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>> Councilmember Chirco: Rules and Open Government committee to order. Are there any changes to the agenda as presented? This one. The first item on the agenda is the city council meeting for September 22nd. Page 1. Page 2 and 3.

>> On page 3 under item 3.1, I just want to note that next week the City Manager would like to share a video. It's the ICMA's 2010 conference video. We're hosting the conference next year. She wanted to share that with the city council.

>> Councilmember Chirco: Okay. Page 4 and 5. Oh, was there something on page 2?

>> Councilmember Pyle: 2.4 is deferred to the 29th.

>> We are going to be requesting deferral of that item to the 29th.

>> Councilmember Chirco: Okay, page 4 and 5.

>> Councilmember Constant: Page 5, item 3.5, I'm not sure if that really -- this is more of a question to the two of you because I'm not sure this is actually how it ended up. I thought from the discussion that A was moving forward and B was dropped. But I wanted to clarify, since it was more from your end of the discussion.

>> Councilmember Chirco: That was how the motion was, that item A was moving forward, and B was referred to the finance and Public Safety committee.

>> Councilmember Constant: Okay, it was, okay.

>> Do we need council action to refer that?

>> Councilmember Constant: No, I thought from the discussion that we had is, and I could be wrong, was that what the City Manager does will go through the committee process, not necessarily item 2 from my memo. Which this is referring, the reaffirmation to the committee, which would just come back.

>> Instead of a work plan item for the committee which the Rules Committee has the authority to do.

>> Councilmember Chirco: And I thought we had done that last week.

>> We just need to delete B and just make it A, without an A.

>> Councilmember Chirco: Thank you.

>> All right, we will fix that on the amended agenda.

>> Councilmember Chirco: And I have a note here that there will be two more Rules reports on page 5.

>> Yes, there will be, thank you. We deferred those from August 19th and August 26th, yesterday's meeting will show up on this agenda and we will have those out on Friday.

>> Councilmember Chirco: Page 6 and 7.

>> I'm sorry, madam vice chair, if we could go back to page 5, if you recall last evening we had two items on our land use calendar, 11.3 and 11.4 that were deferred for a week. Since we don't have an evening meeting next week, these will show up on item 4. And the mayor is requesting that we hear those items last on this agenda. So with your approval we'll just make note of that when we amend the agenda on Friday to add those.

>> Councilmember Chirco: That was on my list here so --

>> Lee Price: Continuances.

>> Councilmember Chirco: The maker of the motion will add those. Page 6 and 7 and then page 8. We do have some additions.

>> Councilmember Constant: I actually had a question on my add there, for the City Clerk.

>> Councilmember Chirco: Uh-huh.

>> Councilmember Constant: This is actually acceptance of a gift to the city of artwork. So is it noticed properly? It says presentation of artwork. I just want to make sure we've got it covered and that you --

>> Lee Price: We can make that a consent item, it's not a ceremonial because it does take formal action by the council to accept the gift.

>> Councilmember Constant: I think the ceremonial was they were going to be here to hand it to us. But I think we need something beyond the presentation. It's a gift to the city.

>> Lee Price: Okay, we need two items, the presentation in the ceremonials and then we need to accept the gift.

>> Councilmember Constant: The city needs to accept the gift.

>> Lee Price: We can work with your office and the city attorney's office -- but the formal item would be to accept the gift.

>> Councilmember Constant: On behalf of the city.

>> Councilmember Chirco: Someone wants to make a motion for all of those? We have a motion and second. All in favor, all opposed, hearing none, that carries. City council agenda for September 29th. Page 1. Page 2 and 3. Page 4 and 5. Page 6 and 7.

>> Councilmember Pyle: Madam Chair, under 3.4, ethics update, item 9, is there a cross reference there?

>> Lee Price: During agenda review, I made a note, this is a presentation and will come up by the city attorney's office, 9.2, sorry, to disclose tickets for city-sponsored events.

>> Councilmember Pyle: Okay.

>> Councilmember Chirco: Page 8 and nine. Page 10 and 11. Page 12 and 13.

>> Councilmember Constant: I just had a question for the City Clerk on that 9.2, you just mentioned, so we got the memo a while ago, on the change of state law, and the forms. This is just codifying in our policy what the practice has been just since we got that memo, is that correct?

>> Lee Price: That's correct, to put into the council policy the practice and protocol for filing the form 802s and how we're going to implement that policy. Sheila Tucker is here, who is the author of that memo, if you have specific questions. But we have been collaborating now for several months on this item, so we are anxious to get it forward and go ahead and codify this policy in your council policy manual.

>> Councilmember Constant: It's what we're already doing, just putting it in the policy manual?

>> Lee Price: Yes, it is. Would you agree with that Sheila? Thank you.

>> Councilmember Chirco: And we do have one item on the additions.

>> Councilmember Constant: Yep.

>> Councilmember Pyle: Move to approve the addition.

>> Councilmember Constant: Second.

>> Councilmember Chirco: All those in favor, opposed, hearing none that motion passes. Redevelopment agency agenda for September 29th.

>> Madam Chair, obviously we're skipping over September 22nd, because we have no items. With the committee's approval we'll publish a cancelled notice.

>> Councilmember Constant: Agreed.

>> Councilmember Chirco: Next is the redevelopment agenda for September 29th. Page 1, page 2 and 3. And there are no adds.

>> There are no adds and no changes to the agenda.

>> Councilmember Constant: Motion to approve.

>> Councilmember Pyle: Second.

>> Councilmember Chirco: We have a motion and second to approve the agenda. All those in favor, all those opposed, hearing none, that motion carries.

>> Councilmember Constant: Madam Chair, I forgot to bring up something on the 22nd. I haven't talked to the clerk. Although Nick and the Mayor's Office have been informed. We would like to adjourn the council meeting in the honor of Rocky Bridges, the police officer who just passed away. So if we could add that to the agenda, and I'll be doing a brief presentation.

>> Councilmember Chirco: Do we need a motion, or can that be --

>> Councilmember Constant: So I'd like to make a motion to amend what we have previously approved.

>> Councilmember Pyle: Second.

>> Councilmember Chirco: I have a motion and second to add that to the 22nd's agenda. All those in favor, all those opposed, hearing none --

>> Lee Price: You'll get that language in?

>> Councilmember Constant: Yes.

>> Councilmember Chirco: Hearing none, that motion carries. We have an upcoming study session, the joint city council, redevelopment agency board, county board of supervisors -- that has to qualify as the longest title -- on September 30th. And there is just one page on the agenda. If there are no questions I would ask for an approval.

>> Councilmember Constant: Sure.

>> Councilmember Pyle: I do have a question. What are we saying is the compendium?

>> The compendium is the resource document that has -- it tracks all of the different issues that the county and the city have identified are of mutual interest, and it tracks the background of the project, the county's position and the city's position. So that agenda item is an opportunity for county supervisors or councilmembers to seek clarification about either of the positions noted.

>> Councilmember Chirco: Can we have a motion?
>> Councilmember Pyle: So moved.
>> Councilmember Constant: Second.
>> Councilmember Chirco: I have a motion and second to accept September 30th agenda. All those in favor? All those opposed? Hearing none, the motion carries. There is no legislative update. Meeting schedules, public record.
>> Councilmember Constant: Move to note and file.
>> Councilmember Chirco: I do have a public speaker card on a public record item. I think you mean H.
>> Lee Price: It's item F, H, F on the public record and item H on the list of public records in the public record.
>> Okay.
>> Councilmember Chirco: You have two minutes.
>> Bob Brownstein: As I indicated in the letter I submitted to the mayor and the city council, I am requesting that the Rules and Open Government Committee agendaize my complaint that Mayor Reed violated San José's adopted sunshine policy by refusing to allow me to speak on a motion made by Nora Campos at the city council meeting of August 4th. I consider the ability of citizens to present testimony to the city council when a motion is being debated to be an essential component of open government in San José, and to deny citizens the right to speak at a council meeting is not a minor infringement of the right to petition one's government. In fact it is a serious action that directly challenges the vitality of grass roots democracy in this city. Denying me the right to speak also violated San José's sunshine policies. As I indicated in my letter, the sunshine policies explicitly go beyond the Brown Act in the spirit and the letter of their provisions. The sunshine policies require that any person -- I think I qualify -- must be provided an opportunity to addressing a policy body, i.e. the city council, during the body's consideration of an issue. The sunshine policies also state this language should be interpreted to provide the public with a meaningful opportunity to participate in public decisions and that sunshine policies should supersede the Brown Act where doing so would produce greater public assess. My goal in raising this complaint is in accordance with the Sunshine Task Force's stated intent that the primary objective of enforcement is to ensure compliance with open government, I seek a clear statement by the city council that public testimony must be heard on any motion being debated by any policy body or ancillary body in San José. Since the Rules Committee has determined that you are the first entity that should hear complaints in terms of violation of the sunshine policies, I am therefore following your direction and bringing my request for hearing to you.
>> Councilmember Chirco: There's two items on here that I think the council would benefit by having an evaluation by the city attorney's office. One is in the sunshine, an the other is city council's, the admonition that is called for in the second page, number 2.
>> Correct, we will be happy to provide the Rules Committee with an analysis of Mr. Brownstein's allegations that there's a violation of sunshine policy. And in addition, we would also be happy to provide you with the procedure that the council adopted with regard to admonishment of any of its members.
>> Councilmember Chirco: I think that would be helpful. So if I could have a motion for the rest of the public record, anything else that is to be pulled?
>> Councilmember Constant: Just to be clear, the motion is to note and file and refer H to the City Attorney.
>> Councilmember Chirco: Yes.
>> Councilmember Constant: Then I'll second that.
>> Councilmember Chirco: I have a motion and second to note and file all the items except H, which would be directed to the city attorney's office. All those in favor? All those opposed? And hearing none, that motion would be carried. What time do you expect to be able to --
>> Because of the sunshine policy requirements, we would need to have a memo for you by tomorrow for next week. So we can probably do it in a two-week period, be back in two weeks.
>> Be back in two weeks.
>> Councilmember Chirco: Two-week period, yeah. On appointments to boards and commissions, we have none. We do have H-1, which is prepare a resolution for full city council consideration, this is a memo from Councilmember Campos, Chu and Kalra. And the mayor has requested, if we could direct this to the city administration to pull the materials that were presented to council when this came, was it a year ago? I can't remember --
>> Councilmember Constant: End of '07, I believe.

>> Councilmember Chirco: And then how long do you -- would two weeks be enough or would you --
>> Let me check with staff. I can move item update next week.
>> Councilmember Chirco: Okay. Do we need a motion to direct this to the city administration?
>> Councilmember Pyle: So move.
>> Councilmember Constant: I just want to clarify. Deanna, I think there were actually two actions by the council in relation to this. One in the fall of '07 and I think one that's referred to in that memorandum, that was previous. I think it would help to have --
>> The full record?
>> Councilmember Constant: The entire record so we can get the context of everything. So if that's what you intended?
>> Councilmember Pyle: Absolutely.
>> Councilmember Constant: Okay.
>> Councilmember Chirco: You second the motion?
>> Councilmember Constant: Yes.
>> Councilmember Chirco: I have a motion and second to direct this to the city administration to gather the materials that the council was presented with previously. All those in favor? All those opposed? Hearing none, that motion is carried. The next item is the monthly report from the City Auditor. Welcome Sharon.
>> Sharon Erickson: Thank you. You have in front of you the monthly report of activities for August, 2009. I just want to remind you the city charter requires me to do this every month, so I am in compliance with the charter, that's why I'm here. Some of the activities we did (inaudible) we participated in a full-day retreat with city staff regarding the high cost of San José's workers comp program. I have high hopes that the city administration will be able to change the trend line of those costs. Also wanted to point out that I participated in a press conference in San Francisco with more law enforcement officials than I'd ever seen in one place before, and auditors who are monitoring the federal stimulus money in the Bay Area. My office will continue to monitor the city's efforts in that with regards stimulus moneys, as well. A few things that are coming up. The service efforts and accomplishments follow-up report that's the report where we're tentatively titling performance management and reporting in San José, a proposal for improvement. I hope to bring that forward to you at the last meeting of the month of the Rules Committee if that's okay. And then the second item is the park trust fund audit which released -- since we prepared this report, it was released last Thursday and it is scheduled for PSFSS on September 17th. Our recommendation follow-up report is scheduled for PSFSS on October 15th. You can see some of the other upcoming dates there. I also want to let you know the city's external financial audit is underway and proceeding. And that's my report for this month.
>> Councilmember Chirco: Nice to know you have not been idle. Are there any questions?
>> Councilmember Pyle: I'm jogging my memory, and it's not working, in references to PSFSS. Could you --
>> Sharon Erickson: Public safety, finance and strategic support. Fondly known in my office as PSFSS. Sorry about that. Now the rest of us know.
>> Councilmember Constant: Sharon, a quick question. Under the assignments not yet started, there's two that are different but related, the traffic control and road construction projects and the police secondary employment.
>> Sharon Erickson: Oh, I'm sorry.
>> Councilmember Constant: Are the scope of those, they're combined, is that not right?
>> Sharon Erickson: Yes, they're combined, I'm sorry, yes, yes.
>> Councilmember Constant: I just wanted to be sure they're still that way.
>> Sharon Erickson: Thank you for the correction.
>> Councilmember Constant: Motion to accept.
>> Councilmember Pyle: And second.
>> Councilmember Chirco: If there's no one wishing to speak to this agenda item, we have a motion and second. All those in favor? All those opposed? Hearing none, that motion carries. I do have an addition to a council committee.
>> Councilmember Constant: The table.
>> Councilmember Chirco: We have a motion for -- we have an addition to the Community and Economic Development work plan.
>> Councilmember Constant: I'm not on it so move approval, get more work.

>> Councilmember Chirco: We have a motion and second. All those in favor? All those opposed? Hearing none, that motion carries. We do have two letters. I don't know how we add these to the public record.

>> Add them to today's agenda.

>> Councilmember Chirco: We have two letters from David Wall, can you add those to today's public record? We're at the public forum? Is there anyone -- you want to come up, you have two minutes, David.

>> David Wall: First, good afternoon to all of you. First of all, we want to thank Mayor Reed in absentia, for his \$27,237.50 pay cut and the appropriate daily compounded interest rate on the phrase increase multiplier still yet to be ascertained. What lies in front of you is a very serious issue concerning the San José police and having to have repeated calls to a Section 8 property. Now, Section 8 properties throughout the city have similar problems but for today's discussion, three separate incidences, in which citizens not myself, neighbors in the community had to call the San José police out for this problem property. Each time the police come out, that's three units, police cruiser units minimum, that have to respond to this property and there should be some form of cost recovery against the property owner who personally profits by renting out his property to Section 8 authorities. The other accolade to be given is to Councilmember Pyle, and Councilmember Herrera, for their steadfast innovative aspects to simulating our economy from the district's perspective, in other words, each district needs to be focused on, from a micro-economic point of view, how to stimulate the economies in every district, to better off the city. Councilmember Pyle and Councilmember Herrera have done very good work on this. But they need some help. Lastly, in a very lighthearted thing that occurred in the clerk's office today, there was a gentleman there and I was talking to him about donating flowers to the City Clerks, and so he said sure, and he pulled out \$5. Of course, that was a piker's donation, and I doubled it immediately. But there was no way to actually give it, because they were dumbfounded as to the ability to donate money to the clerks for flowers or other benefits associated with recognition for jobs well done. So in this --

>> Councilmember Chirco: Thank you, Mr. Wall.

>> David Wall: I tried.

>> Councilmember Chirco: If there are no other speakers, that adjourns our meeting, thank you all very much.