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>> Mayor Reed: Rules and Open Government Committee meeting to order for May 19th. First question is, are there any changes to the agenda order that we need to consider?

>> Lee Price: We do have an item that we would like to drop, Nadine, if you'd like to take that.

>> Mayor Reed: Dropping off of our agenda?

>> It is I-2, the item was inadvertently added to the agenda. It's already gone to the committee, and it's just coming back for more information, and that was noted at the committee.

>> Mayor Reed: That was a verbal update on the water pollution control plant, so we don't need to consider that, so we'll drop that off the agenda. Anything else, okay, let's just go through the agenda in order. May 25th council agenda to consider. Anything on page 1? Time of starting closed session okay at 9:30? Anything else page 1, 2 or 3?

>> City Attorney Doyle: Mr. Mayor, there was a suggestion this morning in the managers meeting of the June 1st council meeting is cancelled. But because of the ongoing labor discussions there may be a need to have a closed session. We can probably -- we'll have more information next Wednesday at Rules to talk about that, but just to give you a heads up.

>> Mayor Reed: That would be June 1st. Anything on 2 or 3? Anything on the ceremonial item checklist? Page 3 or 4? I'm sorry, 4 or 5?

>> Lee Price: Mr. Mayor on item 3.4 I know we're not quite at the time certain, but I would like to request a time certain or least something to acknowledge that council will be interviewing the candidate. And so we thought perhaps that it might be good to set this for a particular time or maybe do it at the back end of your agenda.

>> Mayor Reed: This is a candidate for a vacancy on Police and Fire retirement board?

>> Lee Price: That's correct.

>> Mayor Reed: Let's look at the whole agenda and see where we could fit that in. Anything else on 4 or 5? Citywide aquatics program update, I think there's a memo out on that already. Page 6 or 7?

>> Yes, excuse me mayor, on page 6, 8.1, the memorandum of understanding to submit a joint response to the county ambulance RFP we'd like to see if that could be heard immediately following consent. We're going to have some outside people there and they've requested that.

>> Mayor Reed: Anything else on 6 or 7? Or 8, 8 -- page 8 is the joint city-financing authority agenda, lease revenue bonds series 2008 A-b-c-d-e letter of credit renewal, whatever that is, we'll find out. Anything else? I have request for -- travel requests from the City Clerk to go to Riverside for election training services. Looks like you're going to do the training.

>> Lee Price: That's correct.

>> Mayor Reed: Okay. Let's go back to 3.4, that's the police and fire retirement board vacancy question. We just do that last. It doesn't look like a long meeting. Deceptive, deceptive, not long meetings. But if we do it last, they can watch it via webcast. And if they're not right, we're just interviewing one candidate.

>> Lee Price: That's right, just one.

>> Mayor Reed: If they're not here, when we finish, if we suddenly move quickly, which I doubt, then we'll wait. My guess is, there will be plenty of time during the 6.1, the airport competitiveness strategic plan, for somebody to walk over from somewhere.

>> Lee Price: Okay.

>> Mayor Reed: Any other changes or additions on that agenda?

>> No just the request to have 8.1 after consent.

>> Mayor Reed: 8.1 after consent. Okay, any others?

>> Councilmember Constant: Motion to approve as amended.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion to approve as amended. All in favor, opposed, none that's approved. June 1st, there is no scheduled meeting because that is the day after the holiday, Memorial Day weekend, but we might have to schedule a closed session meeting on June 2nd to be determined, by next week's Rules Committee we'll know.

>> City Attorney Doyle: Yeah, next week is the May 26th meeting and we'll let you know then.

>> Mayor Reed: Okay. Then the redevelopment agency agenda for May 25th. Anything on page 1? Page 2 or 3? Or 4? Any other changes?

>> Mr. Mayor, there's no other changes or additions to this agenda.

>> Mayor Reed: All right. Is there a motion?

>> Move approval.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approve, all in favor, opposed, that's approved. Again, June 1st, currently not scheduled except possibility of a closed session meeting on agency items, if there are any. Upcoming study session agendas, none to talk about at this point. Legislative update. Betsy Shotwell is here.

>> Betsy Shotwell: Thank you, Mayor, members of the committee, Betsy Shotwell, director of Intergovernmental Relations. I asked that this be put on as a placeholder to give you just a brief general overview of the governor's May budget revise that was issued last Friday. Note however, we are still waiting on paper from Department of Finance which our lobbyist is working to work with budget as well to update our fact sheets that we had in February after the first release of the budget for you to have in your efforts in communicating with our delegation or if you're asked questions by your constituents. So we're working on that right now. As we discussed last week, the amount is quite similar to the amount in January, 19.1 billion, and little over 7 billion this current fiscal year and 12 billion in the next fiscal year as far as the deficit and \$1.2 billion emergency reserves that the governor would like to have. He proposes, in balancing the budget in the proposed Friday May revise closing the deficit with about \$2.4 billion in spending cuts, an expectation hopefully of 3.4 billion in federal money which is half of what he had hoped or asked for in January and then 3.3 billion in other measures such as selling dozens of state buildings and all the things that we've been reading about as how they might raise some money. And of course, a large part of that reduction is in the health and human services area, elimination of CalWorks, and some before and after childcare services out of the education budget. However he does continue to recommend funding the COPS program, and reimbursing of the booking fees, and other criminal justice programs. So that was a relief to local government as well as the league of California cities analysis. But then there is the other issue of his, again, proposing the movement of nonviolent prisoners to county jail. And I haven't had a chance to talk to my counterparts in the county yet to see how they're going to be handling that. Because that is something we need to be following and as the league mentioned as well what funds are going to be there for local police departments as well as all the various pieces. I can assure you the Democrats are meeting and coming out with their proposals as well to counter that. Some revenue increases, cuts to certain tax credits. One of them was an increase in alcohol tax. Again, these all take two-thirds votes, so it all remains to be seen how this will all play out and the timing I can't predict. But could be a long summer again. We will be providing this information to you in more detail as soon as we can put that together.

>> Mayor Reed: My last conversation with speaker Perez, he said he was going to approach it in the assembly differently this year, that it wasn't going to be the big four talking with the governor, that they were going to work through a committee process, budget committee and others. Is there any indication that that's happening, underway, they made the committee assignments or there will be the existing standing committees? What do we know about that?

>> Betsy Shotwell: Well, since this just was released on Friday, and I too have heard him say that at a recent event he was at down here in the valley, I haven't been able to ascertain if that's happening or not, we will know within weeks how this is going to play out. Because I know he -- they basically haven't been responding verbally at press conferences to the governor's proposal Friday, but I haven't seen, and that's a question I can certainly ask Roxann Miller, our lobbyist.

>> Mayor Reed: Another question I have is whether or not the governor has withdrawn suggestions to sell certain state buildings on a sale lease back plan, or if he's talking about selling surplus state buildings. It's a big difference. Surplus state buildings, you get to keep the money. If you sell an existing building and lease it back, you've just borrowed money that you've got to pay back.

>> Betsy Shotwell: I will have to check. The legislature I've read has said, the sale of 28 state office buildings. But I haven't seen the specific list as we did last year, which of course included some -- Del Mar race track and number of state facilities. But I will check that out as well.

>> Mayor Reed: Then other related question, sale of surplus property, the old Agnews center which is school district Santa Clara is interested in acquiring that. I think they've asked for an extension of time to put it together. And whether or not there's anything in the governor's proposal that might push that more quickly. Although I think the only possible prospective buyer might be the school district.

>> Betsy Shotwell: We'll check on that. I think Roxann said she was going to watch this meeting, so we'll follow up on that.

>> Mayor Reed: I think the schedule that works for the school district would still be in the same fiscal year that the governor's talking about. But we have an interest in facilitating that with the school district because they're going to put a school there to take care of our kids that we hope some day to live in North San José.

>> Betsy Shotwell: Right.

>> Mayor Reed: Anything else on the state report? Okay.

>> Betsy Shotwell: All right.

>> Mayor Reed: Thank you, Betsy.

>> Betsy Shotwell: Thank you very much.

>> Mayor Reed: Anything on Federal?

>> Betsy Shotwell: Not today.

>> Mayor Reed: Okay, meeting schedules is our next item. We need to look at the schedule for the period of August to December. For meetings and study sessions. We've got our memorandum from Nadine Nader on those. I see September 7th, October 12th, November 23rd, December 21st and 28th are meeting cancelled dates. Those are the days-after holidays, otherwise it looks like the same schedule we've been working on for the last year or so, with an evening schedule once a month on the third, more or less, well -- except for October, right? So we have third meeting August, third meeting September and then second and fourth meetings in November, October -- no --

>> Councilmember Constant: First one, December.

>> Mayor Reed: Is it third?

>> Councilmember Chirco: The second November.

>> Mayor Reed: I can never remember so I'm trying to figure this out. I know there's a scheme, there's a formula here.

>> There is, it's generally the third. But the general plan hearings depends on the Planning Department, when they request that. That's why that's on December the 7th.

>> Mayor Reed: And then November, the third in November would be the week before Thanksgiving. November it's the second meeting, December it's the second meeting. It's either the second or the third. I'll just have to check the calendar.

>> Councilmember Constant: Unless it's the first or the fourth.

>> Mayor Reed: I'll check the calendar to be sure. My wife keeps asking me when the evening meetings are. I say mostly on Tuesdays. And study session agenda these are just holding now for possible study session that we have yet to think about. Those are hold-dates. We have the city-county joint meeting tentative for October 15th. Are we also working a city Water District meeting sometime in the fall?

>> We're and they're not sure when yet but --

>> Mayor Reed: Will they take one of those study session dates do you think?

>> They will.

>> Mayor Reed: Anything else on the proposed meeting schedule agenda?

>> Move approval.

>> Second.

>> Mayor Reed: Motion to approve the study session schedule. One speaker, Mr. Wall. Do you want do have more meetings, Mr. Wall? I think I have plenty.

>> David Wall: In response to your question, yeah, because you're on the public's dime and the public needs meetings to come express either their great praise for all of your doings or questions, because obviously you don't do anything wrong so there has to be questions.

>> Mayor Reed: Occasionally we tend to get criticism. I seem to remember some.

>> David Wall: Well, like I say, council can never do anything wrong, but there are occasions when you're a little economical in being right. I want to quote something out of here, it's on the front page of this memo. It says: "Over the years both council and staff have expressed how difficult it is to prepare for council meetings when there is a holiday either before or after a council meeting." Council and staff have enormous resources at their command. I believe the public is very well disserved by the cancellation of meetings for a variety of issues. I think this is just an organizational issue, that is easily taken back and saying well, under the doctrine of you know the holiday got to us, or preparation for the holiday got to us, either one doesn't serve the public's interest in my opinion. I don't like picayune, I like the presence of Your Honors.

>> Mayor Reed: Any other testimony from the public on this? I did have one comment, and that is in light of what we're looking at, at next year's budget we're clearly going to have some reductions in staffing. And I'd like for the attorney, the clerk and the City Manager to think about capacity of our management team in particular to move all

these things on the agenda, and whether or not we ought to cancel some of these scheduled meetings in some way to even out the workload or the flow or to somehow help in the fact that we're going to have less management resources available to move everything through all these agendas. And we do have some meetings that are lightly scheduled. I love those much more than the long ones. But if that would be helpful, given where we end up in the budget and we don't know where we're going to be yet but it is something I think we ought to consider and you should put it on your list of things to worry about, in addition to all the other things to worry about. On the motion, all in favor, opposed, none opposed, that's approved. The public record, anything the committee would like to pull on the public record?

>> Move to note and file.

>> Second.

>> Mayor Reed: Motion is to note and file, all in favor, opposed, none opposed, that's approved. We have no appointments to consider. We have dropped the one item under committee agendas addition. That takes us to open government initiatives, appeals of public records act requests. We have an appeal of the denial of access to public records requested by Brian Doyle on May 6th, 2010. Brian, you want to speak to that?

>> Yes. Good afternoon, honorable mayor and councilmembers my name is Brian Doyle. I've been an attorney with the city attorney's office for almost 20 years now. I made a request for records involving budgetary documents involving position cuts in our office, and I believe my reasons are stated in my correspondence to you and my e-mail and my letter. And I'm just here to answer any questions that you might have.

>> Mayor Reed: Okay, a couple of things. First, I don't think it's -- actually I'll get some more public testimony before we get into any questions or comments on anything. Because we got one other speaker, Mr. Wall you want to speak on this one.

>> David Wall: Briefly. The memorandum created by Mr. Doyle is quite profound on a variety of different levels. Mr. Doyle is not -- is one of -- representing our attorney, these folks do not lie. And contained within this document is a level of dishonesty somewhere in the organization, be it at the office of the City Manager's or the mayor's office. And let me refer to page 2 and this bothers me greatly. There is a quote. My request was also important because we were told that the reason that the proposed layoffs were introduced after the bargaining had begun was because the mayor's office had determined the city attorney's original budget proposal to be inadequate. Close quotes. Who in your office, Mr. Mayor, has the authority to overlook the city attorney's budget and to make such glaring declarations as to appropriateness, inadequateness, adequateness, or any judgment thereof? That bothers me very greatly. It would bother me even greater than that, in powers of exponents, if it is a sitting Milpitas councilmember who has said this, which I do not know. But the other things in here speak a lot to dishonesty from the office of the City Manager in dealing in fairness directly with the office of the City Attorney and their representatives, which I find abhorrent. Thank you.

>> Mayor Reed: Thank you, anybody else want to speak on this item? Bring it back for discussion. Mr. Doyle has asked for all documents related to or relied upon in calculating a \$6.1 million budget reduction target for the City Manager, council appointees and mayor and city council budgets. As stated on page 26 of the City Manager's preliminary budget reduction proposals dated March 29th. And let me just answer the question that's pretty simple: The budget message which was approved by the city council, message is dated March 12th, page 11, item 4, to ensure overall strategic leadership and service delivery for the organization, the mayor's budget office will work with the city council appointee offices to bring forward proposals that are equal to the average nonpublic safety CSA. That's in the first sentence. Later down in the same paragraph, reduction targets for mayor and city council offices will be determined after consideration is given to service and operational impacts. So what you do, following that direction, is first you need to know what or the proposed average nonpublic Safety CSA reduction targets that the manager is working for the departments. At one time she was working with 35%. I think the final proposed budget dated May 3rd is around 20.something percent and there's a variety of different calculations depending on that percentage. It's relatively straightforward math. First you figure out what the budgets are for the council appointees and the mayor and council offices. You separate those out, multiply the mayor and council offices by the percentage of the Public Safety target reduction numbers. Multiply the council appointees by the nonpublic Safety department reduction numbers. Add it all up. You get the \$6.1 million. The

independent police auditor is included in the nonpublic safety area. Get the math, you get the 6.1 million, you can basically the same math for each of the departments. 6.1 million, there's no magic to it, it's just math. Now, where we end up of course is subject to whatever the council decides to do in the budget process, but that's how it got calculated. Now on any given day when you're doing that calculation starting at 35% and ultimately ending up at 20 point something percent for the nonpublic safety departments, you get a different answer every day. But that's how you get the \$6.1 million on the day the document was generated. That's the answer. It's -- there's no science, it's just math and no -- no real mystery on it. It's done pursuant to the council approved budget message. Secondly, on the public records act request, I don't think it's wise to set a precedent of releasing the drafts be they handwritten or otherwise or the spreadsheets of what I do or what the councilmembers do or what the manager does or what any of our staffs do in preparing budget documents in particular. But you know this could apply to other areas as well. Whether it's a deliberative process or a mental process privilege depending on the circumstances I don't think it's a good idea to set that precedent on this particular item to release anything that would be covered within this public records act request other than the documents that have already been released such as the budget document and the budget message. So I don't support the appeal, and that's one thing. Second thing is, I do have this letter from Mr. Doyle, four-page letter. I'm not going to respond to the rest of the letter. It really belongs at the bargaining table and the comments and the opinions in there really should be taken up as part of the bargaining process. It's not for me or councilmembers to be negotiating directly with Mr. Doyle or anybody else. That should be in the bargaining process and I know that the association of legal professionals is I think going to mediation sometime in the near future. I'm not sure when but there's still a bargaining process going on. So with that any other comments or questions from the committee or the City Attorney or -- Nancy.

>> Councilmember Pyle: Probably, the part that bothered me most was that -- and I need to see if this is in the purpose too, that we're going to be laying off if the 10% is not forthcoming, and then rehiring. That is very substantial concern for me.

>> City Attorney Doyle: Councilmember Pyle, there is nothing -- that is news to me, too. And I'm hiring authority. So there is nothing in my -- that's a rumor that's been circulated. I'm surprised to hear it myself. So I certainly have no intention of if in fact we are forced to lay anybody off, it is certainly not my intention to go out and hire new people to replace them. And so I don't know. And again that's outside the conversation here which is a public records act request. The public records act request is limited to really the preliminary documents that were provided by the five council appointees to the mayor's office as part of the discussions, and to make a final proposal in the budget package.

>> Councilmember Pyle: Thank you.

>> Councilmember Constant: I'd just like to make the motion to deny the appeal.

>> Councilmember Chirco: Second.

>> Mayor Reed: Motion is to deny the appeal. Filter discussion?

>> Councilmember Pyle: I thought it was going to the negotiation.

>> Mayor Reed: We're only dealing with the public records act request. All the other issues --

>> Councilmember Pyle: Your point that it should be.

>> Mayor Reed: All the other issues. This should be referred to Alex Gurza part of the negotiating team.

>> Councilmember Pyle: Because we don't have the authority.

>> Mayor Reed: Right.

>> City Attorney Doyle: Just for the record Mr. Mayor --

>> Mayor Reed: Not Alex Gurza.

>> City Attorney Doyle: He has a conflict of interest. Aricelli Rodriguez.

>> Mayor Reed: Refer this to Aricelli Rodriguez. All in favor, opposed, none opposed, that's the action. That takes us to the open forum, Mr. Wall.

>> David Wall: Yesterday, I forgot to mention about that software license agreement with Oracle. This is something I believe the auditor should look into. With reference to the Oracle system that's utilized by the laboratory. There is quite a lot of money being thrown about for the Oracle. The overall aspect is that you should be looking at, this is an opportunity to revamp the city's I.T. group. And standardize all these databases throughout the city. This might be an opportunity to have the taxpayers pick up this chunk of overhead cost because there are a lot of outdated systems that aren't talking to one another. And Oracle doesn't seem to want to do business in the City of San José anyway. And personally, their business attitude isn't commensurate with their products and use in the city, in my opinion. But even more so, the City's databases that don't talk to one another are archaic, and if you're going to state that you're the capital of Silicon Valley, there should be some asimilance that it works that way. Thank you and I hope you have a fun day.

>> Mayor Reed: That's all the cards under open forum and we're adjourned.