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>> This is the Rules and Open Government meeting of November 14, 2012. Any changes to the agenda order? None. Let's start with the November 7th agenda. Anything on page 1 to talk about? Page 2 or 3? Page 4 or 5? Page 6 or 7? Page 8 or 9? Page 10 or 11? I have a question about 6.2, the automated transit network feasibility study. I haven't been able to talk to Councilor Rocha who asked it to be cross-referenced. I wonder if it could be around the master plan or something. Staff have a comment on that?

>> Director of transportation, the recommendation of the transportation environment committee, we think kind of bring together the closure to the issue from a study standpoint. There are a few follow-up items that we are going to do on the overall ATN study working with San José state and the transportation institute to kind of keep the industry developing the technology, but we're asking for no specific council action. Will we kind of concluded the study part and aren't recommending proceeding forward with any additional formal study with the technology will.

>> Well, there's no money, which is always a factor.

>> There's no money.

>> I guess is this the time to put this on the council agenda? I know Councilman Liccardo won't be here. Depending upon when we get to it, I may not be here during part of this meeting. So we could defer this. I'd like to have a chances to at least talk to councilor Roche to see what kind of discussion he was planning on. We have a rules in lieu meeting next week. But certainly this isn't time sensitive.

>> It is not.

>> Why don't we just hold this until I have a chances to talk to councilman Roche and see how it may fit in. Councilor constant?

>> Don't we normally put work plans on consent agenda? Unless there's a reason we have to have 6.1 as a presentation or something, that's kind of routine we've done it a number of times. I'd suggest it be on the agenda as well.

>> 6.1 is the accessibility ramps product. Certainly a consent items I think.

>> Mayor, 5.62, did you want to kick it over to December 4th or take it off the agenda altogether until you have a chanceá--

>> When will we review the December 4th agenda?

>> That will be the 28th.

>> I think that's fine, put it on December 4th and we'll consider it again at the rules committee meeting on the 28th. Anything else on pages 10 or 11? 12 or 13? Two land use items for the evening. Plus someá-- well, actually three. Anything on the financing authority joint city council agenda? Only one item. I have some requests for additions, proclamation of Albanian independence day, commendation to bridges academy, and excused absence request from councilman constant. And that's it. Any other requests for additions or modifications we have?

>> Motion to approve as amended with the additions.

>> Second.

>> Motion to approve, again, staff we may have only eight council members here at least during part of this meeting based on the count that I've done. So is there something we're going to need 11 people to make a decision on, we should identify that. I didn't see anything on here that I thought wouldá--

>> Is it day or night that we'll be short?

>> I believe Councilmen Liccardo and Chu will be gone all day. I'm not sure when they'll be leaving. I'll be here for closed session for sure. I'm scheduled to take the red eye to Washington, and if I could avoid the red eye by leaving earlier I'd like to do that. I'll wait and see how the agenda stacks up.

>> I just know that 11.3 we'll probably have a lot of people. That may be a little contentious, maybe not on our part butá--

>> Just a simple vote.

>> Majority vote.

>> Okay. So leaving early will save you as well.

>> Anything else? Motion to approve as modified on the motion, I will request to speak. Mr.áRolle?

>> I have 2.7 ordinance to amend municipal code related to discharging firearms within the perimeter of the airport. Where it does not specifically say burrowing owls that may be part and parcel of this, but in any case I think this should be taken away for TNE committee to discuss because I haven't seen this coming forward for some time. Furthermore, you're spending a lot of money out of your housing trust for your homeless ventures on 2.10 and 2.11. So I don't know at what point in time this money is going to be running out and reference with the hawker academy, don't worry about that issue. They're not Jesuits. They're of no consequence.

>> That concludes public testimony on this item. I'm going to come back to discussion of it because councilor constant thinks he'll be absent part of this meeting as well at the national league of cities. The national league of cities meeting, seems to me that 11.3, the administrative hearing on appeal, we only have seven

council members present and we can't get a six vote to do something. We'll have to hear it all again, it's not somethingá-- or is it something we could review the tapeá-- how do we deal with it?

>> It's a time-sensitive matter based on our lease.

>> Yes.

>> There's a time sensitivity because the county wants to close the real estate deal by I think the end of the year. But we could get back to the rules committeeá-- well, we won't haveá--

>> We won't be here next week. I guess the question is, could we set this on the 4th even if we have to add an evening session?

>> I think the 4th is an evening session.

>> That's what I have on my calendar, but I should verify that.

>> And if need be, I'm lookingá-- I'm going to be arriving in Boston in time that I could participate by phone if we needed to.

>> No evening session on the 4th? We'd have to add oneá--

>> The 11th.

>> Mayor, we may haveá-- the planning director have any final consultation on time lines.

>> Also what I may be able to do is speak with them because as you know they have three campuses in my district so I deal with them all the time, see if I can talk to them about their timing as well. Will I know they're concerned about getting this done.

>> Laurel, assistant planning director. Harker and the county are eager to get through the appeals hearing before the city council. They did get an extension from the board of supervisors on the lease agreement so I think we have a little bit more time, but I know they would love to get this heard one way or the other by the end of the calendar year. I think we would just like to know if the 4th seems to be better for our council, we can make the appropriate notices if that works better for you.

>> Well, if we have a hearing on the 27th and can't get six vote and some kind of action, what can we do, push it out a week? Continue the hearing?

>> Continue it a week or until the next night meeting, which is the 11th. That really is the rules committee's call.

>> It's six, not majority.

>> It's six.

>> Oh, to continue it or to do anything.

>> To do anything.

>> AH.

>> Personally, I would be in favor of just making an evening session on the 4th to deal with it if it's time sensitive because I just know there's a lot of interest in the community on this, and there is a chance there may not be a definitive consensus on the council when this comes. I know they need to move forward.

>> Any issues with adding an evening meeting on the 4th?

>> Guess I should check my calendar.

>> All I would say if we're going to do that, I would consider pushing 11.2 to another night or to the day because it's a whopping four houses to show up for one night meeting.

>> I believe 11.2 was noticed for the evening as was 11.1A. If you wish to defer all the land notices except for those for the afternoon, that's another option for you.

>> That's what I would prefer to it. City attorney?

>> So you have an option of going to the December 4th, setting a special night meeting and deferring the evening items to that night. They're all heard the same night and not in two weeks. That wayá-- I understand there may be some controversy with respect to 11.2 as well.

>> That's correct. We have a number of people testify at planning commission.

>> If we don't get the six we'll have to do it all over again anyway.

>> All right. So is there a motion?

>> Yes. I'd like to amend my motion to defer the land use items that are noticed in the evening to December 4th in the evening and we'll have to make sure we make that council meeting night. And then approve the rest as amended with the rest.

>> Second.

>> We need a separate motion on the evening meeting or wrap that into one?

>> One.

>> Councilman Oliverio? Make sure we haven't missed an issue, national night out, causing council members a problem?

>> Mr.áMayor, with that, we'll notice there will be no evening meeting on the 27th but there will be a special evening meeting on the 4th.

>> So it's an even trade in terms of the council.

>> There is one ceremonial set for the evening of the 27th. That will be deferred.

>> What is that? That should be deferred as well.

>> Dependence day on the add sheet and Santa Clara science and engineering association.

>> The Albanian independence day was to be heard on the evening as well. I think we've just got to move them all. Is that the motion? Move all of the evening stuff a week?

>> That is my motion. I would just suggest because there's a scheduled evening meeting on the 11th, if there's any land use item that's are ready to go on the 4th, knock them out so we can cancel the 11th evening. If.

>> We'll see what we can do.

>> Do what you can.

>> Pull the notices out of the mail will box.

>> It's December so the meeting on the 11th is likely to run into the evening P one way or the other, based on past years' agendas. It may not be an issue in terms of having something on the evening there. And then who will contact the people who are expecting on the 27th will if we move it to the 4th so we make sure they find out about it? Especially the hacker one because I think that's where the most public interest is.

>> We'll take care of the land use items that are moving to the 4th. That's really no trouble at all.

>> And ceremonial items you'll let council members know?

>> We'll work with the council offices.

>> Okay.

>> All right. We have a motion setting a special meeting and moving evening items one week on that motion, all in it favor? Opposed? None. That's what we'll do. We have no upcoming study session agendas to talk about, I believe. Legislative updates, state or federal, we have nothing, although reason I'll be gone and others are gone on the 27th is the only federal legislative issues we'll have a report when we get back. Meeting schedules, item D. Budget study session calendar and budget calendar.

>> Motion.

>> I'm always opposed to the use of the budget telephone surveys. I'm very suspect on how they're constructed. And the information, how it's gleaned and reconstructed. Also, as we see on May 3, 2013, proposed fees and charges report released, I would hope before then that you will have had some material changes to the sewer service and use charge and the storm sewer charge. This is in keeping with my quest for administrative

remedy to keep this issue from proceeding forward. I think you've been raping and pillaging taxpayers and rate payers far too long with these rates. Thank you.

>> That concludes public testimony. We have a motion on the schedule, all in favor?

>> Aye.

>> Opposed? That's approved. Public record. Mr.áWall, want to speak on the public record?

>> You will notice item C is titled Mr.áNorman K. Sato, esquire. It is a privilege and honor to thank you from reference on a previous rules committee, this particular city employee who has been now retired for some time has saved an enormous amount of taxpayer dollars by volunteering his services. It is my wish and prayer that you would get the provincial wisdom to see it necessary to provide a ceremonial plaque or some other form of recognition to Mr.áSATO for all of his efforts on behalf of a grateful city and grateful citizen. Thank you.

>> Homeowners organized reference letter B from free Hirsh who just got elected for an unprecedented second term as a statewide organization representing mobile home park owners. I represent the residents. She represents the park owners. But when she's right, she's right. And I draw your attention to the second sentence of the first paragraph regarding the composition of the housing commission. Since you have not yet determined it is a composition of that commission or the necessary qualifications of the commissioners, it is inappropriate and illogical to appoint the new full term for any current commissioners. I support her position. I know that last week you deferred them from simply reiterating our support for this position.

>> That concludes the public comment. Is there a motion on the public record?

>> Motion.

>> Motion is note and file the public record. All in favor?

>> Aye.

>> Opposed? None opposed. That's approved. We have request to approve Sikh awareness month reception and special events.

>> Motion to approve both.

>> Second.

>> Motion to approve both.

>> Just on these approvals, the reason we started on this was because of the donation of items and having the transparency we're going to be having events and solicitation of money and having money come into the city. But I'm noticing a trend where we're getting more and more where they're after the event instead of before the event. That was the entire purpose of the council policy, was to have it established ahead of time. So I'd like to see what we could do going forward to either revisit the policy to make sure that there's some sort of timeliness with it or do something because I don't feel comfortable continuing to approve things in arrears of solicitations that the whole reason we made the policy is to stop solicitations unless there was transparency to the public.

>> Motion to approve these two? Any comments on the timing of these?

>> I would just say point well taken, council member, and we'll do our best to continue working with council offices to get prior approval for those events. That's an effort that we will redouble our efforts on.

>> We have a motion to approve the two. On the motion, all in favor? Sorry, one more card, Mr.áWall.

>> Sir, I'd like to thank council memberá-- with references to G3, the approval of the coyote valley celebration event. I think the more people who celebrate coyote valley the more people will vote to people councils from developing that area. This is a very good thing that council member cower is doing. I want to give him praise and accolade. Thank you.

>> We have a motion to approve the two. All in favor?

>> Aye.

>> Opposed? None. That's approved. 4 is approve the naming rights and sponsorship for San José civic auditorium and CPA. We have a motion. I just want to note that $870,000 money coming in for those sponsorship and naming rights. I think this is the first significant naming that we've done after we had adopted a naming rights policy five years ago or something like that. Congratulate the staff on making this happen. Lee? Do you want to take credit for this?

>> Sure. A lot of credit goes to team San José and marketing who have marketed San José facility that team San José manages for the past three years. This is a significant cash dollar amount, given the attendance at those facilities that can help go toward some of the capital improvements we've talked to the council about and some of the marketing to help highlight what will be happening in the next three years. Staff is very excited about this.

>> Good work. Thanks to team San José for making this happen. What are we going to do here. Will.

>> We are askingá--

>> We need to put this on a sill agenda. Do we have a date for that?

>> 11/27.

>> Okay. November 27th. A request to speak, Mr.áWall.

>> Although I appreciate $870,000, that's almost piker's pocket change for the naming of two facilities. There are a lot of CIP issues with those two buildings, previous council discussions mentioned over $2 million for the civic auditorium for air conditioning alone. Public works has done an amazing amount of good work with what little dollars that you give them. I would think that you would give them the entire $870,000 to do with what they see as important and not what you see is important. Because one hot summer afternoon in one of those facilities, and I don't think you'll sell another event. Outside of that, I always wonder how these figures are arranged, but other than that, I thank all those concerned, especially with our good friends in public works. Will thank you.

>> That concludes public testimony. November 27th council agenda is where this is headed if there's a motion. There's already a motion. Sorry. Motion is to do that. All in favor?

>> Aye.

>> Opposed? Unopposed, it's approved. Next item, 5, is based on a memorandum from council members Herrera, Liccardo and Pyle. My request is the exact request and whether or not we need council action to do anything or if this can be handled administratively.

>> That's a very good question. That's what I wouldá-- I would ask that we refer to staff and we would get back to you and come back in the next two weeks, the next rules committee before it may not need to go to council. We may be able to deal administratively, the idea of exempting it when you have the same program that applies to all the Cessna districts raises legal issues. It may be though that this project doesn't qualify as a maintenance project and would not be a subject to prevailing way. So we'd have preliminary discussions with the public works staff and we will continue to have that discussion and we can report back to the rules in two weeks.

>> Seems to me that this cries out for administrative solution and if we're paying $45 an hour for power washing in any of our maintenance districts I don't have a problem with just making this reasonable correction to $21 an

hour. I don't know it that we have to worry about whether or not others are doing it or not if it'sá-- needs to be fixed, it needs to be fixed.

>> Yeah. I think the point is we're really looking to see if there's administrative remedy to this and resolve it there and not have to go to the council with another resolution.

>> The reason is, this is our prevailing wage policy.

>> Yes. Right. It'sá--

>> Which is set by the council. So we ought to be able to fix these problems ourselves.

>> Right. You can fix it, but to the extent that it may be already taken care of and it can be done administratively, that would be the preference. So we can report back if two weeks with our research and see if there's a need go forward to the council.

>> So be back in rules if two weeks? Because we don't meet next week.

>> Yes.

>> And if need be, it could go on the council agendaá--

>> December 4th.

>>á-- in December. Got some requests to speak. Mr.áRolle?

>> On page 2, quote, the published prevailing wage rate for pressure washers set by the California department of industrial relations effective July 1, 2013, will exceed $47 per hour period, close quotes. What needs to be done is

to have our friend Roxanne miller in Sacramento and our friends in Patton Boggs with any reference to federal prevailing wage issues is to recategorize what a pressure washer is. I have a pressure washer. I pressure-wash my house. These people that we see downtown pressure-wash sidewalks. And we see the rates range anywhere from $8.25 an hour up to $21 an hour, and this then integrates into the prevailing wage doctrine that the city of San José has foolishly intertwined and been involved with for some time. So you have basically a multifaceted issue. First you need to recategorize the rates of what industrial jobs are and what they actually cost. Otherwise, you'll be stuck with these arbitrary rates from the state of California and you will have these prevailing wage discussions and artificial administrations to take care of them. I think the $8.25 rate is just appropriate. However, the minimum wage measure D issue has passed so that is rather moot. So I think that you need to study this issue a little bit more closely than trying to do it locally from an administrative standpoint. Thank you.

>> Did I get a motion to defer thisá-- refer staff to bring it back in two weeks?

>> Second.

>> That's the new motion. I would support this motion for the exemption. I just don't think it's necessary to do an exemption. I think this can be resolved since it's our policy and it'sá-- should be a way we can figure it out without having to have an exemption. But if there's an exemption required, I would support it. And I think we can move ahead on December 4th if necessary. Motion is to bring it back here on two weeks. On that motion, all in favor?

>> Aye.

>> None opposed. That's approved. Item 6 is request from clerk to spend $10,000 in payment of reward for assistance in the arrest and conviction of a perpetrator of a violent crime. You want to spoke to that?

>> If all my years of studying San José government, I've never seen a return to the wild west days of having a bounty placed on a criminal. Now, I make light of the fact that I used the term "bounty," but in all reality these are

the reactions that have come forth from council basicallyá-- violent crime is up, it's not the police department's fall. You're the ones who took away pay and benefits that were likely contracted into. The result is we lost a lot of police officers and we're having a hard time rebuilding troop stream. So I don't fault the police one iota, and I support them and what they do. It is of humor from my own personal standpoint is that the city now is stooping to pay a bounty, and that's what this is, to help alleviate crime. I would go further in making deals or whatever, agreements, with superior and federal court entities to say, we'll relieve your court load if you put in a little bit more money to where we could have the bounty paid dead or alive. Subsequently, this is very having in San José's history at this time period to see the return of a bounty for violent criminal acts. Thank you, and you should support the San José police more than you do.

>> That concludes public testimony. I just want to thank the person whose name is unknown to the public for helping the police department catch somebody who is wanted for kidnapping and murder. We appreciate that. And occasionally it takes a reward to get people's attention, but somebody did the right thing and we appreciate it. I have no problem with taking out the reward in that case. We have a motion to approve? Any other questions or comments on that motion. Will all in favor?

>> Aye.

>> Opposed? None opposed. It's approved.

>> Last item on our agenda is open for up. Mr.áRolle?

>> In all the homeless discussions, which are fine, it's always good to have a benevolent heart, but I do not see the disabled being part and parcel to this discussion. And I think disabled people out there in a wheelchair on a cold, rainy day is something the city should address. However, the city should be more forthcoming to find out exactly how much money you have to entertain housing people that have no means, one, how long you're going to be able to house these people. Is it going to be for one month, two years, or infinite, until they die? The other issue I'd like to raise is, I think that you should instruct the city manager to cease and desist with the

personal recruitment costs for the director of finance and just hire miss cooper outright. She has distinguished herself on more than one occasion, and I don't see any need to have a headhunter fee just because it becomes customary to provide questions or guidance to council members who should, by their own ability in the seats they hold being be able to understand that miss cooper has done her job excellently, has saved the city money, and we do not need to spend $30,000 or more for a headhunter to have a nice holiday season. Thank you.

>> I attended last week's meeting of the HCDAC housing and community development. This is why we need consolidation. There were three housing staff members, two commissioners, two people who wanted money, and I represented the public. The commission can't get aá-- so they set up to vote on millions of dollars of money. That came under the realm, there was a paper that said they wanted $670,000. I said, where's the backup for it? What is this all about? Well, it's coming. One of the commissioners was late and I said, are we having a quorum or not? That person finally showed up. The housing department, I said, where's the document? You're asking these people to vote on $670,000, in which case someone from housing runs in, drops this six-page letter on the commissioners and they skim it and then they're supposed to vote on $670,000 worth of taxpayers' money. The NGO lady then got up with this and I said, well, I'd like to have a copy of it because I'm the public. So I think that when you consolidate the commissions it's really importantá-- and by the way, Dennis this was not online. Before we're voting to spend tax payers money that there is serious consideration, the documents are there, and the other thing I'm confused about is how come the vote is pretty much always unanimous. There's got to be somewhere on these commissions a different opinion. So thank you very much for listening and you ought to drop by this commission once in a while and see what they're doing.

>> Concludes the open forum, concludes our meeting. We're adjourned.