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>> Mayor Reed: Good afternoon. I'd like to call this meeting to order. This is Rules and Open Government Committee meeting for September 22nd, 2010. Any changes to our printed agenda order we should discuss? No. All right then we will start with the September 28th agenda for the city council. Anything on page 1?

>> City Attorney Doyle: Mr. Mayor, let me just announce that we're looking at and we'll know by Friday but there is a possibility that closed session would be cancelled. So I'll let the council know by Friday.

>> Mayor Reed: Okay. We do have a few people who will be out of town in Washington, D.C.

>> City Attorney Doyle: And the clerk says if we can know by 3:00, we'll know by 3:00.

>> Mayor Reed: Better to know earlier. Anything on page 2 or 3? Page 4 or 5? Page 6 or 7? I have some requests for additions. A couple of excused absences, Councilmember Campos, September 21st due to illness, Councilmember Herrera several meetings due to the city trip to Washington, with the Silicon Valley leadership group. Councilmember Nguyen for the same trip, to Washington. And request from me as well for a trip to Washington on the 28th. Any other requests for additions to add to the agenda? I have nothing else. Any other changes?

>> Councilmember Constant: Motion to approve with adds.

>> Mayor Reed: Motion is to approve with the additions.

>> Councilmember Pyle: Second.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved.

>> Councilmember Constant: I included the potential meeting.

>> Mayor Reed: October 5th draft agenda, anything on page 1? Page 2 or 3?

>> Councilmember Constant: Mr. Mayor, I'm looking at the ceremonial items. And I'm concerned to giving a commendation to an elected official three weeks before an election that they're participating in. We have a lot of elected officials that represent our area and I don't know if it's really a good practice for us to start getting into the habit of presenting commendations to all of them for doing their work as elected officials and particularly giving the timing four weeks to the day before the election that that person is running and I don't think it is appropriate. He sure is.

>> Councilmember Pyle: You know for a fact he is running?

>> Councilmember Constant: Oh, yes, every two years.

>> Mayor Reed: June would be the party primary. I don't know if anybody is running against him.

>> Councilmember Pyle: You make a good point. I agree with that. I didn't realize, for some reason I thought he wasn't running in the fall.

>> Mayor Reed: We want to just hold this for now so we can straighten that out?

>> Councilmember Pyle: Put it on hold, uh-huh.

>> Mayor Reed: That's 1.3. Assembly member Jim Beall has done a great job. But election issue. Anything else on 2 or 3? Page 4 or 5? Page 6 or 7? Page 8, item 6.1, high speed rail project I understand that the high speed rail authority is changing the date on which they're going to take some action, that might affect the dates for us. Hans Larsen.

>> Hans Larsen: Yes, Mr. Mayor, members of the rules committee, we have been informed by the high speed rail authority staff that their actions regarding the design of high speed rail in the downtown area that was previously scheduled to come before their board on October 7th, they are bumping that a month, and then they are now scheduled for November 4th, so a month later. As the council will recall, we were -- had a report to council on September 14th, the direction was to come back with a -- to provide an agreement and a report back to council that's available by October 1st, for the October 5th date. And our goal was to have a council action on the issue before high speed rail met on October 7th. Very, very quick turn around. This new information from high speed rail gives us an opportunity for a little bit more of a republic review of the agreement and we're suggesting we may want to consider having the item, we would continue to provide the staff report and have it available by October 1st. And then have the council discussion on October 19th well in advance of the high speed rail authority meeting.

>> Mayor Reed: That would certainly be better to have more public review of that, more time so that would be a good thing. So you're recommending October 19th, that we change -- what I don't want to do is get the pressure off of the lawyers to work this out. I know Rick is working hard but I'd like a deadline to focus the attention. And I don't know how the high speed rail works internally. If we focus on the October 1st thing that will be a good thing.

>> City Attorney Doyle: We do have a meeting in Sacramento this Friday to discuss this agreement so we're moving forward.

>> Mayor Reed: So the recommendation is just to push the council hearing date to October 19th. Okay. Anything else on 8 or 9?

>> City Attorney Doyle: Mr. Mayor, item 7.1, this is a time sensitive matter given the federal grant. The actual form of the agreement, though, we'll need a sunshine waiver. The memo, the staff memo is out in plenty of time but the form of the agreement will be in advance of the council meeting but may not make the necessary tile requirements. So hoping to have that at least by the Friday before the meeting.

>> Mayor Reed: So that's where the fuel cell system at the water pollution control plant?

>> City Attorney Doyle: Yes.

>> Mayor Reed: If for some reason we don't get that out we can pull it off the agenda by next week.

>> City Attorney Doyle: You have the option.

>> Mayor Reed: If we need to if we're not ready to go. Anything else on 8 or 9? Page 10 or 11. We've got a whole bunch of annexations. There are a bunch of people who want to talk about that. We'll take that in just a bit. On 10, he 11, anything on those pages or 12 or 13?

>> Yes mayor on page 12, 11.4, Cambrian, should have gone out in early distribution the plan is to get it out, Joe is here, if you have any questions. I'll need an early distribution sunshine waiver. It will be out, couple of days before the ten day rule.

>> Mayor Reed: Yeah, so -- you are talking about the meeting of October 15th so we're still 14 or 13 days away. Right. Anything else on page 12 or 13? Okay, I have some requests for additions. Authorization of travel for the City Manager, Seattle, as part of the city to city trip in October. Any other requests for changes? All right, let me see what public wants to say about this. I have a stack of people. We'll take that testimony now. Tom Davis.

>> Hello, my name is Tom Davis and I live on Cambrian drive in Campbell. I'm in an area commonly known as Cambrian 36. Cambrian 36 does not comply with the government code 5637.53 requiring for streamlining the process of annexation. On the personal level I love the term streamlining the process of annexation meaning we lost the vote, we don't get to vote on the thing.

>> Mayor Reed: You can thank the state legislature for that.

>> Okay, probably won't. Section 56375.3 (b) 6 of the government code states if the pocket will benefit from the organization or reorganization or is receiving benefits from the annexing city we currently receive no specific services from San José, residents of our pocket have the same opportunity as any other California resident to use San José's passive services roads parks and libraries. In addition, we will not receive any benefit from being annexed into the City of San José. In fact many of our services will suffer including but not limited to fire and EMS. It is premature for San José to move on the annexation of Cambrian number 6 please stop-

>> Mayor Reed: Your time is up sir.

>> Thank you.

>> Mayor Reed: Ken Prohaska, to be followed by Michael Chrisman.

>> Do I have to restate my name and address?

>> Mayor Reed: Up to you.

>> My name is Ken Prohaska. I live in the Cambrian 36 area in the County of Santa Clara. And it's interesting that you just talked about getting out these notices. Because what I'd like to talk about is San José's own policy of a significant large development proposal. We have well over 50 dwellings, San José's policy 6-30 says that this is a significant community interest proposal and should conform to the notification requirements. Notification requirements is for early notification. We note so far that a lot of the people in our neighborhood have not received any notification what's going on. You talk now about you're already cutting it close. These people this is a big undertaking with a lot of interest in it. We also have a problem with the fact that the notices, ones are going out I think are only covering a 500 foot radius. Should cover a 1,000 foot radius so overt people outside the area can make their statements to the council because with all the deficits and all the service problems in San José taking on another big community like this is going to affect current residents of San José. I ask that this be postponed until later in the year or next year. Thank you.

>> Mayor Reed: Michael Chrisman and Jane harmer.

>> My name is Michael Chrisman and I'm very concerned. I still have not received a notice for the October 5th hearing date. Despite Planning Commissioners Platten's August 25th address to San José staff he advised them to take extra steps concerning notification and believe the notice for the August 25th planning hearing was not handled correctly. Only about half of our Cambrian 36 parcel owners have received notice. This was confirmed by a written statement from the area's postal carrier and it states, Tina and Mike the route I deliver to is route 32, it covers the Cambrian, Campbell Cambrian pocket 36. The streets from this pocket that are not included in this route are Olympia, Lois and Camden. Last week I delivered notice from the San José Planning Department. The notices did not go to each and every house. I would say 50 to 60% of the pocket received the notices. The notices were addressed to property owner or current residents, they had post marked dates of September 15th, 2010. On September 8 Rules meeting staff responded to direct question from mayor addressing notification. Staff assured the mayor and staff and the rest of the commission that it would be completed timely. Quite simply that has not happened. The October 5th hearing must be deferred until sufficient notice can be given to the Cambrian 36 residents. There is a lot at stake here. It sounds like it's the last minute and we're really getting rush rush, push push, and quite honestly the residents deserve at least a process to be followed and that everyone has a chance to be notified and respond in writing or public statements. Thank you.

>> Mayor Reed: Jane harmer and then Lisa harmer.

>> My name is Jane harmer and I'm a property owner in parcel 36. Following up what Tom Davis said about government code 57080 (6) requires that an annexed parcel benefit from the change of organization or reorganization. The city of Campbell has indicated that they are also willing to annex parcel 36, and if San José were to take us rather than Campbell, the police response time would be less than it would be under Campbell. The street maintenance, repairs would be less, and the neighborhood calming effect efforts would currently not be available. The City of Campbell would improve our services, whereas if San José takes us, we will not be meeting -- it will not be meeting this code 57080 (6).

>> Mayor Reed: Lisa harmer.

>> Good afternoon. My name is Lisa Harmer. I'm the treasurer of the Campbell Village Neighborhood Association. This is made up of residents and businesses located within Cambrian Park 36. I'm opposed to the annexation of Cambrian parcel 36, for a number of reasons, some of which were just related by Jane harmer. My primary concern is to how my neighborhood will be provided with fire and safety services if annexation is to occur. Furthermore the streamlined approach to the City of San José has taken in its efforts to annex Cambrian 36 has violated a number of city and state notice requirements. For example, 21 days' notice to the residents was required before the August 25th public hearing on rezoning. This was not achieved. 21 days' notice is also required before the October 5th San José city council hearing to initiate annexation. This has also not been achieved as pointed out by the remarks of Mr. Chrisman. I therefore request that the initial annexation hearing by the city council be deferred to a later date so that the residents receive proper advance notice and the outstanding issues including provision of fire and safety services can be fully addressed. Thank you for your time.

>> Mayor Reed: David Wall.

>> David Wall: Good afternoon. I did not live there on Cambrian 36. But I've been here long enough to know and seen them come back repeatedly to rules about this issue. The city doesn't have the resources to take care of this pocket. I can understand the impetus for property tax revenue. But the citizens within this pocket will then have to deal with sidewalks, increased sewer, possible increased storm. And the loss of PD and fire let us not forget the laid off 49 San José firefighters. How are you going to stretch it over there to protect those people? So I think this whole process is insane basically and I think Mr. Mayor, what you should do is to put this off until March of next year so you could come up with some coherent plan to deal with all the issues and put this plan before the people, and appropriate notification process so they can come before you and say it's either good or it's still insane. Thank you.

>> Mayor Reed: That concludes the public testimony on this agenda. We need to come back for some decision by the committee. I'd like for staff to talk a little bit about the noticing issue with regard to Cambrian 36.

>> Joe Horwedel: Thank you, Mr. Mayor. Staff did get notification from the residents that was mentioned today, so we have been going back and looking and I was just looking through while the residents were talking. I had picked out some streets out and just pulling parcel numbers to count, did we have those showing up in the list that we did. We sent out almost 1500 notices for the October 5th meeting. And I was finding, so like Aaron way I picked I found 9 of the 9 addresses that should have been for that range of AP and addresses. I did send a note back to my staff to make sure let's go back through and revalidate who we sent notices to, to the map to make sure we didn't leave a street out. So I have not done that analysis at this moment. We will do that before the meeting on the 5th. But we have been in this effort with the neighborhood for several years. We have been to community meetings with hundreds of people there, this neighborhood has had signs in their front yards for several years on this issue. So we are, I think have met more than the spirit and intent of policy 6-30 as noted by the residents. It's down to the procedural pieces and state law is very clear on this and I don't like falling back to state law because it is -- it's just state law and not how the city chooses to do it which is the city needs take a good faith effort to do that. We went to the registrar of voters and got the latest list to notify. We went and got the latest information of the county recorder's office of who owned property to use so in coming up with the mailing lists so we have spent an inordinate amount of time going through and doing noticing because of the sensitivity on this. We will go double check and make sure we have in fact not missed something.

>> Mayor Reed: You talk a little bit about what the law requires. I don't believe the law requires people to receive notice that every person has to receive a notice.

>> City Attorney Doyle: There's a presumption that once dropped in the mail, first class postage prepaid, that it's received. You don't have to verify that people for example certified mail would be cost prohibitive for city to be doing that. So if staff has complied with if mailings and affixed the necessary postage it is presumed received.

>> Mayor Reed: Well I think actual notice is important but I would be surprised if there's anybody in this neighborhood who didn't know about this annexation process. We've been at it for a long time and there's been a lot of committee work. I know people have worked the neighborhoods and I'd just be surprised if there was anybody who didn't know this was happening. They may not have received a notice in the mail about a specific meeting. You never know what happens to things when you put them in the mail, but all we can do is follow the law. I'd be surprised if there were anybody who didn't have actual notice but you're saying that legal notice is what we're required to do.

>> City Attorney Doyle: That's correct. And again the issue here is whether to have it on the agenda for October 5th and that's when the merits of the matter of voting up or down --

>> Mayor Reed: A lot has to do with the merits of the decision. That's not in front of us. That's what we're trying to get before the council so the council can decide on the merits. Any other questions about this or anything else in this agenda? We have several changes, and a sunshine waiver.

>> Joe Horwedel: Mr. Mayor, I was goods going to note that the reason staff asked for a sunshine waiver, we met at 1:00 today with county fire as part of the issues that the residents were raising about fire service for the area. We had met previously and we wanted to just double check before we put the memo out that county fire was -- did not have a disagreement or was amenable so we walked through that. They are okay with where the staff recommendation is, and okay with some other alternatives that we've included into the plan. And we're anticipating they'll actually provide a written response on that staff part. Our goal is to have the staff report post they had afternoon for the Public Works available.

>> Mayor Reed: Well that would still meet our ten day requirement. Councilmember Constant.

>> Councilmember Constant: Well, I know I'm on record for opposing this going forward. But I understand the difference between what goes on the agenda and the procedural issues for the initiation. What I would like to make sure is that we're prepared to discuss on the 5th all of the discussions that were had with Campbell and a

really clear delineation of what directions we were going at what time and when changes were made. Because I think that really will provide some context. Because as I've mentioned before, I've spoken with the councilmembers there, and the City Manager there, and I know they were surprised with the abrupt change in direction of our city on this. I still don't think that we should be going forward with this at this time. I think that because of the uncertainty between the two cities, and the residents, it should be deferred until we can work through those issues, and while I know the technical wording of this item is the initiation of the annexation, it is a little -- the technical legal wording is a little misleading to the general public, because this was initiated a long time ago and there has been a lot of talk, a lot of work done on behalf of the city here and the city of Campbell. And I really think that that part should be fully talked through with the City of Campbell before we go forward but I think you guys all know my position on that.

>> Mayor Reed: I had one other note, that we might need to do a time-certain for the financing authority part of the agenda on lease revenue bonds.

>> Yes and we actually discussed that this morning. Are I was going to bring it up next week. We can do it now if we can do it after consent that would be preferable. We know we have outside consultants coming.

>> Mayor Reed: Okay. Any other changes or things on the agenda?

>> Councilmember Chirco: Move approval with the sunshine waivers as noted.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approve with the sunshine waivers for getting this in front of the city council. All in favor, opposed, one opposed Councilmember Constant. All right, that concludes the October 5th agenda for the council. Go to the 28th agenda for the redevelopment agency. Anything on page 1? Page -- September 28th. Page 2 or 3? The amendments regarding the city's cooperation disagreements, joint item.

>> Mr. Mayor, members of the committee that's correct. We're proposing adding the agency city cooperation agreements we've discussed it with manager's office and our budget staff and that item will be added and the staff report will be distributed by this Friday and it will be a joint item.

>> Mayor Reed: All right any other changes?

>> No other changes at this time.

>> Councilmember Chirco: Move approval.

>> Councilmember Pyle: Second.

>> Mayor Reed: We might be canceling the closed session as the City Attorney noted earlier. On the motion, all in favor, opposed, none opposed, that's approved. October 5th agenda. Anything on page 1? Page 2 or 3?

>> Mr. Mayor, members of the committee if I may the item 7.1 which refers to a rehab and loan agreement with the urban markets LLC, I've been asked to have that item moved to a later agenda. It's not ready to go forward at this time.

>> Mayor Reed: Okay. So we can just drop that.

>> That's correct.

>> Mayor Reed: We don't have a date. Okay. And then there's page 4, anything on page 4, capital and operating budgets public hearing to be heard in the evening at 7:00 p.m, October 5th, is that right?

>> That is correct. It will be an evening session. It is our normal public hearing in the evening and normally it gives an opportunity for the public to come out without having to take off from work to look at our budget. And the budget -- the proposed budget is online now.

>> Mayor Reed: So this is the only thing on that evening agenda, is that right?

>> City Attorney Doyle: In addition to all the land use items you just -- including Cambrian number 36.

>> Mayor Reed: Okay.

>> Councilmember Pyle: Motion to approve as amended.

>> Councilmember Chirco: Second.

>> Mayor Reed: Motion is to approve as memorandum. All in favor, opposed, none opposed, that's approved. Next review of upcoming study session agendas, we have a joint redevelopment agency-city council study session September of 30th. Budget.

>> Councilmember Pyle: Motion to approve.

>> Councilmember Chirco: Second.

>> Mayor Reed: Motion to approve, all in favor, opposed, none opposed, that's approved. October 2nd we have a joint city council RDA, county board of supervisors meeting agenda. Those items were discussed with the president of the board of supervisors and the manager and the exec. And so we have five items to specifically discuss and accept the reports, of course we have a very long list of items that we're working on called the compendium.

>> Councilmember Chirco: Move approval.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed, and that meeting will be in the board of supervisors chambers in case anybody wants to know. Next item, legislative update, state and federal. Betsy is here. Nothing to report. How's the governor's health? Is he back to negotiating with the other big 4?

>> Betsy Shotwell: They are in Southern California.

>> Mayor Reed: Good to know they are still trying to work on a budget. 80 days, 81 days without a budget? Yeah, but who's counting? On the public record, then, anything the committee wants to pull to discuss?

>> Motion to note and file.

>> Councilmember Chirco: Item C that seems like there's a lot of the material that we're also working on. This is from the county. I was wondering if this would be appropriate to direct to ESD.

>> Ed Shikada: Members of the committee, Ed Shikada, deputy City Manager. I have talked to Jo Zientek and these items are in sync with what we are already doing.

>> Councilmember Chirco: And we're in conversation with the county?

>> Ed Shikada: Yes.

>> Councilmember Chirco: That's what I wanted to be sure. Thank you Joe.

>> Mayor Reed: I think there are some things we're doing that we don't have a little X on so that would be one thing.

>> Councilmember Chirco: I think Jo needs to work on that.

>> Mayor Reed: But this is certainly consistent with our Green Visions and our zero waste goals that we've set for the city, so it is good to have the recycling waste reduction commission getting the rest of the county engaged in the issues as well. Anything else from the public record? I have a couple of requests to speak on it. We'll take that now, David Wall and John Colby. Let's get David Wall first.

>> David Wall: This is in reference to item F in which I had a handwritten letter to the president after the Public Safety, Finance and Strategic Support committee meeting, the only piece of paper I had available to write anything concerning the intentional suppression of a public record document. This was issued into the public record by the Consortium for Police Leadership in Equity. And the report is right here. It's a public record. Now, the reason -- I have no reason of the inner workings of chairman Nguyen's mind in stating it wouldn't be posted on the city web page since it is a public record and was given to everybody in the room. Later I was to find out that the chief of the San José police, September the 12th, four days subsequent to this meeting, was appointed to the advisory board of the Consortium for Police Leadership in Equity. I raise how can this be? How account chief of the San José police in uniform support a third party entity, supposedly carrying out a nonbiased scientific psychological investigation of our police department, sit on this board, to me it is a conflict of interest and raises a whole host of other issues I don't have time for. I don't like it, I would like to have it explained why a public record and this isn't the first time that a public record has been censored to a letter to the president, a certified mail letter to the president, about what's going on, with police chiefs, stepping across the line with reference to Salt Lake City police department as well, into the realm of politics, to get a political agenda put forward to feather bed either their retirements or their own personal enrichment which I do not know if it's occurring. Thank you.

>> Mayor Reed: John Colby. Yeah, just squeeze it and it will slide down.

>> Hello. I come before your committee --

>> Mayor Reed: But you need to get a little bit closer to pick it up.

>> I come before your committee representing the law abiding residents of the mission gardens apartments in Santa Cruz, California. I'm their representative and advocate. These residents have been beaten down by resident drug abusers, by resident gang members, and by the callousness of two consecutive dictatorial management firms. Since they cannot come here to speak for themselves, I'm speaking for them. After the brutal gang murder of Carl Raymer which involved drugs at mission gardens, they live in terror of their criminal neighbors. They've been let down by the John Stewart Company who denies that criminals live at mission gardens, who refuses to secure the premises by evicting Ms. Jansen, who refuses to install security cameras and to hire security guards. They have been let down by state and federal government, CAL HOF and HUD, who refuse to force the John Stewart Company to evict Ms. Jansen and to take the steps I mentioned to secure the premises. Why they refuse to only they can answer that. The City of San José, specifically the San José police department, can take the first step in making mission gardens safer by confirming Ms. Jansen's active, yes, active arrest warrant to the Santa Cruz police department and then enforcing it, causing Ms. Jansen to be evicted. This will show the criminals at mission gardens that there are consequence for their illegal activity. I plead with your committee to give the Santa Cruz police department one tool they need to make mission gardens safer after the brutal murder here of 19-year-old Carl Raymer. Thank you on behalf of the law-abiding residents of mission garden apartments for helping them in the face of other agencies in action.

>> Mayor Reed: Thank you. That concludes the public testimony on the public record. Any further discussion by the committee? I think we have a motion.

>> Councilmember Pyle: Yes.

>> Councilmember Chirco: Second.

>> Mayor Reed: Motion to note and file. All in favor? Opposed? None opposed that's approved. So we move to an item regarding measure B in the ballot in the fall VTA local transportation investment. Betsy Shotwell is here to discuss that.

>> Betsy Shotwell: Thank you, Mr. Mayor, members of the Committee, Betsy Shotwell, Director of Intergovernmental Relations. (inaudible) measure B, as in Boy, that will be on the November 2nd ballot as sponsored by the Valley Transportation Authority which would increase the motor vehicle registration for vehicles registered in Santa Clara County by \$10. In the is Hans Larsen, acting director of D.O.T. and Scott Haywood of the VTA to answer any questions you might have on the measure.

>> Mayor Reed: Well, question number 1 is always what's in it for us. So Hans.

>> Hans Larsen: Mr. Mayor, members of the committee, Hans Larsen, acting director of the Department of Transportation. As indicated in our staff report, the passage of this measure would generate about \$14 million a year within Santa Clara County, for transportation purposes. The policies that have been adopted by the VTA board on how the moneys would be distributed would have 80% of the money come back to the cities within the county. So for San José that would mean an estimate of \$5.3 million a year for San José, for transportation purposes. The primary uses of the money can be for pavement maintenance, and traffic signal timing and things of that nature related to the operations and maintenance and improvement of our local transportation system. There would also be a pot of money that's available to grants that the VTA would manage for special projects within the county so we would have the ability to apply for additional moneys on a competitive basis. Happy to take any questions that you might have.

>> Mayor Reed: What's the risk the state of California will take this money away from us even if we approve it at the local level, and would these funds be protected if proposition 22 is adopted under the transportation section of prop 22?

>> Hans Larsen: The attorney may have a position on that.

>> City Attorney Doyle: That is a good question, I don't know the answer to that.

>> Mayor Reed: This will go on the council agenda for next week?

>> City Attorney Doyle: We would be prepared to answer it.

>> Mayor Reed: Not that I don't trust the state of California, they just have a bad track record of taking our money. That's why we have proposition 22 on the ballot. Any other questions? Councilmember Constant.

>> Councilmember Constant: I just had a question open the fee versus tax. If it's a fee why do we need to go to a ballot measure, and if it's a tax and that's why we're going to the ballot mirror why is it called a fee?

>> City Attorney Doyle: I don't know if the vehicle license fee truly is what we as local governments consider fees. That being said I think the statutory scheme, this is established by state law. This is not a local fee regulatory fee. And so the statutory scheme allows counties to and I think San Mateo County has already done this as I understand it, allows them to enact so long as there is voter approval. So that's just how the statute is set up. So it is not a true -- when we're talking fees, we're talking our own local authority to impose fees for prop 218. This is somewhat outside that scheme and it has its own statutory requirements, and voter approval is one of them, if an independent county wants to increase the fee.

>> Mayor Reed: But there is requirements in the ordinance that the money collected whether it's a fee or a tax, has to be used for programs and projects bearing a relationship or benefit to the people paying the fee. It's sort of like a fee, but we got to vote on it because it acts like a tax, I guess. Walks like a fee, talks like a tax.

>> City Attorney Doyle: Whether it quacks or not, you need voter approval.

>> Mayor Reed: Because that's the way the statute set it up.

>> Councilmember Constant: So then even though it has got specific uses, like 2/3 tax, it only needs a simple majority to pass?

>> That is how the statute has been set up.

>> City Attorney Doyle: We'll be prepared to give you more information next Tuesday.

>> Councilmember Constant: That is the first time it's been worded that way so any clarity would help.

>> Councilmember Chirco: Move approval.

>> Councilmember Pyle: Second.

>> Mayor Reed: The motion is to put forward a recommendation. I don't think there's anybody to speak on this. All in favor, opposed none opposed, that's approved.

>> Betsy Shotwell: Thank you very much.

>> Mayor Reed: Next item is a recommendation I've made to add some additional work to the referral we've already given to staff on the issue pending regarding registrations of nonprofit organizations under lobbying ordinance. I've got a memo I think it would be useful to have a conversation with little outreach with our nonprofit groups before we move ahead with this. We previously heard this a time or two and asked staff to do additional work and before it comes back to us I think another outreach meeting would be in order. So that's what I'm recommending.

>> Lee Price: Mr. Mayor, in anticipation of the Rules committee ruling today, Lisa Herrick and I who is here at the table have already begun initial planning for conducting this outreach meeting. We have a couple of dates set

aside in October, October the 20th and October the 27th tentatively and meanwhile I'm doing some work with Patricia Gardner and others in the nonprofit community to try to determine if that would be a good date and how we might spread the word to make sure we get folks invited and here to participate in that meeting.

>> Mayor Reed: Okay, James Zaretka wants to speak on this item.

>> Yes, thank you, Mr. Mayor, James Zaretka with the Law Foundation of Silicon Valley. We're pleased to see that the committee is considering conducting outreach to our organization because it would be profoundly affected by any change along these lines and we're eager to participate and trust that our input will be received for what it's worth and taken seriously by the committee. So thank you very much.

>> Mayor Reed: Okay, thank you. Anything else on this?

>> I would move approval.

>> Second.

>> Mayor Reed: Motion is to approve the referral. All in favor, opposed, none opposed, that's approved. I think that's the last item of business unless the clerk's telling me I'm mistaken. Do we have any cards under open forum? We do, David Wall.

>> David Wall: Good news. So you can sit easy. This is something that San José should be very proud of. San José Giants. Baseball team. The other baseball team. The only baseball team that we have. Just won the 2010 championship. Four years out of six. Victory years of 2005, 2007, 2009, 2010. And yet, our learned and beloved leaders have failed to bring down the people to thank them. I understand there's a lot of things going on at City Hall. This is in District 7 by the way. An economically depressed area. I think more people should go to the Giants baseball team and support them. It's also interesting how much money the regular Giants, the San Francisco Giants pump into our local economy to keep this entity going with relation to Your Honor's penchant for the

opposition. So you might want to consider bringing down Mr. Wireman, he's the president and CEO. Mark Wilson. He's the CEO and general manager. And Juliana Powelly, she is the marketing officer. Give them some kind of thanks and recognition since your activities are incongruent with helping them but I don't really blame them too much but yeah, I do blame you a little. Thank you.

>> Mayor Reed: I think you have a couple more cards for people who wish to speak. We've already heard about annexation, open forum is for things that weren't on the agenda. So if you want to talk about annexation you've had your opportunity you are welcome to speak on anything else that is not on our agenda and within the subject matter jurisdiction of the committee. Mike Chrisman and Tom Davis.

>> Thank you. My name is Mike Chrisman. This may or may not be appropriate. I'd just like to express my disappointment in going forward with the Cambrian 36 issue. I know that --

>> Mayor Reed: We've already had that hearing. If you want to talk about something else October 5th it is going to be on the council agenda.

>> October 5th?

>> Mayor Reed: The decision has already been made. It's going to be on the council agenda October 5th. That's when the substantive discussion will take place. You are welcome to come to the Rules committee meeting but it's not on our agenda. Tom Davis.

>> Sir, as you may know there's quite a bit of passion in our neighborhood about ethics and I only have one question. Why can we find no one to give us one reason we should want to annex to the City of San José?

>> Mayor Reed: Sorry, you had your turn. I think that's all the requests to speak under open forum. We are done, we are adjourned. Thank you.