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>> Mayor Reed: Good afternoon. I'd like to call this meeting to order. This is Rules and Open Government Committee meeting for January 4th, 2012, the happiest meeting of the year because everybody is so happy to be back from that long break where we didn't have any Rules Committee meetings or any other meetings for a while. I know the staff is glad we're back so there's somebody who can read the papers that they have to put together for us. Any changes to the agenda order? On today's agenda? None. All right, then let us start with the January 10th agenda. Any changes, comments on page 1? Page 2 or 3? Page 4 or 5? Page 6 or 7? I have a question on item 3.4, the marijuana business tax. And we'll come back to that when we talk about the clerk's memo on the certificate of sufficiency of referendum petition to repeal the ordinance on marijuana, try to get all this moving at the same time and the same place, so we'll come back to 3.4. Anything else on 6 or 7? Page 8 or 9? I have some requests for additions. We have some items to add that are listed on the agenda regarding Vice Mayor's absences for council meeting and committee meetings. African American history month flag raising event, ceremonial item, and then some requests for other additions, presentation of commendation to Jim Crawford, request for excused absence for Councilmember Constant for some retirement board matters, and the addition of an agreement with the San José Police Officers Association.

>> City Attorney Doyle: Mr. Mayor, on that item, the memo was posted on December 22nd. But the legal document, the resolution has not been posted and we will need a sunshine waiver.

>> Mayor Reed: Okay, and a certificate of sufficiency of a referendum petition to repeal ordinance number 28960, which is the marijuana ordinance. We'll need a sunshine waiver for that, because it's kind of short between now and the meeting and question is, do we need the to take this up on the 10th or can we defer it all to January 24th, let's talk about that.

>> The certificate of sufficiency, the elections code 9115 says it feeds to be accepted at the next regular council meeting. But it does not say action needs to be taken. But the certificate of sufficiency needs to be accepted.

>> Mayor Reed: So there are two recommendation items on here, A is to accept the certificate and B is to refer staff for further analysis and options. We can do that without setting a date that it comes back to council presumably.

>> City Attorney Doyle: You can do that or discuss it open next Tuesday it will, if it's before March 6th.

>> Mayor Reed: March 6th is the date on which you have to send something to the registrar. What I'd like to do is figure out how we can tie this discussion and this decision making with the recommendation for the change in the marijuana tax. I think we ought to at least keep them moving along together. So the marijuana tax is on the 10th agenda.

>> City Attorney Doyle: Mr. Mayor, that's the first meeting for the discussion of the marijuana tax. Prop 218 requires that you hear it twice. So after the first and then you set a date for the actual public hearing on it. You can decide that you know so you can have a co-terminus and maybe direct that to come back at the same time.

>> Mayor Reed: So if we were to change something on the marijuana business tax item 3.4 B, is to direct staff to prepare an ordinance and bring it back, hearing on January 24th, we might want to change that date, or say at a date to be determined?

>> City Attorney Doyle: To be determined, we have to comply with noticing requirements but I think we'd have sufficient lead time.

>> Mayor Reed: Okay, because if we're not going to hear this on the 24th I don't want people to get focused and wound up around the 24th. If we change the agenda language on 3.4 B so that's not a specific date so it matches the language for the referendum petition.

>> City Attorney Doyle: No later than March 6th.

>> Mayor Reed: Yeah.

>> Councilmember Constant: Mayor, would that affect the March 1 effective date that we have here as well? So should both dates be to be determined? .

>> City Attorney Doyle: I think we don't have to have the effective which date. I would need to say come back --

>> Mayor Reed: Rick prepare an ordinance.

>> City Attorney Doyle: And when we come back we'll have that information.

>> Mayor Reed: Okay. Then, I guess on Tuesday, we would talk about how much time we might need to put something together in the way of recommendations for options or something like that. So we've got the outer date of March 6th. So maybe by Tuesday, we'll have a better idea of when we could bring this back. And if we do it then we can just -- staff can make a recommendation on Tuesday that it's some date in the future, if we can pick a date. Okay? Anything else on those items? I have one more request for application for federal water smart grant for northern regional interphi, to South Bay water recycling system. We need a sunshine waiver on that. That's a recommendation, to submit an application.

>> Councilmember Constant: So I'm ready to take a stab at a motion then.

>> Mayor Reed: Were there any other additions? We already mentioned the POA agreement. Did I get them all? I think so. Mr. Constant.

>> Councilmember Constant: Mr. Mayor I'd make a motion that we approve the agenda as amended which includes the adds under 1A, and the add sheet, with the sunshine waiver, as needed for the POA agreement, the certificate of sufficiency, and I think that was it.

>> Councilmember Oliverio: Second.

>> Mayor Reed: All right. We have a motion to approve as amended with the sunshine waivers. (inaudible).

>> Mayor Reed: I'm sorry?

>> Is there a card under (inaudible).

>> Mayor Reed: We do have one request to speak on this item. Let's take that now. Mr. Wall.

>> Good afternoon. And welcome back to the Rules Committee all of you. It's good to see that you're back in good form. Mr. Mayor, item 2.7 on the consent calendar, should be deferred pending an investigation by counsel. With reference to having to, first of all, have a contractor screw up so badly with fire station number 19, that they accrue \$440,000 in liquidated damages. Number 2, for this same company, applegate Johnson, to participate in the environmental innovation center, with reference to obtaining a \$4.5 million loan from the new markets tax credit lenders, not having the required insurance and/or bond requirements, therefore, the company says to the City of San José, whatever they say, waive the \$440,000. We'll get the insurance and the bonding. You can get your \$4.5 million loan from the new market tax credit lenders to go forward with your environmental innovation center which you have been warned sir many times financial instrumentality is very complicated. Subsequently, to all of this, the same company applegate Johnson lands the \$11 million contract for the environmental innovation center plus two addendums for over \$11 million. So I would think that since this \$440 million is coming from two different funds, that have no restrictions on them as far as liquidated damages coming into the General Fund, you should stop this dead in its tracks. This is very bad business, Mr. Mayor. In addition, there's some very tough explaining to do from the City Manager's point of view why they didn't line up a contractor that had the financial instruments to begin with, the bonding and insurance and point 2, if they screwed up so badly with reference to the fire station number 19 --

>> Mayor Reed: Sorry your time is up. We have a motion to approve with amendments and sunshine waivers. All in favor? Opposed, none opposed, this happens. January 17th there is no meeting due to the holiday on the 16th. Redevelopment agenda for January 10th, nothing I believe.

>> The agency has no items at this time.

>> Mayor Reed: Okay.

>> Councilmember Constant: Motion to cancel the RDA meeting.

>> Councilmember Oliverio: Second.

>> Councilmember Constant: Wonder if there's any joint items on closed session?

>> City Attorney Doyle: There will be. There will be a closed session item.

>> Mayor Reed: Okay. The motion is to cancel the regular meeting and leave the closed session joint items on. All in favor, opposed, none opposed, that's approved. January 17th again no meeting. Upcoming study session agendas I think our next date or dates includes January 30th, as a potential study session item, and I'd just like to refer staff the possibility of having an IBM analysis of some of our departments that they've been doing on a pro bono basis for a while, possibly January 30th is a good time to do that. Legislative update, state or federal, nothing, no news is good news. The legislature is back in session today I think.

>> Councilmember Constant: Mr. Mayor?

>> Mayor Reed: Yes.

>> Councilmember Constant: Going back to the study sessions, didn't we have a date reserved on the 17th and if so, shouldn't we be cancelling that? I at any time think we ever cancelled that date so people can free it up in their calendar.

>> Mayor Reed: January 17th, I don't think we've cancelled it. That was just a date reserved because that was a Tuesday without a council meeting. We have no study session. We think -- do we want to wait a week or we just go ahead and do that?

>> Councilmember Constant: Personally I'd prefer to delete it before the vacuum fills up.

>> Mayor Reed: You want to make a motion?

>> Councilmember Constant: Motion to cancel.

>> Mayor Reed: Motion is to cancel the January 17th tentatively scheduled study session. All in favor, opposed, none opposed, that's approved. Meeting schedules, anything else on meeting schedules to talk about? All right the public record? Anything from the public record the committee would like to pull for discussion? I have one request to speak, Mr. Wall.

>> Item number C is a letter from that O'Connell, chair of the senior citizens commission, please review that and take the necessary actions that you see fit. Item number D, this is basically a commendation and thank you letter to Mr. Michael Hannon of code enforcement. He's served the city for at least 26 years. He's done an outstanding job in my neighborhood that I can personally attest to with this declaration. Please take the necessary efforts in a timely manner to convey my thanks and the thanks of a grateful city for all the years he's put in and give him goodwill and good wishes. Since he's retiring I believe. Thank you.

>> Councilmember Constant: Motion to note and file.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion is to note and file the public record items. All in favor, opposed, none opposed, that's approved. Boards commissions and committees, approval of the advisory commission on rents, work plan for fiscal year 20112012 and 2012-13. And approval of the mobile home advisory commission is that for two years?

>> Councilmember Constant: I think A is for two years too.

>> The typical year we're currently in so that work plan terminates June 30.

>> Mayor Reed: Okay so they're all through the end of the fiscal year so we're looking at reorganization of commissions and committees so we've been doing short work plans until we finish that work.

>> Jessica shiner with the housing department. The advisory commission on rents and the mobile home advisory commission are for 18 months and this was done to get us on track with the fiscal year. But with the understanding that if there's changes in the commissions, we will have to re-look at that.

>> Mayor Reed: Okay.

>> Councilmember Constant: Mr. Mayor, that's what I was going to point out. I think on those two items we should approve like we did with the previous commissions, approve the work plan until the end of the fiscal year and then the following 12 months can come in cycle if those commissions stay.

>> Mayor Reed: Okay. I have one request to speak. Mr. Wall.

>> My comments are directed to the first two items, one on rents and one on mobile homes. Both may have the similar issues. In none of the work plans have they addressed the issue of the sewer service and use charge, the storm drain charge and garbage pass throughs. And what I mean by pass throughs is the property owner gets the

taxes and then passes through these costs to the people that rent, especially in the mobile home parks, as a -- that's not covered under the rent increase code. And this issue has been brought to you several times before by several other people that have been directly affected by this and therefore the absence of these issues in their work plans is very alarming and I think that you should address it since you've been made aware of it on several occasions. Thank you very much.

>> Mayor Reed: Okay, I also failed to mention the library commission report and work plan, we can take all four of them at once. Anybody else want to speak on any of these work plans? That was the only card I had. So this motion contemplates all of the four of them through the end of the year. All in favor, opposed, none opposed, those are approved. All right we have a series of items under H. So first one is a referral to this committee from the December 13th council meeting regarding, Councilmember Rocha has a memo on evaluating the various means in which the city can ensure that basic vacation sick leave and holiday benefits are provided to contract employees, et cetera. So start with that one. Councilmember Rocha was here. You want to come up and speak to the referral, Don?

>> Councilmember Rocha: Thank you, mayor, actually didn't have any statement to make. It was basically watching the Rules committee action, based upon my motion. I'm happy to answer any questions.

>> Mayor Reed: Councilmember Rocha has two things, evaluate various means, and then determine some industry norms. And I'm trying to figure out a relatively simple way to do this without having the staff do lots and lots of evaluation and study trying to find out what industry standards are, which may be necessary, but one of the things that I think Councilmember Rocha either suggested in a council meeting or in the memo, was that when we do the evaluation and award points for various things in the bids, could we have one in there that has points associated for benefits? And I don't remember if that was in the memo or in the meeting.

>> Councilmember Rocha: Yes that was in the memo first.

>> Mayor Reed: Seems to me if you were to do that then you wouldn't have to decide what the minimum is. You wouldn't have to decide what the requirement might be. You'd give the one with the best, you know, the most points or something like that, and I don't know if that's something that fits within the work, the staff usually does, adding another category in which they're evaluated, and just objectively ranked and whoever gets the highest ranking gets the points or something like that, as opposed to trying to decide what the number should be, and then applying that to everybody and either did or didn't do that. So I'd like to hear if staff has any comments on it. Taking a look at that points issue first.

>> City Attorney Doyle: And I would like to just interject that I think the threshold question is, what can you legally do. RF of course, absolutely, that's always.

>> City Attorney Doyle: And depending on that decision or that opinion it's then left with how you implement. How you go about doing this. We are in the process of researching this. I think within the next 30 days or so we should be able to come back with something more definitive preliminarily, we are aware that other cities do factor these in but I think in the interest of simplicity I think we would like to see and I'll let the City Manager speak to how that -- assuming,000 that we could do something how it could be implemented.

>> City Manager Figone: Yes, again subject to the legal research, the simpler the better, mayor and committee members and Councilmember Rocha. Because if we get into the design of the system, you know, and that would include the city determining the accrual rate, when does the accrual kick in, like with our own workforce, for example, no one under 20 hours a week has any benefits. Will we determine whether or not the contractor should be applying you know, this level of benefits to part time versus full time? And so it can get very, very complex. So I think subject to legal review, if there was just a straightforward awarding points, we would still need some criteria, probably if there was going to be some sort of weighting, we'd have to take a look at that and see what would be the simplest most straightforward. But again, the council would have to be satisfied with not going any deeper than that award of points, and accepting what the contractor has to offer.

>> Mayor Reed: Okay. So Rick, you thought within a month you'd be able to tie down the legal issues? Because we don't want to go down a direction that's not going to work.

>> City Attorney Doyle: Yeah, I think by the end of January is our goal.

>> Mayor Reed: So if it comes back to Rules then by the end of January?

>> City Attorney Doyle: February 1st will be a good target.

>> Mayor Reed: Okay, Councilmember Oliverio.

>> Councilmember Oliverio: Rick or for the head of procurement, when we oftentimes have sewer work done in the city we issue a contract for work completion, based on bid or prevailing wage. No circumstance we do not get into what are the benefits for the actual, how many paid holidays you have, et cetera?

>> City Attorney Doyle: No and those are competitive bids per the charter, those are Public Works projects. So you have a process where you have to award to the lowest responsible bid, now the prevailing wage sort of factors in certain benefits, what exactly I don't know. But that's -- you're subject to prevailing wage.

>> City Manager Figone: It would typically be the service contract, maintenance typically is one area where the third tier review comes into play.

>> Thank you.

>> Mayor Reed: Pete.

>> Councilmember Constant: So I'll make a motion then that we refer this to the city attorney's office who will work with the City Manager's office and then return to us somewhere around 30 days or so.

>> Councilmember Nguyen: Second.

>> City Attorney Doyle: February 1st would be our target.

>> Mayor Reed: February 1st the target date for the motion. Councilmember Rocha.

>> Councilmember Rocha: If I could ask, the analysis you're going to do is purely on the legal side, there is going to be no additional staff work from the City Manager's side on the approach on this or are we simply going to start there?

>> City Manager Figone: We could do some scoping the simplest end of the spectrum for example with the city not establishing the threshold but just looking at awarding points for the benefit structure. Up to the most complex which would be the research of industry norms and designing the system ourselves. So I think we could book end it for you and give you a sense for scope and complexity, that way there if it's very complex, I would say that I would recommend that you then put it in the prioritization mix. If it's relatively straightforward and council can live with the simpler approach then that prioritization may not be needed.

>> Councilmember Rocha: That's perfect, that's exactly what I was trying to get to. I don't want the simplest to drive whatever we decide to do. I'd like to look at another alternative and if it does require significant staff work it does go to the prioritization process, that's generally why I was asking.

>> Mayor Reed: I have one request to speak, Mr. Wall.

>> I appreciate Councilmember Rocha's big heartedness, really I do sir. But from an economic standpoint, operational standpoint this cannot proceed. Unless of course you do away completely with the living wage and prevailing wage completely. You have one policy you deal with contractors, secondarily, the way estimates on budgets are done if there's carryovers or accruals this is an accounting nightmare that is also goes directly with

cost savings. If you want to do away with city employees which is not in my opinion a very good policy to proceed, then put the onus on the contractors to maintain their own employee base. And quit giving away benefits that cost the city money. That could go into other areas that the city has to have. Such as Police and Fire. Versus creating a third like the City Manager would say I believe, a third tier of employees. This is not a good idea not even to study. It should be just killed outright here at Rules. Thank you.

>> Mayor Reed: That concludes public testimony. We have a motion as staff has previously described. ,
opposed, none opposed, that's approved.

>> Councilmember Rocha: Thank you committee.

>> Mayor Reed: Number 3 on the list of is to consider recommendations from the California disclosure act. We have a memorandum from Councilmember Chu and Kalra. Only one is going to get to speak I believe based on the Brown Act rules. Since this was the council meeting. Looks like Councilmember Chu drew the short straw and he has been chosen to speak.

>> Councilmember Chu: That's right. Thank you very much, mayor, and Happy New Year. I'm here to recommend that Rules Committee place an item on the future city council agenda to adopt a resolution supporting the California disclosure act. The California disclosure act, authored by assembly member Julia Brownlee, would require full disclosure in the advertisements themselves of the largest major funders of all political television, radio, print, mass mailing and online advertising. Ensuring transparency is a crucial first step in the decision of assisting voters make informed decisions. Every voter deserves to know who is paying for political advertisement, many cities in California have endorsed the California disclosure act. Cities like Los Angeles and Berkeley, and I understand the City of Oakland and Santa Cruz are considering similar action. Where there has been much discussion in this county of Santa Clara, regarding to the California disclosure act, the City of San José would be the first city taking a formal stance. In the spirit of having an honest and open government, the California disclosure act promote transparency, ethics and accountability. And I understand from their Website, we have one two three four five six seven eight of our councilmembers and City of San José are endorsing this disclosure

act. So at this time I respectfully request the Rules Committee to support this recommendation. And understand it may be a burden to the staff so I also would ask the city attorney's office to prepare the resolution in the most simple and efficient way. Thank you.

>> Mayor Reed: Okay. I have some people who want to speak on this. I had a couple of questions before we get into that. I'm curious, I think we need to refer this to staff to do a little work on it. Question I have is, I have a vague recollection that we have some city ordinance requiring disclosure on that. And I want to make sure that this doesn't step on waiver the state's doing, they don't somehow step on what we're trying to do and occupy the field or whatever it might be that might interfere. And so when this comes back I'd at least like to know that our ordinance wouldn't be adversely affected. I thought there were already disclosure rules because I do know there are some state rules about committees that I've been on that have to disclose their funders and put their names in the title. So I'm curious as to how this changes the existing state rules. And then the last question was the timing of this. I'm assuming the legislature's going to get to this when it gets to it, it's probably, I don't know if it's a two year bill, I guess it is. But it's not something that needs to be done in a week, I believe.

>> City Attorney Doyle: I think we would work with City Manager's staff on the bill analysis. And I think as part of that analysis, it would answer the various questions, how it might impact the City's measure if at all, how it would change current law.

>> Mayor Reed: Okay, because staff does a pretty good job of letting us know who's in favor, who's against, and does the standard analysis. I'd certainly like to have the council to have that when they're making a decision like we do on other things. Betsy, do you want to talk about sort of the legislative process, and where we are timing-wise?

>> Betsy Shotwell: Thank you, mayor. Betsy Shotwell, Director of Intergovernmental Relations. I just wanted to state that it is a two-year bill, we're in the second year of a two-year session. Has to get out of the house of origin by the end of January. It's still in its first hearing or first committee, I should say in its house of origin. That's a time frame.

>> Mayor Reed: It has to pass out by January. They are going to vote on it some time --

>> Betsy Shotwell: January 31st. There will be further commentary from the public.

>> Mayor Reed: So if we refer this to the staff, we have a council meeting, rules committee meeting, we're off a week, the 24th is the first effective date we can get it on, they still take action on it before the end of January. Anything else? Pete?

>> Councilmember Constant: Just a quick comment. I've mentioned this before. I think any time we're doing, taking an action to support or oppose an issue we should always have staff give us the full analysis like the ones Betsy gives us in the regular course. So I do support sending it for that analysis so we can get it on the council agenda.

>> Mayor Reed: We'll take some testimony. David Wall.

>> Want to read a sentence into the record. "AB 1148 the California disclosure act authored by assembly member Julia Brownlee, would require full disclosure and the advertisements themselves of the largest major funders of all political television, radio, print, mass mailing and online advertising, for and against ballot measures and for independent expenditures for and against candidates, period close quote. Part of the analysis is what they mean by the largest major funders, at all, be it political, whatever it is. The major funders. I would think that it should be modified to all funders myself. Lastly I want to congratulate Councilmember Chu and Councilmember Kalra for taking the lead on this in our city. This is very important. There's been way too much shenanigans from that Supreme Court ruling that allows unlimited contributions and no way to track them. Thank you.

>> Mayor Reed: Joseph Rosas. Followed by Jerry Hunt.

>> Good afternoon, committee, mayor. Vice Mayor. And fellow Californians. I come before you today as a member of the occupy movement, common cause California, and a descendant of California patriots who fought for our independence and the formation of our Californian republic. A proud result of our collective thirst for democracy is our ballot measure process which has resulted in landmark legislation that has earned our state substantial prestige. This process has been under systematic attack epitomized by the citizens United ruling, by out of state organizations to enact detrimental legislation that would be too controversial to pass through conventional means. The disclose act is only the beginning in our fight to preserve our right to know who and what organizations support any legislation going forward. Your constituents are ready to be proud of you, council, and officially supporting the California disclose act is a simple step to restore the pride and national recognition of San José.

>> Mayor Reed: Jerry Hunt.

>> Good afternoon, sir. Thank you. The citizens United case was decided two years ago by the Supreme Court. And it deregulated noncandidate independent expenditures. So any expenditures by candidates is still regulated. But unregulated -- well, independent expenditures are not regulated, and there are no requirement for disclosure. So they can spend as much as they want without any identity. So we want to have all disclosure of all independent expenditures, especially the top three funders, to be disclosed. That's what AB 1148 is all about. So thank you.

>> Mayor Reed: Greg dunkerly.

>> Thank you, Mr. Mayor and the committee members. The California disclose act, citizens United case did two things which we think are detrimental to our democracy and I'm here on behalf of California clean money campaign. One, it allows corporations to spend as much money as they want directly from their corporate treasuries, on independent expenditures. The second thing that the decision allows is for them to do that anonymously, to limit or stop the spending is probably going to take a constitutional amendment, that's going to be a longer process but in the meantime what the California disclose act wants to do for California elections and

also help reinvigorate the federal effort to do the same thing is to bring some transparency to this whole process and do something about the anonymous part of the corporate spending that is allowed by that decision. The -- the current disclosure requirements only reflect candidates to address your question Mr. Mayor, and in general disclosure requirements that we currently have are some Website or at the Secretary of State's office or whatever. This disclosure would be in the ads themselves so that voters know who's paying for the ad and who's trying to influence their vote. There's also language in the bill that helps to pierce down through the different levels so you don't get something like paid for Californians for a better America. Yet the language requires them to drill down and list the top three funders. Urgency is the timing. Our first hearing is in Sacramento and the assembly is next Monday, it's got to be out of the assembly and passed by the end of the month. Currently supported by league of women voters, California common cause, California Democratic Party is also endorsed this ind of disclosure last July, at their e-board meeting, has also been endorsed by the progressive caucus, the environmental caucus, the Chicano Latino caucus, our local county DA Jeff Rosen has endorsed the bill. In terms of labor we have the endorsement of the California nurses association. It does affect local elections, by the way, so we do think it is of some interest to San José.

>> Mayor Reed: Sorry, your time is u.

>> Thank you very much.

>> Mayor Reed: Cara, she will be followed by David Icebalk.

>> My name is Cara resident of San José, member of the (inaudible) AB 1148 is a proposal to allow democracy to happen effectively in California, by simply requiring disclosure of major financial backers. The abuse of paid political influence must stop. And AB 1148 is a step in the right direction. Thank you.

>> Mayor Reed: David icebach followed by Kyle Hagerty.

>> Thank you, Mr. Mayor.

>> Mayor Reed: You know, I'm a little bit worried about that right now.

>> Mayor, members of the --

>> Mayor Reed: Hang on just a second. It seems to have cut itself off there. There you go, now we're working.

>> Thank you, mayor, city council members. Thank you for this opportunity. I have been very much concerned about citizens United versus the federal election committee. What actually happened is that it destroyed the McCain Feingold act, and the only thing it saved in it was the disclosure feature. And here we are with the super-PACs out there running collecting money without any notice to anyone about who is spending, who is making donations, and how much they are going. An example of that, and a point was brought up here that I thought was very important. We have received, in the past elections, various names of groups or PACs that just say the group or PAC. And unless you know who they are and who they represent, this is not a good feature. For instance, who can say anything against American crossroads? Well, that is run by Carl Rove of president bush strategy fame. And he alone hit that particular superPAC for the elections of 2010, collected about \$28 million. They are now aiming for this year, 2012, November, and he has collected in the area of \$240 million. His goal is \$250 million. So however, he refuses to say who the donors are and what -- where all this money come from. So the super-PACs in this last go-round with Republicans fighting Republicans, these super-pacs which have no control -

>> Mayor Reed: Sorry, your time is up.

>> Have \$240 million.

>> Mayor Reed: Karl Hagerty and Sean Cartwright.

>> Hello, Mr. Mayor. AB 1148, will help people make a decision based on who's financing it similar to how proposition 16, 17 and 23 have been defeated in the past. People need to know before they vote if they don't know, they are not really making a decision based on logic or anything in reality. So that's why I'm here talking to you today. Thank you very much.

>> Mayor Reed: Sean Cartwright. That's the last card I have on this. If anybody else wants to speak, get your card in now.

>> Hi. As a member of occupy San José who has been cited for exercising my right of free speech I'd like more you to support the disclose act. Financial transparency is economic free speech. When people know exactly who is supporting what's on their ballot, when they know that something is not a grass roots organization but it's actually an astroturf organization, when they know it's actually big business or it's actually just some person who has millions and billions of dollars to be spending on something that it isn't just some small organization supporting something then they're a more informed voter. And as soon as that what everybody wants, a more informed populace to be actually voting? Nobody wants people voting when they have no idea what they're voting on, whether it's the issue whether it's the group or whatever it might be. Everybody wants a smarter society and a society that's more informed and I'd like more you to do the right thing and follow my home land of L.A. and do the right thing and support the disclose act. I'd be much more proud of you than I am right now.

>> Mayor Reed: I have one more card, I'm having a little trouble reading the name but it's Sean.

>> Cheyenne.

>> Check, city council members, committee members, Mr. Mayor, San José is a top ten large city in America according to census results. There's no reason why we shouldn't be able to endorse this disclose act or at least have the city council vote on the measure because mainly voters need to know what they're voting for, who's the major funders of any political ad on TV, radio, newspaper, anything. With business United, that's stopped, we have any hijacking our democracy, at least on a city level where democracy trickles down. We should have the

city council the right to vote on this because I know a lot of people a lot of residents in our city want to support this statewide and hopefully conveniently a constitutional amendment. Fleece take this for a vote, I would appreciate it.

>> Mayor Reed: That concludes if public testimony. Do we have a motion to defer this to staff?

>> Councilmember Constant: I didn't say it in the motion, so I'll say it in the motion, try to remember what I said, we'll refer it to staff for analysis and place it on the council agenda to vote.

>> Mayor Reed: Council agenda January 24th would be the council agenda.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Okay we have a motion to refer this to staff to do their usual work. All in favor, opposed, none opposed, that's approved. Items 4 and 5 are special events approved.

>> Councilmember Oliverio: Motion to approve. Both.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion to approve both the district 4, 2012 thank you volunteer event and the prebusiness startup seminar resource fair. Both of which would allow us to collect contributions from the private sector on these events among other things. On the motion, all in favor, opposed, none opposed, that's approved. Item 6, request to put on the council agenda resolution to give notice to cities intention to terminate its contract with CalPERS and take some follow-on action. Councilmember Constant, that's your memo.

>> Councilmember Constant: Thank you, mayor. This memo is a follow-up to a previous memo that was approved by the council to analyze and look at the options we have in relation to the CalPERS contract for the city

council and mayor's pensions. The only question I really have before I make my motion is to the city attorney's office. Lisa would bringing this back to the 24th meeting give you enough time or do you need to go to whatever the next one is?

>> Lisa Herrick: 24th should be fine, thank you.

>> Councilmember Constant: Great. I'd like to make a motion then that we put this on the January 24th meeting and have it come back with the resolution for the council to consider.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Okay so we have a motion. As I understand it based on the city attorney's memo, of December 15th, that we start this process by adopting a resolution. And that goes to CalPERS and then they do whatever they do, send it back to us and then we can decide whether or not to take action.

>> Lisa Herrick: That's correct.

>> Mayor Reed: Based on what their analysis is. But they're not going to give us the answer unless we do the resolution first.

>> Lisa Herrick: That's right.

>> Mayor Reed: Okay. I have no cards on this. Right, I have a motion to put this on the agenda for the 24th. All in favor? Opposed? None opposed, that's approved. Number 7 is a request from Councilmember Oliverio, to direct the administration to take -- look at utilizing volunteers to help augment library work, et cetera. Councilmember Oliverio do you want to speak to your memo?

>> Councilmember Oliverio: Thank you, mayor Reed. The memo is to start the dialogue to allow us to have the conversation on what roles and value volunteers could add in our libraries. My motion will be to refer this to staff. To really sit down with Jane Light, obviously these items meet trigger meet-and-confer, and really come back to the Rules Committee with what is the value -- what is the value that volunteers could provide in the library that they are not able to do at a. The reason for the urgency is this. We are continuing to have less library hours and less daze of operation with the current model. The kindergartener service we do provide when we are able to provide it is excellent. Jane Light has done a great job of automating and offering technology where it's allowed us to stretch limited dollars. But in the end those limited dollars have their finite end. I would prefer a librarian to staff a library but the alternative is what we have today which is closures. Libraries open up half a week, four libraries in four separate council districts that aren't open today with a fifth one being planned. And it seems to me that if volunteers could take over some of the responsibilities, that could be delineated to people that do not have a library degree, would there be value there? Could they help, in worst case, retain hours that the libraries are currently open, or, at best, could they augment to where a four-day week library could be open four and a half, five days a week, et cetera. Those are the options. What we're faced with right now is we still have a budget deficit. There's no money that's going to come from another department while we're trying to maintain police staffing and the idea is that if we have to take a \$2 million cut which is the proposal currently, that directly affects library staff, because those \$2 million in cuts will be layoffs. And that is going to be a problem. So my proposal is to maintain what we have but simply add value by allowing volunteers to step up. Four years ago we talked about allowing volunteers to have a more active role in the parks. That was a discussions which everyone thought would not work. You know, volunteers, there's no way volunteers could mulch weed or trim a rose, and guess what, over time they found that they could do a good job. And we have now the number one rose garden in the United States because we allow the opportunity for volunteers. We do have volunteers today in the library but they offer value-added programs as far as teaching people to speak English, literacy skills. But they don't offer, have the opportunity to offer their volunteer hours to help augment to keep the library open longer. So I think that's what we really need to examine. You know, going back to the rose garden, this Saturday I'll be presenting commendations to two individuals who both have put in over 2,000 hours volunteering into the park. So I believe there's the opportunity that has been untapped. We do have the friends of the library. The friends of the library although their deeds are excellent they're only tapping a small portion of the total availability population. People volunteer for a

variety of things in this city and so some people because of physical limitations may not want to volunteer in our parks but they may be more inclined to volunteer in our libraries. I've received a variety of e-mail this week, majority of residents saying they would like the opportunity whether it's retired doctor who obviously who has his own pedigree of skill, he would be bringing as a volunteer, ran into former different George Kennedy, said he and his wife would like the opportunity to volunteer in the library. So I think we shouldn't really -- I think we should allow the opportunity and I think that again, that comes with the discussion. So you know Jane our library director, you know you probably have and I looked at the office of employee relations Website for the skills or the work requirements of the position. And there's a variety of things that must be done in a library. Rudimentary things like open unlock the door lock the door all the way down to advance library skills. Among that spectrum of responsibilities there may be some of those responsibilities that could be delegated and filled by volunteers to again augment. I made the recommendation of freezing positions in my memo because if you know it would be sort of strange if we're going to face this \$2 million budget deficit to hire someone to fill the position and then lay them off two months later. My goal here is of retaining what we have and ideally expanding it. That's the main purpose of the memo. Trying to think if I have any other comments here. We have these beautiful libraries. It's a shame they can't be open all the time. I really believe that looking at a new day the opportunity is there so my motion is simply to refer this to staff, have staff examine it. If the discussions trigger meet-and-confer then certainly have those discussions. Then report back to the Rules Committee. In the meantime if the library commission wants to have a discussion on this topic then they certainly may agendize that to have that discussion.

>> Second.

>> Mayor Reed: Okay, so we have a motion to refer this to staff to begin the process of analyzing I guess, Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. First I want to say that I think it's important that we get as many ideas on the table as possible, and look at them before the budget season starts. Because after 11 years of cuts, cuts, cuts, there isn't a lot left to cut and we really have to focus on preserving services to the city residents. And I

think that has to be our number 1 priority. I think this memorandum has the potential of doing that. I know there's been a lot of complicated issues to be dealt with but I think we owe it to all the residents to look at this and find ways to make it work. Like Pierluigi said we've gotten a lot of e-mails about it. I've gotten a lot in my office about it. I know there were concerns about whether people could be trained to do this job on a volunteer basis. I know that Pierluigi points out the volunteer firefighters which we don't have in our county, but I would like to point out, we do have a very highly trained reserve police unit in our department. Of people who have gone through hundreds of hours of training and are out there on the street volunteering as we speak to protect our city in a job that takes very specialized training and instruction and experience and it works well. I know many that donate over 500 to 700 hours each per year, which is something that I know you've heard me talk about before, how we need to be expanding that program instead of reducing it. And I think this is another area where we could have that type of work from dedicated volunteers.

>> Mayor Reed: Just a couple of comments. I would like to not cut the library hours, more than we've already cut them. I would like to restore the library hours, to full time. And I'd like to open the four libraries that are locked up. And if there's a way we can use volunteers to help do that, in some way, I'd like to know whether or not that is a tool that we have available to use. Because I think Pete's example of the reserve police officers, very skilled, very technical, but nevertheless, great value. So I don't know what the right way to handle this is. I'd look to the staff to sort of figure that out what the process is. Clearly we'll have to make decisions in this budget cycle about libraries and how we handle that. And if this is something that can help us close this gap in some way then I think we ought to take a look at it. Exactly how we do that, I don't know. But that's why we have professional staff to help us figure this out. Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you. First I'd like to thank Councilmember Oliverio for another creative idea. Obviously asking our citizens or residents to volunteer to supplement some of the services that we do here at the city it's a great idea. But I guess I'm looking at Councilmember Rocha's memo, and he's asking for this to be part of the budget process as we move forward. I was wondering if Councilmember Oliverio could -- is there a time sensitive to this issue that we need to come back before we start the conversations around the budget

process? Or should we include this as part of the budget process so that we can put everything on the table and see what kind of changes are we willing to make as we move forward to the next fiscal year?

>> Councilmember Oliverio: Thank you, Vice Mayor. I think in the meet-and-confer process it can be quite lengthy so it would naturally fold into the budget. Inherently there is going to be time. We can always get a status update from the staff where it's at. I don't see this getting implemented in 30 days.

>> Councilmember Nguyen: Thanks. Councilmember Rocha are you okay with that? Because I definitely don't want to put your number aside, but it pretty much aligns with what Councilmember Oliverio wants to do and ask staff to do.

>> Councilmember Rocha: Thank you, Vice Mayor. I was here for the initial introduction, when Councilmember Oliverio mentioned the approach and it seems a little bit different than their recommendation in the memo. If you wouldn't mind kind of repeating it so I could at least answer your question.

>> Councilmember Oliverio: The Vice Mayor or myself?

>> Mayor Reed: Your motion.

>> Councilmember Rocha: Well, the direction is a little different than the recommendation that was --

>> Councilmember Oliverio: You know, certainly my memo also inferred that this is a meet -- whatever our opinion is on the topic, this is a meet-and-confer issue. But at the end of the day, you have to submit a memo to Rules to start the dialogue. With that said my motion is to simply refer this to staff to examine what are the opportunities or value-points that volunteers could provide in the library. And then, some of those discussions may and will trigger meet-and-confer and then, to come back so some of those questions that have been asked can be answered. And so that's really the tart of the examination.

>> Councilmember Rocha: So thank you. And Vice Mayor if I could maybe ask the library staff, or maybe the City Manager has some comments before I -- I'd like to hear from our professional staff what they think of our approach and again I think it's a valid approach. I just want to hear from them.

>> Mayor Reed: Yes, City Manager.

>> City Manager Figone: Let me start, committee members, Councilmember Rocha and Jane may want to chime in. I think the refer to staff is a good start. I know in a brief discussion with Jane this morning, there are areas that she has wanted to augment, that have been limited because of lack of agreement with our bargaining units. That said, I would not want to convey to our bargaining units that every time we want to augment volunteers we have to meet and confer. And so I do think that working through the issues and the options internally, kind of again that spectrum, what is the most simple things that we can do, where is meet and confer triggered, and as professional staff where would we recommend you not go with volunteers because they can't do everything. And bring that back to council. I think it fits well with the service delivery evaluation that we use. And to the degree there's meet and confer that's triggered do that in a timely way so that you can have that for a full consideration in the budget process. So that's how I would envision us proceeding. Jane if you want to add to that.

>> Jane Light: Thank you. I think I would just add for the record, the library has a very active volunteer program. And in the six months that just ended this scholarly so far we've had almost 1500 individuals volunteer their time for over 20, let's see, it was 24,000 hours. So we have a large number of volunteers. Anyone you know who's interested in volunteering can go to the library Website and see all of our volunteer opportunities. We do find that retired doctors are interested in some of the more mundane tasks like dusting shelves but it's great to have volunteers who will dust shelves and we have volunteers who do that, who do what we call shelf-read which check whether things are in accurate order, which again is something because of staff cuts we rarely have time to do. But in addition we also have volunteers at the telecommunity center, for example, the teen volunteers are now running the after school homework club. Which we used to have homework assistance at each branch, and because of budget cuts, paid teachers or retired teachers with budget cuts we don't anymore and four or five libraries volunteers have stepped forward to have somewhat more informal homework assistant and I was at Kelly

recently to see the high school juniors and seniors helping the kids with their homework. However I would just also add that that was really wonderful to see because otherwise kids come to the library and they need help and we're not staffed to help them and there's not too much point in their trying to do their homework. Also as Pete mentioned as you get more into volunteer work it takes more time to coordinate, train, supervise, and assist the volunteers. And we now have, with 1500 volunteers, many more volunteers than we have staff. So as we look toward this model we have to look at how we support and train and have proper kind of volunteer support. So I think the idea of kind of referring for some thought I just would also want to add that things like the homework club and stuff, we have not had to go into any informal meet and confer. The library has a monthly labor management forum, we usually discuss these ideas in advance of any implementation and can generally work through the issues. We should also keep in mind kind of more informal ways of moving forward as a way to move forward as one team.

>> Councilmember Rocha: To answer your question I think this is great value and great direction but if I may as far as your analysis do you envision going hand in hand with the library department to do this work or is this after their involvement?

>> I'm sorry?

>> Councilmember Rocha: As far as staff analysis is it purely requesting to be in your department or --

>> City Manager Figone: Actually, the departments I rely on them for their expertise, they're the ones to do the heavy lifting.

>> Councilmember Rocha: Thank you Vice Mayor for asking.

>> Mayor Reed: Before we go further, we're not plume anything is meet-and-confer.

>> Jane Light: Correct.

>> Mayor Reed: If it is, it is, if it isn't, we'll deal with it in the proper way. The motion is not to start the meet-and-confer process. As Councilmember Oliverio last said, I want to make that clear. We do have some requests to speak. Mr. McCoy.

>> Good afternoon, mayor and committee members. Happy new year. As a volunteer myself, I think this is a fantastic idea, and as someone who has actually talked to several of you in the past why not take a program like this and expand it citywide. I feel it's great opportunity to help the city. There's almost a million people in this town and one of the most highly educated groups in the country. The skills are there. Having one who is witnessed and looked at the things in the library there are some very skilled positions, there's some medium skilled positions and some that don't require such skills, such as the librarian talked about people could do. People want work, they want to help the city, they want to save their libraries. I have received people have shown up to a closed door, very unhappy. If this program could extend those hours and make it readily available to the citizen then it's going to be a plus plus for everybody. Hopefully there might be some way that this could be expanded to other city activities that could also just of use volunteers, thank you.

>> Mayor Reed: Tina Morrill.

>> Good afternoon. My name is Tina Morrill. I live in the Vendome neighborhood. Disclosure, I'm a library commissioner. I'm not speaking on behalf of the commission, just myself. I like the memo, I think we should definitely try it. I think we're at a point where all ideas deserve consideration and do not deserve to get shut down just because they may be controversial. I was thinking well, maybe what we could do is we could put some parameters around it, try it for a specific period of time. Maybe just pilot it in a few branches. There are ways to implement this. And just as a resident my hope is to see all of the libraries open, even the closed ones, all of them seven days a week. And I also do not want to see any more of our staff face layoffs. They are already demoralized. It's really a shame. I'm definitely in favor of exploring this yaid. The other thing would I like to do is acknowledge Jane Light and her far lust team. They have gone through more contortions, it would put Cirque du Soleil to shame. Putting books on the shelves and programs. You definitely deserve a lot of praise so thank you.

>> Mayor Reed: Wilma hashi.

>> I appreciate the use of volunteers in the library. In which I'm supposed to be at one right now volunteering but I'm here instead. As soon as I finish here that's where I'm going. I realize that volunteers can be used in appropriate ways, but used and not replacing trained staff to do things that should be done by trained staff. But I also want to tell you about a book sale I had. We had like ten volunteers who normally come and help with our book sales. We had set one up, they all agreed oh yes I can help. Come the day of the book sale it's me. Not one of them showed up. Not one of them even bothered to tell me they weren't coming. So I was by myself for the first hour until our teen reach volunteers came in. And if it hadn't been for the teen reach volunteers that would have been a real disaster. It was too late to cancel the book sale and where am I going to get other volunteers at the last minute? This was only one book sale. I had another book sale, except the volunteers did tell me they weren't coming the week before. Where am I going to get volunteers in a week? I had to go to my friends and beg them to help. Volunteers are great but they are not the dedication that the staff has I know I've been with the holidays and things probably in the last two months not been at the library as much as I normally would be so I want us to really look at volunteers and the commitments that volunteers do, they are reliable but not always there when you need them. Thank you.

>> Mayor Reed: Trixie Johnson. Normer councilmember Trixie Johnson, to be more precise.

>> Although today I'm wearing a different hat.

>> Mayor Reed: And former Vice Mayor Trixie Beyonce to be more precise.

>> Thank you. I have two things to speak. I'm president of the friends of the west valley library and to your point that the friends may coordinate the program We are over our heads to do book sales nor are we ready to run a program of that type. Some of our branches do not have a friends group so they wouldn't be able to assist with that. More likely I would like to spike to you on behalf of my over eight years of coordinator of volunteers for

channel 54. I think you should find every way we can possibly utilize volunteers. Don't underestimate the professional staff time it will take you to recruit train supervisor supervise evaluate train and yes fire volunteers. It is a lot of work. Most volunteers will give a half hour a week, if you're lucky two half-days a week, if you are have to coordinate to cover that full 40 hour span. And if they're not there they're on vacation, they're traveling, they're sick, or they simply as one said don't show you have to have backups and they have to be trained and be available during the hours that you need them. It's a very complex issue to use them to depend on them for the functions that have really cement the library going in the large part. So as you evaluate this, by all means see where they can be used but also realize what it's going to take you to use them and away you cannot count on them to do. Thank you.

>> Mayor Reed: David Wall.

>> Boast both those speakers are to be commended because they reached the issue of reliance with volunteers. matters. I'd like to thank Councilmember Oliverio and Councilmember Rocha, for their leadership in this area. But when you do this study, do it citywide. Not just for libraries. But for all. We have an outstanding City Attorney, who has a volunteer attorney that's been there for years saving countless, hundreds of thousands of dollars. So expand that program. What we need to look at is the libraries, how to reformulate it, reformulate the command staff. Their procurement policies are abysmal, in reference to the proper use of the parcel tax. You should review the audit of the parcel tax in reference to the library. There's significant issues there that need to be reviewed. We need to overall look at the reformulation of parcel taxes to ensure all city operation. At this point in time Councilmember Oliverio's memo, I'll quote, I propose we future vacant positions that may result from retirements. Period close quotes. This is excellent, we should start this with the position of the librarian, herself. And reformulate if libraries from a management perspective to make sure you can maximize the number of libraries and open hours for a council district with a budget that you have at this time period. Thank you.

>> Councilmember Oliverio: Mr. Mayor, question for Mr. Wall. Mr. Wall how many years did you volunteer to take care of the flours flowers at the old City Hall?

>> It was nine years I provided flowers I couldn't carry five gallon buckets of water anymore.

>> Councilmember Oliverio: Thank you for the volunteering.

>> Mayor Reed: That concludes the public testimony. We have a motion to refer this to staff as previously discussed. On the motion, all in favor, opposed, none opposed, that's approved. Taking us to I think the open forum. It's our last item. Paulo Calia is first and Allejandro Munos I think.

>> Hello, my name is Paula Calia and I'm a freshman from archbishop Mitty high school. I'm here representing my my communications which is helping towards my eagle rank and right now I'm a life -- I have one more rank to eagle and so I'm over the break, was trying to think of my eagle service project. You and I want to thank you for having these meetings so I can get my requirements done and help me earn eagle. Thank you.

>> Councilmember Constant: Well, you know I represent the council direct where Mitty is and we have a lot of things that need eagles. So if you like to talk to me after I can help you .

>> Mayor Reed: Allejandro Munos,.

>> My name is Allejandro Quinones. I'm here representing my grandchildren. I should have spoken during the disclosure act process that we were going through here but I have a letter here that I'd like to read to you. That probably every politician should read it today. And I'll read it very quickly. I hope we shall crush in its birth the aristocracy of to a trial of straight and to bid defiance to the laws of our country. That letter seems like it was written yesterday. But it was written in 1816. By Thomas Jefferson. Our country today, and my grandchildren, I did two tours in Vietnam. And I fear for their future. They are not commodities, they are not units, they are not consumers, they are human beings. And I hope that when you deliver -- deliberate these actions about how no bid contracts and all these things, you take into consideration that there's human beings that are being affected by your decisions. Thank you very much.

>> Mayor Reed: David Wall.

>> This is easy. Since it's good news for you. I want to give the following San José police officers and firefighters commendations for their actions and efforts on Christmas night. San José police officers Sean tall, 4121, Jonathan cook, number 3886, Stephen Carlson, number 3353, Michael Catherman number 3900 and last police officer, Allen cokier, 3906, San José fire engine company, under the command of captain Sean Lovin rvetion some Martin Mora, firefighter Jessie Arred two EMS ambulance personnel who remain unidentified at this time period and also one 911 dispatcher. These people opted to go to work on Christmas night. To protect all of us. They acted in concert to save a drug overdosed person in a downtown district 3 neighborhood. Without their proper timely response this drug induced person broke windows of his front house, with his bare arms and hands. Causing severe bleeding. Being on drugs, blood chemistry will indicate the drugs were allegedly. Methamphetamine and PCP, cardiac arrest if it were not for the San José police and fire department's prompt response proper training and dedication to duty when everybody else in this room including myself were enjoying a nice repast celebrating the Christmas season. There are five letters of commendation for the police officers alone in my hand. They'll be put on the public record as I leave. Four more for the firefighters will be forthcoming tomorrow. Thank you.

>> Mayor Reed: That concludes the open forum. Concludes our meeting, we're adjourned.