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>> Mayor Reed: I'd like to call the meeting to order. This is Rules and Open Government Committee meeting for August 8th, 2012. Any items we need to take out of order, or agenda changes to the agenda order? I have one thing to note at the beginning of the agenda. And that is, the memorandum from Councilmember Chu on little Saigon. We held a hearing on that last week so we're not going to take it up again. But if people wish to speak about little Saigon they should do that under the open forum, item number J. Anything else on the agenda order? Okay, first --

>> Dennis Hawkins: Sorry, Mr. Mayor, we're requested in staff to drop G-6, there's been some change on the legislation so staff wants to give that further review.

>> Mayor Reed: G-6 is solid waste bill SB Anne, we'll just drop.

>> Dennis Hawkins: Correct.

>> Mayor Reed: Okay, we won't consider that one. All right let's review the August 14th agenda. 9:00, 9:30 start time? 9:30 is okay. Anything else on page 1 or 2? Page 3 or 4? Item 2.2012 neighborhoods commission, neighborhood improvement program Councilmember Rocha would like to have that agendized for discussion under section 3 in the usual place, that's fine, we'll have some discussion, that way he doesn't have to pull it off the consent calendar. Anything else on page 3 or 4?

>> Ed Shikada: Yes, Mr. Mayor, item 3.5, service level restoration priorities, staff would recommend it be dropped and we brings it back when we are prepared for preliminary forecast for next fiscal year.

>> Councilmember Oliverio: When is that approximately?

>> Ed Shikada: We haven't set the date yet we'll get communications out to council.

>> Mayor Reed: A couple of months out at least. I did check with Councilmember Rocha who had an interest in yesterday in deferring it for a while and he thinks that's okay, as well. So it shouldn't be any issue. We can always put it back on if we need to do it sooner, so we'll drop that one. Anything else on page 4 or 5? Page 6 or 7? I have some requests for additions, requests for excused absence, Councilmember Constant, who remains out on -- recovering for him surgery. Travel to Seattle, for me, travel to Philadelphia and Washington for me. And City Auditor travel to south lake Tahoe. Any other requests for additions?

>> Vice Mayor Nguyen: Motion to approve with the additions and the amendments and the sunshine waivers.

>> Councilmember Oliverio: Second.

>> Mayor Reed: Motion is to approve with the changes. I don't think we have any sunshine waivers, correct, staff? All in favor, opposed, none opposed, that's approved. August 21th draft agenda. This one there's an evening meeting, I believe. All right anything on page 1, 9:30 start time for closed session looks okay at this time. Anything on page 2 or 3? Page 4 or 5? Page 6 or 7? The Redevelopment Agency successor agency items 9.1 and 9.2 will probably need sunshine waivers, since those are always done on short times, because that's the way it works.

>> City Attorney Doyle: For both the memos and the legal docs.

>> Mayor Reed: Anything else on 6 or 7, page 8 or 9, looks like we have a half a dozen items for the evening agenda.

>> Mayor Reed: Yes.

>> Councilmember Oliverio: I'd like to say there's enough to have an evening meeting, but based on the changes we have occurred, we should have the option to pull the land use items for the daytime.

>> City Attorney Doyle: It's sort of the opposite. The noticing is for the afternoon and with the caveat that we will notify people if it will be heard in the evening. So people have to assume it's going to be in the afternoon and given two weeks notice if it's to be heard in the evening.

>> Mayor Reed: So with this agenda we decide evening or afternoon and staff's recommending evening for all of these.

>> Councilmember Oliverio: Understood, we should always continue to have that flexibility, when there's one or two items pull them to the daytime. Thank you.

>> Mayor Reed: Just check, that seems to be an understandable way to handle it. They're noticed, and when we set the agenda two weeks out we make the call, is that the way we anticipate this running?

>> Ed Shikada: That's the new system. I think we'll be working through how that will be clear on the agendas as well as the notices. It will follow that.

>> Councilmember Oliverio: Pretty clear, when it says to be heard in the evening.

>> Ed Shikada: Well, it is going the other way around. So in fact the notices will say to be heard at 1:30 in the afternoon unless subsequent information says evening. So we'll go with that as the standard and try to ensure that the communication channels are very clear.

>> Mayor Reed: Okay. So we're two weeks away almost from this meeting, so at that point people will know whether it's going to be in the afternoon or the evening, usually.

>> Ed Shikada: It could be closer to that. I suspect again we will always start with the default of being in the afternoon unless there's subsequent communication otherwise that that will be in the Evangelical.

>> Mayor Reed: I think that's workable.

>> Ed Shikada: Very good.

>> Mayor Reed: Anything else on 6 or 7, 8 or 9? I have no written requests for additions. We do have two items for sunshine waiver.

>> Vice Mayor Nguyen: Motion to approve with a sunshine waiver.

>> Councilmember Oliverio: Second.

>> Mayor Reed: Motion to approve with the waivers and the modifications. All in favor, opposed, none opposed, that's approved. Upcoming study session agendas. None to consider. Legislative update state and federal. Nothing new. Meeting schedules, a meeting that we need to schedule is the August zoning priorities setting discussion, although the last time we did it we sort of added a couple of extras that were going to fill in when we got past the top ten. And so I don't know if we're ready to add to the top ten list that staff is working on or not, but if so, we should pick a date in August to do that.

>> Ed Shikada: At this point staff is pegging the August 28th council meeting agenda at which we could incorporate that into the council meeting, versus having a separate meeting aside. So depending on the size of the docket we could proceed with that for the time being.

>> Mayor Reed: Okay.

>> Councilmember Oliverio: Or City Manager, in the worst case scenario if the docket became extremely full on the 28th, then we could just move it to the September meeting or something.

>> Ed Shikada: Right.

>> Mayor Reed: Anything else on meeting schedules? Public record? Are there any requests to speak on the public record? We have none.

>> Councilmember Oliverio: Motion to note and file.

>> Vice Mayor Nguyen: Second.

>> Mayor Reed: Motion is to note and file the public record. All in favor, opposed, none opposed, that's approved. Boards, commissions and committees, we have an annual report from the elections commission for approval. I think we're working up to handing quite a few things to elections commission for the next year's annual report, seems to be the significant things happening around the elections commission, so nothing else on this report?

>> Dennis Hawkins: Mr. Mayor, the 2012-13 commission work plan accommodates those, was designed with that.

>> Mayor Reed: Anything on this report from anybody, comments, motion?

>> Vice Mayor Nguyen: Motion to approve.

>> Councilmember Oliverio: Second.

>> Mayor Reed: Motion is to approve the elections commission annual report, all in favor, opposed, none opposed, that's approved. Item G, category 2. We have a memorandum from Vice Mayor Nguyen and Councilmember Liccardo requesting amendments to chapter 20 municipal code regarding paraphernalia for smoking tobaccos et cetera in the location of that within a thousand feet of schools, et cetera. Vice Mayor would you like to speak to the memo?

>> Vice Mayor Nguyen: Yes, thank you, mayor Reed. The recommends in the memo pretty much responds to a number of health and safety concerns that have been raised by many parents, school administrators nonprofit organizations for a number of years now, and specifically, we wanted to address, there is a smoke shop, and a tattoo parlor located right across from bridges academy on McLaughlin avenue close to Phelan, and so in the last several years what we have found is a lot of the middle school students are visiting this location, this particular location, and buying certain things that they shouldn't be buying such as a pack of smoke, getting tattoos done that they don't really have the permissions of the parents. And so while we're trying to curb a lot of incidents that happen in the community I think this is a good recommendation for the city council to consider in terms of just being more aware of the safety concerns around the school campuses. When we started the Franklin McKinley children's initiative one of the priorities was to address the geographic locations of these liquor stores and the smoke shops and the tattoo parlors. And so I'm hoping that the city council would consider this change to the zoning code, and I believe Joe Horwedel is also here if committee members have any questions. But I'm hoping that we are able to discuss this at the next priority session when we talked about the zoning code changes.

>> Mayor Reed: Okay. Councilmember Oliverio.

>> Councilmember Oliverio: I'll make a motion to move that for consideration to council.

>> Mayor Reed: Okay. We have a motion to send that to the priority setting session meeting which might be August 28th. Target date.

>> Councilmember Oliverio: May I ask a question.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: For Joe and the audience, so we've had the priority list staff has been working through much of that. What is the bandwidth for this or additional ones that may come forward?

>> Joe Horwedel: Councilmember Oliverio, Joe Horwedel, planning director. We have completed a number of the top 10 list and are anticipating through September-October we'll knock a couple more off the list. So I think there will be room to work on several new initiatives and it's a matter of this and a couple of other requests that we've received in the last six months from councilmembers.

>> Councilmember Oliverio: Will staff actually offer some things that you are seeing that council offices aren't, that might be important for city and business?

>> Joe Horwedel: Correct, that as staff we would like to put forward some suggestions of code changes, and we have been working with the chamber of commerce, that they also be thinking about initiatives that would help us be more business friendly.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: We have a couple of people who want to speak on this item, we'll do this now. Alo Macdasian.

>> Good afternoon, mayor members of the committee. Thank you for taking up this issue Vice Mayor, and Councilmember Liccardo, we'd like to say we're in support of your recommendation and we look forward to discussing this as it comes up in the council priority setting session thank you again. And we also have a letter on record that explains a little bit more about how we're involved in the Franklin McKinley children's initiative as well as other projects downtown and other initiatives in the downtown.

>> Councilmember Oliverio: You said we?

>> First five Santa Clara County.

>> Mayor Reed: Mary Beth Nacy.

>> Almost as tall as Avo. Good afternoon mayor thank you so much Vice Mayor and Councilmember Liccardo for bringing this very important issue to council. And I understand it's already being passed on to council. So I appreciate that thought very much. I'm representing not only as director of the Franklin McKinley children's initiative but superintendent John porter from the Franklin McKinley school district, all of our parents especially those who have children attending the bridges academy, that across the street area as you've just heard holds a smoke shop a tattoo parlor and a liquor store. You combine that with a public bus stop where adults and children are traveling to school, it becomes a very inappropriate setting for children who are leaving school in the afternoon. We've worked very closely with San José PD to crack down on liquor sales to minors and we will continue to do that. But I just want to say thank you very much for this and the parents thank you as well.

>> Mayor Reed: That concludes the public testimony. We do have a motion to is refer this to the priority setting meeting. Any other comments?

>> Councilmember Oliverio: Joe planning director, off sale alcohol is it city or state that controls that?

>> Joe Horwedel: The state has the main regulatory authority for enforcement. The city has our separate licensing program that we do inspections also for.

>> Councilmember Oliverio: But can April individual city say I want a further distance of off sale of alcohol for a school?

>> Joe Horwedel: We can do that yes.

>> Councilmember Oliverio: But if you are an existing liquor store in the area, then you would be legal nonconforming and you would get to stay, but a new one wouldn't be able to apply?

>> Joe Horwedel: That's correct.

>> Councilmember Oliverio: And then just asking real quick, Vice Mayor, does this memo contemplate just those tobacco items or this type of paraphernalia or also alcohol?

>> Vice Mayor Nguyen: Not for alcohol, not in this memo.

>> Mayor Reed: On the motion all in favor, opposed, none opposed, that's approved. Item G-3, I have a memorandum asking for a referral to the elections commission. A possible suspension of voluntary expenditure limit, campaign contribution limits, and I have a memorandum on that. I did issue a replacement memorandum today because I collected a little bit of data. Thanks to assistance from the clerk, of what was spent in the last election cycle. So what's happened some I don't know if this is the first time but it may be the first time that the independent expenditure committees outspent all the candidates combined in an election cycle and we've now reached the point where there's almost nothing we can do with the independent expenditure committees. So they can raise money in unlimited amounts, they can spend in unlimited amounts and they can raise it in unlimited time period and yet we constrain our candidates to six months before the election \$500 for council, \$1,000 for mayor and if they agree to a voluntary expenditure, expenditure limit. Since we've lost control under the independent expenditure committees under the citizens United case I think the elections commission ought to take a look at what can we do to make it possible for candidates to have a fair chance to compete with the unlimited funds of independent expenditure committees. That's obviously a change in direction from what we've tried to do. But it's been forced upon us by the Supreme Court decisions, and it is what it is. Until that's reversed or if there's a constitutional amendment which some people are promoting, we have to live with those rules. So it's just something I think the elections commission ought to consider and then bring back to us in time to deal with whatever changes we might make before the 2014 election cycle. Being so just to recap my memo, the fact that we collected was that total campaign expenditures in district 8 primary election made by independent committees was nearly \$265,000. And which is a lot more than the amount spent by all the candidates combined. And a lot more than any one candidate could spend. And that's based on those that have filed with the City of San José. There may have been other spending that got filed in Sacramento that they didn't bother to give us a copy of.

>> Dennis Hawkins: That's correct, Mr. Mayor. And on behalf of the elections commission, their work plan does include these kinds of items. You might recall that last October, the commission brought forward recommendations for changes in the voluntary expenditure limits in preparation for the 2012 election cycle and the commission's intent is to review what's happened in the 2012 cycle and bring forward recommendations to the council in time for the 2014 cycle. So the commission's work plan is in alignment with your direction, Mr. Mayor.

>> Mayor Reed: Okay. I have no requests to speak on this. Is there a motion?

>> Vice Mayor Nguyen: Motion to approve.

>> Mayor Reed: We have a motion to refer this to the elections commission for their work plan. On the motion all in favor, opposed, none opposed, that is done. Item G-4 we're not taking up because we had a hearing on it last week. But if people want to speak about little Saigon they can do it under the open forum. Item G-5 staff's recommendation on a recycling plastic bags bill, SB 1219, another recycling reusable bags, AB 1834, to get on the council agenda for August 14th? Any staff presentation on those?

>> Betsy Shotwell: Here for questions.

>> Mayor Reed: Here for questions. Any questions, any requests to speak? No requests to speak?

>> Vice Mayor Nguyen: Motion to approve.

>> Councilmember Oliverio: Second.

>> Mayor Reed: Motion is to approve staff recommendation and get them on the agenda. All in favor, opposed, none opposed, that's approved. G-6, dropped to be renoticed. G-7, a request to approve the park Wilshire neighborhood block party as a city sponsored special event.

>> Vice Mayor Nguyen: Motion to approve.

>> Councilmember Oliverio: Second.

>> Mayor Reed: Motion is to approve. All in favor, opposed none opposed, that's approved. And G-8, request to approve district 2 Indian Independence Day flag day ceremony --

>> Councilmember Oliverio: Motion to approve.

>> Vice Mayor Nguyen: Second.

>> Mayor Reed: No request to speak on that. All in favor, opposed, none opposed, that's approved. We have nothing on the work plan. That takes us to the open forum I believe. Charlie Lee.

>> Mr. Mayor and the council, today I believe -- last week you were clear to say city don't want (inaudible) to little Saigon now to bring it back I want the majority don't want little Saigon, the majority want little Saigon. No longer City Hall (inaudible) when city put election, people say no. And now, also I want to tell the council and City Attorney, why council (inaudible) go to council going by the to China, do what (inaudible) the hockey here, spend by the taxpayer, the communist China occupy two island off Vietnam. Why people represent (inaudible) council can do to ask communist China view us back the two islands. I want the City Attorney and mayor investigate and council into why they always back on the council on (inaudible) and little Saigon (inaudible) (inaudible) California. Why the fundraising illegal, thank you mayor.

>> Mayor Reed: Tan Gno.

>> Good afternoon mayor and city council. My name is tan Gno (inaudible) you see on this --

>> Mayor Reed: Mr. Gno you need to speak into the microphone so we can hear you. You're supposed to be testifying to us.

>> And why you make a memo for District 7 to divide our community. You say you are a victim of the Chinese government, why you (inaudible) to buy tickets to to see (inaudible) in Vietnam now Chinese invade territory, territory water, killing fishermen, sinking fishing boats, here similar here. Why you try to divide our community. Please stop, thank you.

>> Mayor Reed: Robert Sandoval.

>> Good afternoon, mayor Chuck Reed and Vice Mayor Madison Nguyen, members of the council. My name is Robert Sandoval. I'm here today to speak on the issue of little Saigon on highway 101 and Tully Road that councilmember Kansen Chu is promoting. I'm wholeheartedly against this effort. I am confident that I can speak for many others in our district. That are also against the placing of this sign. During the placing of little Saigon banners the people of our district were divided and focus in this arbitrary matter. Rather than the real issue on hand, that our councilmember, Vice Mayor Madison Nguyen, is resolving. Vice Mayor Nguyen has been doing an amazing job on improving District 7. However, Councilmember Chu, since you are promoting it, I say to you: Why not put it in your own district 4, highway 880, and Berryessa. Over the years I have worked with all of you and have seen the good work that you have done, when United. I hate to see council divided over a trivial issue such as this. Again, I repeat myself, Mr.-- Councilmember Chu. Stay out of the affairs of District 7. We have a professional representative, our Vice Mayor, that has handled all the issues on behalf of its people there. Thank you.

>> Mayor Reed: Councilmember Chu do you want to speak?

>> Councilmember Chu: Thank you, mayor, do I get six minutes since all of those statements kind of tore at me. I regret that we aren't able to hear these issues again. This isn't about naming of a district, that is all behind us. This is an issue of how can we improve the business environment in the City of San José although I'm elected

by the district, but I do represent the residents of the whole City of San José. This is no different than we requesting a sign to be put on the highway 17, to promote the valley fair, Westfield center. This is not the naming issue. The naming issue is behind us. This is simply a question of the economic benefit. The reason I issued a memo is because we can verify with the City Attorney, the state administrative process, the street and highway code, 101.12 indicated that if we want to put a designation sign the body adopt a resolution. I understand the state introduce the resolution we don't oppose having the sign. But if it's a big difference than we don't opposing the sign by the city staff, than the city council and the mayor to join, to vote on the resolution to say we're supporting this sign. So this is really nothing to do with any name that may be put on that freeway sign. It is really, really strictly for the economic benefit. So that decision here is that we want more customers to visit our or to patronize our restaurants, our shopping centers, to generate more tax revenue for the city or not, it's nothing to do with the naming of it. So thank you very much for the opportunity.

>> Mayor Reed: Dave Huang.

>> Thank you all, thank you, and staff. My open letter prepared to sent it to mayor I would like to read it out loud right now. Dear mayor Reed and the councilmembers, no one could deny that there was no crisis about the little Saigon issue in San José. That crisis really cause lots of pain and divisive issue among all factors in the city and all communities. The crisis has long been gone. The wound has long been healed. The ax was already buried deep. We as a brand-new American culture have talked move forward leave no residue for the future. Time is to cure the wound not to lick the wound and find way for revenge. That is when mayor Chuck Reed when he gets (inaudible) back from the trip to Japan, I welcomed him home, shook his hand. That was only friendship with the mayor (inaudible) there is no second chance for a first impression. It was basically right but my not absolutely right in this situation. Mr. Mayor, and council, you all have a perfect second chance to extend your hand to the Vietnamese community, to erase the bitter first impression. Instead of doing nothing, to leave the issue floating in the air and to send the Vietnamese community to an ever winding road uphill and exhausted to seek approval for the road sign leading to the little Saigon of San José. The mayor and the council can do much, much better than by approving the resolving for the road sign. So theoretically we could set up that sign tomorrow. Leave the action to heal the wound --

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

>> Thank you.

>> Mayor Reed: Fund Le.

>> Good afternoon, mayor and rule committee member. My name is Van Le and I'm vice president of (inaudible) I want to echo and I thank you, Councilmember Chu, to step up and ask for this sign for economic standpoint I believe a lot of people nonvietnamese came to the San José and they want to find where is the culture where is the shop where can they go to eat. And little Saigon sign is really benefit for the business in District 7 also for the residents (inaudible) more business and I think that that's the best thing that I think as the Vietnamese community that work closely with the Vietnamese American community in City of San José, really urge you to review it and approve the resolution. And my last point is last week, you mentioned that the resolution would divide the community. I don't think so. I think that the person that make decision to kill the resolution would divide the community. Thank you.

>> Mayor Reed: Trong Tran.

>> Good afternoon, mayor. I'm here today, again, to support the resolution submitted by Kansen Chu. Last week, I misunderstood mayor statement when he said, I'm not opposed to the resolution. Not opposed doesn't mean approval. So we, as a resident of San José, need mayor and city approval of the resolution due to the following reason. Number 1, to promote the spirit of democracy of our city. Number 2, help little Saigon foundation ease the process to get the state approval. Number 3 to contribute to the prosperity of business area on Tully road. Number 4, the city's already approved the name Little Saigon on Tully Road. The sign of Little Saigon on freeway is an additional part of the whole process. It's not the big issue to deny the Vietnamese community. With the bold reason we heartily urge the city to approve the resolution submitted by Councilmember Kansen Chu. Thank you.

>> Mayor Reed: Van Ann Tren.

>> Good afternoon. Mayor Reed. And the councilmembers. My name is Van Ann Tren. Today I'm here once again to support the resolution regarding the little Saigon sign on freeway 101 submitted by councilmember Kansen Chu. There are two things from statement at last time meeting that you I would like to revisit. First, mayor said he has no objection to the little Saigon project. From what I understand, not objecting doesn't mean approving it. Second, redoing something in a writing form, so that it will be easier for us to get the state approval. Secondly, Mayor Reed also said that the thing of this issue would strongly divide the Vietnamese community. The thing is, I find that any time we have to make a decision with service issue, there are always yes always people who support the position and people who oppose it. Should we drop the issue? Of course it cannot, perfect example, the upcoming presidential election in November. Of course, there will be a lot strong division amongst supporters and nonsupporters of each candidate. Should we, because of that, say that we should cancel the election, of course not. For that's the reason we strongly and respectfully urge Mayor Reed and councilmembers to go ahead and approve the resolution for the.

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

>> Thank you. Tin Nguyen. Tin Nguyen, not here. That's the end of our open forum, that's the end of our agenda. We're adjourned.