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San José Rules and Open Government Committee meeting.

>> Mayor Reed: This Rules and Open Government Committee meeting for May 6th, 2009. First question is whether there are any changes to the agenda order, no? Okay. First item is council agenda for May 12th. Any changes on page 1? Page 2 or 3? I've got a note to drop 1.3, a commendation. Anything else on 2 or 3? Page 4 or 5? 6 or 7? Page 8 or 9? Page 10 or 11? I've got a note here on the open forum, it's on there twice for one meeting. We'll have them both heard at the same time. And request for additions, a commendation for San José biocenter for winning a couple of national awards. An addendum on five gates of north concourse open July 1st, '09. Add the award of the contract to the May 12th agenda so that we can open up on July 1st. And that's report on bids on award of purchase on for furniture for the airport. How about deferrals?

>> A custom land use items.

>> City Attorney Doyle: With one item in the evening.

>> Mayor Reed: Okay.

>> I don't think anything of significance.

>> Councilmember Pyle: Motion to approve as amended.

>> Mayor Reed: We have a motion to approve as amended.

>> Councilmember Constant: So the only thing on the evening is the public hearing on the budget, is that correct?

>> Mayor Reed: Budget exclusively on the evening. I have one item that we have previously talked about for time-certain, that was to take the homework center item level 1 homework center program allocation 5.2, to be heard immediately before consent calendar. So that will be early. I think the afternoon hearing will be shorter than yesterday's afternoon hearing. That's a bold prediction.

>> City Attorney Doyle: Mr. Mayor, do we need worry about open forum at 3:30, is that --

>> Mayor Reed: The not-before-3:30?

>> Councilmember Constant: We can delete the time just to be sure.

>> Yes.

>> Lee Price: So we'll delete the reference to 3:30 for open forum and for the agency, for both?

>> Mayor Reed: I still think it will be around 3:30. I was way off on the other meeting. Any other time issues? CDBG one got a little longer than expected. Okay, motion is to approve as amended. All in favor, opposed, that's approved. May 19th draft agenda. Anything on page 1? Page 2 or 3? Page 4 or 5? Page 6 or 7? 8 or 9? 10 or 11? 12 or 13?

>> Excuse me, mayor. 9.1 was released this morning. Everyone should have that.

>> Mayor Reed: I'm sorry, I don't understand what that means.

>> Instead of going on the early distribution packet yesterday, it was released this morning.

>> Mayor Reed: Okay, that's the staff report for city agency short term loan agreement, due to the bond market. That's out now. Anything on 13 or 14? I have requests for additions, excused's for Vice Mayor Chirco for a couple of meetings, Councilmember Constant from a meeting, any other requests for additions? Motion is to approve. All in favor? Opposed? None opposed, that's approved. May 12th agency agenda. Anything on page 1? Page 2 picks up the quarterly project status report that we didn't hear last night. That's that report.

>> That was kicked over from yesterday's meeting.

>> Mayor Reed: Okay, and then we have a couple of actions regarding major league baseball stadium. Anything else, any additions?

>> Mr. Mayor, there are no other additions or changes on the agenda.

>> Councilmember Pyle: Motion to approve the RDA agenda.

>> Mayor Reed: Motion to approve, all in favor, opposed, none opposed, that's approved. May 19th agency agenda. Anything on page 1? Page 2 or 3? I have a question about whether or not the staff -- city staff is going to be ready on the analysis of 8.1, some of the actions remitted to San José McEnery convention center expansion, specifically the proposal by the executive director here to move out of City Hall and relocate, I know the city staff has been doing an analysis and working on that. Are they going to be ready to go on the 19th?

>> Ed, can I refer to you?

>> Ed Shikada: Ed Shikada, deputy City Manager, I believe we're ready to discuss the options.

>> Mayor Reed: Okay. Any additions?

>> Councilmember Pyle: Move to approve the RDA budget -- I mean --

>> Budget's on our minds.

>> Councilmember Constant: I'll second the agenda.

>> Mayor Reed: Motion to approve. All in favor, opposed, none opposed, that's approved. Coming study sessions, just got a whole bunch of budget lined up, those agendas are all out. Legislative update, state we have Senate Bill 747 by Correa, school recycling programs.

>> Betsy Shotwell: , yes, Mr. Mayor, members of the committee, Betsy Shotwell, director of intergovernmental relations. Recycle programs could be implemented only if the senate does not incur additional cost. We are here to field questions.

>> Councilmember Pyle: I've been pushing this ever since I started teaching. It's been a long time coming. 760,000 tons of waste into our landfills because we weren't recycling, this will make a huge, huge difference so I'm delighted to see this come before us.

>> Mayor Reed: The memo says some school district waste can represent as much as 50% of the total waste stream. Do you know how we are in San José, perhaps in that range?

>> Betsy Shotwell: I don't know, perhaps the staff will know.

>> My name is Amy Chen from the environmental services, representing the go green schools program. We believe it's about 4% so that is a significantly small number in comparison to meet Sierra waste. Our children are advocates to go home to tell their parents to actually contribute to recycling at home. We feel the effects that can carry on in stewardship can be actually a bigger percentage than 4%.

>> Mayor Reed: We can't get forward if we can't get to schools.

>> That piece of the pie is just as important.

>> Mayor Reed: Anything further on that?

>> Councilmember Constant: I'll echo what she says, my kids yell at me if I even attempt to throw something away in the garbage, until they check whether it's recyclable. I'll make a motion to approve.

>> Mayor Reed: Motion to approve. What week you want it on?

>> Betsy Shotwell: If we could have a one-week turn around that would be greatly appreciated.

>> Mayor Reed: 12th. All in favor, opposed, that's approved.

>> Betsy Shotwell: Thank you very much.

>> Mayor Reed: Nothing from the federal government, one thing on the legislative update from the state. The governor's conclusion what he will do if the ballot measures might fail, we know that from the budget hearings this morning the proposal of taking 8% of property tax revenues from local governments could cost us anywhere from 17 to \$20 million. He's got other proposals that he's floating or making or whatever he's doing betting ready for May 20th. But 8% is not the maximum that contain under prop 1A. If they pull the trigger and declare the emergency or whatever is required, they could declare up to 15% of property tax revenues I think, is that anywhere near right?

>> Betsy Shotwell: I've heard it's hypothetical. It could be less here, more there. Whether 15% is the cap, I don't know. It's an estimate so the numbers vary.

>> Mayor Reed: 17 to 20 million or more, possibly.

>> Betsy Shotwell: Right and please know as this came out of the department of finance, our lobbyist Roxann Miller has been constantly in contact with the governor, obviously indicating our constant outrage, and please we'll keep you informed as this plays out.

>> Mayor Reed: It's coming out of his department of finance is not a good sign where it's going to go at the end of May. Meeting schedules, nothing to add. Public record, anything from the public record that the committees want to pull to discuss?

>> Councilmember Constant: Just wanted to make a brief comment on item number C.

>> Mayor Reed: A letter from Martha O'Connell regarding mobile homes advisory commission.

>> Councilmember Constant: I think it's important that our city staff and our councilmembers continue to look for people in the community who are actively engaged and willing to serve on our commissions and I think it's wholly appropriate that they have done so in the past and continue to do so in the future. And other than that, note and file.

>> Mayor Reed: Motion to note and file.

>> Councilmember Pyle: Absolutely, second.

>> Mayor Reed: Okay. All in favor? Opposed? None. Appointments to boards, commissions and committees, we have recommendations from council lee eight sponce for library commission, traffic appeals commission, housing and community development advisory commission and early care and education commission.

>> Councilmember Constant: Motion to approve A through D.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approve all of the council liaisons for those commissions. Why don't we just give those for the record, for people who are watching at home and don't have the records. Pierluigi Oliverio has recommended Donna Graham and Barbara Lydon to be reappointed to the library commission, Councilmember Nguyen has recommended (saying names) and Bonnie Mace. Vice Mayor Chirco has recommended Cheryl Hints Maido. All in favor, opposed, and 10.1, council resolution for BART, also known as the Silicon Valley rapid transit corridor project regarding the Berryessa station. And we have memorandum from Councilmember Chu, one of the questions I would have before we decide if this goes on the council agenda or goes to transportation and environment committee agenda, I do want to have a chance for the staff to do some research on all of our positions that we've taken, and to see that and I'd kind of like to have us come back next week with staff having the ability do that analysis to see which way we want to go. Councilmember Chu, do you want to speak?

>> Councilmember Chu: Thank you, Mr. Mayor. I want to be very, very short, first of all I want to make it public that I'm being a strong supporter for BART to coming down to San José. And the reason I put forward this memo is because I have received a lot of memos and phone calls from my constituents. They there seems to be lot of confusions and misunderstanding there. And I just wanted to make sure that there are transparency and accountability as we move forward with this project, that the community is kept well informed during this process. There are three community input meetings, one in Milpitas, one in Santa Clara, one in Downtown San Jose. And Berryessa was not -- doesn't have the community input, period, whereas the EIS study there was three options put forward, one was nothing, not coming down to San José, one is to build a full 16.1 miles of the remaining line to Santa Clara, the other, the third one is to top at Berryessa. However, Berryessa community doesn't really have a chance to really making any input to this EIS process. Thanks to the VTA they're working with our office, and we will be holding one community meeting tonight to have -- give VTA an opportunity to let the -- our constituents know what's the direction that VTA is heading, and also give the residents in Berryessa an opportunity to input to the EIS and also VTA has agreed to extend this public hearing for an extra week to accommodate some last-minute input. So I would just want to stress that Berryessa is really a bedroom community. It's not a traffic hub. And we have existing traffic issues such as poor access to 101, either on Hedding, 13th street or Taylor Mayberry. So to put a terminus station in Berryessa, is going to be a very, very negative impact to the quality of life and people live around that area. And also when the voters, when we pass measure B in 2008, we will understand -- we were under the impression that BART extension would be go through the Berryessa and downtown and all the way up to Santa Clara. The increase is for the entire 16.1 mile extension, not just to end it at Berryessa. So at this time I respectfully request the Rules Committee to refer this item to the T & E committee, I think that would be great for some further discussion at their level. And I also wanted to thank Kerry Hamilton and Mike Baher, I received several snail-mails and calls. We will likely have discussion at the meeting at Berryessa library at 7:00. Thank you mayor.

>> Mayor Reed: Thank you for taking the lead on this matter. I know it is of concern to your constituents in Berryessa. I would like to see this come back next week. I'm pretty sure I've taken a position of we're building the whole system. I think the city council has on more than one occasion saying we're building it all the way through San José to Santa Clara. But I'd like to review that based on previous action we've taken. When we're make a statement on the phasing, I know we're in the middle of the phasing process, that's not decision make, I'd like to know the timing of any decision making that VTA might make, so that we make sure we weigh in at the right time. Then I know work is being done by the VTA on some of these issues and I'd just like to know where they are in the process of doing the work that surrounds the EIS and the station and Alum Rock station and the Berryessa station and the Milpitas station, all that sort of thing so we can get everybody up to speed and then make a decision on where it should go next. So that's what I would recommend. Bring it back next week?

>> Councilmember Constant: Yes, I agree, I can make the motion to that effect.

>> Councilmember Pyle: Second.

>> Mayor Reed: Okay, bring it back next week so staff has the chance to answer the questions and we can decides, that still gives us time I believe to make it on to the June 1st T & E meeting agenda. Bring it back next week, then?

>> Just a verbal report or written report?

>> Mayor Reed: No, just a verbal report and whatever written will probably come to the T and E committee level. Mike?

>> Mayor Reed, councilmembers and staff, my name is Mike Flaher and I'm president of Berryessa citizens advisory council. I want to first thank Councilmember Chu for bringing this matter up and giving

us some more time to have input on the item. It is very important for Berryessa residents to understand the impact to our community. It also is important to understand the impact to council district 3, as a lot of this traffic is going to be going through their protected intersections along Taylor and Hedding. So there's a lot to -- that's important to understand here. We are supporting, in general, in the community of BART to San José. We'd like to get it downtown and we'd especially like to get it over to connect to our airport, and to Diridon station. I think it's important in the future as we have seen with San Francisco, and now in the future with Oakland, that we come together with a coordinated transportation system if you look at, for instance, now like in the City of Chicago, for \$2.50 or at least it was a couple of years ago, you can ride out of the loop and right to the airport and get on a plane. This is the kinds of thing that makes sense as we become a green community and think about public transportation. So I do support the memo from Kansen Chu. Thank you.

>> Mayor Reed: Anyone else want to speak? Kerry?

>> Thank you, Mayor Reed, councilmembers and others. We also support moving forward with the memo to staff that was given. I can't say enough of the importance of public outreach on these major transportation and development issues. In fact, back when the city did public outreach for the BART -- the development to support BART, the flea market development, there was one public meeting in our area for the general plan amendment and they tried to fold the rezoning into it, and the rezoning was in flux at the time. So very little was presented on it. What was presented was already out of date. And we had to kind of force the hand to make sure that the community meeting actually happened on the rezoning. And the feeling in the community was tremendously different once that meeting actually happened. And I personally don't beef that the BART measure would have passed had we not had that meeting. We all know how close that vote was and I also know how many votes were turned in at the very last minute. And it was those votes that really made the difference in this. And I think it's critical that we bring the community into these big decisions, and we know that funding-wise, things have changed and economically, things have changed substantially since the EIS process started. There hasn't been a lot of public outreach and it wasn't in our area and unfortunately I had conflicting meetings and couldn't attend those meetings either. Those of you who practice law know that an EIS is required only for issues that are required, funding impaction and how things will impact the EIS, thank you very much.

>> Mayor Reed: Your time is up. Anybody else? For the key thing, there VTA has extended time for public comments. And they'll assure that all these things can be dealt with, it's an important step so it's a good thing to have that done. And we'll take this up next week for committee assignment. That's the motion, anyway, to bring it back here.

>> Councilmember Pyle: Motion to approve.

>> Mayor Reed: All in favor, opposed, none opposed, thank you very much. Item 11, Community and Economic Development addition regarding the Santa Clara Valley habitat plan status for June 22nd, '09.

>> Councilmember Constant: Motion to approve.

>> Councilmember Pyle: Second.

>> Mayor Reed: Okay with the chair?

>> Councilmember Pyle: Yes.

>> Mayor Reed: All in favor, opposed, that's approved. Transportation and environment committee work plan addition regarding private sector green building ordinance for the June 1st meeting.

>> Councilmember Constant: I'll make the motion since I'm not on that committee either, it's easy to give them work.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approve the addition. All in favor, opposed, none opposed, that's approved. We have nothing under open government initiatives for today. Open forum, anybody wish to address us, Mr. Wall?

>> May I discuss water conservation today?

>> Mayor Reed: Sure.

>> Empty milk carton. I was going to put it in the recycle bin but I thought I'd come down here and tell you about a solution. If you have a water system, the PH is negligible, you can change it very easily. When the temperature comes up, you can use is overflow, you can dump it or use it to water your plants. There is a problem with the construct but that's for another day. Exceptions to the rule would be Almaden valley nursery and McCanthy's, the only two private nursery that are San José. The big box stores, if you lose these you lose something that is important to Santa Clara Valley. With the exception of Pete and myself, the rest of you are high-end laundry users. You've got to change it. If you're going to be environmental

about that, you've got to change the way you dress and besides, it would be a lot more prudent and I would feel a lot more inclusive if people have a few more bib overalls. I feel very environmental when I leave here. In parting, this is poking a little fun, now I'm going to give you Mr. Mayor, good ideas about your front yard. My front yard's the same way but I'm going to construct it with raised beds and you wouldn't believe the amount of culinary herbs, vegetables, victory garden, so to speak. Taking it to the extreme because of the governor and California native plants, of course you're going to have to run it by our Chief of Police, could be said you could grow marijuana in your front yard, tax it and fill up the deficit but enough said, you get the idea and bless you all.

>> Mayor Reed: I'm thinking about rocks.

>> Councilmember Constant: I wanted to thank you, I know there's a reason why I dressed casually, more than others. That's my reason.

>> To be environmental.

>> Councilmember Pyle: David, that's a hard says.

>> Mayor Reed: That's a little hard sell. That completes the open forum. We're adjourned.