

The following transcript is provided for your convenience, but does not represent the official record of this meeting. The transcript is provided by the firm that provides closed captioning services to the City. Because this service is created in real-time as the meeting progresses, it may contain errors and gaps, but is nevertheless very helpful in determining the gist of what occurred during this meeting.

>> First is the parking authority agenda which has just the minutes on it. Any requests for additions? I have nothing in writing. Nope.

>> Councilmember Herrera: Motion to approve.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion is to approve. All in favor? Opposed? None opposed, that's approved. June 14th council agenda. Anything on page 1?

>> City Attorney Doyle: Just a quick note that we continue to hold closed sessions at 9:00 and I don't know if the committee wants to revisit that at some point. There are still labor issues but many of them are resolved. So just a heads-up.

>> Mayor Reed: I would say hold it for now. I think we'll need it for this coming Tuesday, for sure, at 9:00. Maybe on the 14th, we'll be done with all the labor-related things for a while. I don't know. So leave it on here for 9:00 for now. Anything else on page 1? Page 2 or 3? Page 4 or 5? Page 6 or 7? On page 6, we have -- let's see, trying to get -- we have 9.3, 3.1, 3.8, reverse in that order, immediately following the consent calendar chem which one is which, the budget-related items.

>> They are all budget-related items.

>> Mayor Reed: But let's see. We're back to 9.1, is the budget message, so that's what we'll hear first. And then we go into the three points related, budget-related items that come after that. So what I'm working my way over to talking about is, making sure that we have consistency between the agenda for the 13th hearing on the budget which we haven't gotten to yet, and this description of what we're doing on the budget. Because I want to have public testimony on the 13th, continue that hearing to the 14th, because I don't want to start over from scratch on the public comment. So I just need to look at the descriptions of the agenda items to make sure we're continuing

that hearing from one day to the next. Because we're going to be very busy on the 14th as it is. All right. Anything else on page 6 or 7?

>> Councilmember Herrera: Motion to approve.

>> Mayor Reed: Four more pages, I'm sorry.

>> Councilmember Herrera: Jumping the gun.

>> Mayor Reed: Eight or 9, 10 or 11? 12 or 13? As you can see we are getting into longer and longer agendas. Page 14 or 15? En 16 or 17? Or 18? Anything else on that agenda? I have a request to add an item, a memo which is on our agenda as item H-2, which is the request to agendize modification of amendments to Cisco systems development disagreement and city's development agreement ordinance which I'd like to add to the 14th agenda. Noting that the substantive memo on that will be out not later than Friday, which will be ten days before. Any other requests for changes? I'm sorry, while I'm thinking about it, on that same category, adding the Jewish American heritage event and Canadian flag raising event as city council sponsored special event, those are on the same day?

>> Dennis Hawkins: Yes, those are consent items. Next to the last and last meeting of the fiscal year we've started earlier. And I was going to ask if you saw a need to start earlier than 1:30 on the 14th or the 21st, or both.

>> Mayor Reed: Just start our closed session and continue on until we're done. We do have a pretty lengthy agenda on the 14th, there's no doubt about that. The 21st will be just like that. I think the question I have then for the 14th is, at what time will we take up the budget-related items then? Could be in the morning I suppose. Because when you get some of those done before we can move on some other items. And right now, if we start the closed session at 9:00 I anticipate we'd be out of there by 10:30 or even 10:00. So certainly 10:30. So we just start with the agenda and work our way through. Until done. Until July gets here. [Laughter]

>> Mayor Reed: Okay?

>> Dennis Hawkins: Did you want to put a time-certain of say 10:00 or 10:30 for 9.1 to kind of earmark that?

>> Mayor Reed: Well, we could --

>> City Attorney Doyle: It really is going to depend on that closed session agenda.

>> Mayor Reed: Yeah, we'll take it up immediately after the closed session, and we anticipate that it will be in the morning. I can't believe the closed session would go until noon unless you're doing your 500 cases report.

>> City Attorney Doyle: No, that's going to wait till August.

>> Mayor Reed: Okay. And we only have a few labor items that might take a while. So I'd just say we're going to take it up as soon as closed session is done and we anticipate it will be in the morning. And we are having a public hearing on it the night before so people can testify, and know when they can talk. Anything else on the 14th?

>> Ed Shikada: Mr. Mayor, we do have a number of items, the budget related items that we need to request a 14 day sunshine waiver. In many cases they have just gone out or in a couple of cases have not.

>> Mayor Reed: What are those?

>> Ed Shikada: Okay, so the items are the threes, so 3.3, is now out, 3.4 --

>> Mayor Reed: So that's library parcel tax rates is 3.3?

>> Ed Shikada: Yes, library parcel tax.

>> Mayor Reed: 3.4 is sewer service and use charge and storm sewer service charges.

>> 3.6 was about recycle plus! rates, that was released today. And then item C on 3.7, the master parking rate items, was released today.

>> Ed Shikada: But the remainder of 3.7 has not been released yet.

>> Mayor Reed: When will be it released?

>> Ed Shikada: With the packet?

>> With the packet.

>> Mayor Reed: So it will be out at least ten days?

>> Ed Shikada: Yes.

>> Mayor Reed: Okay.

>> Ed Shikada: And let's see, 3.8, RFP results for graffiti abatement services as well as two other items of note, 5.1, grant applications under prop 84. And 8.1, the agreement for emergency medical services.

>> And the grant applications actually went out today as well, 5.1 was released today.

>> Mayor Reed: But all will be released by Friday, all hit the ten days?

>> Ed Shikada: Yes.

>> Mayor Reed: Anything else? All right, so we have additions and sunshine waivers.

>> Councilmember Herrera: Motion to approve with additions and sunshine waivers.

>> Ed Shikada: Mr. Mayor.

>> Mayor Reed: Another one?

>> Ed Shikada: I was just informed that employee relations is working on another one potentially for the 14th. We will hear if they have anything else to add to the report.

>> Mayor Reed: Okay, we're not done until we're done. We have a motion to approve with sunshine waivers. All in favor, opposed, none opposed, that's approved. Next item would be the Redevelopment Agency agenda for June 7th. Anything on page 1? Other than the timing issue? And we have one item on the agenda. Anything else?

>> Mr. Mayor, members of the committee, there's no additions or deletions but I for clarification I would point out under subparagraph B when the agency refers to the block 5 garage sale we're referring only to the sale of the portion of the garage that the agency actually owns not the portion owned by the developer.

>> Mayor Reed: That would be great if we owned it all now. Probably worth a little more now that it's been improved. And then we have the joint item, the budget-related. Went out on the 7th I guess. Anything else on this Redevelopment Agency, the 7th?

>> No other items.

>> Mayor Reed: Need a motion.

>> Councilmember Herrera: Motion to approve.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed, that's approved. Redevelopment Agency 14 June. Anything on page 1 other than the time items that we discussed earlier? And then we have some -- anything on page 2 or 3? You see one --

>> Mr. Mayor, members of the committee if I could, as it turns out, the item on page 3, 8.1, Mayor's Budget Message, is now a joint item on the council's agenda. And the agency would prefer simply to remove it here because we will be meeting with the city jointly on the same item. As best that it not appear in both places. And on the consent calendar on page 2, 2.1, 2.2, all the routine committee reports and minutes, with the council's or the committee's concurrence we would recommend that that be heard in conjunction with the City's consent calendar or the same day as we did on may the 10th.

>> Mayor Reed: Okay. Any other changes?

>> No other changes, adds or deletes.

>> Mayor Reed: Motion?

>> Councilmember Herrera: Motion to approve.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion to approve with the changes. All in favor, opposed, none opposed, that's approved. Council agenda for the special meeting, June 13th, special meeting to hear public hearing on budget.

>> City Attorney Doyle: Mr. Mayor, if I can just note this has not been agendized on the Rules agenda. I think it's okay for the committee to discuss it so that it's in coordination with the 14th as you indicated but I would suggest we not make a motion to approve or disapprove or anything of that sort.

>> Mayor Reed: Okay, but let's talk about the agenda language. I guess it's the same conversation, just make sure we're coordinated between the 13th and the 14th. Okay so we'll take this up next week for final approval.

>> City Attorney Doyle: Yes.

>> Mayor Reed: All right, that takes care of agendas. Legislative update would be next. State of California, Betsy Shotwell.

>> Betsy Shotwell: Thank you mayor members of the committee, Betsy Shotwell, Director of Intergovernmental Relations. Roxann Miller, our City lobbyist, and I put out an info memo last week on the state budget with the May revise. It is now June. With the passage of prop 25 last fall, if the legislature does not pass a budget by June 15th, and the governor doesn't sign a budget by July 1st, they will lose their compensation, their tax-free daily per diem. There's much discussion as to whether that's going to have an impact on when the budget is passed, or not. That remains to be seen, but that's just another element out there. Meanwhile the discussion and debate continues with regard to the governor's proposal to eliminate redevelopment, and then recent legislation was put in print I think yesterday staff is reviewing with regards to redevelopment reform so. That is all in play as well.

>> Mayor Reed: Last week I read a news story from one of the Sacramento papers that senator Steinberg said he was going to have a floor vote on a budget on June 8th. Any more rumor to that information or any facts to that information?

>> Betsy Shotwell: I've heard that as well. I've also heard the draft reapportionment maps are out, June 10th. So they say this is the convergence of a number of issues of major interests on the mind of the legislature and of the California voters, a lot in play coming up, but I too have heard that.

>> Mayor Reed: But it won't happen until it happens no matter what has been said.

>> Betsy Shotwell: Right, exactly.

>> Mayor Reed: Okay, any other comments or questions on --

>> Councilmember Herrera: RDA reform bill is that Alejo bill?

>> Betsy Shotwell: Louie Alejo has introduced it. We're going through the bill line by line now obviously as we speak.

>> Mayor Reed: If you count the votes in the assembly, how many Democrats do you need to not support killing redevelopment if it's only a 50% vote requirement?

>> Betsy Shotwell: If it's 50%, well then I can't remember what the count would be for 50%. But for moving that property tax that requires the two-thirds.

>> Mayor Reed: Right but some people believe the strategy will be to kill the agencies, and then later on, a few months from now when the money is just laying around to use Schwarzenegger's term it will be easy to take the money and, since they were one vote or two votes short of getting two-thirds, there's a lot of votes there to do something negative for redevelopment.

>> Betsy Shotwell: Yes, there still is, yes.

>> Mayor Reed: But I know that you and Roxann are on it constantly.

>> Betsy Shotwell: Constantly.

>> Mayor Reed: Appreciate that.

>> Betsy Shotwell: As well as staff with attorneys office redevelopment and finance.

>> Mayor Reed: Any other questions on Sacramento? Nothing on the federal side.

>> Betsy Shotwell: No, no.

>> Mayor Reed: Okay then lets turn to the specific bills, some recommendations to take quick action on three bills and that would put them on the consent calendar for next week, right, if we do that?

>> Betsy Shotwell: Yes.

>> Mayor Reed: One is AB 976 on public contracts and community choice aggregators. You want to speak to that one first?

>> Betsy Shotwell: Yes and staff is here. This is a -- akl these bills are in keeping with recommendations consistent with the Green Vision and the City's legislative priorities and this one actually is a recommendation to oppose which would create additional disincentives for municipalities to engage in community choice aggregation, and Mary Tucker from Environmental Services Department is here to answer any questions.

>> Mayor Reed: Any questions on that bill? We'll consider them all before we take a vote. You want to explain the other two?

>> Betsy Shotwell: AB 512 by Rich Gordon. This is a piggyback to city sponsored legislation a few years ago that came out of the clean tech legislative priorities. This would increase the capacity of eligible generating

renewable facilities, up to 5 megawatts that the Leonard bill allowed for and was passed and signed into law in 2008. This is just an expansion of that as we move on in years and efforts and capacities.

>> Mayor Reed: Any questions on that Vice Mayor?

>> Councilmember Nguyen: I don't have any question. I just wanted to voice my strong support for AB 512. I think that this is a really great way for our city to engage in, in terms of bringing potential bigger solar projects into the city. A particular site I'm looking at is the eastern part of the Story Road landfill. I know staff has been talking about that in terms of potentially in the future bringing solar or green technology projects. I think that our support for this bill would help us in that direction.

>> Mayor Reed: And then 790, Leno's bill on aggregation.

>> Betsy Shotwell: Yes, this is a recommendation to support, this is improve government entities ability to utilize community choice aggregation. This has -- our lobbyist just got back to me had passed the senate appropriations committee and pending on the senate floor and has to get out of the senate on Friday as all bills have to get out of their house of origin by Friday.

>> Mayor Reed: Dennis.

>> Dennis Hawkins: Mr. Mayor, I just noticed there's a typographical error in item C, the recommendation is to support AB 512. And the recommendation is to oppose. So I apologize, we'll make that correction.

>> Mayor Reed: Which is it?

>> Dennis Hawkins: Item C.

>> Mayor Reed: I got it found the spot.

>> Dennis Hawkins: I just want to clarify, we have support.

>> Mayor Reed: We have some requests from the public to speak. We'll take this now, Mr. wall.

>> David Wall: Good afternoon, Your Honors. Starting with AB 976. I think that this bill is flawed insofar as it will interfere with interstate commerce. Referencing AB 512 I oppose this bill because it's too limiting. I have more faith in your abilities, Mr. Mayor and learned counsel, that this city can create bigger energy projects than just five megawatts and so this needs to be rejected on that item alone. SB 790 is another one that I would object to. It may interfere with infrastructure investment and maintenance within the electric corporations. It quashes the free speech of the electrical corporations and once again it interferes with Interstate commerce. Thank you very much.

>> Mayor Reed: That concludes the public testimony on the three bills. Further discussion on the three bills, Rose.

>> Councilmember Herrera: I wanted to say I strongly support Leno's bills, even though we're not pursuing the aggregation right now, I think it's very important to keep the option open in support of economic development.

>> Mayor Reed: We do have some municipalities that believe that they have saved a lot of money through aggregation, in some things, I'm not sure where they are.

>> Marin keys is the only established community choice aggregator within the state of California. But there are others that are living (inaudible) we are preparing a report on that for presentation to council in September. Part of T&E.

>> Mayor Reed: Okay. Anything else on these? We can take them in one motion I think.

>> Councilmember Herrera: Motion to approve.

>> Councilmember Nguyen: Second.

>> Councilmember Herrera: Recommendations.

>> Mayor Reed: Motion is to approve all three of the staff recommendations noting the change in item C, AB 512, the Gordon bill. All in favor opposed, none opposed, that's approved.

>> Betsy Shotwell: Thank you very much.

>> Mayor Reed: Nothing under meeting schedules. Public record. People who want to speak under public record, I have some cards. Mr. Wall.

>> David Wall: With reference to item C and also with testimony that was entered into the record at yesterday's meeting, the viability of the environmental innovation center should be likened to a death spiral whose apogee is of significant descent. I would, Mr. Mayor, under strongest terms, cancel this project or defer it to such a time period to where your new markets tax credit financing plan can keep pace with the deadlines from the economic development agency. With reference to the problems listed in defying and communications from the documents on yesterday's agenda which are too elaborate to discuss within the confines of today's time period, you should have exceptionally grave concerns from dealing with any of these subcontractors despite the good work of our Public Works department, and their support of these subcontractors. There's language contained within official documents that will invoke litigation that may impede a new market tax credit financial structure and therefore cause collapse and great embarrassment to your administration. I believe this whole system is flawed. Thank you.

>> Mayor Reed: David Reihoft.

>> Here --

>> Mayor Reed: Stand at the microphone, because we have all the cameras set up for whatever.

>> I'm David Reihoft, my wife Mary Lew --

>> Mayor Reed: But you should pull the microphone down a little bit better, it will pick you up better.

>> Is this better?

>> Mayor Reed: Yes.

>> This is my wife Mary Lou. You have a broad outline of our dispute with the city. It concerns not only money but also unethical practices by staff. The primary issue goes back and says in essence who is responsible for repairing a 50-year-old sewer line running from our cleanout on the boundary with our neighbor across the property to the city main 40 feet away. We were miss informed and misled during five years of intermittent blockages and spillover of raw sewage over my neighbor's property but learned the truth five days after we fixed it. The city had decided several months before to repair it as parts of comprehensive sewer rehabilitation in the whole Perry lane area. It was called the Bryce Perry lane revitalization project and was worth \$400,000. We filed a \$4100 reimbursement request in 2009 and got a prefunctory rejection. We persisted. The process escalated to an egregious situation in which the city reacted negatively and negligently to our claim and our many subsequent appeals. We met them at every level. They ignored facts in their own documents which we easily obtained, reviewed and quoted and for a year reacted with a blend of stalling, polite dismissal, denial, defensive posturing, flagrant lies, and even hinted we were engaged in a deliberate fraud. In essence we were told we didn't see what we saw or hear what we heard from our city staff on the scene from city staff on the scene and would not even comment on supporting facts we discovered in city documents. In particular, the contract. This repetitive response to us started with the Department of Public Works leadership, persisted with city claims, city management, City

Attorney, people at high levels in all those departments. City staff persons even did the same with outside entity to whom we made a formal complaint, this is outlined --

>> Mayor Reed: Your time is up but we have your written material which have been submitted.

>> Just one thing I'd like to add that's not in there because it occurred recently, it's very vital.

>> Mayor Reed: Your time is up. I have a card from your wife. She's our next speaker.

>> I'll take five seconds.

>> Mayor Reed: Five seconds.

>> Not mentioned in your folder was how our anger and frustration peaked when a city sewer inspector, a man certainly mindful of San José sewer law and policy very recently validated our whole basic claim that the city was responsible for the repairs we had to pay for.

>> Mayor Reed: Sir, thank you. We have your written materials, of course. That one needs to come down a little bit, I think.

>> I don't think this is completely redundant of what my husband has said. But I want to tell you personally, that I'm really sick and tired of being profiled as a senile old woman who never heard what she knows she heard. And that I just can't understand. That's why I'm here. I want it to stop. And when you are my age, you're going to understand how abusive it is to keep hearing this sort of thing. Now, when I met with a member of the city attorney's staff, to talk about a lie about me, that had been inserted into a public document, she told me that she wouldn't be upset if somebody said that about her. Because it's what lawyers do all the time. And I might have a perceptual problem. She trivialized the lie, she trivialized me and she trivialized that code of ethics that's hanging on the wall in the waiting room of her office. Now, the latest communication in that office suggests that the claims

investigator offered to amend her testimony and that I had declined. That's not true. At the close of the long meeting, that I had with a member of the staff, she told me that litigation would not be worthwhile. I told her that my intent, that was not my intent at that time. That I was going to go to the District Attorney's committee, on governmental ethics and that I suggested that the claims investigator might want to amend her testimony to the court that was a lie. That's the truth. Now. There's an item.

>> Mayor Reed: I'm sorry, your time is up as well. But we do have the written materials as you provided and we've all had a chance to read them. That concludes the public testimony on the public record. Are there items the committee would like to pull for discussion?

>> I'd like to have you assign somebody to talk to me --

>> Mayor Reed: Sorry ma'am your time is up. Your time is up. We're going to deal with this now. So just have a seat. The committee will take up whatever the committee feels is appropriate under the public record items. Vice Mayor Nguyen.

>> Councilmember Nguyen: Mayor Reed I was just wondering if why actually have the couple talk with assistant City Manager Ed Shikada about this issue. I was just recommending that you both speak with our assistant City Manager Ed Shikada, he's sitting here to my left about the issue. So we can have resolution. Okay, thank you. Mayor Reed, this is a reference to item E on the public record. I just wanted to make sure that I believe some of the council offices received a letter from the Viet-American voters of Northern California regarding the Little Saigon banner and monument, and I believe that City Manager's office is actually working in terms of providing a letter with the response to some of the questions that are raised. I just wanted to make sure that that's happening.

>> Ed Shikada: Certainly, be happy to follow up on that.

>> Councilmember Nguyen: Thank you.

>> Mayor Reed: Any other questions or comments on the public record other than those two items? Motion?

>> Councilmember Nguyen: Motion to note and file.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion to note and file noting the appropriate request to the staff and I think you will be available after the meeting Ed?

>> Ed Shikada: Yes, I am.

>> Mayor Reed: You will be available after the meeting. Ton motion, all in favor, opposed, none opposed, that's approved. Taking us to boards commissions and committees. We have recommendations for appointment of Mike Yaghmai to the parks and recreation commission and Paula Davis to the arts commission.

>> Councilmember Nguyen: Motion.

>> Councilmember Herrera: Second.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. We've already taking care of H 2, 3 and 4. So I think we're at the open forum. H-2 you can speak on that if you want. (inaudible).

>> Mayor Reed: Item H-2 is just to add it to the agenda. There aren't any other documents at this point. (inaudible).

>> Mayor Reed: Anything else under open forum? Mr. Wall you got more?

>> David Wall: I didn't know that was open forum.

>> Mayor Reed: Open forum is the last thing we got.

>> There is also I-3.

>> David Wall: I would like the city to really emphasize look at parking compliance and changing it to parking enforcement, with specific funding regimen set up. Mr. Mayor, part of these high density living projects is that people leave these cars on the streets. The streets are not being effectively cleaned, with reference to trying to be encompassing with the municipal regional storm drain permit. Parking enforcement could have you a very viable revenue generator to sustain that program if done effectively. The other issue is that I sincerely suggest that you start cutting your senior policy advisor staff down to nothing and transfer that funding to the San José police department. Because if Agatha Christie were alive today, she'd do a story on San José called murder by district. Now, the san José police department needs to be reinforced, our fire department needs to be reinforced, and our attorneys needs to be reinforced. That means dramatic cuts in your other areas of service, specifically your staff, your senior policy advisors. I prefer to have cops on the beat than your senior policy advisors. Thank you very much for today's proceedings.

>> Mayor Reed: Okay that concludes the open forum but I managed to skip item I-3, which is transportation and environment committee addition to the work plan, which is the San José muni water system 2010 urban water management plan to the June 6th, 2011 T&E committee meeting.

>> Councilmember Nguyen: Motion to approve.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed, that's approved. So before we adjourn the meeting, I assume that we're still negotiating with our police union. And the question is whether we want to put a place holder on one of our agendas.

>> City Attorney Doyle: The rules resolution allows the City Manager to place something on Friday. If the council wants to take it up, it would have to do it by two-thirds vote. The alternative is to have the Rules Committee say, if it comes forward as a place-saver, add it.

>> Mayor Reed: Yea, I think we should do that.

>> Ed Shikada: I did get subsequent information that we have no add to the agenda.

>> Mayor Reed: I know those negotiations continue, but if the manager has the authority to put it on, on Friday, for Tuesday, I think that will be sufficient. I don't think there will be any problem to get a two-thirds vote to hear it on Tuesday, if we're able to get there. So we don't need to take any other action today we can finish the business -- (inaudible)

>> Mayor Reed: Yes, sir? (inaudible)

>> Mayor Reed: No, this committee is not put anything on the agenda. We have taken no action. We have requested staff to talk to you afterwards. The committee has not taken any action on that. That concludes the business of the meeting so we're adjourned.