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>> Mayor Reed: Meeting for August 10th, 2011. Any change for the agenda order? No. First item then would be to look at the August 16th council meeting agenda. Anything on page 1? We start at 9:30 for closed session?

>> City Attorney Doyle: Yes, Mr. Mayor. Right now, we have two litigation items that aren't time sensitive and there is a possibility that we will not have a closed session, or don't need to have a closed session.

>> Councilmember Oliverio: Wow.

>> City Attorney Doyle: I'll let you know by Friday.

>> Mayor Reed: Don't get your hopes up.

>> Mr. Mayor, also the open session, labor negotiations, there are no items this week, so we will be dropping that from the morning agenda.

>> Mayor Reed: Okay.

>> City Attorney Doyle: So we would start at 9:30 right into closed session. Not have a labor update.

>> May I suggestion 10:00 or 11:00?

>> Councilmember Constant: How about notice it for 1:30 and if it's something short we can handle it and come back.

>> City Attorney Doyle: It's the Rules Committee's call.

>> Mayor Reed: Let's figure it out then.

>> Councilmember Constant: It would help for planning purposes. We don't have to wait for Friday, we can book up our Tuesday morning right now. (inaudible).

>> Mayor Reed: We do have a couple of items --

>> City Attorney Doyle: There is potentially a couple of items.

>> Mayor Reed: Potentially litigation items.

>> City Attorney Doyle: Not time sensitive. One is hinging on response from the other side.

>> Mayor Reed: Well, I don't think there's a lot on the rest of the agenda.

>> Councilmember Constant: Nope.

>> Mayor Reed: So we could do it all in the afternoon without trouble and we don't have an evening meeting, so if we needed more time, something comes up that requires closed session, we can spend time after the rest of the meeting.

>> Councilmember Constant: I think that's a great idea!

>> Councilmember Oliverio: Outstanding.

>> Councilmember Constant: Best thing I've heard all day.

>> Mayor Reed: So sleep in? Probably not but --

>> City Attorney Doyle: We'll agendize it for 1:30, we can hear it any time after 1:30.

>> Mayor Reed: We'll just look at the agenda. But probably, try to finish the regular agenda then go into closed session so that it pretty much runs on the regular schedule, rather than try to do it first. Okay. I have one other note that we want to add an adjournment in memory of Richard Chavez. Anything else on page 1? Page 2 or 3? Page 4 or 5? The item 3.2, labor negotiations update is going to be dropped. Page 6 or 7? Page 8 or 9? There's nothing there, I have some requests for additions, commendations, request for four commendations, how many do we have on there already? We didn't have any? So it would be a maximum of four which is about all we seem to be able to get in, in the half-hour window there. So request to do a commendation to the police department crime prevention unit. Commendation for great American litter pickup, commendation to Lenore Persilla, Hensley historic district development, commendation to Eddie Gale for contributions of music and other things to San José, so that's one two three four. Any other requests for commendations or ceremonials or anything else? Requests for excused absence from somebody here, Councilmember Constant. For national league of cities meeting and approval of travel to Portland for the city to city trip, to add, although I see on the note that that source of funds is identified as council general. I think that's a problem because we eliminated the travel fund in the last budget cycle.

>> Dennis Hawkins: Yes, Mr. Mayor, the mayor and council travel fund was defunded. And we have suggested to council offices, under the travel policy there was the mayor and council travel funds and there are districts funds. We have not used council general previously to fund travel for any councilmembers and so we've been communicating with other council offices that are interested in going to the city to city trip, that travel and any other travel would be needed to be paid for bithrough district funds.

>> Mayor Reed: How about the sister city trip to Ireland, September time frame, is that council office funds?

>> Dennis Hawkins: That's office funds also.

>> Mayor Reed: Or third party funds?

>> Dennis Hawkins: Of course or sponsor travel if we do have a sponsor. But at this point, unless it's sponsor travel from an outside entity it would be district office funds.

>> Councilmember Constant: I guess what I don't understand when we have usually over \$1 million of leftover funds in county general every year if you're going for a citywide purpose why is I.T. not appropriate to use that fund?

>> Mayor Reed: We have a council travel policy that I think sets the policy and where the funds come from. Haven't looked at that in a long time but --

>> Dennis Hawkins: If the council committee directs we can come back with a review of the council travel policy. But at this point, the options have been or are the mayor, council travel fund which was defunded or council district funds or sponsored travel. And so I think it's problematic at this point.

>> Councilmember Constant: But as we've done many times in the past council policies are guidelines and the council could approve this, as we've done with other variations to policy.

>> Mayor Reed: Well that's true but on a substantive basis I don't want to start spending travel dollars out of council general. I don't think we want to encourage travel and if the councilmember thinks it's important enough to travel and they take it out of their office budgets I think that's okay. But just to have a travel fund, at this time especially considering the kind of attention that sometimes gets, I think it's just a bad idea to set up a special travel fund or having a place where can you travel.

>> Dennis Hawkins: And frankly, there's less margin in the council general fund. Those funds have been reduced as well, so I'd have to look at what's available in the appropriation. But I think over the last couple of years that fund has been limited as well.

>> Councilmember Oliverio: Mayor just curiosity, X amount of time from now one of the councilmembers goes to the league of cities which is very much a city event based on this conversation you would sound like if that person who is on that committee wanted to go to Tulsa, Oklahoma, for the league of cities convention they would pay for that out of the district account and nowhere else?

>> Dennis Hawkins: That's correct. That's the only fund.

>> Mayor Reed: Was the league of cities one of the ones that used to be paid out of the travel --

>> Dennis Hawkins: Yes, mayor, that's correct.

>> Mayor Reed: Because it was league of cities and national conference of mayors and --

>> Dennis Hawkins: Actually, the city-to-city travel was one of the authorized uses of the mayor and council travel fund.

>> Councilmember Constant: And actually the mayor and council -- or the national league of cities was actually preapproved, so there was no approval needed. So --

>> Mayor Reed: That's right.

>> Councilmember Constant: I guess I'm going to have to figure out what I'm going to do. Since I've been assigned and I'm on a committee and I'm in leadership of that committee. And as you're all aware of I don't keep my rollover fund so I don't have the cushion that any of the office do and I those assignments. I don't think that was necessarily communicated during the budget process, that there was an indication that the moneys were going to be reduced. But there wasn't any change of policy or anything that was explicit. So I guess I could just abandon my leadership role, which I could do on short notice. But we'll have to figure that out. Considering I'm chairing a meeting on September 7th.

>> Mayor Reed: I'm sorry, I was thinking about the trip to Portland, which was the city-to-city, is that the one you're talking about, having the leadership role in?

>> Councilmember Constant: No the league of cities, there's generally no travel memo done on that because it's preapproved travel.

>> Dennis Hawkins: Now that we don't have the mayor and council travel fund, and it would be in this case, in the case of other travel that might be out of state, all out-of-state travel funded through council offices or other sources need to come to council for approval. So it was a policy issue that if you were in a leadership role for a national league or even California league of cities, that travel did not need to come to the council for approval. But absent the funding source now, I would think that that travel would need to come to the council for approval, particularly out-of-state travel.

>> Councilmember Constant: Okay, well, yeah, I reviewed the budget or the budget message prior to committing to these trips. And it mentioned a reduction, it didn't mention elimination. It wasn't until I was referred to the budget document because in fact I called the budget office and they told me there was an appropriation for these type of things and that's when I made my plans and it was then later I found out a reduction was actually an elimination. And my assumption was that since it is citywide business, then that's what we also have council general for, those items that are shared for all the council offices, that would be a consideration. But I'm hearing that's not the case.

>> Dennis Hawkins: In the budget message the mayor and travel fund was called out in the indices, it showed where the -- a decrease of the entire \$25,000 as of 11-12, and an ongoing reduction. It wasn't in the narrative, but it was in the attachment.

>> Councilmember Constant: But the narrative was a reduction.

>> Mayor Reed: We haven't eliminated the fund, there's just no money in it.

>> Dennis Hawkins: Right, that's why I said defunded.

>> Mayor Reed: We never eliminate programs, we cut them by 99%.

>> Dennis Hawkins: There are a number of appropriations that don't have any money in them now, they are just defunded. The appropriation is still there, just has no money in it.

>> Mayor Reed: Okay, I think it would be good if we could get an info memo to all council so they understand the travel. Especially the one about, since there's no money in that fund, if you are going to spend money out of your council office for those things that under the policy it requires agendaizing and whatever the rules are in the policy so everyone understands that.

>> Dennis Hawkins: I'll get an info memo in this.

>> Councilmember Constant: So you can go ahead and pull both of these, and I will cancel the trips, and I guess my office budget will eat the cost of the tickets that we're going to cancel. I won't be very happy about that because like I said, had I been informed, I wouldn't have given up my whatever \$50,000 in rollovers and the additional money that I reduced my office budget by a significant amount to fund other programs, because I wasn't aware of this. So I will just do that, and at the end of the year when you put out your assignment list can you delete me from those assignments.

>> Councilmember Oliverio: Councilmember Constant just want to say, simply, you know obviously I think any councilmember would be sympathetic to the situation when you are in the leadership position in the committee, and I think it is one of the things that the council voted to do such in the budget cleanup. But in the end, I mean, this councilmember's fine with you traveling on city business, that if we're going to give you a level of

responsibility on behalf of the city, then we should let you know up front that that means also that you have to eat a portion of your council budget. And I don't think that was translated properly.

>> Mayor Reed: Well, the fund wasn't eliminated. The council wants to put money back into the fund, we can certainly do that, as a budget appropriations action of some kind.

>> Dennis Hawkins: We could work with --

>> Mayor Reed: When we do our midyear or annual report. What's coming up next, annual report, year-end annual report.

>> Dennis Hawkins: Mr. Mayor, that's what I was going to suggest. If that's the direction we could work with the mayor's budget office and the city budget office to see if we can provide some funding in the annual report.

>> Mayor Reed: We don't do that until October-ish. Not that it's going to solve the immediate issue because this is all -- well actually, the Oregon travel is October-ish. So I don't know in that looks like the next opportunity to have a policy discussion about whether or not it ought to be funded, or at what level.

>> Councilmember Constant: I'll just say at this point, if I'm being told that the council cannot bend this policy like we do all the others, and it can't go forward Tuesday, we'll pull, I'll drop these and cancel my travel and resign my positions. It's not -- I don't look forward to these trips quite frankly. So if that's the easy way then I'll just make sure that next time we're not following council policies I'll make sure to be real clear on my feelings on that. So I will drop those two, and cancel the travel.

>> Councilmember Oliverio: Question of clarification. If those items were to remain on the agenda could council have the discussion and approve them and also allocate funds to that, or no? City Attorney?

>> City Attorney Doyle: Yeah, I -- council has the power to do that, if they want to. I mean the question is simply one of, where you would -- what funds do you tap if you want to pay for travel? And the policy now doesn't include council general. But, you know, the council -- yeah has had to deviate with some policies before on a case-by-case basis. It is clearly within the power of the council. I think the issue is, do you want a broader discussion on the issue generally.

>> Councilmember Oliverio: And this could have happened to any councilmember coinciding with whatever leadership position they were on, on any committee that the city assigned them to. So it could have very well been any of us that had this issue, but Councilmember Constant's committee assignments came up now.

>> City Attorney Doyle: I think there's two issues here, on 2.4 A which is a request for absence, excused absence, I think those are the two committee assignments, or the one committee assignment for two meetings. The 2X, the travel to Oregon is more discretionary is the way to put it.

>> Mayor Reed: Yes, Vice Mayor.

>> Councilmember Nguyen: In regards to the committee assignments, I think it's very important that we have a representative from the city, especially on the national league of cities and some of the other regional meetings. So I don't encourage Councilmember Constant to resign immediately from his post. I think that you know, when we have the annual report, sometime in October, maybe if we can have a broader discussion in terms of, you know, allocating funding for the council general appropriation. Because I just think that we're doing ourselves a disservice if councilmembers decide to resign and take away that representation from the City of San José, if they don't want to allocate funding from their own council office. But we can perhaps apply some kind of discretion with regards to other trips like sister city trips where I think the committee assignments is very important we need to keep those intact.

>> Mayor Reed: Well, we can deal with that at the year-end --

>> Councilmember Constant: And I'll just you know --

>> Mayor Reed: What are these trips? I'm looking at -- I'm not sure what the dates are of these actual trips.

>> Councilmember Constant: Couple of weeks away. But you know, this is one of the reasons that I have long advocated for council general and allocating the money where it belongs, in the council offices, because I subsidize council general every year, because of the staffing level, I have chosen to use and I have asked year after year for council office budget to be called out separately. So that those who are frugal in their use of council general can have the discretion to do what they want with it. That hasn't been done for five years of budget requests. And as I say, I contribute over \$10,000 a year to council general every single year. And I think it's totally reasonable to make a request from that. But I'm going to drop them and I'm going to cancel the trips quite frankly because I'm not going to go and come back and find the money out of my account when I have already had the lowest office budget of any of the ten offices. And I've accounted for every penny that I will spend, in staff this year. So I'm just not going to take that risk of traveling, I'll cut my losses at the cost of the plane tickets, and if necessary, I'll pay for those myself because I just am not going to take that risk on my staff. I've already put them to the minimum. So I will be dropping both those right now.

>> Mayor Reed: I see travel date of September 7th. And then October and November travel dates. Right? Is that -- there's multiple dates in there but those are the meeting dates. So it looks like one trip, before the council would take up the annual report year-end stuff. September trip. So we could, if the council wants to put some money back into travel, we could do that then and that would cover some of the dates. Or all of the dates depending what the council wanted to do. It's up to you but we can approve the travel and you can still decline to spend the money, do whatever you think is profit.

>> Councilmember Constant: This isn't a travel request because travel's already approved. For the policy I guess -- but there's no funding source so it's the budget allocation that would have to happen. Or the council would have to agree to consider the policy a guideline and take the money from and approve it coming from another fund. But it is what it is. It is really not --

>> Mayor Reed: I don't want to do that until the council has had a chance to have a discussion of it because it's not just your travel that would be affected, it would be everybody else's travel whatever that maybe. And I think council needs to be part of that conversation, not just us here, the four of us. So your choice to do, you know, drop or not, or go or not. And we can take this up when we take up the budget again.

>> Councilmember Constant: Well, I will drop. And I won't do anything until the council takes up the subject, because I'm not going to put funds at risk. So --

>> Mayor Reed: Okay. So drop of 2.4 A, 2X, travel request. Back to the rest of the agenda on the --

>> Councilmember Oliverio: Motion to approve the agendas, presentation of commendations and dropping of 2.4 and 2.5 and dropping the closed session add 10:30.

>> Mayor Reed: Motion to approve as amended, anything else? All in favor, opposed, none opposed, that's approved. August 23rd, draft, anything on page 1? Closed session at 9:00? Okay.

>> City Attorney Doyle: Yes, we'll be back to the regular labor update.

>> Mayor Reed: Okay.

>> City Attorney Doyle: Go into closed session. Unless you want it earlier.

>> Mayor Reed: Not much demand for earlier, only if necessary. Anything on page 2 or 3? Page 4 or 5? Page 6 or 7?

>> Dennis Hawkins: Mr. Mayor I wanted to mention that next week, we'll be asking for 3.4, the redistricting report, to be heard first in the evening session. There are a number of planning issues afterwards, but the commission asked if we could request that they go first.

>> Mayor Reed: Okay. Any problems with that? Anything else?

>> Councilmember Oliverio: (inaudible) daytime.

>> Mayor Reed: Looks like the afternoon meeting is going to be pretty short. But we do have, looks like, a half a dozen things that are scheduled for the evening. Redistricting and then there's the bail bonds --

>> Dennis Hawkins: Correct.

>> Mayor Reed: Issue I think is scheduled for the evening plus some lands use.

>> Councilmember Oliverio: Never minds.

>> Mayor Reed: Okay I forgot what page I was on, page 6 or 7 we just talked about redistricting. Anything else there? Page 8 or 9? Page 10 or 11 which are the evening agenda items including bail bonds regulations. This is an ordinance change not just a continuation of the moratoria.

>> City Attorney Doyle: We're coming back with the ordinance, yes.

>> Councilmember Constant: Is the ordinance out yet? I haven't seen it.

>> City Attorney Doyle: I don't believe so.

>> Councilmember Constant: Okay. (inaudible).

>> Mayor Reed: Perhaps it's in your in-box. Then in addition, commendation to Ishon Singh, by Councilmember Constant. Any other additions?

>> Councilmember Nguyen: Motion to approve.

>> Mayor Reed: Motion is to approve. Question by Councilmember Constant, afternoon or evening agenda. Doesn't matter, afternoon agenda is light.

>> Councilmember Constant: I think it's afternoon since it's not specified and if there's any change I'll bring it up next week.

>> Mayor Reed: Motion to approve as amended. All in favor, opposed, none opposed. Redevelopment Agency agendas, we have nothing to consider at this time.

>> Mayor, members of the council, (inaudible) 23rd, enforceable agreements.

>> City Attorney Doyle: It's a joint item.

>> Mayor Reed: Joint item. And the closed session agenda items would include any redevelopment items that come up. We have the capacity to do those.

>> City Attorney Doyle: That's correct.

>> Mayor Reed: Because we never know what the state's going to do. Anything else on redevelopment? Okay.

>> Councilmember Constant: Mr. Mayor, I was just informed via text that that was an he evening commendation. If we could amend the motion to that.

>> Mayor Reed: If we can amend the motion to have the evening agendas for Ishon Singh, okay with everybody? Legislative update? Betsy.

>> Betsy Shotwell: I have nothing Mr. Mayor, other than Sacramento will come back into session on Monday.

>> Mayor Reed: Okay. Items filed for the public record. I have a request to speak, Mr. Wall.

>> David Wall: Good afternoon. With all the rash of sudden departures of senior staff, mentioned your director of environmental services, your director of finance, your chief money man, and the assistant chaff of the San José police, are there any other directors that are getting ready to bail? And perhaps, you should make a list of them, because it seems like the office of City Manager is handing out acting directorships fairly quickly these days and citizens would like to know and try to have some confidence in the organizational aspect of your city. Now, this is in reference, too, to the sick leave buyout policy, Mr. Mayor. Because the City Manager, which is entitled to every penny of their employment contract with reference to their accrued sick time that literally all of the rules committee authorized her to have reinstated, all the rules committee plus two other councilmembers, Councilmember Liccardo and Pyle. Mr. Mayor, that is over \$100,000, it's closer to \$150,000, and who knows? I don't know how much more accrued sick time the City Manager is entitled to have bought out. But this also goes to at what point in time, now I've calculated November 2nd at midnight at the last possible time. Because of the 60-day voluntary separation condition within the agreement. So is it foreseeable that the City Manager is also going to retire? And who do you have in the wings, literally in the wings to take the position of City Manager? Or are you going to have another expenditure for a nationwide search for a City Manager and end up hiring, let's say just for an example, the other Los Gatos City Manager? Since his wife is on the payroll? I don't know. I can't keep track of all of this.

>> Mayor Reed: Sorry your time is up. That concludes the comments on the public record. I had one comment on item A, which is a letter from Santa Clara County recycling and waste reduction commission to us, asking for a new ordinance. I'd like to say, just because we got a letter from somebody doesn't put it in the top 10 list for council. Until the council puts it in the top ten it is just a letter. I think next week when we look at the agenda for

the 30th we'll be talking about the priority-setting on ordinances that will be on the agenda on the 30th. Anything else on the public record?

>> Councilmember Nguyen: Motion to note and file.

>> Second.

>> Mayor Reed: Motion is to note and file, all in favor, opposed, none opposed, that's approved. Next request is a request for approvability of cybersecurity week as a city sponsored special event to expend city funds.

>> Councilmember Constant: Motion.

>> Councilmember Nguyen: Second.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. I think all we have left is open forum. Mr. Wall.

>> David Wall: First of all, I think that you need to consider reminding the public, with disaster preparation, I think that this should be ongoing now, Mr. Mayor you said it before, gratefully and I'm all for it. As the regional commander in chief you really need to get people on the ball for preparing for a disaster. I would like the dress code to be eliminated here at City Hall. You cut people's salaries so much that they shouldn't have to go around wearing shirts and ties, Mr. Mayor. That's just archaic. If you want to do it that's your business, I just think it's archaic and you should make a note. Our city clerk has a great retinue of Hawaiian shirts and I'd personally like to see them.

>> Mayor Reed: We were thinking overalls.

>> David Wall: Well, there's plenty -- yeah, I wouldn't be so alone.

>> Councilmember Constant: I didn't even know we had a dress code. << David Wall: Then we have to consider changing the language in these -- the boilerplate language in these agendas, Mr. Mayor. Because you are more knowledgeable than I am in these matters, and it frustrates me to no end when I read English as it is put forth and contained within the four corners of these documents, that I could speak on any issue contained with them, but Your Honor being wise, and more prudent in these matters, says that I cannot, or people in general, not just me, but ceremonial matters, you can't speak on. You're limited to just two minutes for the entire consent calendar, which is burdensome and oppressive in itself but then the City Manager's report seems to be relegated to the open forum section which is incongruent with what is stated because you can't talk about things that have already been talked about on open forum. So we need to clear up the language. And hopefully, that you'll have your learned hand in the authorization, and literally authorization by writing the new rules of what you can do in these things. Other than that, city employees have been asking me where to turn in their ecopasses and I have been telling them it would be appropriate to come to rules and turn in their ecopasses. But that is in your realm.

>> Mayor Reed: Your time is up. That concludes open forum, concludes our meeting.