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>> Mayor Reed: Let's call to order and see if we can get out of here quickly. Rules and Open Government committee meeting for May 4, 2011. Changes to the agenda, I think we have a request to defer Item H-2, that's the electric vehicle memo from Councilmember Chu to another date, next week or --

>> I think that was next week.

>> Mayor Reed: Anything else in the way of changes to the agenda? So we'll move ahead to the council meeting of May 10th agenda. Anything on page 1? Page 2 or 3?

>> Councilmember Constant: Mr. Mayor, just a slight typo when I submitted my proclamation. It should be national travel and tourism week.

>> Mayor Reed: Item 1.3.

>> Councilmember Constant: Yes, sir.

>> Mayor Reed: Anything else page 2 or 3? Page 4 or 5. Got a request to defer 4.2, the North San José residential activity to May 17th.

>> That's correct, mayor. Thank you.

>> Mayor Reed: That's the allocation of units, question, I believe? May 17th. Anything else on page 4 or 5? 6? I have some requests for additions. Councilmember Chu's travel to Ontario for league of California cities transportation and Councilmember Chu's travel to Sacramento, also league of California cities. Noting, the league of California cities pays for lodging in advances and reimburses the city for other related travel expense, so that's a good deal. Of course, we probably pay dues to them, it's prepaid, but it's good that they're covering it. Any other additions or changes to talk about?

>> Councilmember Constant: Motion to approve as amended.

>> Second.

>> Mayor Reed: Motion is to approve as amended. All in favor, opposed, none opposed, that's approved. Council meeting of May 17. Anything on page 1? Page 2, we have seven ceremonial items.

>> Councilmember Constant: But two meetings.

>> Mayor Reed: Three for the afternoon and four for the evening. So we need to make sure that everybody understands the time constraints, especially in the evening, where we have four of them.

>> Councilmember Constant: The oath of office for the youth commission is pretty quick. Make should you the office is following the protocols to keep it short.

>> Councilmember Oliverio: Put a timer on (inaudible).

>> Councilmember Constant: Big timer.

>> Mayor Reed: Something that goes ding. Anything else on page 2 or 3 --

>> I'm sorry, Mayor, on page 3 and 4, 2.2 is the medical marijuana title 6 second reading. And then 3.4 is I guess the first reading of Title 20. These items need to be deferred to June. I just learned right before this meeting that these are not scheduled to go to Planning Commission until June because of the CEQA negative dec. So we need to lay out the schedule to come back for the second reading.

>> Mayor Reed: All right, so those will be kicked until after the Planning Commission can have their hearing and make a recommendation. Anything else on page 2 or 3? Page 4 or 5? Page 6 or 7. 9.1 is a public hearing on the

operating capital budget, including proposed departmental fees and charges. This is just the public hearing not action. That's part of our budget schedule. We need to decide how we schedule that in the evening meeting. We have a couple of other things on the evening. Anything else on 8 or 9, agenda for the public hearing, on the evening meeting. Alcohol permit administrative hearing --

>> Councilmember Constant: Two of them.

>> Mayor Reed: One involves driving and one alcohol permit so those could burn an hour. So we should take those after we have the budget hearing, I think. Take the budget hearing first in the evening. Anything else to add? I have a request to add some actions related to retiree health care benefits. Funding and payment of retiree health care benefits, some ordinance amendments to add.

>> Yes, mayor. We need to add this on the 17th so we can have the second reading on the 24th and so that the ordinance can become effective 30 days later. There is some -- there are some commitments to Police and Fire and then there are -- in order to get this ordinance in place by July the 1st.

>> Mayor Reed: This is the trust that we need to set up to handle the retiree health care benefits because we've run out of capacity with the two pension plans, right?

>> Correct.

>> Councilmember Constant: Mayor, can I just ask a question. Is there any need for us, on either of these agendas, for closed sessions to be earlier, given that we've had pretty lengthy closed sessions and we're kind of getting down to the wire on some of the labor issues. Just want to try to think of that ahead of time.

>> Mayor Reed: Before 9:00?

>> Councilmember Constant: Yeah, I know last year we did some at 8:30. I just know that we've been going past 12:00 and want to make sure we have time. But I don't necessarily know what's on the agenda. Just bringing it up.

>> Mayor Reed: May 10th do we have anything other than the usual which is plenty? The labor negotiations?

>> I think May 10th was a light closed session.

>> Councilmember Constant: So was this week's.

>> Mayor Reed: The light just means the litigations --

>> There is litigation, I'm not sure there is anything other than --

>> Mayor Reed: Okay. But we should address this each week I think as we look to the following Tuesday because it would be necessary in some cases to do that.

>> Councilmember Constant: Yes, especially like on the 17th I believe it is, we have the law enforcement memorial at lunch, those services so we wouldn't want to run late. So that might be one we want to make sure we do early. Or is it next week? It's next week. It is this next Wednesday.

>> It's on the 18th. It's actually during a budget study session and so we need to probably get out early.

>> Councilmember Constant: Getting my council meetings all mixed up.

>> Mayor Reed: There are plenty, also two memorial services for police officers, the city and the county. The city one is the 10th or the 11th?

>> I think it's May 18th.

>> Councilmember Constant: I have it for next week.

>> Mayor Reed: And the sheriffs had one scheduled for --

>> I'm not sure when that was.

>> Councilmember Constant: Ours is next week an the sheriffs is the next week.

>> We both have budget study sessions in the morning in 9:00 to noon.

>> Mayor Reed: We should probably adjourn those early enough to -- the one in the rotunda won't be necessary but going up to the county might take a few minutes. We are okay for May 10th for a 9:00 start and then May 17th we can talk about it next week. See how we are on the agenda. Anything else in the way of changes to this agenda for May 10th?

>> Councilmember Constant: Motion to approve with adds and amendments.

>> Mayor Reed: Motion is to approve as amended, with additions. All in favor? Opposed --

>> I'm sorry, along with the addition to the ordinance we will --

>> Councilmember Constant: Sunshine waiver. I said that pretty fast, you probably missed it. Sometimes I talk quickly.

>> Mayor Reed: Okay, so with the waiver included, the motion is to approval. All in favor, opposed, none opposed, that's approved. And back to the waiver on the retiree health. We've been working with the unions on

this so they're very much involved in this, so it's not like they're going to be surprised and need a whole lot of notice. Sunshine is not a problem. Redevelopment Agency, May 10th. Anything on page 1 or 2? Motion to approve?

>> Mr. Mayor, members of the committee, Gary Miskimon with the Redevelopment Agency. If I may, you might note the brevity of the agenda. The committee may consider either hearing the agency immediately after the city's consent calendar or perhaps even considering it with the consent calendar to avoid the transfer of people back and forth. No report is planned for 3.1, the financial progress report. No presentation is planned. But if there were questions there would be staff available to answer any questions.

>> Mayor Reed: Okay, why don't we just take them both up as a consent calendar item and if there are issues then we can deal with it.

>> Okay, thank you.

>> Councilmember Constant: So that's my motion.

>> Mayor Reed: So moved then. All in favor? Opposed? None opposed, that's approved. Nothing scheduled at this time for the 17th Redevelopment Agency?

>> That is correct, at this time, no.

>> Mayor Reed: Legislative update. Sacramento, Betsy Shotwell.

>> Betsy Shotwell: Thank you mayor, members of the committee, Betsy Shotwell, Director of Intergovernmental Relations. I'll be brief. But I do want to update you on some activities that have been taking place today and yesterday. AB 57, sponsored by Jim Beall, to grant Oakland and the City of San José permanent seats on MTC passed the assembly appropriations committee this morning, 10 to 1. It's not the final vote, it's the initial vote and

I'll have a final vote in the managers report on Friday to give you all the status of where it will be going next to the floor, soon I hope. Also, wanted to mention that --

>> Mayor Reed: Before you move on that one, I did talk to Jim Beall this morning to thank him for his leadership on that because that's the third committee and so far we have one vote against us out of the three committees. Rich Gordon from North Peninsula supported us. Jerry Hill, a little further up, did not. Right? I think that was the way -- he was the one vote against.

>> Betsy Shotwell: That's my impression.

>> Mayor Reed: But Jim has done a great job carrying it, Roxann's done a great job working it through the legislature.

>> Betsy Shotwell: Yes, it was a day of multiple hearings, multiple bills, and sort of a day you need to wear roller skates. The other bill, SB 286 by Senator Wright, this is the comprehensive redevelopment reform bill sponsored by the league of California cities and the redevelopment association. That was held in committee today, it was recommended by the chair to be held in committee. But what Roxann wanted us to be aware of is that it was important to note that a vote wasn't taken to defeat the bill today. So it's there, it has legs, still breathing and we'll hope to see how this plays out and moves on. Again, this is the legislation to counter the governor's proposal to eliminate the redevelopment as we know it. The other item that was released, and you're probably still -- I was trying to digest it too was the Leg council, legislative counsel, the lawyers to the arm of the legislature, has issued about a 16-page opinion indicating from their perspective that the governor's proposal to eliminate redevelopment is unconstitutional and I'll leave it to the attorneys to look at that and weigh in. They're going to have a second opinion as well as to whether this can be done following the passage of prop 22 last year.

>> We just received it this morning. We will be -- we can provide you with a summary of it but basically the Leg counsel has indicated that transferring a property taxes for use of general health and other social programs that

the governor is contemplating using was unconstitutional under the California constitution. So we'll provide you with a more specific summary as soon as we get it, out of our office.

>> Mayor Reed: I want to go back to AB 57 because we didn't talk about that. That's the bill to add San José and Oakland seats to the Metropolitan Transportation Commission which is supported by Alameda County and Contra Costa County. The opposition has come as I understand it only from San Francisco.

>> Betsy Shotwell: Transportation, correct.

>> Mayor Reed: Right, San Francisco Transportation Commission. How many seats does the City and County of San Francisco have on the MTC?

>> Betsy Shotwell: I think as I heard they can have up to three with (inaudible) I know they have --

>> Mayor Reed: Santa Clara County and San José have twice the population of San Francisco, and we are under-represented by any measure. And the solution was to add San José and Oakland to this, because we want to have the largest city in the region to be part of MTC, and Oakland, San Francisco and San José are the ones with the infrastructure, we're the ones with the density, we're the ones with the transportation, and we all three need to be at the table as we're dealing with transportation issues. So disappointed that San Francisco transportation commission is not being supportive but the good news is the legislature sees the merits of this at least in the committees that have looked at it and I think that we'll work our way through it with the help of Roxann in Sacramento and Jim Beall who is carrying the bill. We do appreciate Rich Gordon's vote. Actually does Rich Gordon's district include a little tiny piece of San José? It's one of those gerrymandered districts that include San José San José. So call Rich and thank him. Anything on the federal report? We have a memo from our Washington office of Patton Boggs.

>> Betsy Shotwell: Yes in keeping this year we are looking at more having these reports come out during the recess, so the news isn't out of date within a day and may be more timely for your interest and information

reflecting issues in the City's legislative priorities that you passed in December. I do want to also just add a note of thanks to Patton Boggs. They have been helping us sort of navigate our way through some of the complex FCC broadband Public Safety efforts that are in the memo highlighted, it's very complicated that's a little bit added extra help they've been giving us again to navigate us through the public safety broadband issues.

>> Mayor Reed: Yes, they have been very helpful to the City Manager's office and my office in trying to sort out what we can do around the broadband controversy that the council has had in front of it a time or two. I had a couple of questions. First in the municipal bonds category, this isn't answered here but I think it's a question we need to have them figure out but maybe it's not that complicated but I know that to somebody in Congress is carrying a bill, that would prohibit cities from issuing tax exempt bonds, if we're not using realistic assumptions in our pension plans. And I think we ought to at least find that and track that. Because there's legislation, who knows where it will go, but it could affect us. Because the definition of realistic is nowhere in the statute yet and we know we have some issues with the assumptions that we're using compared to what the GASB, government accounting standards board, is looking at for appropriate assumptions. So it will be one to find out and just put on the watch list because it could directly affect us.

>> Betsy Shotwell: Will do.

>> Mayor Reed: And the other thing, I just wanted to note that Patton and Boggs has been helpful, as mentioned, in many areas. I would say maybe there's maybe not a billion dollars of federal funding that we're interested in, but close to it, when you count the BART project and the high speed rail project, it's probably more than a billion dollars of interest to City of San José. And they've been a big help in watching all of that and helping us find the right place to work with Congress in cooperation with our own legislative delegation. So I appreciate their help to me when I've been in Washington with the, especially these side visits to places like the FCC and others, Department of Energy come to mind so appreciate their work. Any other questions? Have a request to speak, David Wall.

>> David Wall: Good afternoon, Your Honors. The Patton Boggs report is nothing more than the most priciest newspaper still in existence. None of this stuff is relatively new. You can see it on news channels. High speed rail doesn't look like it's going to be popular very much longer Mr. Mayor. Page 4, however the elimination of ail fiscal year 2011 funding raises significant questions about future funding for this Obama administration priority. This has been in the news. This has been a citizen to stand before you many times to tell you that high speed rail is a loser. The aviation administration reauthorization has some interesting input with reference to airport improvement projects that should garner your attention specifically of late. Eminent domain legislation is also very good. The telecommunications, Councilmember Constant could probably write a better piece than what is before us. The clean water act is also very neat, too, with a new application to admiralty law, which I'm not sure if you're very adept at, the city should look into that. One of the biggest things in here, there was a citizen that's been told you before about this neighborhood stabilization program. Let me take off my glasses so you can see my face in its entirety. To rationalize how what a loser program it was from the start, about the obligations, Mr. Mayor, that come attached to that money. And that citizen warned you of it, that would dry up, and blow away. Well, all four segments of it are gone now. All that's here, this funding should be transferred to the attorney's office and you should light a fire under Zoe Lofgren and the rest of our little high-priced crew to provide with you this information.

>> Mayor Reed: Sorry your time is up. Any other questions or comments on this item? I just need a motion to accept the report then.

>> Councilmember Constant: So moved.

>> Second.

>> Mayor Reed: Motion to accept the report, all in favor, opposed, none opposed, that's approved.

>> Betsy Shotwell: Thank you all.

>> Mayor Reed: Thank you. Next item is the public record, anything from the public record? We have some people who want to speak on the public record. Take that first. Martha O'Connell, David Wall.

>> Martha O'Connell speaking as a citizen. Public record E for 18 months I have been in frequent communication with the office of the City Clerk first Lee Price and then Dennis Hawkins spoke in meetings and in e-mails trying to get information for the senior commission. We have carried this item on our agenda for 18 months, folks, and this is ridiculous. The several commissions, four of which I'm aware of have been waiting for over six months to be able to do their bylaws. We were told we can't do our bylaws until this report is issued. Last year Connie Langford was nominated as emeritus. We were told that was on hold. We're a year later and Francis Jones is being nominated as emeritus, and we're told that's on hold. We really need this report, and if the report is going to be stalled, then why can't we just go back to the rules that we were operating under before we were told to stop operating under those rules? Because this report was coming down. And a final comment that I'd like to make, repeating from the letter, that priorities are way out of whack in this city, when human rights issues and senior issues are put on the back burner, so that the arts commission can meet ten times a year. I think it's really outrageous and I ask you to read the details before you vote on the approval of the arts commission work plan in city council. Please read the details. Thank you.

>> David Wall: My first reference will be public record item number B which is the California peace officers memorial ceremony. I hope that it's well attended by learned councils. But even more so for some time, there is a citizen that says that the plaques for officer Simpson and Silva should be cleaned on a periodic basis and there should be something for the San José police memorial here at City Hall. Now these plaques are walked on, spat on, it's inappropriate. And these things, these plaques for these fallen officers should be taken care of far better, since they're right outside of City Hall to begin with, but even more so because they gave the final measure. Item K is a new format of a variety of issues that I brought forward. Mr. Mayor, TPAC, treatment plant advisory committee meeting, to my knowledge has not changed from T-1734, a room that is not fitted whatsoever for a public meeting. It should be here in this room, run by the office of the City Clerk because of the billions of dollars that are involved with that plant rebuild. And I think it's fair, I don't understand any argument that this room cannot be used and the clerks could not be used to deal with this meeting from now on out. And there's been nothing

coming from you so I don't understand why. No one answer told me we can't have it here. It's a great walk, Mr. Mayor, wellness program. But the recording aspect, that April 7th meeting, Mr. Mayor, which you were not there, was an atrocity. That was it. You can't have a department running a meeting where they have a demonstrative conflict of interest where billions of taxpayer dollars are involved. Unless you don't care, there's something else going on that you don't tell the public. And on top of that, Mr. Mayor, since you've taken money away from those employees, budget cuts, I think it's time that the TPAC people --

>> Mayor Reed: Sorry your time is up. Anything else on the public record the committee would like to pull for discussion?

>> Councilmember Constant: Motion to note and file.

>> Second.

>> Mayor Reed: Motion is to note and file, all in favor, opposed, none opposed, that's approved. I need to back up, through the meeting schedules. Item E, I have a memo out that we'll take up next week with regard to adding an item to the council agenda on the 24th around the manager's recommendations on fiscal reforms and then adding a meeting on May 31st which has previously been cancelled but we'll take that up next week. So anything else on our agenda? I think not. I've got some open government -- I'm sorry, open forum requests to speak. Martha O'Connell, David Wall.

>> Councilmember Constant: If you let David go first then you don't have to adjust the mike.

>> Mayor Reed: Okay, person closest to the height of the mic gets to go first.

>> David Wall: This is going to be a weekly St. James park report. Let me tell you something: I drove by there today, I didn't walk through there, because I was on my best bus, so I wasn't as green as I was last week, but quasi-green anyway. Mr. Mayor, you got to name that park criminal element, social outcast and deviant park. I'm

just not kidding. I mean you're talking numbers there that even two San José police officers would have a safety issue. I mean, you've got to walk -- take a walk there. Hold a TPAC meeting there. [Laughter]

>> David Wall: Anyway if you want to see on another vein, being green, I constructed the first compost planter box that I know of. It's four feet tall. Plants on top of it. Weeds and debris from the city street, neighbors' eggshells, vegetable ends, by the time that the flowers die, at the end of the year, I'll have at least maybe a cubic yard, maybe two cubic yards in compost for the garden. A lot of it came from the city street. This can be done, and I'll photograph it and show you how it could be done. Because this municipal regional storm drain permit is nasty business. And how to get everything off the street including yard waste has certain obligations that can be very cost-effective. But go to St. James park and check it out.

>> Mayor Reed: Martha O'Connell.

>> Martha O'Connell speaking once again on the sewer, storm drain, water and garbage charges. But I think somehow it's become sharing the garbage cans. And there's a bigger issue and that is, who is representing the poor on the city council? Really, I mean this sincerely. Who is representing the poor people? People are unemployed, people are facing foreclosure. The seniors haven't had a cost of living increase in two years and yet we're looking at these large increases. And forget about sharing the garbage cans. I know you're going to look into that. But I'm asking you to look at the geographical differential to come up with a rate assistance help for folks, based what it actually costs to live here in San José. You guys make \$90,000 a year. I never even made half that in my entire life! People they're struggling to hold onto their homes. There is a staff member in housing that lost his home last year. Please if you are going to raise these rates, give a geographical differential, a rate assistance program and please lower these proposed rate increases. 27% over three years, one of them is going up. These are killing folks, please don't vote for these large raises.

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