the public record? Pull for discussion?

>> Councilmember Constant: Motion to note and file.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion to note and file the public record. Mr. Wall.

>> David Wall: Good afternoon, this is in reference to item number C. This is a slight synopsis of the Public Safety, Finance and Strategic Support meeting. There was Mr. Mayor this was just an outstanding example of performance based service delivery to the community by the committee members, outstanding. The bigger issue here that Councilmember Constant raised was this workmen's compensation debacle. The administration's report was somewhat -- and let's be charitable -- light in information and helpful information to the committee, in my opinion. The discussion was extensive and I believe, though, in principle, there is no savings by contracting out this group. This group does an enormous amount of work, it's going to be required ongoing and it should be retained. What was frightening about this meeting was the transfer of the real estate assets and management from general services to the Office of Economic Development. Now, these are good people up there. I'm not going to say anything bad, every one of them's a good person. But with their track record throughout the things that they've done, I have problems. I mean, there is the adage that you could put a monkey down there in front of a typewriter and give it a million years and it could come up with a sentence. I'm not saying those folks are anything but good people, but you know, there has to be a point in time when they don't produce, something has to change. And this is in reference to Team San José, the catalyst fund, the entertainment zone and things of that nature in the balance. So please consider that before you turn these folks loose. Councilmember Oliverio did an outstanding job with reference to keeping an eye on Team San José and their already budget overruns which for my position were completely foreseeable so their bemoaning of their economic fate --

>> Mayor Reed: Your time is up. Anything else on the public record? We have a motion to note and file. All in favor, opposed, none opposed, that's approved. We have some requests to consider approval of a thousand hearts for a thousand minds events the city sponsored event by several councilmembers. Have a motion to approve.

>> Dennis Hawkins: Mr. Mayor, if I could note that the agenda incorrectly notes Councilmember Pyle as a co-sponsor. We will have that corrected on the council agenda, but councilmember Kalra, Liccardo and Rocha bringing this forward. All in favor.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. We have a request to approve district 4 committee education series as a city sponsored event.

>> Motion to accept.

>> Second.

>> Mayor Reed: Motion is to approve. I might add this city sponsorship allows the acceptance of donations of services, doesn't necessarily mean any city money will be spent. Motion is to approve, all in favor, opposed, none opposed, that's approved. There are requests from the city clerk to approve recommendations to modify the council assistant certification curriculum.

>> Dennis Hawkins: Mr. Mayor, members of the committee, yesterday I issued a replacement memo to that which was issued on Friday. But I'm bring this forward to you at this time, because there had been -- the committee approved a curriculum for the council assistant certification program in December. As staff from the City Manager's office city attorney's office and our office was working on this, we encountered some additional input from council offices that the program as it was designed was not user friendly. The meetings or trainings were to be held on Monday mornings and that presented a scheduling problem for council offices, in addition, the duration of each training was about four hours and having all the council staff obligated for a four hour period

of time was not very flexible. So we went back down to the drawing room and chunks it down to two, two and a half hour session. We're looking at scheduling the meetings on Thursdays and Fridays, which were input we received was more flexible for council staff, and we're also looking at the possibility of having the training session video recorded so that we would have the capability as new staff came on board to give them some instruction as between the sessions. So in any event we have kind of gone back to the drawing board, reconfigured the program a little bit, I think we've got a better program that's more flexible for both the council staff as well as the presentiers. I did want to note that we have laid out a curriculum in a particular order. As we're working with the scheduling it may be necessary for us to flip a session. So what we have as session 12 might actually on that week might actually be session 15 or something like that. So we're asking the committee's consideration that give us some flexibility in actually scheduling the meetings based upon staff's availability. But we think that we've tried to be sensitive to the input we've received and I think we've come up with a better product for the council offices.

>> Councilmember Constant: Motion to approve as expressed by the clerk.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion to approve. I had one question on the continuous training which is the last section. AB 1234 training I've forgotten what that is.

>> Dennis Hawkins: That's the ethics training every two years so we've put that in a rotating schedule.

>> Mayor Reed: All right. We have a motion to approve, but we have a request to speak, Mr. Wall.

>> David Wall: All in all this is a marked improvement which is a marked improvement of what was in the past. But I make couple of recommendations for inclusion. First there should be some exposure, a testing methodology for these aides to be associated with the budgeted funds guide created by Councilmember Constant. This is very important and another additional layer of oversight where programs that are filtering through may have budgetary fund overlaps, and this would be helpful to where the problem set with

examples. Another thing that's lacking but would be very helpful, time and grade at council committees. There's six of them now. It would behoove of you to have council aides spend a certain time in grade and whatever that time and grade is attending these meetings with report writings to see if they pay attention and to see what goes on this would be very helpful to you. The other third item that's not mentioned but would be very helpful would be some format of report-writing, a one pager, nothing more than a page, maybe bullet points to be decided by whoever trains and whoever has to read these things. But for everything that you folks get, a highly technical aide would be very, very helpful in navigating through the myriad of issues that are presented before you. Thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion to bravo. All in favor, opposed, none opposed, that's approved. Our next item would be committee agendas and work plans. The recommendation from City Manager to approve a work plan and meeting schedule that enables Public Safety, Finance and Strategic Support committee to hold detailed discussions about the draft medical marijuana zoning and regulatory ons ordinances hopefully for full council discussion in June 2011.

>> Councilmember Constant: Motion to approve.

>> Second.

>> Mayor Reed: Motion is to approve. Pierluigi.

>> Councilmember Oliverio: Thank you, mayor, Deanna, thanks for the work plan, and I appreciate that it notes possible pending legislation in Sacramento introduced by Tom Ammiano, or Betsy can mention what the particular title is. Because it missed the February 18th date, and also, the District Attorney will be coming out with some guidelines and as well as our new attorney general. A question for you, and I posed this in the public setting before. In the past I've mentioned that other cities have gone through this and created these items and those staff people in those dishave in-depth knowledge of managing these items for a couple of years. Where in this process do you see them you know being interviewed, being brought before the Public Safety committee or whatever, something like that?

>> Deanna Santana: We had thought about bringing back speakers, and experts in the field, that would be able to provide input and testimony that is consistent with the -- with legal interpretation provided by the city attorney's office or a medical marijuana establishment that's operating consistent with the law. We are currently scanning what recent activity has taken place by other cities to prepare whether we should bring that information to the committee. And so that is in process. When I get that information I can certainly make a determination in terms of how we advance that information, whether it's by speaker or whether by written report. We know that there's lotteries that have recently taken place in long beach and some cities haven't changed their position but I'm in process of assessing all of that. I did reach out to see if there were any particular names. We have some other folks that we've been working with, but I would need to get their availability and sequence it out properly.

>> Councilmember Oliverio: Sure, I mean, I'm picturing the event I went to at Santa Clara University where the gentleman who is in charge of it for the City of San Francisco who explained to the forum there that they manage it like in the Planning Commission.

>> Deanna Santana: Right.

>> Councilmember Oliverio: So I think that would be very valuable for the council to hear, what are the pros and cons of doing that. So I think having them live through it, they would have a better understanding versus us guessing.

>> Deanna Santana: And I thank you for that input, because since then we did start researching what's been taking place in San Francisco. I did mention to Laurel that I did want to prepare a little bit differently for the March committee meeting so that we focused a little bit more on the conditional use permit and why in the end the staff made its recommendation to proceed as we did. So we will be prepared for that level of discussion at the committee level.

>> Councilmember Oliverio: And then when I look at this information it's sort of voluminous, and some levels of complication, so that's why I'm hoping that the State would actually come through and regulate this like alcohol. But in the interim period this sort of reminds me of the sign code and we've been bringing that back to the council piecemeal where it's sort of easier to manage and understand. Do you view that as a way of managing this ordinance, or do you view it as bring back the whole boil the ocean approach to it and then the council votes?

>> Deanna Santana: The way I had envisioned was, we broke it down into three different compartments in time for budget approval by June. So we would have a detailed discussion on land use in March, go into the regulatory program in April, and then talk about the schedule of fines and the cost recovery program in May. In time so that if we need to introduce the manager's budget addendum as part of the budget then we could put that into play so it makes it into any budget consideration the council takes in June. There is one issue however with the Public Safety committee. It's a four-member committee so if it's a two-two vote where there isn't any direct recommendation, or there's a conflict in terms of the policy item, as to how it would go forward to council, then we would just carry that forward, as here was the vote and leave it for the full council to deliberate and provide input to staff. That's how I was tracking it. We won't introduce any new information because our draft is still as recommended unless we hear from the different sources you just referenced, we'll bring it forward at the time that we receive it and then as a whole we'll package it up for a June presentation so that the council can approve it as one. Because they're rather integrated, as you well know that the land use policy does inform the regulations as the regulations inform our land use policy. So we want to receive input, package it up for June and follow with the budget action if necessary.

>> Councilmember Oliverio: Okay, thank you.

>> Mayor Reed: City Manager had a comment.

>> City Manager Figone: Just wondering because the councilmember and I had a chance to talk earlier, how the District Attorney's legal analysis might play into this in particular, as relates to who we might bring in as panelists. And so just kind of posing the question to get your perspective, councilmember or Deanna's.

>> Councilmember Oliverio: No, it's in a memo about managing the District Attorney's potential guidelines as was the press release I believe a week and a half ago. So I think many of us are curious to see what those guidelines are. I won't state what I may have heard or urban myth, I'll just wait to have him make those guidelines or proposals.

>> Deanna Santana: We are waiting to determine what's the full universe of legislative items that we'll need to track as part of this process as well.

>> Councilmember Oliverio: Mayor if I may ask one more question for Rox Roxann.

>> Councilmember Oliverio: The way I read the memo --

>> Mayor Reed: For Betsy to ask Roxann in.

>> Betsy Shotwell: I'm sure she's listening.

>> Councilmember Oliverio: Has that terminology met the deadline or miss it?

>> Betsy Shotwell: Well, actually the research we've done as of yesterday, because the bill deadline was on Friday, which means that not everything is on line yet, was the assembly member cannot introduce a bill to my knowledge on that introduced a bill dealing with the regulatory practices of medicinal marijuana dispensaries, the terminology escapes me, but it was directed towards to medicinal marijuana dispensaries. If he did do that other, additional item, I'm not aware of it yet. And Roxann has been working on getting any backgrounds she can on that.

>> Deanna Santana: I was going to mention I have not seen any state regulation bills from Ammiano. We do have a Senate Bill Number 847 that talks about the state licensing all the different medical marijuana

establishments. We're evaluating that as well as looking for any other items that would integrate with the work that we're proposing.

>> Councilmember Oliverio: Okay, thank you.

>> Betsy Shotwell: And there may be spot bills that work their way through the process and --

>> Councilmember Oliverio: Maybe offline you can speak with me versus taking up time here.

>> City Attorney Doyle: Mayor, just sort of I think it's stating the obvious, but as we have said all along this is a moving target and it cries for some kind of comprehensive regulation out of Sacramento. I think people are hoping the attorney general is going to give additional guidelines. I think people are hoping the District Attorney is going to issue something, and there may be legislation, but I think in the meantime we're going to do the best we can given the current state of the law recognizing that things can change overnight on some of this stuff. But that's really sort of the difficulty getting our arms around this things.

>> Mayor Reed: Speaking of the attorney general, were there guidelines issued by currently California Attorney General Kamala Harris when she was in San Francisco?

>> City Attorney Doyle: I don't know if there were guidelines. That's where people are thinking she may be heading but it's hard to speculate.

>> Mayor Reed: And the revised guidelines that are rumored are just rumors. Nothing from the attorney general's office saying they will or won't. Maybe they will, maybe they won't. Anything else on this motion to approve? All in favor?

>> Deanna Santana: Just a last comment. We are in the active process of implementing the marijuana business tax. We are meeting with the medical marijuana establishments on the 28th, we will hold an info session on the

elements of the tax. So that March 1st we will begin holding them accountable for the collection of that tax. That is also a moving piece.

>> Mayor Reed: Rose.

>> Councilmember Herrera: So just getting back, I'm not totally up to speed on this as it stands right now, but as part of that discussion will that include looking at dispensary versus collective? Is that going to be looked at in the public safety committee?

>> Deanna Santana: In our report we will introduce the difference between a dispensary and a collective and what we understand the law recognizes as a legal activity which is collective. And so we can provide that information during the April session which is when we'll take up regulations.

>> Councilmember Herrera: So any of this new allocation we're talking about coming from the state or looking at possibly the District Attorney's interpretation is that going to weigh in on that this collective versus dispensary or do you have any --

>> City Attorney Doyle: It may.

>> Councilmember Herrera: I guess that's my concern.

>> City Attorney Doyle: It may.

>> Councilmember Herrera: Collective was the entity that was really recognized and what we have here in San José are dispensaries so something to be legal --

>> Deanna Santana: There are a lot of terms out there and the term we've used, by law is collective or cooperative.

>> Councilmember Herrera: So I guess going forward I'd like to see that ironed out and I'd like to see us have whatever form if it's going to happen here that would be a legal form, and I'd be very interested in how we're going to take the 110 or 100 or whatever we have and turn that into a much smaller subset of legally operating collectives.

>> Mayor Reed: Anything else? We have a motion to approve the recommendation, all in favor opposed, none opposed, that's approved. Our last item would be the open forum. Mr. Wall.

>> David Wall: Yes, sir. First issue is the airport commission meeting scheduled for Thursday. It was scheduled for City Hall now it's out at the airport. I don't understand why. First of all I think it's burdensome and oppressive to have to go out to the airport I mean all the people involved versus having the people come here, only a few people from the airport. Second thing comes from all these different communication people you have throughout the city. Mr. Mayor, you have one, City Manager has one, the airport has one. I'd like to propose an idea for you Mr. Mayor, I think you talk pretty well by yourself and I think the City Manager also speaks very well by herself. And I don't think these positions are especially needed when you were just out in that press conference, you did an outstanding job. Nobody was there prompting you with little cards or anything. So I think you should think about that position on your staff as either a firefighter or a police officer, or an attorney or an auditor. They're far more valuable than the person that's funded in that position. Now we go back to this environmental innovation center. I keep looking at this funding business. Now, I may be a little negligent on reading my budgeted funds guide created by the honorable Pete Constant. Fund 423, I don't know how you could run a balance or make a profit off of garbage. If you can, I think I mean \$6.6 million roughly from that fund alone going into this program, and then the environmental services funding for the household hazardous waste facility from the residential utility ratepayers of \$3.5 million, and the hidden cost, there's no FTEs here for people designed to collect the fund, nothing from the attorney's office who has to oversee this fly by night process to begin with. This thing really should be cancelled but if it's not -- if it's going to go forward, the funding should really be explained. A lot better. Plus, the attorney's office should certainly get a nice chunk of this change for having to cover everybody's rear ends on this really -- this is a salvage program. And you're not going to make any money off of it.

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