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Rules and Open Government Committee meeting.
>> Mayor Reed: Call this meeting to order. This is the Rules and Open Government Committee meeting for May 26th. Any changes to the agenda order? No. All right. First item is the June 1st final agenda, that's easy, no meeting. Meeting cancelled. After the holiday. So June 8th, draft agenda. First to be considered. Anything on page 1?
>> Lee Price: Mr. Mayor, on page 1 we're going to delete 1.1, and the councilmember actually is going to ask that his council office sponsor a different ceremonial item for that particular council meeting.
>> Mayor Reed: All right, that 1.1 was a commendation to Morrill middle school. Anything on page 2 or 3? Page 4 or 5? Want to come back when we're done and talk about the timing of 3.2, the Arizona immigration legislation matter. Anything else on 4 or 5? Page 6 or 7? I have some requested additions. I have proclamation for Racies races field day. Any requests for additions? Let's go ahead and talk about the Arizona matter. I understand that the Water District had a meeting recently and they had somewhere around 100 people show up on this same topic. So I'm guessing we'll have a crowd on it. Because most people usually don't go to the Water District meetings. Even when they're doing things that are perhaps more directly related to their mission. So we'd be better off just putting that at the end of the agenda, just take it up last. We at least get all the other business done. That would include after the redevelopment agency work. I don't know what time we would get to it, if we put on it a not-before time on there, any estimate of how much time the rest of the meeting might take? Certainly not before 3:00 would be safe. We've got certainly plenty of other things that would take to us 3:00.
>> Lee Price: Do you want the reference not before three or.
>> Mayor Reed: Put it not before 3:00 and last.
>> Lee Price: Okay.
>> Mayor Reed: We can do all the other things, work. So I'm reluctant to put this on the agenda, because I know it's going to be an emotional event, it probably doesn't have any impact on anything other than people's feelings, good and bad, but I think it's something the council wants a chance to talk about. Any else on this agenda, any other changes?
>> Councilmember Constant: Motion to approve as amended.
>> Councilmember Pyle: Second.
>> Mayor Reed: Motion is to approve as amended. All in favor, opposed, none opposed, June 8th administrative draft of the redevelopment agency agenda. Anything on page 1? Page 2 or 3? Anything to add to that agenda?
>> Mr. Mayor, if I may there is one item under H.1 but we'll get to that in order. It's on another part of the rules committee agenda. There is no other changes to what you see except H.1, H-1.
>> Mayor Reed: I'm sorry, we just did the other -- which part of the --
>> That's under the Rules Committee reviews. It's an amendment to the inclusionary housing.
>> Mayor Reed: Okay.
>> So we'll get to that in due order. But I just want to point out that will add to this June 8th agenda.
>> Mayor Reed: Okay, anything else on this item?
>> Councilmember Constant: Motion to approve.
>> Councilmember Pyle: Second.
>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed, that's approved. We will take the redevelopment agency agenda up before we get to the Arizona, get the redevelopment staff out of there. Our next item, legislative update, State of California. Betsy Shotwell is here.
>> Betsy Shotwell: Thank you, mayor, members of the committee, Betsy Shotwell, director of Intergovernmental Relations. You have before you a request to reaffirm the city's opposition to legislation

that would -- and I have to read this because the committee is quite long -- it would require municipalities seeking federal bankruptcy protection to obtain approval from the California debt and investment advisory committee. This measure was previously before you as SB 88 in October, the council took action to oppose this, and we learned just a little over a week ago that this had gone into AB 155, the original bill way over a year ago on the same issue. We, using expedited bill process worked with finance, they assisted Roxann Miller with correspondence on the city's concerns with this legislation. We learned that on Friday it was going to be heard Monday. Where it was put in senate appropriations suspense file, meaning it didn't move forward. There is some financial implications to the legislation and it is on the assembly appropriations suspense calendar for tomorrow. They have to get out -- fiscal committees -- the deadline for bills getting out of fiscal committees is either going to be Friday or they can't meet again until June, second week of June. This is just one of these issues where we needed to move quickly and we're bringing it to you to reaffirm the city's opposition to this legislation and staff is here to answer any questions.
>> Mayor Reed: Okay, well, I don't think the state is in any position where they ought to be telling local government how to manage their finances. They're not exactly the best model on how to manage finances. You didn't give us a report on the latest budget stuff. I'll come back to that to see what the latest scheme is coming out of Sacramento on the budget. We do have one request to speak on this item, Mr. Wall.
>> David Wall: Good afternoon to you all. Mr. Mayor, this isn't an issue of how municipalities manage their finances. This is the ultimate squeeze machine that the state of California has ever created in their existence. This will eclipse anything they've done to the redevelopment agencies by orders of magnitude. To put it in human terms, this is keeping a terminally ill patient alive past their date of extinction. And the suffering that goes with it. They will continue to take money from municipalities, in perpetuity. In other words, the cities will not be able to ever file for federal chapter bankruptcy protections. So you as a decision maker should look through it in those type of lenses, not in any other type of lenses because this is avery incredible money-grabbing machine. Thank you.
>> Mayor Reed: I think that concludes the public testimony. Back to the committee for discussion.
>> Councilmember Pyle: .
>> I would move approval.
>> Second.
>> Mayor Reed: Motion is for approval.
>> Councilmember Constant: That would be one-week turn around?
>> Betsy Shotwell: June 8th.
>> Mayor Reed: June 8th, no meeting next week, holiday week.
>> Councilmember Constant: I tried.
>> Mayor Reed: All in favor, opposed, none opposed, that's approved. Now, the latest scheme out of Sacramento came out of the speaker's office?
>> Betsy Shotwell: Yes, well, on Monday, the senate democrat caucus proposed a budget proposal -- and again, I have to refer to my notes, because this is all in play -- extending the temporary tax increases from last year and delaying tax breaks worth a total of about $5 billion. And then the assembly Democrats came out yesterday with their proposal, which was basically securitizing over 20 years, almost $9 billion in moneys from the recycled funds that go into the recycled products fund to fund the recycling programs. There were other issues related to their proposal, one is to levy nearly a 10% oil severance tax, we're one of the I guess the only state in the union that doesn't have a tax on oil. Then what followed of course were all the comments today in the media what can you do without a two-thirds vote, what can you

do with a two-thirds vote. There are lots of opinions out there. I haven't had the time to digest it really to that degree what could be passed with a two thirds or not. Obviously you heard from the governor and the Republican caucuses that they weren't going to support any of these proposals so far.
>> Mayor Reed: Well the proposal to borrow 20 years of money out of the recycling program, that's where the bottle bill money goes, right?
>> Betsy Shotwell: Yes.
>> Mayor Reed: So the charge on every can or bottle, whatever it is, five or 10 cent, the CRV, California return value, that goes into that fund?
>> Betsy Shotwell: I believe so.
>> Mayor Reed: I know that we had some efforts last year with San José Conservation Corps, because they get funded out of there, but the governor had moved the money. So this is a proposal from the assembly Democrats to permanently -- only for 20 years.
>> Betsy Shotwell: Well, it's securitizing for 20 years. I don't have the actual specifics, that's what I'm working on with Roxann.
>> Mayor Reed: Okay, but that's the basic idea, just take all of that money, borrow against the next 20 years, and spend it this year.
>> Betsy Shotwell: Correct.
>> Mayor Reed: That's what you do when you securitize things, right?
>> Betsy Shotwell: Right.
>> Mayor Reed: Not the best idea I've heard of. Anything else from the state?
>> Betsy Shotwell: That's it, the maneuvering, obviously the first proposals are out there and now the maneuvering will take place over how many weeks or months, I can't say.
>> Mayor Reed: Okay, any else on that? Nancy.
>> Councilmember Pyle: One quick question, Betsy. So the severance for oil is one of the true returning revenue issues that we have left to work with, and the chances don't look that wonderful. But -- I forgot the point I was going to make. Is there anything that we, as community leaders, can do to help with that? They're not swayed by letters and e-mails and all of that apparently.
>> Betsy Shotwell: Well my understanding is the Republican party has issued their objection obviously to this proposal. You need Republicans or a certain number of them to vote to get the two-thirds vote. Where that is I don't know. I can't speak to that. But we'll certainly be in touch with our delegation and others that we'll reach out to across the board, and across party lines.
>> Councilmember Pyle: Is this considered a fee or a tax? I thought it was a fee.
>> Betsy Shotwell: The oil severance tax, yeah.
>> Councilmember Pyle: It's a tax, therein lies the rub.
>> Betsy Shotwell: Well, again, the commentary today was with the tragedy taking place in the gulf, and other issues related to that industry, they think perhaps this might be an opportunity that this might prevail. I can't say. Again, it gets back to the two-thirds.
>> Councilmember Pyle: And you mentioned that we were the only state that is oil producing that doesn't have this tax?
>> Betsy Shotwell: That's correct, that's what I've read, yes.
>> Councilmember Pyle: Thank you, I think that point by itself should be enough to make the case.
>> Mayor Reed: Might be the only tax we don't have. [Laughter]
>> Councilmember Constant: We've got hundreds.
>> Mayor Reed: I never herd of a tax that we didn't have.
>> Councilmember Pyle: Thank you, Betsy.

>> Betsy Shotwell: Thank you.
>> Mayor Reed: Public record is our next item. Anything the committee would like to pull from the public record for discussion?
>> Councilmember Constant: Motion to note and file.
>> Mayor Reed: We have a motion to note and file on the public record.
>> Councilmember Chirco: Second.
>> Mayor Reed: Mr. Wall you wanted to speak, I don't know if this was in the public record or where this is, in the public record? Okay.
>> David Wall: Without -- there's something of the significance. I do not know the whereabouts of Grace Community Center, but it would be worth your while to just scan and look at the number of names. There is approximately 395 names, individual signatures. Obviously reflect people's lives in different stages of age and whatnot and their desire for their community center. And I'm not advocating one way or the other, but I know that you're very, very concerned about the loss of any community centers. And so I'd like you to look at public record E. Then I may have miswritten down the second one I wanted you to look at, the last one, would be public record H. I believe as you all put in outstanding amount of extra hours that the public does not appreciate, save myself, Councilmember Pyle worked herself into sickness with the Irish folks and I think she needs a special dispensation to go down to Almaden valley nursery where I'm going to go after this meeting to stimulate our local economy. But I am going to go not just to Almaden valley nursery which is the most premier nursery we have in San José, but I'm going to go through all the other districts to give equal time. But I do think she needs a mayoral pass from a meeting or so to go down there. As a matter of fact, why don't you tag on down there, and check it out, because it's a beautiful nursery. It's better than a park, actually. Thank you.
>> Mayor Reed: Anything else on the public record? I've been to Almaden nursery many times. Sometimes under protest. [Laughter]
>> Mayor Reed: But many times. Motion is to note and file. All in favor? Opposed? That's approved. Next item is appointments to boards, commissions and committees. We have nine sets of recommendations for a variety of committees. Recommendation from Councilmember Constant to reappoint Roger Lasson, Larry saltman Robert gill and the appointments of Ken Kelly and Richard McCoy to the senior citizens committee. Recommendation of Councilmember Chu to appoint Joshua Barousse, Wendy Ho and Guadalupe Rodriguez to the human rights commission, recommendation of Vice Mayor Chirco to approve appointments of William Collins, Erica Valladao to the early care and education commission. Recommendation from Councilmember Herrera to approve the appointment of Carlos Padilla and Elaine Coombs to the advisory commission on rents. The recommendation from Councilmember Chu to approve the appointments of George gange and Ian Kluft to the airport commission. And -- well, there's another recommendation of Councilmember Chu we'll take up about the applicant pool. Recommendation of Councilmember Pyle to approve the appointments of Karl Vidt, Deanford Chen and Jessica Rauff to the Disability Advisory Commission. Recommendation of Councilmember Pyle to approve the appointment of Sergio Arturo Jiminez to the Parks and Recreation Commission. Recommendation of Councilmember Liccardo to approve the reappointment of Michael Martin to the arts commission. Recommendation of Councilmember Liccardo to approve the appointments of Nick Adams, Richard Allen James, Ben Miyaji and Richard Robbins to the arts commission. So those are the individual appointments. I think we could take those all in one motion and go back and see what Councilmember Chu is recommending about the applicant pool at the airport.
>> Councilmember Constant: So I'll make that motion and have comments about the applicant pool at the airport separately.

>> Councilmember Chirco: I will second that.
>> Mayor Reed: Motion is to approve the entire pool of appointments. I have one request to speak, Georgia Nielsen.
>> Thank you, Mayor Reed. My name is Georgia Cantor Nielsen and I filled out a application that I found in the newsletter from my council representative Kansen Chu about -- oh, sometime in late April.
>> Mayor Reed: Can I get you to tilt that microphone down a little bit. There you go.
>> Sometime in April. As I turned out, as it turned out, I didn't hear much for quite a while, but I thought that was rather usual, sometime in May we would hear. I did attend a meeting. And I liked what I saw, it was a very civilized meeting, and I continued on and I met self people to discuss -- I went to Kansen Chu's office and I contacted several people to get some support. It was just this -- today that I actually got my hands on a piece of paper that shows that there was a conflict, possible conflict with my ability to serve and this was unknown to me, although it said, we need more information regarding any United airlines pension that Ms. Nielsen may have had in order to determine her appointment to the airport commission. Well, when I heard I had some sort of conflict that need resolving, I thought in a humorous way, maybe it's because I speak Danish or I went to San José State university. I couldn't fathom a conflict. What I did notice is have the City Clerk, I called yesterday and she said unfortunately you were not given the nomination. Although my representative's office said that it had been sent in on Thursday. So Thursday and Friday, I still had no knowledge of this. I said to her, would you please send it to me? She did and first time I heard I had a conflict, conflict resolution or something, conflict of interest, is what you call it. Where we are is I had not had a pension from United Airlines. That was the problem. I call my self a pensioner, usually a retired pensioner, and that's the way it was written, nobody checked that out. In many countries in the world that's what they call people, and many of us are calling us still pensioners, too. My pension comes from the PBGC, the pension benefit guarantee corporation.
>> Mayor Reed: Your time is up.
>> Thank you for letting me speak, and I do have proof of my PBGC pension.
>> Mayor Reed: Get that to the clerk. Okay, we have a motion, discussion, vice Mayor.
>> Councilmember Chirco: I was -- I'd like to ask the speaker if she could contact the City Clerk afterwards and possibly review her application and clarify if there is a conflict. And if that could be resolved, that maybe she could reapply.
>> Councilmember, let me explain. Our office puts out a conflict of interest memo. I think all of you have seen those memos that discuss possible conflicts of interest with regard to applicants. There are two primary conflicts that arise in most cases. Incompatible office is a third one but that doesn't usually apply. The two that usually apply is government code 1090 conflict which basically is a financial interest. So there could have been an issue with regard to a possible pension that the applicant may have gotten from an airline or one of the entities that works with the airport, and would -- and the matter would be going before the airport commission. That could be a possible conflict. The other conflict would just be a conflict under the public reform act, which is basically a interest that doesn't raise to the level of being excluded because it's not a contract you're entering into but it could have a financial interest. So we can look those up and see what actually occurred or what conflicts were pointed out with regard to this particular applicant and get back to you.
>> Councilmember Chirco: Yes, that would be what I would wish to happen. We have lots of boards and commissions, and if one is not a good fit then maybe another one would be.
>> Mayor Reed: Well, I don't think we necessarily need to expand the applicant pool. The question is, who's in the applicant pool? I've known Ms. Nielsen for a long time. I could certainly vouch for her capacity to serve well on the airport commission, she's got a background in aviation that would be helpful. But I

don't know if there are other applicants in the pool. It appears that there's three vacancies and Councilmember Chu's proposing to fill two of them. Councilmember Constant.
>> Councilmember Constant: Yes, I was holding off my comments but since we're discussing it now. I was going to ask specifically how big the pool was and how many were recommended by project diversity. Because I, too, have a constituent in my district who is very involved in district issues, and has quite a bit of knowledge in the area of aviation. And so I'm not sure why we need to expand the pool. So I don't know if you have that information. But it would be nice to know how many applicants we had, how many were recommended by project diversity. Because I think we do have qualified applicants. And I was mentioning to the mayor, earlier, I think when it comes to some commissions like the airport commission, where especially given the situations we've been discussing lately with our airport, and the grave situation there, and all the financial uncertainty, I think we should be revisiting how we appoint people there, much like with the appeals hearing board. I'm the liaison but I don't appoint the people to that commission. It's something that's done by the city council because of the seriousness and the impact that that board last. And I honestly think that the airport commission rises to that level of importance in our city. I know that our charter actually calls out the arts commission as one of those that should go by the entire council. We don't do that, which I know we've discussed a few times. So two-part I guess to summarize, I'd like to have more information with regard to the applicant pool, and then I know we're reviewing the boards and commissions, but I think that's something we really should be talking about, is which ones rise to a higher level based on the type of work they do and the impact to the broad city, and whether they should be a councilmember-appointed or council-appointed.
>> Mayor Reed: Well, let me suggest that we deal with the appointments here. We have a motion just on the appointments and then come back and decide what do about this particularly vacancy in the pool. We have a motion on the appointments of the aggregate all nine recommendations. All in favor of that? Opposed, none opposed, those are approved. On the remaining vacancy of the airport commission, what I suggest is let's see the pool. We don't necessarily have to go back out recruit it. It doesn't sound like there's a conflict of interest that would bar Ms. Nielsen from serving on the commission. It will give you a chance to look at those documents. If we bring this back next week maybe we can fill that spot or decide to go back out. Councilmember Constant.
>> Councilmember Constant: I completely agree with that. I did have a question on the conflict issues. When we have a conflict memo that says more information is needed, how do we handle the follow up with that? Because it seems like on this particular case, not only was the applicant not advised, but it didn't seem to be any follow-up to elicit that information that we would need to make an informed decision.
>> In the past when our memo used to go to the diversity advisory committee, if they were interested in a particular applicant, they would request the information from the applicant himself, herself. We would review that information and provide an updated conflicts. I can look and see if there was any additional information submitted by Ms. Nielsen.
>> Councilmember Constant: So just again with the review we're doing with the boards and commissions, I think we should some formal process in place so that we get the information to the applicants and we have the ability to follow up a little deeper to see if there is in fact a conflict or not.
>> Mayor Reed: Okay, so we bring this back next week with basically the applicant pool and the project diversity information.
>> Councilmember Chirco: You need a motion for that? So moved.
>> Mayor Reed: Okay. Motion to bring back this third vacancy next week with the information. All in favor? Opposed? None opposed, that's approved. We'll move to section H. The first item is an

amendment to the city/agency inclusionary housing policy to temporarily suspended inclusionary housing requirements for rental units. This was on a council agenda a while back and we deferred taking action so some additional work could be done.
>> Mr. Mayor, Gary Miskimon with the redevelopment agency. If I may, the memo from the city attorney's office correctly states that it was on the April 13th redevelopment agenda. It was a joint item with the city and the agency. And at that time the board asked it be continued for a period of time to allow the attorneys to meet with the public advocates on the Palmer case on their disagreement. The memo asks that we bring this back to the next available board meeting which although the agenda indicates June 1st would now be June the 8th and it would also be the redevelopment agency's meeting not the city council meeting but it would be on the joint portion so it would be a combined city/agency action on the June the 8th agenda.
>> Mayor Reed: Okay, you would need to I think reissue the original staff report that went into the background of the Palmer case along with the supplemental.
>> We will -- the agency's reissuing the memo. Actually there's a few minor things that have occurred subsequently that we're adding in the public outreach section of the memo to deal with, what the council had asked for. When they continued it. To the outreach to the public interest firms. So all of that will be included in the memo.
>> Mayor Reed: Okay, so this is in addition to the June 8th agenda.
>> For the agency's agenda, that is correct, that is a joint item.
>> Councilmember Chirco: Move approval.
>> Councilmember Pyle: Second.
>> Mayor Reed: The motion is to add it to the 8th, all in favor, opposed, one more thing on the agenda. Next is a response from elections commission on a referral from the city council about instant runoff voting. We have a memorandum from the clerk. I have a couple of people that want to speak including Councilmember Liccardo. City Clerk.
>> Lee Price: Thank you, Mr. Mayor members of the committee, you have in front of you a memorandum summarizing the elections commission response to a referral from January of 2007. Out of the mayor's transition team on local government reform to review and consider instant runoff voting as an opportunity for the City of San José to save money as it relates to runoff elections. So the memorandum does summarize the commission's final recommendation which unfortunately was -- they weren't able to come up with a recommendation. The commission has studied this issue for a number of years as I mentioned, we conducted a very in-depth study session on instant runoff voting with experts on both sides of the concept as well as a representative from the county registrar of voters who is, as you know, our partner in conducting municipal elections here in Santa Clara County. And after conducting that study session the commission met, and were not able to come forward with a unanimous recommendation to the council on instant runoff voting. They have made a couple of other registers. That the city council consider some alternatives to instant runoff that would result in saving the city money as it relates to the number of elections that the city conducts. But they were unable to come with a majority recommendation on the concept of instant runoff voting. Lisa Herrick is here. I'm here to answer any questions you might have about that. As you said, I know we have folks in the audience who want to speak to that.
>> Mayor Reed: I know there was a lot of research and data, and I saw some of the memos and things. I'm interested in the cost part of it and in particular, although I've been in support of, in the past for a long time of instant runoff voting, the cost is kind of gotten my attention, considering it's not just the cost of the election but the cost of the implementation. And we don't have that data in front of us, but I think that would -- I'd like to see whatever the commission eventually put together on that.

>> Lee Price: And at this point in time, the really only known cost is the approximate $500,000 that the city would need to spend on a charter amendment to make some changes to the city's charter so that we could allow for instant runoff. That is really the only known. I've been studying the issue for some time as others have and I have been following obviously the city and county of San Francisco which is the only county in California that has conducted instant runoff voting. As well as watching the Alameda County November elections with the cities of Oakland, Berkeley and San Leandro, those three cities have decided to use instant runoff voting for the first time in November. And the registrar of voters has gotten a one-time certification from the Secretary of State. The issues at that time county level with the county registrar of voters is that instant -- or the equipment to conduct an instant runoff voting election has not yet been certified by the Secretary of State nor do we have any standard guidelines if you will for conducting runoff voters. So the registrar is very interested in watching and seeing what happens in Alameda County in November with their runoff elections. At this point in time they don't have a budget for what we could expect implementation and public outreach to cost. And we've been having a lot of conversations about that. And Alameda County, just to give you a quick number, they expect that they will spend about $300,000 in one-time cost to do the outreach. There's about 320,000 registered voters in those three cities that will be participating. And it's been estimated that it will cost $1.1 million in additional cost to conduct those instant runoff votes, elections. But the fact is, is that hasn't been done yet. So I think it will be very interesting to see what the ultimate costs are. The other thing that's noteworthy, we mentioned that San Francisco spent about $1 million to conduct outreach, the first time they offered instant runoff voting, and they only have three languages they need to print ballots. We have five. We need to take that into consideration, we have a larger group of voters to outreach to and we have the additional complication if you will or challenge I should say of a incumbent of other languages that we need to make sure we could print information in, to conduct that outreach.
>> Mayor Reed: Councilmember Constant.
>> Councilmember Constant: Yeah, I was fortunate enough to be on the mayor's transition committee and specifically the one that discussed this issue. And I'll say initially I was very supportive of it because I thought it was a great idea. But over the last couple of years between talking to Jesse our registrar for county elections and watching what's going around, and trying to educate myself of what's happening and seeing demonstrations how it works or doesn't work in some particular instances, I'm not sure if we're ready for prime time to really even be discussing this yet, for a number of reasons, some of which the clerk has just stated. I'm not convinced after what I've seen over the past couple of years that it is the best option for the City of San José. But given the cost of changing the charter, the cost of implementing, the cost of all this up front without having the benefit of seeing what's happening in other jurisdictions as they unfold this, it is not something we should be doing at this time. And I'd love to hear, obviously I know Sam is here to speak to us, as well.
>> Mayor Reed: Judy.
>> Councilmember Chirco: I know there was an e-mail from I think it was the Minneapolis city council, and they listed a number, I was -- thought I had a copy of it in here but I don't. Talked about some of the challenges that they had dealt with, which speaks to what Councilmember Constant was -- one is the education and outreach and the money that that would take.
>> Lee Price: And so with counsel present, Barbara Johnson from Minneapolis city council that wrote and she indicated that the voter turnout was the worst in nearly 100 years. The process cost way more than having a primary due to not being able to use machines, that it cost an additional $300,000 each election until the machines are available and certified. She mentioned that there were issues related to debates among the council candidates, that older voters were confused, and many people voted for only one

candidate. That there was no evidence that an underrepresented communities participated at greater rates and finally, unless the state changes their type of election, she thought they would continue to have -- need to have two kinds of voting which confuses voters. And that is something that the registrar has emphasized to the elections commission, is that we would need to put out two different kinds of ballots, if we had an senate runoff election for the City of San José candidates, that would be one type of ballot where voters would have the opportunity to vote their preferences. But then they would get another ballot for all of the state, county, or you know other issues on the ballot, so that that could cause additional confusion.
>> Mayor Reed: Nancy.
>> Councilmember Pyle: I would like to have more information about the cost, because that's the factor that we certainly don't need to increase in our current time. The education is going to be horrendous, in reference to training people on how to use the system. The five languages is just a nightmare in reference to putting it all together. And I haven't seen that much in the way of proof of success. And that really bothers me. The fact that it would require a charter change, it would have to put more money into that, is problematic, and if anything, I'd like to see us go more towards absentee ballots which is what Oregon does exclusively. And we would save a considerable amount of money. I don't remember the figures, perhaps you do, mayor but it was in the hundreds of thousands that we would save if we thought more in terms of absentee ballots. So that's where I'm coming from. Thank you.
>> Mayor Reed: Okay.
>> Lee Price: And San José currently has about 65% of our registered voters vote by permanent absentee.
>> Mayor Reed: But there is a substantial savings if you don't have to have an election day poll operation.
>> Lee Price: Yes.
>> Mayor Reed: But of course if we just did absentee ballots, the county is still going to have the election. Same with instant runoff voting, if we do it one way, the county does it another way.
>> Lee Price: That's really the reason why our elections are so expensive, because the registrar is really conducting two types of elections on the same day, the all-mail ballot elections and the traditional precinct, and that's really truly why it's as expensive as it is.
>> Mayor Reed: I thought it was just because they get to pick the numbers and no one gets to audit their numbers. Maybe I'm just suspicious. Councilmember Liccardo, you wanted to speak on this one?
>> Councilmember Liccardo: Thank you mayor. I think that the probability is, in this election cycle alone, we're going to have at least two elections that will require two separate expenditures by the city that otherwise would be unnecessary if we had instant runoff voting. I think for that reason alone this is at least something we ought to surface at the council level and have a full discussion of. I understand the elections commission spent a lot of time on this. We've been waiting for some time know to finish their work. I'm not sure exactly why it took as long as it did, but it did. At this point I understand they're deadlocked without recommendation. I think it would be helpful to have this kind of conversation in a broader setting where I think you might be privy to additional information and obviously there would be a broader sense in the community of a desire to participate once it reaches the council level. I understand that we have time constraints here. If we were to put anything on the ballot, it would have to go in the first week of August. I think having a conversation at the council level in late June would be helpful. All these issues about cost and so forth certainly do need to be vetted, need to be fully explored. I certainly don't propose we rush into this without knowing what the numbers are going to look like but if we deny ourselves the opportunity to at least consider it I think we could be kicking ourselves down the road.

>> Mayor Reed: I've got some public testimony. You want me to take that at this time, come back for additional conversation with the committee. David Wall and then Terry Ryland.
>> David Wall: First of all, democracy is never cost-effective. Usually it is one of the most painfully expensive things we have. The runoff elections really favor the heavily monetarized candidates. This denies basically the candidates really to work as hard as they can to convince the electorate, and the people deserve a second or third look to see who's being voted on. I mean the issues change over time. To address this funding issue I'm surprised with all the talent in the organization, that some form of a restricted use fund couldn't be created to fund for elections in perpetuity. This should be discussed with council at some point. The runoff elections also serve as a quasi-stimulus program. Because they cost, the employed people, people spend money they normally wouldn't have. Which is a side benefit, at best. The issue of these multilanguage ballots or whatever it is printed in multilanguage I'm personally insensed by it. Because it's an increasing Molly coddling of immigrants who fail to learn English. I mean English isn't that hard to learn. The dumbest of Americans can speak it. And so I think we should move away from that. Other than that I think the bigger emphasis is, look at the long term funding as a restricted use fund to fund for these anomalies so General Funds won't be impacted.
>> Mayor Reed: Terry Reilly and then Taylor Bovier after that.
>> Hi, Terry Reilly, former chair of what's now called the elections commission. The commission has studied and recognized instant runoff voting does not provide a majority winner when it relates the votes. Supervisors in supervisor typically get elected with just over 40% of the vote and I'm here today to support the commission's unanimous recommendation to investigate lowering San José's winning threshhold to 40%, as Berkeley did in 2004 with Measure H, and Burlington, Vermont, did when they just repealed instant runoff voting two months ago. Based upon 12 years of our elections, the 40% threshold would eliminate the need for significant number of runoffs and as the councilmember said here, this coming election, it may eliminate the need for those runoffs as well. We should also eliminate uncontested elections and have special elections by mail with up to 40% threshold. We already have 65% absentee, permanent absentee rate. Having another 34% vote by mail would save us hundreds of thousands of dollars in special elections and is an easy decision. Vote by mail is the future to reduce election cost. For San José to experiment with IRV when voting machines we have have never been certified would cost over $1.5 million or more on administration, education in five languages, and the cost of the ballot measure. It would require hiring more personnel and consultants during a time of huge budget deficits. IRV has consistently filed deliver on its promises in many places where it has been repealed. Broken promises are outlined in the memo you have received from the city council president in Minneapolis. Now is not the time to experiment with IRV. There are other ways to reduce runoffs and save money as the elections commission has suggested. IRV does not provide majority winners, has huge price tag. So why don't we just lower our threshhold to 40% instead.
>> Mayor Reed: Blair Bovier.
>> Good afternoon, Blair Bovier with the new America foundation. This is voter turnout in San José in June and November. 36% in June, 64% in November. Three quarters of all San José council races are determined in the June election with incredibly low voter turnout. The primary advantage of using instant runoff voting is that it shifts the election, the decisive election to November where more people show up to vote. Not only more people show up to vote but iht is a diverse electorate that is more representative of the diversity of San José. Instant runoff voting is a proven election method that's been used around the world. It's been used in Australia for approximately 100 years. The American political science association uses it to elect their president. I think those folks know something about elections. San Francisco has been using it successfully since 2004, voter turnout has gone up, more people are voting for winning

candidates now in San Francisco since it's been used and San Francisco has elected the most diverse Board of Supervisors in its history. It is not rocket science. The voting equipment that this county uses is the same equipment, that is used in Alameda County, and in San Francisco. It can be certified. The only reason it's not certified now is because the county has not applied for the certification process. There are guidelines, Oakland and San Francisco have charter language that's very specific about how to conduct elections. And the Secretary of State will have guidelines produced about how to run instant runoff elections. Minneapolis had a very successful election that most people thought was very easy. There was incredibly low voter turnout because the mayor was reelected, it was like 73% of the vote, the next candidate had about 12 or 20% or something, it was a walk, boring race, nobody showed up. Can't blame that on instant runoff voting. It's a problem of and more democratic --
>> Mayor Reed: Your time is up.
>> Thank you.
>> Mayor Reed: Steve Chesson.
>> Thank you, my name is Steve Chesson. I'm President of Californians for Electoral Reform. We're a nonpartisan statewide organization that does educational and advocacy work around instant runoff voting and forms of proportional representation. This mic is too high for me. Okay, that's better. I would urge the City of San José to consider using instant runoff voting for its elections, especially for special elections when you have to fill vacancies because those are the ones that are most expensive for the city. Even if you decide not to go with instant runoff voting for your general elections and keep your June-November stagger, your two runoff June-November elections I would urge you to adopt a charter amendment that would allow you to fill vacancies, in special elections using instant runoff voting because that would save the city a tremendous amount of money. And as we all know the number of special elections keeps increasing over time. The -- I assume you've heard the report from the elections commission, they were divided on the issue. One of the things that they did not consider, which I know you, as elected officials will understand, is the wear and tear on the candidates from having to conduct two elections and the wear and tear on your supporters, when you have to go back to them asking for money a second time. So those were -- those factors were not taken into consideration by the elections commission but I hope you would take those factors into consideration and that you would recommend a charter amendment for instant runoff voting for San José. Thank you very much.
>> Mayor Reed: Thank you. That concludes the public testimony. Councilmember Constant.
>> Councilmember Constant: I'm not opposed to a full council discussion on it. I just think that we have an opportunity to observe what happens in other jurisdictions in the November election. And I think it would be more reasonable for us to reserve the conversation until after we've had the opportunity to see that. And especially, since we'll see, we'll have a clear picture of the implementation cost, the educational cost, all those things that we would be faced with ourselves here in San José, if we were the only ones in our county to particularly do it. And then, obviously, the issues with how it works and operates I think that's a great discussion for us to have at the council level. I'm just worried about timing. Should we be having this discussion premature, I understand Sam, your desire to let's get it on the November election because it's tidy but we also have the ability to look -- we have two years until our next election cycle so we have the opportunity to do it. I would just rather have the discussion when we have as much information as possible to sit down and make the decision.
>> Mayor Reed: Vice Mayor.
>> Councilmember Chirco: I agree with Councilmember Constant and I do not oppose having that discussion at the council level but I know San Francisco is a city-county. And one of my interests would be talking to the county, so that there is less confusion, as you said if we were the City of Santa Clara and the

county, we are one of many. And the idea if we do change a voting methodology we want it to be as seamless as possible so the educational element of it can be coordinated. And I think having all of that information would be most helpful to the council rather than to kind of piecemeal it and rush to decision before we can have all the material possible.
>> Councilmember Constant: Yes, sorry I forgot a couple of comments that Terry Reilly had made. I was admiring his iPad, wondering if I was going to buy one this weekend or not. It made me distracted. Thanks for the pleasant distraction in the middle of the meeting. I think a couple of comments that Terry made and also the last speaker made, about perhaps looking at special electrics, and running them potentially differently, either exclusively by mail, I think would be a good option that we should look at, and I think we could also compress the time line. Because I know in other special elections sometimes the turn around time is very quick. If you look at what's happening with senate district 15 for the open assembly seat that was vacated by Abel Maldonado, it is a very compressed election cycle. I've always been concerned how long we sit council seats vacant while we're waiting to conduction these elections. I also think there's a lot of merit in just dropping the uncontested elections. It doesn't make any sense for us to do that. So wherever we end up when we go out to vote for a charter change, I think we should have a comprehensive package that has several of these components in it, so that we can shorten time, shorten money and be as efficient as possible.
>> Mayor Reed: Councilmember Liccardo.
>> Councilmember Liccardo: Yes, thank you mayor. I guess what I wanted to offer was that I recognize nobody's in a rush to get this to the ballot for November. Knowing that there are a lot of unanswered questions. But if we don't at least have the conversation in late June we won't have any -- we won't have that choice. And it seems to me at least having that choice would be helpful. If it is not a full rush to IRV, if it is a consideration of IRV simply for the purpose of special elections whatever it might be at least to be able to have some options would be helpful. I think as elected officials we do have unique insights that perhaps members of a commission might not and I think fundraising is one that Stephen chessen mentioned, if we're concerned about lessening the impact of money in elections I request tell you that currently the case someone will need to raise $200,000 in two separate elections, of the same cycle in order to prevail in a council race that's heavily contested. Obviously we could cut that money in half. Obviously those are things that elected officials are keenly aware of and it's worth the case having thek in late June. I'm confident that a majorities of the council will decide let's take it up after November.
>> Mayor Reed: A couple of things. First is, no matter how much I might love instant runoff voting I can't support something that's going to cost us $1 million in outreach and education for an election and that seems to be like the ballpark number. I'd certainly like to know what the answer is based on some real world experience. I think we'll get that probably in November with the three cities that are doing it. I mean it's hard to believe that could cost that much. Certainly the first time through people would be confused but I guess this is probably more complicated than the butterfly ballot. But you know, those kinds of costs are just way out of my reach. In materials of what I could stomach. The second thing is, we will probably have some other ballot measures to be considered for the fall. The medicinal marijuana tax is a potential. A baseball ballot measure is a potential. And as well as others. And those are not budgeted and paid for. And each of them cost $400,000 to $500,000 is the latest guesstimate from the registrar. Even if I wanted to put this on in November, there are some pretty big challenges fiscally to do that, and I think we ought to know the answers to those questions before we put it in front of the council, and I don't know if it's possible to get those answers before June 22nd, which is our last meeting in June, or not. But I'd certainly like to know a couple of things, where the places that repealed it and why. What does it take to get voting machines certified. And what would it cost? I think we already have those estimates. I've seen them in

different places so I don't know that I'm asking for any additional information. But clearly, that's something that has to be considered, Councilmember Constant.
>> Councilmember Constant: I'd like to take a stab at a motion here. I'd like to move that we refer this to the clerk and the attorney's office for the follow-up that you just specified. I don't remember them all so what he just said, I said. And additionally, to ask the clerk to fully review the November election cycle, that's happening in Alameda County. And when you've had an opportunity to put all that information together, to bring it back to the full city council for consideration in first quarter of '11, 2011.
>> Councilmember Chirco: I'd like to second that motion but also include to get a sense from the county how -- would they be willing to participate in this? So that there's more consistent messaging to our community. Just to have that conversation.
>> Councilmember Constant: That's incorporated.
>> Councilmember Chirco: Okay, second.
>> Mayor Reed: Anything else on the motion? All in favor, opposed, none opposed, that's what we'll do. That concludes that section. Which was section H, we'll move to -- I'm sorry it doesn't conclude section H. We have three more items under section H. Request from the City Clerk to approve District 2 Diwali festival of lights as a city sponsored special event, to authorize the acceptance of donation of materials and services for the event, and get it on the June 8th council agenda. Anything on that, City Clerk?
>> Lee Price: Nope, rather routine.
>> Councilmember Constant: Motion to approve.
>> Mayor Reed: Okay, this is all within our city-sponsored special events policy.
>> Lee Price: That's correct.
>> Mayor Reed: All in favor, opposed, none opposed, that's approved. We have a report on compliance with open government requirements for posting public calendars by city officials on the City's Website. City Manager, namely Tom.
>> Tom Manheim: Thank you, Mr. Mayor, committee members, Tom Manheim, Communications Director. The report before you is fairly self-explanatory. But I just wanted to briefly mention that we began monitoring in January. We actually did two months of monitoring, but as we were going through the data, we realized there was some confusion over when the calendars that you update actually get pushed publicly out so that they are visible on the website. And so we started over in March, and the data before you represents that period from I think mid March to -- a two-month period. It shows 68% compliance. Interestingly, however, I would just point out that if the actual rule that the council imposed on itself was that the calendars be updated at noon for the preceding seven days. And so we have been following that. If you simply looked at using the end of the day on Monday, the compliance rate goes up significantly to somewhere in the mid 80s, 84%. The other thing we did note about this is the direction did not allow for Monday holidays. We took the liberty of doing that and will continue to do, to just assume that on Monday holidays we'll be looking at Tuesday at the midday point. And we're here to answer any questions you might have.
>> Councilmember Constant: I just had a couple of comments. Because one of the things that I guess I found that could be considered a flaw or not, or maybe a misinterpretation, what we do in my office is, we update three times a week, Monday, Wednesday, Friday. So for example, on the week where it shows not compliant, that it was updated in the afternoon, it had actually been updated on Friday after 5:00, so it was up to date up until Friday. But the way the actual wording is, and the approved wording, it has to be updated up until everything that occurred over the weekend. So you know, knowing that we knew we weren't going to be in the office that morning, we didn't worry about it because it had been updated the Friday. So I can see where you can be shown not in compliance when you're still at a much higher level of

compliance by updating it three times a week which is triple what's required but still not be compliant what the actual language we have created. So I just think as we go forward we need to look at the wording and figure out what does the update on Monday mean and what does it include? If it's a Monday morning update does it include up to Friday at 5:00 p.m. or Monday at 11 because you're updating at noon. Just looking at some of that so we can really clarify and make sure everybody's on the same page. And then obviously we all have experienced some technical problems and just finding out the root of those technical problems so we can solve that, as well.
>> Mayor Reed: Vice Mayor.
>> Councilmember Chirco: Yes, as one of the chief rule-breakers by not getting it on by noon, and listening to Tom talk about the percentage that had been posted by the end of the day, and really, even listening to Councilmember Constant when they were out of the office, I would -- it would be a convenience if that were changed to by the end of Monday, you would have. Because you get into the office, you have to clear your messages, e-mails, you start meetings, and I know at our staff meetings when we go over our calendar, well, it's afternoon before we're done. So it just seems at the end of the day, I could be much better if it was by, you know, end of business on Monday. I wouldn't be perfect but I'd be better.
>> Mayor Reed: Well, I think that's something we ought to consider as we modify the policy, that extra few hours on Monday probably is a useful thing to have to make sure everybody gets it done. Because I know Monday mornings are difficult in terms of my own calendar, being able to get information from me about my calendar the previous week when I'm sitting in other meetings. And it looks like that still wouldn't be 100%. But there would be a lot of 90% compliance which would be good. Any other areas? And there's lots of different reasons, lots of different things on here. A few technical problems. Anything other than the 5:00 on Monday the staff might suggest to help improve compliance? Pete.
>> Councilmember Constant: Oh, sorry, didn't mean to cut you off there.
>> Tom Manheim: No, I actually was going to say that there's nothing else that I could come up with. Other than phone calls from our office reminding everybody. And I'm not sure we have the resources to do that on a weekly basis.
>> Mayor Reed: No, I don't think we are going to ask you to do that.
>> Councilmember Constant: That's just exactly what I was going to ask.
>> Tom Manheim: Oh, okay.
>> Councilmember Constant: Similar but not a phone call. I was just wondering technically if there were a way where -- I don't know how these are all stored on the other end, but if it's database driven or whatever, but if there's a way that if you, if the system isn't triggered by a certain time you get an alert, an e-mail saying you didn't do this or whatever.
>> Actually, each person that updates the calendars can set up their outlook so that they automatically get an alert every Monday morning and I've actually helped a couple of staff members do that. So that would be my suggestion.
>> Mayor Reed: Is there an easier way for you to do this review, we're not calling it an audit, we're not getting that complicated but is there a way to simplify that, is there a way automatically for the system to let you know whether or not it's been updated or not? I have no idea how you figure out how it's been updated?
>> It takes me about ten minutes. And so I -- it's not really a problem. And then by looking at it directly, if there are things like technical issues and such I can deal with those. So it could be done but I'm not sure that the benefit would be there.
>> Tom Manheim: I see some folks from our I.T. department here. I don't know if we have any ways of

automating this. I suspect not.
>> Mayor Reed: If it only takes ten minutes to look through them it's probably not worth 100 hours of time to automate it.
>> Steve Ferguson: Good afternoon, Steve Ferguson, chief information officer. Automation is highly possible, although we do have limited resources now, and it would compete with other priorities. The calendar system was something that was developed in-house, so it is not like an off-the-shelf package that we could easily configure. But if you desire to have updates and put that as a priority we could --
>> Mayor Reed: Well, I'm just thinking, rather than create another work project let's let this thing run for a while and see how we're doing and if we change the time to 5:00 on Mondays, then most people would be in compliance by 5:00.
>> Steve Ferguson: I would agree, the automatic notification feature of Outlook is a very easy way to get your staff to get a reminder and that's something they can do very, very quickly.
>> Mayor Reed: That's something that maybe I would suggest that people who aren't meeting the deadline you could encourage them to -- or show them how to get that automatic reminder for themselves. It might be helpful.
>> Councilmember Constant: I'd like to point out that Pierluigi was perfect, the only one of us, only in calendar sense I might say.
>> Councilmember Chirco: Since I was far less that perfect please come show us how to do it.
>> Councilmember Constant: So do we need a motion here?
>> Mayor Reed: I don't think so unless we're going to take some action. This is to accept the report.
>> Councilmember Constant: What about follow-up on reviewing the policy? Should we just make suggestions perhaps to the clerk and then just come up with --
>> Mayor Reed: You mean a 5:00 cutoff instead of a noon cutoff?
>> Councilmember Constant: Or do something like that now.
>> Mayor Reed: Why don't we make a recommendation to change the policy, it is a council action policy not a --
>> Tom Manheim: We would be happy ops to bring forth the memo noting this recommending the policy be changed to close of business on Friday and I would also suggest including in that, the Monday holiday addition or extension.
>> Councilmember Constant: Thanks Tom for making my motion.
>> Councilmember Chirco: Second.
>> Mayor Reed: Okay. Why don't we just move this forward to the council as a separate item when this committee report comes out to do that rather than have you getting in the memo-writing business. I don't think it's likely to generate a lot of conversation, discussion or angst anywhere, can we do that, a committee recommendation to the council probably on the 15th or the 22nd agenda whenever this committee report would be approved.
>> Lee Price: As a cross-reference then?
>> Mayor Reed: Yes.
>> Lee Price: Okay.
>> And also it can be placed on the consent calendar, it simply would be approved without having any further action.
>> Councilmember Constant: That's what I meant.
>> Mayor Reed: Is that what further discussion, all in favor, opposed, none opposed, that's approved. Our next item is recommendation from Parks, Recreation, and Neighborhood Services to approve the proposed revision of council policies 7-5, naming of city owned land and facilities. Albert

Balagso is here.
>> Albert Balagso: Good afternoon, I'm here with Neil Ruffino. About a year ago we brought forward to the committee a series of policy changes geared towards make public partnerships more accessible, more readily simple to say the least within our system. I looked back into how long we had started this and we actually started back in 2007-2008. So we've been at this three years. When we brought this policy, we brought it along with 1-17 which was a sponsorship policy. Council ultimately approved that one. However, with the naming policy the committee had asked us to go back and add more structured language with respect to the exchanging the names of historical value or change them, rather, tying individuals' names to lifetime achievements connected with the -- either the world, the nation or San José itself. So we took those recommendations or direction from the committee and we added that language into the policy we had brought forward last year. And we've got that for you for your consideration. Once council or the committee has considered this, and if it's with the -- meets your approval then we would recommend forwarding onto the full council for their consideration.
>> Mayor Reed: Discussion? This is much improved over the last time, I think.
>> Councilmember Constant: Motion to approve.
>> Councilmember Chirco: Second.
>> Mayor Reed: Motion is to approve as amended. All in favor? Opposed, none opposed, thank you.
>> Albert Balagso: Thank you.
>> Lee Price: Sorry, did you pass that?
>> Mayor Reed: We did, we passed it, we have nothing to add to the council committee agendas, plenty busy already.
>> Lee Price: We need to cross reference this though. We'll need to cross reference and let the council take formal action.
>> Mayor Reed: Again I think this is on consent calendar, been worked pretty well. Our next item is the open forum. David Wall, Bill Chew.
>> David Wall: This is in reference with the number 71. And I will get to the end of what number 71 means. Saturday morning, around 12:30, 12:45, I only imagine that all of you were down at the entertainment zone stimulating the economy. Myself, I was on the public street with San José's finest and the fire department, AMR, the AMR people and the fire department were tending to a drunk Mexican. Now, I say Mexican because I know he's a drunk Mexican because of neighborhood watch. And also, because I know the family, come up once a year from Mexico, very honorable family. The only person I know outside of one citizen that you know who sweeps the public street. Regardless. There's a variation of the public intoxication policy that you're going to have to have under consideration. What happens when a drunk person calls in for assistance themselves that are drunk on the public street and then concoct a story that oh, somebody put cocaine in my beer. That may happen, intoxicated, at least a drug anyway. But repeated drunk offenses from the same person, a foreign national, requiring enormous public dollars to come deal with their decision to be drunk. But let's forget about that for now because we know that the six strikes and you're out law is before you even if one of your kids came home the first time I doubt that you would be merciful. But civil times later after they came home to your house being drunk I think you'd be in prison for murdering them but that's beside the point. Number 71, one of the police officers that was there on the street, in the nighttime, it was the 71st officer that received a layoff notice. And isn't it amazing that of all of the officers of the San José police it would be me he was talking about being number 71.
>> Mayor Reed: Sorry your time is up. Bill Chew.
>> Good afternoon, my name is Bill Chew. I'm a candidate for mayor of San José. I would like to thank my

friends and neighbors for nominating me. I'm doing my best to be worthy of your trust. I decided to run for mayor this year to give the voters an alternative. If you're satisfied with the way things are at City Hall, you can vote for the status quo. If not, I'm your candidate. Please check out my campaign Website, www.fitcity.com. That's F-i-t-c-i-t-y, fitcity.com. Please vote for Bill Chew for mayor on June 8th. Thank you for letting me speak.

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