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>> Mayor Reed: Good afternoon. I'd like to call this meeting to order. This is Rules and Open Government Committee meeting for June 6th, 2012. Any changes to our agenda order? We'll take it as printed, then, first item is the June 12th council meeting agenda. Anything on page 1? Page 2 or 3? Item 2.9. Agreement with Rotary Club of San José, we need somebody to figure out what the disclosure recusal requirements are because we have several people who have been, or are, members of the organization.

>> City Attorney Doyle: As long as nobody is on the board of directors, just members it's just a disclosure.

>> Mayor Reed: Okay.

>> Councilmember Constant: We can pull it off consent off consent and just verbally disclose?

>> City Attorney Doyle: You can just note that at the time.

>> Councilmember Constant: Okay.

>> Mayor Reed: You don't even have to abstain, it's just disclosure. Anything else on page 2 or 3? Page 3 or 4? Page 5, 6 or 7? Page 8 or 9? Page 12 or -- whoops. Getting ahead. Page 10 or 11. I have some requests for additions. A commendation recognizing the 20th anniversary of presentation high school from Councilmember Oliverio. Request for an excused absence for Councilmember Kalra from the special city council closed session May 31st due to illness. I think this is a category that you don't need to be excused from.

>> City Attorney Doyle: If it's just closed session, he showed up to the meeting as well, so --

>> Mayor Reed: Okay. So --

>> Councilmember Constant: This was a special so there was no meeting.

>> City Attorney Doyle: There's no need, no.

>> Mayor Reed: Okay, so -- this then just should be dropped. And Councilmember Campos' travel to New Orleans for national organization of, let's see, whatever. The national organization. Neleo.

>> Councilmember Constant: Mr. Mayor, I have a very last-minute add that I provided a short memo to the clerk. We will have a delegation visiting us from Suan city, Korea and we would like to have a short ceremonial naming it Suan city day in the City of San José. In honor of the delegation that's visiting us.

>> Mayor Reed: Okay. Any other changes, additions? I don't think we have any sunshine waivers. I don't think we have any sunshine waivers. Or I didn't have any notes of that anyway. Anything else? I have some requests to speak. We'll take the testimony now. Alofa Talivaa and then Dolores Marquez and a couple of others. It may be turned off. Can somebody check it staff to see if it's turned on? Since you're the first speaker, it's probably not turned on yet.

>> Good afternoon, mayor and the rules committee. My name is Alofa Talivaa, and I'm here representing the Sierra neighborhood associations and as a community leader and activist and I'm here to support the 1A, new items to final agenda and that is for the Calderon tires on Story Road. This is the sign to finish the project and to enhance the project that have been working for like around four years. I'm here to speak in favor of to please if you can add that to your agenda for them week. Thank you.

>> Mayor Reed: Staff, before we get too much further, I'm not sure which agenda item. Oh, part of 4.2. Okay, well we'll get to the bottom of this a minute after we hear all the public testimony. Dolores Marquez.

>> Good afternoon, mayor and Rules Committee. I'm here representing a group of community members that live in the Alum Rock school district where the Calderon tires business is at. And we're here, I'm here on behalf of them to ask that you put the Calderon sign issue that is pending for about three or four years ago, so we could

expedite the beautification of that project. That would be on your agenda for June 12, 2012. I heard you say that would be 4.2, that's correct.

>> Mayor Reed: I'm not sure about that. We'll get to the bottom of the numbering, when we get done with the public testimony. Mark Calderon. If you squeeze the handle the whole thing will come up or you can just pick it up. There you go! The man who knows how to fix things!

>> Good evening, mayor and everyone here. I'm here to request that the improvement of our signage, canopy signage enhancement for our facility be allowed, and I would like to have this on our next agenda, if we can go forward. For us it's very important. We've been working on this project for over four years. And we have been always looking for having it final. Now, I would like to address that the beautification of this project itself, because it's the gateway to East San José, allows and makes East San José do positive changes. So I'm very here -- I'm here to ask for your support and ask to encourage us, as well as we encourage you to do it. We want to go forward. I thank you very much. And I always like to be surrounded by positive people like yourself and I expect the same. Thank you very much.

>> Mayor Reed: David Wall.

>> Good afternoon. This is in reference to item 3.17 on the agenda, compensated time off and city living wage contracts. In the after-glow of measure B, Mr. Mayor, I find it an atrocity that you would even consider giving away sick leave and vacation time to contracted employees. This does not mean that contracted employees can't form a union and bargain and negotiate with the city for the benefit. But to arbitrarily and capriciously, gift sick time and vacation time at enormous expense time to taxpayers, to contracted employees, is unthinkable and serves to elevate hypocrisy to religion and culture of the 18th floor.

>> Mayor Reed: That concludes the public comment on the agenda. I'd like to go back to the Calderon tire question and whatever it is that we're doing that relates to Calderon tire. I can't anything on here for Calderon tire.

>> Councilmember Constant: I think this is an issue with the building department and this is one of the issues in the sign code ordinance that hasn't been addressed yet. I think what's being asked, and I see some heads nodding, is they're looking for direction to have this portion of the sign code addressed in the sign code update, is that correct from what I'm hearing out there? So that's really not what we have on our agenda. Our agenda, this is the work that's already been completed, is that right, Ed, 4.2 is the stuff that building has finished for us?

>> Ed Shikada: Well, effectively codifying the actions that council previously directed.

>> Councilmember Constant: So I share the concern. This is an area that I personally have been pushing for a while, that is the modernization of our sign code. Unfortunately, I don't think that we can honor the request that we're getting because there has been no staff work for us to actually approve yet. But I think what I'd like to do is perhaps ask, through the City Manager's office if we can get a status of this portion of the sign code and perhaps someone to work directly with the applicant in this to see where they are in relation to help them through the process. Because I know I had a situation just like this in my district where we waited for almost two years to be able to get a tenant to sign a lease for a very minor modification to our sign code. I think -- I think you guys all know that I'm very supportive of signs. But we need to give our businesses the tools they need to survive. If we could hand this off and let us know in short order where things are. Hopefully that would suffice for now. I don't think we have any other options given what's on the agenda now. (inaudible).

>> Councilmember Constant: I any we'll probably get one when we get our update from the City Manager's office. I think Ed if you could just deal directly with them as well so they get the information and we get the information.

>> Ed Shikada: Sure, I'd be happy to do that.

>> Councilmember Constant: And then with that I'm ready to make a motion on everything else, unless someone else has something to add.

>> Mayor Reed: We have some more comments. Vice Mayor.

>> Vice Mayor Nguyen: And also, if I can have the city manager bring back a status update so we have an exact time line in terms of how -- the process for staff working with the Calderon family.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Just want to have a correction for the City Clerk on the presentation of the commendation to presentation high school, that should be 50th anniversary versus 20th. And then question for the City Attorney. City Attorney, this isn't new where there will be something that comes up or doesn't fit the municipal code or certain rule within the city, and to the common person who would say this is a no-brainer, just fix it. So my question is, can we have for lack of better words a stupidity clause where things are brought from city staff, you know it just doesn't fit in there but you know I'll bring it to the council and let them just vote on it and get it done.

>> Councilmember Constant: I think the legal term is a variance.

>> Councilmember Oliverio: Yes but I don't see those things coming so often, but what I see are issues that have been pending for a significant period of time while people spend money. I'm curious, what are the pros and cons of that? We have to have rules but it's very obvious what they want to do here. Give me some larger scope of the conversations.

>> City Attorney Doyle: I think it would be best to talk about in next Tuesday at the council meeting. It's probably a good point where both staff, planning staff and my staff can talk about this specific issue with the Calderon tire sign and whether the time sensitivity or how long it's going to take to bring this forward. And then to the extent that we can do it, what do you call it, a catch-all or if I hear you right some kind of ability to have the council sort of enact something that says you know, it's sort of a very general rule to go do something. The problem is, is that

we're very specific in our sign code. It's -- and to do that sort of runs counter to the entire the way it's going to go. I need to sit down with my staff, they're working with planning staff to come up with the ordinance, I don't really have a clear answer, is what I'm saying.

>> Councilmember Oliverio: I know. And maybe we can talk offline. But it's just the little things, like, well, you're two inches too short on a sidewalk to have a table out there. Well, but maybe common sense could say, the table could go -- there's just a variety of things that happen in city life.

>> City Attorney Doyle: And where you have a physical limitation on the property, that's where you have a variance. But here, the signage is a little different. But let us come back and we can address that. We can try to address that next Tuesday.

>> Councilmember Oliverio: Okay, thanks.

>> Councilmember Constant: Of course I vote for abolishing the sign code and let people put up what they want. But I know that's not going to happen, so with that, Mr. Mayor, I'll make a motion to approve the agenda with the adds that we have, the one drop, plus the one additional add related to Suan City.

>> Vice Mayor Nguyen: Second.

>> Mayor Reed: Motion is to approve with the amendments. On that motion, all in favor, opposed, none opposed, that's approved. June 19th, council agenda. This one feels a little thicker. This could be the last meeting of the fiscal year.

>> City Attorney Doyle: Mayor, if I can address page 1. Typically, we -- or not typically but often we go into an earlier closed session and then come right out of closed session to go into public session. I don't know if that's the intent of the committee this year but we may want to look at a 9:00 closed session just so we can get to some of the issues soon.

>> Councilmember Constant: How about 8:30, because that way we can start at 9:00. Seriously, I think we should start at 8:30, there are a lot of things on this agenda, it wouldn't hurt if we started early and ended up --

>> Mayor Reed: Let's deal with that when we get to the end of the agenda when we can see the length of it. I haven't had a chance to contemplate the individual items and figure out what's going to be a long one and what's going to be a short one. We have in the past started early and then gone into open session at like 10:00 and gone through the agenda starting early. I think that's the way we did it last year. And even if we don't have a really long agenda it just seems like a good thing to do on the last meeting of the fiscal year, so we don't go to midnight. We'll come back to that then, the starting time of the sessions. Anything else on page 1?

>> Dennis Hawkins: Mr. Mayor, if I could note, we'll be changing the language on the orders of the day, because we do need to take the financing authority item before we take the budget item, 3.3 and 3.4. So we're working out those details but we will need to take -- change the sequence of the meeting a little bit and draw that on page 1.

>> Mayor Reed: Okay. Anything on page 2? We have some matters on page 2 that say they're to be heard in the evening. Do we have an actual evening agenda?

>> Dennis Hawkins: Yes, we do, Mr. Mayor, there are several planning items.

>> Mayor Reed: I'm just thinking if we start early, if we have an evening meeting, it doesn't matter if they're set to be in the evening or not, we'll be there in thing evening I guess.

>> Dennis Hawkins: I believe these items have been noticed to be in the evening. (inaudible).

>> Mayor Reed: You're talking about the planning items that are noticed to be in the evening.

>> City Attorney Doyle: On number 11 there's three items.

>> Mayor Reed: Don't we have an ordinance that says we can modify --

>> City Attorney Doyle: We have a Rules notice that shows 1:30 or as soon thereafter it could be heard. I don't know what it says. We can come back to you next week with that information.

>> Dennis Hawkins: We'll clarify that with planning.

>> Mayor Reed: It may not matter at all, depends on how much other stuff there is. But if we get done at 4:00 in the afternoon, and have to come back at 7:00, it would be better to just go straight through.

>> Councilmember Constant: That's pretty optimistic.

>> Mayor Reed: We're going to start at 6:00 a.m., aren't we? Isn't that what you just said?

>> Councilmember Constant: I'm okay with that.

>> Mayor Reed: Anything else on page 2? Page 3 or 4? Page 5 or 6? Page 7 or 8? Page 9 or 10? Page 11 or 12? Page 13 or 14? We need -- do we need a waiver on the budget actions, 14-day waiver, item 3.3, 3.4?

>> Yes, we do.

>> Mayor Reed: And why do we need a 14-day waiver?

>> Dennis Hawkins: I think the -- in this case some of this relates to the Mayor's Budget Message which is on page 12, so staff won't have all the final items until after the 12th. I believe, as I recall, that's the issue.

>> Mayor Reed: That's right. So we make changes on the 12th, things have to be changed and brought back to us on the 19th, so it's impossible to do it whether it's a ten-day waiver or 14-day waiver, it will be less than 10.

>> Dennis Hawkins: It is one of those flow sequencing things.

>> Councilmember Constant: But I think the intent of the sunshine waiver so people have notice and since we're having the whole public process to get there it's reasonable for us to do. So I think we're good.

>> Mayor Reed: Whatever waiver is necessary I don't think this is the problem. Anything else on page 13 or 14?

>> Councilmember Constant: Is there any reason that 3.6 can't be on the consent agenda? I saw a number of items. I don't think we necessarily have to have a discussion about you know people can always pull them if they need to pull them so I think --

>> Mayor Reed: Why don't we go all the way through and come back and pick those items that can go on consent and try to figure out how long the balance is going to take. That would be one thing. Anything else on page 13 or 14? Page 15 or 16? Page 17 or 18. Page 19 or 20? Page 21. Which is the end of the regular agenda, or page 22 which is start of the land use hearing agenda. Or page 23? Or 24, which is a joint city council-Diridon development authority agenda on the property based improvement district. And then -- Let's see, then that's followed by a joint city council financing authority agenda item, which I think City Clerk said needs to go early in the agenda.

>> Dennis Hawkins: That's correct. We've noticed that for 9:30 or soon thereafter, and so we'll change the start time to reflect that. And Mr. Mayor, if I could mention on the Diridon authority item, I'd like to suggest that that item be heard first at 1:30. Because there are certain actions that the council need to take. And then direct our office to compile the votes and report back to the council for final action. So in terms of sequencing, we need to start the public hearing, and there are a couple of action items that the council needs to authorize and then we'll come back after we've compiled the results of the voting.

>> Mayor Reed: Okay. The note on here is to be heard no earlier than 1:30. Let's hear it at 1:30 so it's out of the way in time for you to do your work.

>> Dennis Hawkins: If we could, please.

>> Mayor Reed: Okay, I think no earlier than 1:30 is the correct way to describe it. We just need to make sure that in the notes of the meeting that I'm reminded that we're taking this up at 1:30 or 1:31 or whenever we finish whatever we're working at 1:30 will be the next item. All right, anything on the financing authority agenda, there were three items and that was the end of the draft agenda. We have a request for proclamation, Philippine Independence Day and then a request from Councilmember Rocha to have one of the land use items to be heard first in the evening ahead of -- or after any consent calendar items. That was the Curtner avenue and union avenue and a deferral, continuance ever another item, Woodward road and union avenue to August 21st. Any problems with any of those that staff sees? Either of those requests?

>> Councilmember Constant: Yeah, I'm assuming that actually meant after ceremonial items. Not consent items.

>> Mayor Reed: Well, I guess there could be some land use consent items. I didn't pay attention to it going through.

>> There are.

>> Mayor Reed: That one was deferred once before. So I think the applicant wants to make sure it gets heard and we don't run out of time. Any other requests for additions or changes? All right let's go back and think about, first, what we could put on the consent calendar that we're unlikely to need to talk about.

>> Councilmember Constant: I think item 3.6 on page 14 and then I was going to ask the City Attorney, is there any reason why the grant items 4.2 and 4.3 can't be on consent? They're just authorizing us to apply for a grant.

>> City Attorney Doyle: No, they can be on consent as well. Unless staff had a presentation. I don't know.

>> Councilmember Constant: They could always pull if so. And then I think I saw some other one leer.

>> Mayor Reed: Is there any controversy about Hamilton number 60? Reorganization?

>> Dennis Hawkins: That's property owner initiated.

>> Councilmember Constant: And then yeah, we could put everything on consent. You have to pull it if you don't want there. I think that would be the better default. And then I was going to say 5.3 could but 5.4 you have to have regular, right?

>> City Attorney Doyle: I think 5.2, 5.3 and 5.4 are all related.

>> Mayor Reed: Those will need discussion. The pavement contract award for maintenance projects.

>> Councilmember Constant: I think everything else is --

>> Mayor Reed: Hardly ever talk about those. So 6.1 and 6.2.

>> City Attorney Doyle: 7.1 can be on consent.

>> Councilmember Constant: Yes, 7.1 could be on consent.

>> City Attorney Doyle: Typically the reason they don't show up on consent is the dollar amount. That's your call.

>> Mayor Reed: Just policy deposit driven not ordinance-driven. Cost sharing agreement.

>> Dennis Hawkins: This was the dollar issues.

>> Mayor Reed: So 7.1, 7.2, probably nobody is going to talk about them, same as aerial ladder trucks.

>> City Attorney Doyle: 8.1 is not really an award, it's delegating to the City Manager. So --

>> Mayor Reed: 8.1 is not an award, it says award --

>> City Attorney Doyle: It's to delegate to City Manager to make the award. So --

>> Mayor Reed: All right.

>> Councilmember Constant: We don't even have to have a meeting if we keep pushing these up on consent.

>> Mayor Reed: If we could just get consensus on the consent calendar. So staff should go through these, we may have to make adjustments next week when you get it all lined up. Yes, Councilmember Oliverio.

>> Councilmember Oliverio: To be clear, are we deciding next week whether we're having a 7:00 p.m. session? Or are we --

>> Mayor Reed: We're not there yet. Maybe we decide next week, but we should talk about it next.

>> Councilmember Oliverio: I might suggest, for the item that the councilmember wanted to be heard in the evening first, that might be the last item depending on how we decide things.

>> Councilmember Constant: I would only say, my ceremonial could only be heard in the evening because of the school situation. It's a school-related thing.

>> Mayor Reed: Well, let's just assume for a moment that we got the consent calendar done on consent. What are the large discussion items and how long is it going to take us to get through them? I think the west side airport thing going to take --

>> Councilmember Constant: At least an hour.

>> Mayor Reed: Quite a bit of discussion. The budget, we're having the hearing on the budget Monday night.

>> Dennis Hawkins: On the 11th.

>> Mayor Reed: Tuesday the 12th and then the 19th is really just implementation of what we've already decided. So that probably won't draw any discussion. The airport West looks like the longest item for talking purposes. Soccer fields, I don't know if there's going to be a lot of public interest in soccer fields or not. It looks like the council will have some things to talk about.

>> Councilmember Constant: Yeah, we might kick it around a little bit.

>> Mayor Reed: Only if you're goal-oriented. And then these land use items, I don't know anything about the one that's to be heard first in the evening. In terms of the public interest or anything else on that.

>> Ed Shikada: We do understand there's likely to be a sizable number of public comment. I believe Joe indicated maybe 30 or so people at the Planning Commission.

>> Mayor Reed: I don't know, looks like a lot of stuff which leads me to believe that it's going to go to at least 5:00. But I don't see a lot of long items that are going to push us into this evening with the afternoon agenda.

>> City Attorney Doyle: And we need to verify on the noticing and public hearings if it was done through policy or if it was done for 7:00 at night.

>> Mayor Reed: Okay. So any other thoughts about the 7:00 p.m. meeting, could we take this up next week Councilmember Oliverio? Or do you have any other meeting?

>> Councilmember Oliverio: (inaudible) (inaudible) (inaudible).

>> Mayor Reed: But I do think if we got started early, we could be done by 7:00, done with everything. The real issue is how long could closed session go, because if closed session runs until noon and we don't really get started until 1:30, it's a little bit different, I don't think we know right now much about the closed session agenda for then.

>> City Attorney Doyle: No, we don't. We won't know -- may have a good idea by next week, but at this point we don't know.

>> Mayor Reed: So why don't we take a week, and let staff check with the councilmember and the developers and I think folks who have things on the evening, but you've got an evening ceremonial --

>> Councilmember Constant: I think there's two evening ceremonials, but I know mine can't be done during the day. I'm not sure about the one you have for the races field day, that may be easier to move to the afternoon.

>> Mayor Reed: Okay let's check on those and make a decision next week about the 7:00 portion of the meeting and the early start-time.

>> Councilmember Constant: I'll find out, Pierluigi I promise I'll make a phone call and find out.

>> Mayor Reed: We're all anxious to get done with the last meeting of the fiscal year. Why don't we have it tomorrow?

>> Dennis Hawkins: Mr. Mayor if I could just clarify, what I have down is moving items 3.6, 4.2, 4.3, 4.4, 6.1, 7.1 and 7.2 and 8.1 to consent.

>> Councilmember Constant: And I would just add, if staff has any other great ideas to move, let us know next week and we'll move some more. So I'll make a motion to do what the City Clerk just said and approve the rest.

>> Councilmember Oliverio: Second.

>> Mayor Reed: Okay, motion is to approve with the amendments, leaving open until next week the decision on the exact start-time, and the evening schedule. I'd just ask the clerk to alert the city council members that this is the last meeting of the year, we'll have a different schedule, we may start earlier, et cetera, so that they remember that. I have one request to speak on this item, David Wall.

>> First I'm very concerned that item 5.2, 5.3 and 5.4 on the last meeting of the fiscal year. There's significant money being exchanged back and forth with reference to this soccer stadium. And I find that very troublesome. I would ask at this time period that you, Mr. Mayor, direct staff to have the weeds and garbage picked up at 1125 Coleman avenue. The place is blighted, the weeds are at least three feet tall and there's garbage all over the place. With reference to item 7.one, cost-sharing agreement with Santa Clara Valley Water District for South Bay water recycling program, Mr. Mayor, put on for one of your staff folks to look at the water district's agenda for next week. They have a (inaudible) on this issue. And I also would like to ask for a refund for all of the moneys that my property has had to expend for South Bay water recycling since -- I don't receive any benefit from it at all and the expansion exceeded the scope of the sewer service and use charge, thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion, on the motion all in favor, opposed, none opposed, that's approved. And we have no upcoming study session agendas to discuss. Legislative update. Betsy Shotwell.

>> Betsy Shotwell: Thank you, mayor members of the committee, Betsy Shotwell, Director of Intergovernmental Relations. As I reported last week, Friday was the deadline for bills to get out of their house of origin. There were hundreds of bills in play, it was a crazy, crazy time with lots going on. But I did want to report on a couple of bills, and I'll have a full report in the manager's weekly report on Friday on other bills. And the bill that the city opposed, AB 1692, related to municipal bankruptcy which would unravel the pre-bankruptcy mediation that was legislated and passed into law last year. That did pass the assembly by a vote of 42-24. It needs 41 votes to get out so it will be going over to the senate next. And we're already working on that next chapter of course with that measure with senate staff. Another measure that the council voted to oppose, AB 2231 having to do with sidewalk repairs. That bill initially would have required cities to pay all of the sidewalk repair cost. It do not pass out Friday. It was referred back to local government committee but it was also amended and that piece was taken out. However, what is in the bill is now, if the city had an ordinance to require the city to cover all sidewalks, to repeal that you'd have to go to the vote of a people. So this is clearly just another you know, just another measure to pass. But it needs two-thirds to get out of the assembly. And if that happens, I don't know if it will. It's certainly a local control threat. And then just lastly, AB 57, Jim Beall's bill to have permanent seats on the Metropolitan Transportation Commission for Oakland and San José, is going to be heard next -- June 12th, next week in the senate transportation committee, thank you, mayor for your assistance in that. And I'm happy to answer any questions.

>> Mayor Reed: Any questions is what for the delegation from San José and this area a vote for the bankruptcy bill to undo what they did last year?

>> Betsy Shotwell: Two not voting on the measure were Bill Moning and Rich Gordon.

>> Mayor Reed: Everybody else voted in favor?

>> Betsy Shotwell: Yes.

>> Mayor Reed: Okay, that's in the assembly. It hasn't been voted on in the senate, correct?

>> Betsy Shotwell: Right, I'm definitely referring to the assembly side.

>> Mayor Reed: All right, anything else on state? Nothing on federal? Councilmember Oliverio.

>> Councilmember Oliverio: Can I confirm, there will -- will there or will there not be anything on medical cannabis on the November ballot for California?

>> Betsy Shotwell: I'll have to look in on that. They have gone from 80 to 60 to 50. I haven't tracked those at the moment. I saw a few that did drop off, didn't get enough signatures, but let me check on that and get the status. And we still won't know for a few weeks what's actually going to be on the November ballot, although the number's increasing.

>> Mayor Reed: Meeting schedules. We have a couple of meeting schedules after the council's last meeting of the fiscal year, we should look at whether or not we're going to cancel those. There won't be anything -- any council agendas to consider until the end of July when we take up the first meeting in August agenda, so do we need to meet on the 20th of June or the 27th of June, I guess is the question?

>> Dennis Hawkins: Only if there were any other items that came to the committee, but we can bring an item back next week to officially cancel the 20th and the 27th.

>> City Attorney Doyle: My only concern was to make sure we have direction from the committee that rules in lieu can add election-related items, because you're only going to get one shot in August to get things on the November ballot.

>> Mayor Reed: Well, when will the Rules committee, the Rules Committee will meet before -- the week before that.

>> Dennis Hawkins: That's part of the direction next week, would be to convene a regular -- a full Rules Committee meeting the last week of July, so that we could deal with those issues. I think a rules in lieu would not give the committee the flexibility to adjust the agenda on August 7th that you might need. So that would be my suggestion.

>> Mayor Reed: Okay, we'll take it up next week, then. Boards, commissions and committees? Recommendation to appoint Max Chen for the youth commission, that will come right back to that, and appointment to Harry Robert Harper to workforce investment board.

>> Councilmember Constant: Motion to approve.

>> Second.

>> Mayor Reed: Motion is to approve those two appointments, all in favor, opposed, none opposed, that's approved. Back to the public record. Any items the committee wants to pull for discussion?

>> Councilmember Constant: Motion to note and file.

>> Vice Mayor Nguyen: Second.

>> Mayor Reed: Motion is to note and file on the public record. All in favor, opposed, none opposed, that's approved. Category G we have a few items here.

>> Councilmember Oliverio: Motion to approve.

>> Mayor Reed: I think I'm going to -- a couple of these I want to ask about. So motion to approve item 2, Olympic flag raising ceremony, motion is to approve, all in favor, opposed, none opposed, that's approved. Request from Councilmember Rocha to give direction to bring back to the Rules Committee an outreach measures regarding the minimum wage ordinance. We did discuss this briefly at the council meeting, and the question is, how much outreach can we do within the limits of not getting involved in election campaign rules, et cetera. So we just give you some direction to figure that out and come back to us.

>> City Attorney Doyle: Okay.

>> Mayor Reed: At a future Rules Committee like maybe next week or is that too soon?

>> City Attorney Doyle: We can come back next week. I think we have a number of memos out there which outlined the parameters and what we can't do and more what we can't than what we can but we'll work with the manager's office. Ed I don't want to --

>> Ed Shikada: It might be helpful to give us the flexibility of next week or the following. The 20th would there not be a Rules meeting?

>> Mayor Reed: There wouldn't be one on the 20th so we could take it up in July or August.

>> Ed Shikada: Staff is doing a follow-up on a number of elements so I'm not exactly sure when it will all come together. The outreach could definitely be a part of that.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: City attorney, so can the city for example take out an advertisement in local newspapers informing people that this will be on the ballot, and FYI, is that --

>> City Attorney Doyle: Yeah. Well, what you need to be very careful of, and you'll probably find that with your own newsletters, is not advocacy. So you're putting something out that's purely informational or educational. So those are things that we'll come back and report but there are -- you can do things as long as it's not advocacy.

>> Councilmember Oliverio: Right. But it seems like this is -- we've decided to place this on the ballot. Or no, no, we're actually going to do that the first week of August?

>> City Attorney Doyle: No, well, formally it will be put on. But the direction coming out of the council meeting was come back in August so it gets put on the ballot. And you really don't have a choice at this point, because it's an initiative that's qualified for the ballot.

>> Dennis Hawkins: Mr. Mayor, just as a routine item, on our Website we typically list all the information about ballot measures so in fact we have it posted now we have the title and summary of the measure we have the full text of the measure we have the 9212 report. So we've got a pretty robust page on our Website to provide some public information. And that's within the constraints that the city does have. So we've tried to start that process of making information available to the community.

>> Mayor Reed: Okay. So the request from Councilmember Rocha is to direct the staff to bring this back to the rules committee to inform people and we'll get that either next week or the next meeting or sometime before election day. Is that okay? Give -- committee give that direction, all right. So done. Approve the showing of the film courage out as a city sponsored event.

>> Motion.

>> Second.

>> Mayor Reed: I had a request to speak, Mr. Wall before we finish up here.

>> I believe Councilmember Rocha's generosity is, with taxpayer's money is getting a little bit, maybe he's preparing for his next job in the priest hood. I think the business and nonprofit communities are well aware of what goes on at City Hall and I don't think we need to burden the City Manager's office with having to notify these entities as to their legal obligations and responsibilities. This is too costly of an endeavor. Shouldn't have to deal with it at all. And just tell Father Rocha, nice try. But I don't accept sending out notifications at taxpayer expense to notify businesses and nonprofits. Thank you.

>> Mayor Reed: All right. We have -- did we approve the courageous? We almost got it done. All in favor, opposed, none opposed, that's approved. Item 5 was refer to staff direction to do further analysis on the 9212 report for the card room initiative and ordinance in hopes of maybe saving some time so that we cannot have to call a special election, if they're a little bit late getting the signatures and et cetera. So City Clerk did you want to speak to that?

>> Dennis Hawkins: This may be the shoot myself in the foot action. But after going through the process of preparing the impact report for the minimum wage, I think staff realized that under the elections code, the time line is extremely tight to have to produce a report on the effects of an ordinance within 30 days. And meet all the sunshine requirements and so forth that we have. And so as a thought, we wanted to bring this forward to get direction from the committee, whether you thought it would be advisable to bring this forward to begin the process of preparing a report on the effects or potential effects of the card room initiative. The initiative is out. It's actively being circulated. According to the proponents we're likely to get the signatures turned in sometime this month. It's possible that the registrar of voters will have the verification completed sometime in July and so the time frameworks out that we would be bringing the certificate of sufficiency to the council on August 7th which would be the date that the council would need to act on calling the election or adopting the ordinance. And so in the interest of having everything available to the council at that August 7th meeting we thought it might be prudent to talk about getting direction to begin preparing that report. The other issue that we have is the library initiative is also out. And in fact, we're expecting those petitions turned in tomorrow. That's a little bit different situation. Because that's a charter change, and so the 9212 report does not pertain to a charter change. But it

may be something that council wants to give us direction to prepare a report on the potential effects of the library. Wouldn't exactly be a 9212 report but that information might be important for the council to understand what those effects would be. So we're just trying to be prudent and get a little bit ahead of the curve, to allow staff sufficient time to prepare 90 analysis or reports that the council might need. So that on August 7th the council has all the information available, which to make that decision to call elections, assuming that both measures have sufficient number of signatures to qualify.

>> Mayor Reed: Could you talk about the difference between making it in time for the November election, that's already scheduled, and maybe being a little bit late, and not making the election, what happens then? When would we have to put it on the ballot?

>> Dennis Hawkins: Well, I think it depends and I'll look to Lisa Herrick from the city attorney's office. But from our understanding, the library initiative did not -- or the card room initiative does not specifically, in its measure, request the calling of a special election. If under the charter, if an initiative receives 5% of the signatures of voters, then it would go to the next municipal, general municipal election. If it requests, specifically requests eight -- the special election, that would require signatures of 8% of the registered voters. And so from my recollection, neither measure makes that special election request. That would be something that council could make that determination. If we don't -- if either measure does not hit the time frame for November, 2012, then the next regular municipal election would be June of 2014.

>> Mayor Reed: Okay, well I'm trying to avoid the scenario in which we have to call a special election in March of next year and spend three or \$4 million for a special election, because that was the price tag I last heard from the registrar.

>> Dennis Hawkins: That's the price tag we've gotten, and that's one of the reasons that we brought this forward, so that the council would have the information available. Because if you were to order a 9212 report on August 7th, that would be 30 days, and we would miss the call of the election for November. So we're again just trying to get everything in line so the council has that option.

>> Mayor Reed: But back to my earlier question. Seems to me there is no scenario in which we would have to call a special election because they haven't used the magic words in the petition.

>> Lisa Herrick: That's correct in the notice of intent to circulate. There isn't a demand that the city put on a special election if they get 8% of the eligible voters in the city.

>> City Attorney Doyle: Even if they get 8% if they haven't asked for it we don't have to call it?

>> Lisa Herrick: That's correct.

>> Mayor Reed: Good, because I don't want to spend \$3 million or \$4 million for a special election that we don't need to have one, because then it could go to the next general election cycle.

>> Dennis Hawkins: Correct, June of 2014.

>> Mayor Reed: All right. So on this one --

>> Motion to approve.

>> Mayor Reed: Second over here, okay. We have a motion to refer this to staff to do the analysis. Vice mayor.

>> Vice Mayor Nguyen: So does the motion include for the city clerk's office to do the analysis on library initiative if it passes too?

>> Councilmember Constant: Yeah, I said it so fast I don't think you heard it.

>> Vice Mayor Nguyen: Okay, second.

>> Mayor Reed: We have a motion to refer both the card room and the library analysis for whatever is the appropriate level of analysis on that so that we can get a little ahead of the power curve on that. Further discussion, City Clerk.

>> Dennis Hawkins: And just to clarify, we will be working with the City Manager's office and the appropriate departments on both analyses.

>> Mayor Reed: Okay and I know that some work that is already been done by the City Manager's office because I've seen a memo on the library analysis. Anything else on that? All right all in favor? Opposed, none opposed, that's approved. I believe the next item we have is the open forum. Mr. Wall.

>> First I'd like to bring to your attention officer Christopher Joliff San José police department, badge 3838. He's been very helpful in reducing the numbers of vagrants, social miscreants and other lower life forms associated with the criminal element in Ryland park. His efforts are within the scope of the duty manual and with San José police policies. He educated the citizen about people living in their cars, which confirms what the learned independent police auditor gave testimony about. So I'd like you to thank him. Then I would also, in the after glow of measure B, bring forward the need to eliminate a living wage ordinance and the prevailing wage ordinance. These ordinances do not confer any benefit to the City of San José taxpayers. Because what these ordinances do is, artificially inflate the cost of all public construction projects. In addition, businesses have to have extra accounting mechanisms to certify their payrolls to make sure they don't run afoul, against the law with this prevailing wage and liquidated damages business. So it's time if you want to start cleaning house and serving the public's interest, get rid of the prevailing wage ordinance and the living wage ordinance by repeal, subsequently, the taxpayers will be well served. There's a lot of hidden staff time at the attorney's office, City Manager's office, Public Works to manage these cursed ordinances and the only people that really benefit from them are in your own words union bosses. And they don't -- are a protected class in my opinion. Thank you.

>> Mayor Reed: Martha O'Connell.

>> First I'd like to congratulate Mayor Reed on the passage of measure B. I think that his personal integrity had a lot to do with it. Secondly, we thank God we have Pierluigi Oliverio around for another four years, add to the voices of reason on the council, and a shout-out from California to Wisconsin, to Governor Scott Walker, thank you governor for everything you've done for the taxpayers and that's a segue into what I want to say. Mayor Reed you have a proposal to approve a new position in PRNS to the tune of \$86,000 for mobility management specialist. I am in favor of anything that will help seniors to get to the nutrition centers, however I really question creation of a new position, to serve 100 to 150 seniors, and that means \$573 per person. There's got to be a better way to do this. I'd also like to know if they're creating a new position and spending another \$86,000, where is that money going to come from. I think there's a growing tide across this country of telling governments, stop spending money, be more reasonable. So please if you're going to add this position show me and the rest of the taxpayers where you're going to take the \$86,000 from. And by the way, it's only funded for a year. So what happens at the end of the year. So please guys when you are doing the budget think about these things, thank you.

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