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>> Mayor Reed: All right, call the meeting to order. This is Rules and Open Government Committee meeting for September 5, 2012. Any changes to the agenda order? Then any changes on September 11 council agenda. Any changes on page 1, page 2 or 3, page 4 or 5, page 6 or 7?

>> Ed Shikada: Mr. Mayor, on item 9.1, the successor agency recognized payment schedule, staff will be recommending deferral of that for one week to the 18th.

>> Mayor Reed: Anything else on 6 or 7? I have some requests for an addition of a non-disturbance agreement for the Boys and Girls Club of Silicon Valley. Any other written or otherwise requests for changes or amendments?

>> Councilmember Oliverio: Motion to approve the agenda with the addition.

>> Vice Mayor Nguyen: Second.

>> Mayor Reed: Motion to approve the agenda as amended. Dennis.

>> Dennis Hawkins: Mr. Mayor, members of the committee. We would like to request a sunshine waiver on all the items and documents for the September 11 meeting. The items were all posted on Friday, but we had some systems problems over the weekend with the Website over the weekend, and it is not clear whether or not those documents were accessible over the weekend so in an abundance of caution we would like a sunshine waiver on the memos and documents.

>> Mayor Reed: All right, does the motion include the sunshine waiver?

>> Councilmember Oliverio: Yes.

>> Mayor Reed: It does. On the motion Mr. Wall you want to speak.

>> Sir. Under item 2.9, city pay plan amendments, we note the industrial electrician, senior electrician and industrial electrician supervisor positions are predominantly in the water pollution control plant. This is coming in the after-glow of council's being placed in a very terrible position by the offices of City Manager whose incompetent decisions has led to having to pay over \$2 million to an outside contractor to pay for these different positions, positions of which should never have their pay and benefits cut to begin with. So on item 2.9 I think you should extend this to all San José police officers, firefighters the attorneys office the clerks and basically other city employees that don't -- are associated with the office of the City Manager, because you're losing people. Even one of our audiovisual engineers, we're losing him because of this pay cut, bogus pay cut business. Especially with police officers, Mr. Mayor. I think that council should hold their head in shame when they see a police officer or firefighter and ask for forgiveness and ask for mercy. Because you're losing some of the most senior of our finest troops because of arrogant and capricious decision making and I think this should be amended to include the aforementioned job classes that I just previously spoke. Thank you.

>> Mayor Reed: That concludes public testimony on this agenda. We have a motion to approve as amended with the sunshine waiver, on the motion, all in favor? Opposed, none opposed, that's approved. September 18th draft agenda, anything on page 1? Page 2 or three, I'd like to drop item 1.2, September 22nd national gymnastics day commendation. Anything else on 2 or 3? Page 4 or 5, page 6 or 7? Page 8 or 9? Are there any requests for changes or modifications? I have one request to speak, Mr. Wall.

>> There may be some problems with item 2.10. Agreement with the San José downtown property owners association. And the something downtown association to authorize implementation of enhanced security pilot program. This deals with the San José police department secondary accomplishment program. And I'm very much -- employment program. I'm very much concerned sir what happens if our officers have to shoot somebody, it's foreseeable, that's part of their job, is the city going to defend them when they're on this type of detail, point 1. Point 2, if they're hurt, in other words they suffer disability, who's going to cover the disability side of it? Are they forced to worry about who's going to take care of their family or that kind of thing, financial organizations because the city might not cover them this is an outside workers comp issue? And I honestly think that anything

that affects the San José police officers, this is getting and undercutting police overtime. You really need on duty police officers, versus these pay jobs. And I think that this, as it is stated here for the public to read, there's some questions that are very serious in nature long term that affects the safety and well-being of our police officers. And I think that this should be reviewed. Especially with reference to the unjust and unfair disability requirements now for our police officers and firefighters, if they get injured on duty. Because of measure B Mr. Mayor. So I think you should defer this, and to have somebody come back to you and explain to the public that the issues I've raised are to be worried about or not to be worried about. Thank you.

>> Mayor Reed: That concludes the public testimony. We need a motion.

>> Vice Mayor Nguyen: Motion to approve.

>> Councilmember Oliverio: Second.

>> Mayor Reed: Motion is to approve the agenda. All in favor, opposed, none opposed, that's approved. Approved. Also on the 18th we have a study session scheduled for the evening, 7:00 p.m. Draft agenda. Mr. Wall you want to speak on it.

>> No, sir, I'll pass.

>> Mayor Reed: Okay. Need comments or questions on that? So at 7:00 p.m, that's right, 6:30 p.m. closed session. Okay so we need to go into closed session beforehand, and as the chief works on the presentation we'll decide whether or not to go into closed session. But we've noticed it if we need to. Anything else?

>> Vice Mayor Nguyen: Motion to approve.

>> Councilmember Oliverio: Second.

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

>> Ed Shikada: Mr. Mayor, members of the committee, just to call to your attention this is a draft agenda and staff is still working on the specifics of what might be coming forward, so we'll bring back a final next week at Rules Committee.

>> Mayor Reed: Okay. Anything else on that? Motion to approve. I think we have one -- yes, all in favor? Opposed, none opposed, that's approved. Legislative update we have nothing. State or federal, obviously at the state level we had the pension measures that passed through the legislature. Not yet signed by the governor. But my conversations with the governor lead me to believe he'll sign it plus his public statements as well. Meeting schedules, nothing. Public record. Speak on public record, Mr. Wall.

>> Yes, sir. Items B through H are of course we think of transmittal and review. Item B deals with the City Manager's outburst at council meeting demonstrates inability to discern anger from contempt. Last city council meeting I did call for the immediate firing of the City Manager, the assistant City Manager and the acting director of the environmental services department, as it flows from performance issues raised in the office of the auditor's audit report of the environmental services department. The issue here is I think the City Manager confuses anger with my utter contempt for substandard administrative performance. And of course, my position is not going to change on that. Item number F, entitled is water pollution control plant flaring methane gas to atmosphere as cap and trade auction proceeds? Well, just so happens they were flaring methane gas to the atmosphere on the very day Mr. Mayor the state of California initiated its trade auction for cap and trade. The memo that sits before you is a furtherance of having to flare methane gas as a function of the gas holders being down, and the memo before you is very -- speaks for itself, some questions you should ask ESD or the City Manager's office to explain to you in written format, and hopefully, the format will be sworn. As to this spur business Mr. Mayor, this is starting to show up at the transportation and environment committee, and that's unfortunate. Thank you.

>> Councilmember Oliverio: Motion to note and file.

>> Vice Mayor Nguyen: Second.

>> Mayor Reed: Motion is to note and file the public record. All in favor, opposed none opposed, that's approved. Next item is a request from Councilmember Liccardo to agendaize for council to consider minor modification to municipal code regarding pawn brokers permits. I can't tell from the description whether or not this is a really minor thing or if there's some significant policy question hidden in here some way. I'd kind of like to give staff a week to think about that so we can scope it. If it requires work then it would go to our priority-setting meeting the ninth. But it may be so minor that it is something that can be handled in the routine course. But I think Councilmember Liccardo's staff wants to speak to the scope of the request.

>> Yes, mayor, Fred Buzo on behalf of councilmember Sam Liccardo. Just wanted to clarify a couple of things as we move forward. One, we are not asking that the overall number of permits be increased. That cap is currently six and we would like it to remain at six. The other point I would like to make is that after conferring with the police department on this particular item we think it prudent as we move forward to limit one person and/or entity to two locations at the most. So we're not asking or -- that one person be able to have all six locations. We would want to cap the number of locations at two. So just wanted to inform the committee of that.

>> Mayor Reed: Okay. Thank you. Staff have any comments here?

>> Ed Shikada: Only to your suggestion, Mr. Mayor, of giving us a week to confer with the police department so we can flesh out any issues of scope and bring it back to Rules for consideration.

>> Councilmember Oliverio: Does this require a motion?

>> Mayor Reed: No, we'll just refer it to staff to come back to next week's agenda, just defer this discussion and decision. It did occur to me when I heard about this that we might be regulating something that needed regulation in the past, in terms of the fencing and burglary potential. But now we have craigslist and flea markets, which I know are sources of problems from time to time. Maybe a lot of regulation we don't need to have in this

category. I don't know, but let staff have a chance to talk about it and come back in a week and we can figure out how big a question it really is. Mr. Wall, you want to speak on this one before we defer it?

>> I want to save you a week's time, all right? I want to save you a lot of time. This should be killed today at Rules. The following issue is that, the arguments raised by Mr. Liccardo, bless his heart, are red herring issues. It is better to have vacant store fronts than extra pawn shops. But the bigger issue here is how burdensome and oppressive it will be on the police department to monitor this program. Because let's take a hypothetical. This passes, Mr. Liccardo gets his ordinance passed or changed. Then one person can own a couple of these stores or whatever. And theoretically they can transfer property at will to any of their stores. Right now, the property is isolated at one specific location. So the police can come in however they do their great work, even though they're horribly understaffed because of your decisions, now you're going to compound it and then Mr. Liccardo should know better because he's a trained prosecutor. He should know the criminal mind. Because if a layperson like myself, my testimony is not air grant and capricious. This is a well founded argument. Stolen property given the chance to move around by ministerial decree, give me a break! All right? You have already got burglary rates that are heading to the moon so you're just making it easier to fence the property. So no, just kill it today at rules and give his honor a little gold star for a try and forget about it, don't waste any more of your time, thank you.

>> Mayor Reed: I think that's it. We're on to the next item which is a series of --

>> Councilmember Oliverio: Motion to approve.

>> Mayor Reed: -- special events to be approved. I had a question about the public safety community meeting as a city-sponsored special event. I don't know what the Public Safety community meeting is.

>> Dennis Hawkins: Mr. Mayor I'll try my best to explain. As I understand it, Councilmember Chu has scheduled a meeting on September 15th, at which the police chief will be present to discuss with neighborhood and community leaders, Public Safety issues in district 4. And that's the extent of my understanding or knowledge of the event.

>> Mayor Reed: Well if it's a -- if it's a city event why do we need to designate it as a city sponsored special event? It's just a community meeting.

>> The reason for designating is usually to allow the city to use its resources, usually council resources to pay for the event. It's not clear why this particular event if it's a community meeting would require additional city resources.

>> Mayor Reed: Well, it may just be out of an abundance of caution asking for permission. But if I understand the special events, it doesn't include councilmember holds a meeting in their district specifically.

>> Dennis Hawkins: There are circumstances in which a meeting can also be a special event. And I don't know, in this particular instance, if the public safety meeting where there are any other outside sponsors or other resources being deployed for the event. I do know that we are -- have made arrangements to use the east side union high school district, district board room and so there is a facility use agreement which the city is liable for. And so there are other outside parties that are involved in the event.

>> Mayor Reed: Okay, I would just suggest take a look at the --

>> Dennis Hawkins: We'll be happy to.

>> Mayor Reed: The rules. Maybe this is one that didn't need to be made.

>> Councilmember Oliverio: Will be soliciting funds. If it's a city event.

>> Dennis Hawkins: I know that the other two events covered in this memo, there are solicitation of funds. And there are other co-sponsors to the event. And so to that extent, those other events definitely do need approval as

a special event. But I will follow up with the council office and determine whether or not we should have included the safety.

>> Mayor Reed: Okay. We have a motion to approve those items. Those are all in District 4 I think. On that motion, all in favor? Opposed? None opposed, that's approved. Next item is a request to approve Mexican Independence Day flag raising ceremony and El Grito event as city-sponsored special events.

>> Dennis Hawkins: Mr. Mayor, on this one, we will be issuing a supplemental memo, because we become aware there are some other sponsors involved in the event and there is a financial sponsor or a fiscal agent involved in some of the solicitations of funds. And just to be very clear on the relationships, we will be issuing a supplemental memo on this event.

>> Mayor Reed: Okay.

>> Vice Mayor Nguyen: Motion to approve.

>> Mayor Reed: Motion is to approve. On the motion, all in favor, opposed, none opposed. I think the last item is the open forum. Mr. Wall.

>> The following issue arises from the water pollution control plant master plan. The master plan itself was an egregious waste of taxpayer moneys. Over \$7 million for a \$1 million savings to the General Fund. Out of this Mr. Mayor, the only operational aspect of this master plan was how to deal with residual sludge drying. You and the vice mayor were very supportive of the McCarthy ranch people and the Irvine company with reference to changing how sludge is dried. Environmental aspects would say solar is the best way because it's cheap and it's environmentally correct, it's green. Let's look at mechanical dewatering for a second. What are the cost for mechanical dewatering? That's one thing you don't really care about. But what you should care about is the percentage of drying that mechanical dewatering does, with reference to solar. Now, does mechanical dewatering remove water 90%, like solar drying does? Now here's another thing that has escaped cogitation. What is the

minimum requirement that landfills take for sludge? Now, I did some reconnoitering with some landfill people and they say the minimum is 50% water capacity. So if your mechanical dewatering is less than 50%, because solar is 90% drying, so if your mechanical watering is less than 50%, you better find another place outside of Newby island to put it on, which means you have transportation costs to haul this stuff somewhere that will take it. Now I think that you should really review this mechanical dewatering process. And the people that were involved with your master plan, Mr. Mayor, basically jerked you around for a big ride down the short road, because they are all out of the city. They just pandered to Green Vision stuff without doing the hard calculations that's required. I don't blame you sir because you're supposed to be relying on people.

>> Mayor Reed: Sir, your time is up. That concludes the open forum, that concludes our meeting. We're adjourned.