

The following transcript is provided for your convenience, but does not represent the official record of this meeting. The transcript is provided by the firm that provides closed captioning services to the City. Because this service is created in real-time as the meeting progresses, it may contain errors and gaps, but is nevertheless very helpful in determining the gist of what occurred during this meeting.

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City of San José Rules and Open Government Committee.

>> Mayor Reed: To order. This is Rules and Open Government Committee meeting for February 10th.

We will not have any other councilmembers joining us because the other members of the committee are in Sacramento meeting with our legislative delegation. So Rick, can you just refresh us as to what we can do as a two-member committee?

>> City Attorney Doyle: As a two-member committee you can at the chair's election hold the meeting, hear matters, can't take any action but you can refer it to council and then the minutes will note that, no action was taken, but it was referred to the council.

>> Mayor Reed: Okay. (inaudible).

>> City Attorney Doyle: Yeah, or you can defer.

>> Mayor Reed: What about our council agenda?

>> City Attorney Doyle: You can review that and forward that, and you're talking about the city council agenda for the 23rd?

>> Mayor Reed: No, February 16th, February 23rd, on the agenda.

>> City Attorney Doyle: You can take them --

>> Mayor Reed: The 16th council.

>> City Attorney Doyle: You can take a look at those and essentially --

>> Mayor Reed: Those are coming back to Rules Committee next week anyway.

>> City Attorney Doyle: They are coming back. To the extent there are adds they are just administrative and the clerk would put that on the next agenda that comes back to Rules for final approval next week.

>> Mayor Reed: We'll go over the agenda, if Councilmember Nguyen and I have any comments we'll make them and we'll figure out exactly what we need to do to move things forward or not. So any changes to our agenda order? I don't see any need to do any changes. Let's look at the February 23rd draft agenda. February 23rd is redevelopment agency budget day. I think that's going to take some time so I'm interested in things that maybe could be pushed off of this agenda for a week. Which we can decide next week but we can talk about them. Anything on page 1? Page 2 or 3? 4 or 5? 6 or 7?

>> City Attorney Doyle: Mr. Mayor, I would note on items that may get deferred, you may want to consider, 3.4 is the public records issue, and concerning private e-mails, you know, hand held. I don't know if that's going to get discussion, it might. But it might get some considerable discussion at rules and it might be something you want to kick to the 2nd.

>> I did talk with Tom Manheim before this meeting and he said it would be okay to defer all the sunshine related items until the 2nd.

>> Mayor Reed: 3.3 on statistical reports and 3.4 --

>> 2.6 which is a report on the open government initiatives. That was a consent calendar item because we're accepting an update on that but Tom would prefer they could all get moved at once.

>> Mayor Reed: Those could be moved because we might need the room which we probably will. Anything else on page 6 or 7 or page 8 or 9? Item 4.2, the staff's response to council referral on economic development incentives, that should be a joint item.

>> And when I was speaking to Paul Krutko, we may need a sunshine waiver on that. Staff is working to get that out by Friday. That because of the study session was on Monday they may need a little extra time so we'll report back next week at Rules.

>> Mayor Reed: Okay.

>> In addition to that item there are a couple of items that did not make the early distribution packet and those are 9.1 the convention center expansion, 9.2, 4th and San Fernando parking garage and then if we flip to page 13, it's a financing authority item. The CRAF, those are items that will be out by Friday.

>> Mayor Reed: We'll have to have all those items when we take up the budget so next week we can do a sunshine waiver when we have a full committee. Those will be out by Friday, this week, right?

>> Correct.

>> Mayor Reed: Anything else on 8 or 9? Page 10 or 11?

>> Councilmember Nguyen: Mr. Mayor, 11.3, I noticed that at the Planning Commission tonight, they're hearing this item again, because I guess there was some confusion two weeks ago. So I'm not sure if it's going to be ready by the 23rd.

>> Mayor Reed: That's general plan amendment on south 10th street.

>> Councilmember Nguyen: Yes, I mean if it is, it's fine --

>> Mayor Reed: How long does it take to get it from Planning Commission to council? If they hear it tonight and make a decision tonight?

>> City Attorney Doyle: I think usually two weeks.  
>> Mayor Reed: But if it's already been noticed?  
>> City Attorney Doyle: Yeah.  
>> Mayor Reed: Which I has?  
>> Yes.  
>> Mayor Reed: Then it could probably make it still on this agenda.  
>> City Attorney Doyle: That's probably right.  
>> Mayor Reed: Anything else on 10 or 11? 12 or 13? I have some requests for changes, excused absences, and travel to Washington, D.C. And then, an administrative hearing and appeal on off sale of alcohol beverage.  
>> Mr. Mayor, the reason why this shows up on the add sheet is technically it has not been noticed yet. The notice is scheduled to be published on Friday.  
>> Mayor Reed: Can this be bunched to another meeting because these things sometimes take an hour.  
>> We can check with staff.  
>> City Attorney Doyle: I don't think it's time-sensitive but we can verify with planning staff.  
>> Mayor Reed: Although we didn't look at the length of the evening agenda, the afternoon is going to be long.  
>> City Attorney Doyle: These come to council because it can't make the finding to allow the use.  
>> Mayor Reed: Right but sometimes they come with ten or 20 people.  
>> City Attorney Doyle: Yeah. I don't think so.  
>> Mayor Reed: Well the evening agenda is not very long. It might be okay on the evening. I think the afternoon is going to be the challenge, we'll probably go through dinner. But once we get to the evening agenda it's relatively short. So we can consider that next week when we get a little closer. The question is what date it gets noticed for if it hasn't already been noticed.  
>> Lee Price: We can check with planning to see.  
>> Or we can notice it and continue it.  
>> City Attorney Doyle: Is there an evening meeting on the 2nd or is it the ninth?  
>> I don't think so, later than that, the 23rd maybe. Have to go back and look.  
>> Mayor Reed: And do these have to be on the evening meeting?  
>> City Attorney Doyle: Not required, just practice. Again we'll work with the Planning Department to answer those questions.  
>> Mayor Reed: Any other comments on the draft agenda? We're not going to take action on it. Since we're not taking action today. Let's look at the redevelopment agency agenda for the 23rd. Anything on page 1? Page 2 or 3? Page 4 has the capital and operating budgets and the five-year CIP item. What about the order of hearing, I mean, city items, the budget items, budget needs to come after most of these other issues.  
>> Abi Magamfar: We think that should be the order, Mr. Mayor.  
>> Mayor Reed: So we would just go plow through the agenda it looks like and then take up the budget after we've done everything else.  
>> Yeah, we have noted it to be heard concurrently but we could take that, we could just have it go through the agenda the day-of.  
>> City Attorney Doyle: I think we'll make sure we have the right sequence next Wednesday for Rules so it's laid out.  
>> Clear.  
>> Mayor Reed: But if we go through the city agenda and then the joint items and then the agency item, that probably is the logical sequence.  
>> City Attorney Doyle: Yes.  
>> Mayor Reed: Rather than start with the agency.  
>> Right.  
>> Mayor Reed: Items. I think it will be a long afternoon meeting no matter how we -- how we do it. Any other comments on the redevelopment agenda for the 23rd?  
>> There are no other changes or additions to that agenda, sir.  
>> Mayor Reed: Okay. Then the budget planning session for February 16th, we have a draft agenda here. I don't have anything to add to the list of things to talk about. There's plenty in those categories. Public record? Before we hit the public record, legislative update, state our committee has

gone to Sacramento. So that mission is underway as we speak. We have nothing to report on the federal side, I don't think. Nothing on meeting schedules. Now, back to the public record. There are two letters in here, one from police and fire retirement board and one from federated retirement board, about the meeting in City Hall. We just need to have staff respond to those. I previously asked the manager how we can do these to accommodate them and I think they should probably meet in the council chambers. That's where the Planning Commission meets, I think, and those are least likely to be bumped by anybody except the city council. We should be able to accommodate their need for certainty on meetings, if they're in the chambers and it's also -- it works for the kind of hearings that they need to have, I think.

>> Lee Price: Mr. Mayor if I could add, really the only time that there would be a potential bump would be if the council wanted to meet in the council chambers for a special meeting, but maybe I talked about it, we would just take those dates off the calendar so to speak. Our office as you know reserves the committee rooms and the council chambers so we can certainly -- and have already worked with the City Manager's office to make sure that those dates can be set aside.

>> Mayor Reed: The month of May might present a problem, with the council chambers, because of the number of meetings. But surely we can work it out so that this room is available either to the council because it would work for some of those sessions or the retirement boards. I just don't see any problem with accommodating them to have some certainty about where they meet.

>> Lee Price: You're right, there is that one date in May, but we can work around it.

>> Mayor Reed: Somebody needs to respond to that. I think City Manager can deal with the issues and respond in some way that she deems appropriate. Anything else from the public record that anybody wants to talk about? Let's go to appointments to boards, commissions and committees. We have a recommendation from me to appoint Glen Ledet to serve as the private sector representative on the workforce investment network board of directors. I think we can just send that on to council. It's ready to go.

>> Lee Price: Want that to go next week then, refer it on to the city council for action?

>> Mayor Reed: Yes. Project diversity appointments, I have a recommendation to fill the spots that the mayor appoints to project diversity, Alphonse Arretz, reappointment, and Francine Davis, reappointment, Alex Fraser, reappointment, Vick Nakamoto, reappointment, and then to appoint Suneel Kelkar and Gail Sueki to a term each ending December 31, 2011. I don't think there's any competing interests on that, because those are appointments to be filled by the mayor, and I think I've got it all lined up, so that can go to the council. The second item which is appointment of a person to fill another spot, we have two people nominated for one spot, Nathaniel Montgomery by Councilmember Oliverio and Patty Brooks by Councilmember Constant. I think one we should just hold until we have the full committee and we can make a recommendation to the council.

>> Lee Price: So we'll come back next week with these two?

>> Mayor Reed: Yeah. That takes us to City Auditor's monthly report of activities for January 2010. Sharon Erickson is here.

>> Sharon Erickson: Thank you. Very briefly, we issued four reports during the month of January, the single audit management letter went to the Public Safety committee on January 21st. The service efforts and accomplishments report went to the council --

>> Mayor Reed: Can you explain what the single audit is?

>> Sharon Erickson: The single audit is the audit of all federal funds that are received by the city. The service efforts and accomplishments report was presented to the council yesterday. That annual review of Team San José went through the Public Safety committee and to the city council. And finally, the audit of civilianization opportunities in the police department went to the council February 2nd. I wanted to point out a few other of our activities during January. First, it is with regret that I point out to you in my report Chris Constantin, one of our senior auditors, has accepted a position as deputy city auditor in San Diego. He started on Monday. And as I understand he's doing well, with a view of the ocean. We presented our audit of pensionable earnings and time reporting to both the federated and police and fire retirement boards and they were grateful for having that presentation. There were no issues there. We attended the neighborhood association youth commission priority setting session on January 23rd and distributed about 90 copies of our service efforts and accomplishments report to neighborhood activists primarily who were there. And then we participate, continued to participate in meetings of the City Manager's use of force advisory group. A couple of upcoming things that we'll be going to the Public Safety committee with next week. Are an audit of the redevelopment agency agreement with legacy

partners for museum park and an audit of decentralized cash handling. I also wanted to point out that we did the report outlines the rest of the projects that are underway and we did try to prioritize the list of projects not started on the final page of this report, so if I could just comment, if you see your favorite audit dropping to the bottom of the list, you should probably let me know. Otherwise, we're hoping to at least begin on -- we'll be beginning at probably the top 3 on this list, this month. There's another two, so we'll be down to like number 5 on this list by March and then we'll be -- we expect to be starting this rest you know a couple each month as we go through tend of the fiscal year.

>> Mayor Reed: Had a question on the assignments not yet started list. The affordable housing fee exemptions.

>> Sharon Erickson: Yes.

>> Mayor Reed: There's something already moving has been moving for a couple years. But it's actually I think approaching a committee or the council meeting on that. I'm not sure how this is different from the work that is being done.

>> Sharon Erickson: I was actually holding off on this until we saw what the results of that was, if that makes sense.

>> Mayor Reed: All right. You don't want to duplicate efforts.

>> Sharon Erickson: Exactly.

>> Mayor Reed: You want to learn from the previous work which I'm encouraging the people in Sacramento to do. Anything else on the audit report? No, no other comments? Thank you.

>> Sharon Erickson: Thank you.

>> Mayor Reed: Next item is the approval of a district 4 business appreciation luncheon and then a district 9 events luncheon and I think that we need to take action so we should just defer that until next week.

>> Lee Price: Thank you.

>> Mayor Reed: The standing item or the council's consent calendar allow the city council to receive written or verbal trip reports, of the mayor and councilmembers. I've got a memo on that, probably don't have to take action on that today, that can wait 'til next week. It was suggested by Councilmember Pyle that we just have an opportunity at council meetings if one of us has taken a trip using city funds or authorized city business or however it is that we have a chance to do the trip report. So my idea is, it's on the agenda, if there haven't been any trips there's nothing to talk about and I'll just say are there any trip reports, and we'll get the report. So everybody has a chance to report on why they went and what they did. That's -- there are other requirements for reports that are in the travel policy, but this is in addition to allow this opportunity. But we don't need to take action on that today, so that can come back for next week. Nothing on committee agendas or sunshine. I think we're down to open forum. I have at least one card. Mr. Wall.

>> David Wall: Good afternoon. I'm not -- I'm fairly certain that you've already taken care of this matter. But it hasn't been discussed publicly. And that is, the passing of former councilmember Fiscalini's wife. And I think the city should take the necessary condolence efforts in this regard. She passed away, I believe, a week ago today, and they were married for about 64 years, which is a testament in itself. But I think a grateful city should reflect the level of condolences as you deem appropriate. I would also make a comment about the issue of what I -- on north 10th street at horning street. I have begun my own set of inquiries which I will be reporting back to you. I would also like to take the time to thank you Mr. Mayor and you Councilmember Nguyen, and I want you to pass on my thanks to the entire council for your dedication for this very tiresome issue of the budget. I do not envy you at all on the decisions that you have to make and I also give my condolences if my words have been inappropriate and I apologize for that. But make no mistake some of the economic advice that you've been given by high paid administrators is faulty and you should counsel that in regard to international financial concerns. With that, I bid you a good afternoon.

>> Mayor Reed: Thank you. Anybody else under open forum? No, then we're adjourned.