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>> Mayor Reed: Going to give the City Clerk time to get here before we do the city council stuff. Any other changes to the agenda order? This is Rules and Open Government committee meeting for June 8th, 2011. Start with the Redevelopment Agency part of the agenda for the June 14th meeting. 9:00 start on the 14th? We'll have an earlier start on the 21st, right?

>> Mr. Mayor, members of the committee, Gary Miskimon with the agency. I believe the City's agenda for the 14th also reflects a possible start or going from closed to going back to open in the morning session. Fanned that's the case I'll adjust ours to see the same thing you'll see on the city's agenda.

>> Mayor Reed: All right, there will be a change on that. Anything else on page 1? Page 2 or 3 on the 14th?

>> Councilmember Constant: Motion to approve.

>> Mayor Reed: Motion to approve as noted. All in favor, opposed, that's approved. Agency agenda for the 21st of June, again we'll have a time change probably on the start time. It will reflect the city's start time which we'll get back to in a minute. Anything else on page 1? Page 2 or 3? I have a question on 2.1, the appointment of the Redevelopment Agency's managing director, I have a request to add it to I think the city's agenda or that would only be on the agency agenda or is this a joint item or both?

>> City Attorney Doyle: I believe this is only the agency agenda.

>> That's correct, we've had discussion with Dennis Hawkins. There will be an add to the sheet which refers to compensation, doesn't have to be on the agenda, it will only be part of the memo that carries the appointment of Mr. Keith to be a managing director.

>> City Attorney Doyle: The item I'm looking under, appointee request.

>> That 3X on appointee request is actually 2.3 and 2.4 on the agency's consent calendar for the 21st.

>> Mayor Reed: It's only going to be on one calendar, correct?

>> That's correct.

>> Mayor Reed: Back to the language. A resolution approving a compensation practice and the agency bylaws. That's a better language I think for the action.

>> City Attorney Doyle: I think we'll -- we'll work with the language. I think compensation language should be in there. You're getting I think conflicting opinions from the office, but I think the compensation package should be in there.

>> Mayor Reed: I believe the council has already made the appointment.

>> City Attorney Doyle: Yes, the appointment, the bylaws will be amended and the compensation package will come forward, the proposed compensation package.

>> Mayor Reed: All right, anything else on page 2 or 3 of the agency agenda? Page 4 or 5? Any other changes to the agency agenda on the 21st?

>> No, sir, there will be no other changes, just the language correction for the appointment of the director.

>> Councilmember Constant: Motion to approve.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion is to approve as amended. We'll come back and talk about the timing within the meeting of when we do the agency stuff. On the motion, all in favor? Opposed? None opposed, that's approved. All right

we'll go to the city council agenda for June 14th. We have the special meeting on the 13th. Is there something we need to do here? Oh, I see it. That's public -- sorry. Public hearing, special meeting for purpose of hearing on the proposed operating and capital budgets including Departmental fees and charges. And then we will not finish that, in the evening, we'll continue it to the following day. So I wanted to make sure that the language matches up. So we're taking the public testimony once, not twice. So --

>> City Attorney Doyle: So the item on the Mayor's Budget Message for the 14th will be continuation of the --

>> Mayor Reed: Continuation of the hearing.

>> City Attorney Doyle: Of the public hearing so people can come up either Monday or Tuesday but they can't have two bites of the Apple.

>> Mayor Reed: Right. We tart the hearing on Monday, take the testimony. Continuing -- continue it till Tuesday and take additional testimony but not from the same people.

>> Good luck trying to do that.

>> Mayor Reed: I think that's the way we did it last year. Does anybody remember --

>> City Attorney Doyle: We did it with success.

>> Councilmember Oliverio: Did you have a spreadsheet?

>> Mayor Reed: We did have a spreadsheet who had testified. The alternative is to finish the public hearing on it, close that and then --

>> Councilmember Oliverio: That would be better.

>> Mayor Reed: -- not take any testimony but have the council discussion and deliberation. I think we've also done it that way although I'm not sure.

>> City Attorney Doyle: The difficulty is if you set it as an agenda item people have generally the ability to talk about it. The recommendation is to just don't let people talk twice.

>> Mayor Reed: Okay, so that's the way it's organized now. And then so it's 9.1 on the 13th. Where is it on the 14th?

>> Dennis Hawkins: It is 9.1.

>> Mayor Reed: Still 9.1.

>> Dennis Hawkins: Mr. Mayor, we'll check the language and be consistent with years past of continuing the hearing from Monday night. So the final language, agenda when it comes out may have some slightly different language to be consistent.

>> Mayor Reed: Okay. So on the 13th are we okay with that?

>> Councilmember Constant: Motion to approve.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion is to approve the agenda on the 13th. All in favor, opposed, none opposed, that's approved. We're starting that hearing at 7:00 p.m?

>> Dennis Hawkins: Correct.

>> Mayor Reed: On to the 14th. Starting at what time are we going to start the day on the 14th, 9:00?

>> City Attorney Doyle: 9:00, yes.

>> Mayor Reed: The question, setting this up, we start at 9:00 and start the agenda whenever we get done with closed session, is that the way we're structuring it?

>> Dennis Hawkins: Well we had the language on the draft agenda Mr. Mayor as 9:00 and then beginning the council's open session at 1:30. But we can use the language that we've used previously where it just flows from closed and pick up the agenda at whenever the council comes out of closed session. The one thing we need to be careful of that we have some items that have been noticed for public hearing relative to the rate increases, and those need to be heard at 1:30. So that may cause us to jump around on the agenda a little bit in order to meet that noticing requirement.

>> Mayor Reed: Okay. That assumes we get done with our closed session hearing before noon anyway,.

>> City Attorney Doyle: Before 1:30.

>> Mayor Reed: Before 1:30 but we'll be optimistic. There's hardly anything to talk about in closed session these days. Off of page 1 to page 2 and 3. We have only three ceremonial items, all for the evening? Is that the way I've seen all the -- that's good. Anything else on page 2 or 3? Page 4 or 5? Page 6 or 7? All right, there's a note in here that 9.1 and 3.1, to 8, heard first, immediately followed by the consent calendar, remainder of the agenda. So we're going to do those before we do the consent calendar.

>> Dennis Hawkins: Mr. Mayor, that was the original plan. However, because we have items 3.4, 3.5 and 3.6, those items were noticed for 1:30 hearing. That's why I mentioned that we may need to jump around a little bit to be able to take those items at the noticed time.

>> City Attorney Doyle: The issue it's a prop 218 noticing issue and they need to be heard at 1:30 or as soon thereafter, that's how it was noticed. And to renote it would require 45 days.

>> Mayor Reed: Well, we don't want to do that. But then the question is: If we are going through this 3.1 through 3.8, we need to change the language somehow.

>> City Attorney Doyle: Yes, it's just you can't adopt the budget until you take up the rate and adopt the rates and then you can adopt the budget. Can you talk about the budget but you can't formally document it until you've had the hearings on the rates.

>> Dennis Hawkins: The language that we have in the agenda now would work if we start the meeting at 1:30. But if we start in the morning, that may be a little problematic.

>> Councilmember Constant: Can we not just say items 9.1, 3.1 through 3.8, will be heard in that order, and strike everything else? Then we have the option, if we happen to come into session, say, optimistically at 10:00 in the morning and we could do the consent calendar and go to anything else and then at 1:30 we can go to 9.1, 3.1 and anything else.

>> City Attorney Doyle: I think you want to do 9.1 first, then 3.1 and 3.8 --

>> Councilmember Constant: Then to be heard in sequential order or something like that.

>> Ed Shikada: Excuse me, related to the consent calendar, I think we have some ideas there dependent on the adoption of the budget as well. We'll need to pick those out, keep those from being heard.

>> City Attorney Doyle: I think if you go through the items there are enough items there to get you to 1:30 throughout the 4s and the 5s. The whole issue gets down to adopting the rates, so you have everything in place to adopt the budget.

>> Mayor Reed: Let's talk about 9.1, the budget message. We can do that any time. When do we want to do it? Because the rates can only be done at 1:30. Do we want to just set all of the budget-related talk at 1:30, for the rest of the agenda to get through the morning if there's some extra time? Anything that requires action on the budget before we approve them, we'd have to kick those to the end. I think we did that once as well. Certainly plenty of things to talk about.

>> Ed Shikada: Okay.

>> Mayor Reed: The annotation then would be that 9.1 and 3.1 through 3.8 will be heard not before 1:30. Everything else, we'll take it as we get to it. Hopefully we'll get an hour or so of work in the morning out of the way. And then, to the committee, do we want to have another quick lunch break, like we did this last week? I've already forgotten the weeks. Or do you want to have an hour and a half lunch break?

>> Councilmember Nguyen: Shorter.

>> Mayor Reed: So we'll go until it's time to have a little short break for lunch.

>> Dennis Hawkins: We'll use the same format, we'll bring in lunch for council and staff for next week.

>> Mayor Reed: All right. Let me go back to page 1 and start over. So the budget items will be 1:30. We'll come out of closed session, take up the consent calendar items, unless there's something that requires budget approval first and we'll just have to hold those off and take them later. Okay, I don't know what page I was on but let's see if there's anything else on page 2 or 3? Page 4 or 5? Page 6, 7, page 8 or 9? Page 10 or 11? Page 12 or 13? Page 14 or 15? Page 16 or 17? And there are some things on here that are noticed for the evening. Is that right?

>> Just one item.

>> City Attorney Doyle: There is 6.1 is also noticed for the evening on speed limit changes.

>> Mayor Reed: Okay, I have some request to add to that agenda. Councilmember Chu's travel to Sacramento, Councilmember Herrera's travel to Sacramento, Vice Mayor Nguyen's travel to Sacramento. Academy state league of California cities, et cetera on those. And then, a request to add council appointee compensation that I mentioned in Tuesday's meeting. The memo's been out for a while. We didn't take action on it so we need to add that. And then City Manager's request to consider approval terms of agreement with San José Police Officers Association. Any other additions? I think I have -- I think that's all the ones I have. Anything else?

>> Councilmember Constant: I just had a question on the league of cities travel. I'm on one of the committees. I know the committee meetings are only on one day. And they don't generally start until at least 10:00 in the morning. So I just -- I know that I attend them and even when they're in Southern California I'm able to travel, attend the meeting and travel back in one day. So I just think if we're going to be participating in those we need to minimize the expenses as we go along as far as overnight stays, if they're not needed for committee meetings.

>> Mayor Reed: Do we even know if these involve overnight stays? Is that the only reason it would be on the request for travel approval?

>> Councilmember Constant: Well like it has multiple days, the 16th and 17th, the assumption is --

>> Mayor Reed: Right but if you need to go to Sacramento for the day that doesn't require travel approval under our policy, right?

>> Right.

>> City Attorney Doyle: Well it does to the extent you're being compensated by the city, it has to be a city related expense. There are certain things that need to be automatic and these aren't.

>> Mayor Reed: Well up and back, I'm thinking about the policy authorizations, one day trip would need to trigger the travel approval.

>> Dennis Hawkins: As I recall the travel policy, it depends on the funding source and I apologize, I don't remember off the top of my head for mayor and council travel, I believe that requires council approval. But we do have some items that are preauthorized, so this would be in terms of league of cities and those kinds of things. So I'd have to get back to the committee on these particular travel requests and house they fit within the policy.

>> Mayor Reed: Well, it may be that they don't need authorization. In which case we don't have to have them on the agenda.

>> Councilmember Constant: My understanding if you didn't have overnight stay it wasn't travel. If you are driving to Sacramento for a meeting and driving back that's not travel.

>> City Attorney Doyle: If you're reimbursed by the city, I think that is the trigger. That's the funding source.

>> Councilmember Constant: What would you be reimbursed for?

>> City Attorney Doyle: Gas, mileage.

>> Councilmember Constant: We can't be reimbursed because we get a give allowance so you're exempt from reimbursements.

>> Dennis Hawkins: Actually, there's an exception in the policy that Councilmember or anyone that receives an automobile allowance travels greater than 75 miles, outside of the city limits, that they may submit travel reimbursement, mileage reimbursement request.

>> City Attorney Doyle: We should get back to you on this. Because there's a lot of these and we'll be going up -  
- (inaudible) to league events or things like that.

>> Mayor Reed: Well for purposes of this agenda item let's put them on the agenda. If they don't need to be on the agenda then we can just drop them under orders of the day. Any other additions? I think we resolved the sequencing. Okay, is there a motion?

>> Ed Shikada: Oh, Mr. Mayor, I'm sorry, want to make sure we picked up 3.10, request for add from City Manager. Thank you, sorry about that.

>> Mayor Reed: Which was 3-- the POA contract yes we got that, that's included.

>> Ed Shikada: We also had a couple of legal documents.

>> City Attorney Doyle: Sunshine waivers I need, 3.7 D which is a resolution to declaring gold street property surplus, resolution to proposed and there's a supplemental memo and then 4.2 which is the historic landmark contract was not posted and so it was Monday, and we need sunshine waivers for both of those.

>> Mayor Reed: But the memos are out?

>> City Attorney Doyle: Yes.

>> Councilmember Constant: I will make a motion for approval of the agendas and the additions and waivers.

>> Councilmember Nguyen: Second.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. Taking us to the meeting on the 21st of June. Starting time on the 21st. Are we going to go for an 8:00 start or 9:00 start on closed session?

>> Ed Shikada: We were trying to be sensitive to the ability to generate a quorum, I believe it was originally drafted at 8:00 so certainly at the pleasure of the council, staff will be here.

>> Councilmember Constant: Earlier the better.

>> City Attorney Doyle: May want to go to the agenda and see -- see if we have more --

>> Mayor Reed: Well if we do the same sort of schedule we just talked about for the 14th, and have a short window for lunch, then we can go into the evening. There is an evening meeting already scheduled but let's just look at it and see if we need to at an extra hour. Anything else on page 1? 2 or 3? 4 or 5? 6 or 7? 8 or 9? 10 or 11? 12 or 13? Still on consent calendar. Page 14, the end of the consent calendar. Anything on page 14 or 15? Page 16 or 17? Page 18 or 19? Item 4.1 is actions related to construction operation of a dry anaerobic digestion facility at the sewage treatment plant has another item, 7.something, 2, agreement with zero waste development company for organic waste processing. One is the lease and the other is the agreement. We should hear it together, whenever we take up with the 4s or with the 7s. Anything else on page 18 or 19? Wait. We're looking at the draft, perhaps, maybe I get -- I'm showing at the bottom of 19, item 4.4 and then carryover to the top of 20, 4.3. So there's just a numbering thing there. So I may or may not have the latest revised draft.

>> Ed Shikada: 4.4 on page 20.

>> Mayor Reed: Should be 4.4, dry anaerobic digester.

>> Ed Shikada: Which can cause something --

>> Mayor Reed: It can get moved around but it's the same item. Anything else on page 20 or 21? Page 22 or 23? Page 24 or 25? That's general plan and land use. Page 26, administrative hearing on a couple of land use items. And then I have one request for addition, that's an amendment to the legal services agreement regarding the airport, and a request to approve amendment to the City of San José pay plan, adding some classification changes, changes, additions, one question I have is, are there things that have been noticed for the evening that could be renoticed for the afternoon? Or do we really have any worry about getting done before the evening agenda starts?

>> Councilmember Constant: I don't think there's much chance of that.

>> Mayor Reed: Because I don't know exactly what's noticed for the evening but it's not really a lot of items.

>> City Attorney Doyle: One general plan hearing and a couple of land use items. That we'd have to check with planning to see you know, what notice went out.

>> Mayor Reed: Well, if I thought we might get done at 3:00, I would want to bring the council back for a seven o'clock meeting. But I don't think we're going to get done early, looking at the rest of the agenda. Won't be much of a break for dinner. It's my guess. So I don't think there's any harm leaving those noticed for the evening. We'll get to them. Starting time? 9:00 a.m.

>> Councilmember Nguyen: Yes I think so.

>> Mayor Reed: And work through lunch, short lunch again and could be a short dinner break as well.

>> Councilmember Constant: Sure 9:00 a.m. is early enough?

>> Mayor Reed: Not certain but --

>> Councilmember Nguyen: Yeah, it is, actually I don't think we had a quorum until 8:45 or so.

>> Mayor Reed: We didn't get a quorum to start at 8:00. Go with 9:00. We can go into the night. There's nothing that stops us.

>> Councilmember Constant: Does the quorum count if you fall asleep at the end?

>> City Attorney Doyle: As long as you're physically there.

>> Mayor Reed: I didn't know that!

>> City Attorney Doyle: I won't comment other than physical presence.

>> Councilmember Nguyen: You can bring your shades.

>> Mayor Reed: Except in administrative hearings you have to be awake, I think.

>> Councilmember Constant: All right, I'll make a motion to approve with sunshine waivers --

>> Ed Shikada: Actually we do, we have a couple of items that need 14 day, 2.8, airport air service, 3.6, tax and revenue anticipation notes, 3.10 receipt of funds, and 7.2, zero waste energy agreement.

>> Mayor Reed: But those will hit the ten-day requirement?

>> Ed Shikada: Yes.

>> Councilmember Constant: So in that case I will make a motion to approve the agenda as amended with the adds and the four requisite sunshine waivers.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion is to approve as amended with the sunshine waivers. All in favor, opposed, none opposed, that's approved.

>> Councilmember Oliverio: Mr. Mayor do we have to reserve any other future possible council dates? Or we'll know more after next week?

>> Mayor Reed: Yeah, I think we'll hear back from our negotiating team regarding the ballot measure/retirement stuff next week to know whether or not we need to add any meetings. Just haven't had a chance to meet, I don't think. To -- really to know. But we won't wait till next week if we get a reason. I'll get a memo out as soon as staff thinks we need to do something. But there was at least a suggestion of meeting on the 28th, but I know we won't have the entire council here on the 28th. Or any time in July for that matter. I don't think we'll have the entire council based on what I've heard about people's long pending plans to be gone during the month of July. So the other alternative would be a special meeting on the 24th, Friday, the 24th is the other alternative but I don't know if we got all the council present on that day, either. So as soon as I find something out, we'll get a memo to rules for discussion next week as to what dates we might need to add.

>> Councilmember Constant: For the June dates even if we have just one or two members out we could participate by teleconference like I had to last year, if we need to. It wasn't cheap but I did it.

>> Mayor Reed: Okay, anything else on the topic? I think we're done with the council meeting agendas, part of this agenda. Which takes us to the legislative update. We have a report on what's going on in Sacramento. Betsy Shotwell.

>> Betsy Shotwell: Thank you, Mayor, members of the Committee, Betsy Shotwell, Director of Intergovernmental Relations. Well, the deadline is fast approaching for the legislature to pass a budget. Constitutional deadline is June 15th which as you know has rarely been met however with the passage of prop 25 last year they will have their pay docked if they're not in compliance. And the controller just mentioned a few days ago that he will not cut paychecks for the legislature if they don't have a budget. So meanwhile the governor's continuing to negotiate with Republicans of both houses There is some areas that they may be reaching close resolution to, but the one remaining piece that's been getting a lot of press in the last day is what the governor refers to as a bridge tax trying to get enough votes to pass the extension for the tax extenders to perhaps 100 to 110 days to September to put a measure on the ballot for the voters of California to vote on. And that's where the differences are. The bridge tech concept would imply that a certain number of Republicans would have to support extending the tax. And there are others who don't want to do that and would like to just have it before the voters in September. It however would not be a tax extender and there would be a substantial gap in income and revenue of course during that period. So remains to be seen. Negotiation are taking place I'm sure as we speak, and a floor meetings on call for the speaker and the president pro tem in the next few days. So the governor was quoted as saying we may not even know until we are right down to the wire, he mentioned Monday as an example so that's where things are and continuing to fight the good fight on the redevelopment front. Our lobbyist Roxann Miller to lobby on advocacy on the CRA's reform package.

>> Mayor Reed: Questions? I just signed a letter to the governor around the redevelopment reforms package. And I know that others will be writing letters to members of the legislature as well.

>> Betsy Shotwell: Thank you mayor, thank you all.

>> Mayor Reed: Anything from the federal?

>> Betsy Shotwell: No, house is in recess this week and remains to be seen. The debt ceiling is certainly the debate and the topic of the hour and that will continue on I'm sure into the summer.

>> Mayor Reed: Okay, we have two bills, recommendations to get them on the council agenda for quick turn around. Streamline bill process for AB 312, civil rights homeless persons and City Attorney had a question about whether or not that would interfere with our ability to deal with the homeless encampments, et cetera.

>> City Attorney Doyle: I think we're asking for a deferral. We haven't talked to the administration about it because we want to make sure we're on the same page.

>> Mayor Reed: I don't know why that requires a quick turn around but let's defer it until the City Attorney has a chance to answer the question.

>> Betsy Shotwell: In this case we do need to discuss further the measure internally.

>> Mayor Reed: Okay, so to move that --

>> Councilmember Oliverio: Mayor Reed, was this item then part of the council priorities as far as our legislative agenda? Or did --

>> Mayor Reed: I don't know, I think -- I don't know, we haven't discussed it yet. So I'm not sure.

>> City Attorney Doyle: I'm not aware it's part of the priorities, it's using an item that came before we have looked at it in my office and we have not had a chance to coordinate with the administration so we're not prepared to come back with a recommendation.

>> Councilmember Oliverio: But if it's not a priority then why would we consider it?

>> Mayor Reed: Well that's for us to consider, when we consider it.

>> Betsy Shotwell: Exactly.

>> Mayor Reed: Anything else on the legislative update?

>> Betsy Shotwell: That's it for now.

>> Mayor Reed: Okay. Before we move on I had a question about council agendas because there's so much of it here. We had a referral to the staff to come back on ballot measures with regard to the disability retirements, originally come back on the 14th of June but I'm not sure where that is.

>> City Attorney Doyle: We're anticipating that coming back with fiscal reforms on June 21st.

>> Mayor Reed: Do we need to add that to the agenda?

>> City Attorney Doyle: We'll add that language, we don't have the language with us but that was a referral back in May.

>> Mayor Reed: So we need to go back to the 21st agenda and get that on with the other fiscal reform items as another agenda item.

>> Dennis Hawkins: Mr. Mayor, 3.11 so we'd add an item C to that discussion.

>> Mayor Reed: Okay, you want to modify your motion? Need to add that?

>> Councilmember Constant: Yes, that's my modification.

>> Councilmember Nguyen: Second.

>> Mayor Reed: All in favor, opposed, none opposed, this happens. I'm sure we forgot a few things, we have a lot to work with, if we have forgotten something we have made up for it. Public record. Let me request to speak on the public record, I don't have any cards.

>> Councilmember Constant: Motion to note and file.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion is to note and file. All in favor, opposed, none opposed, that's approved. Boards and committees, recommended appointments for Corinne winter at large representative and Steve Borkenhagen downtown association representative for the downtown parking board.

>> City Attorney Doyle: Mr. Mayor, I just wanted to note, for the record, and I've discussed this with Councilmember Liccardo, as well. Mr. Borkenhagen has been a downtown business owner for a long time and he is now the marketing director of the urban markets. There may be certain times when he would have to recuse himself on parking issues particularly with respect to the Market Street garage, but that's something that we deal with other commissioners on a case-by-case basis.

>> Councilmember Nguyen: Motion to approve.

>> Second.

>> Mayor Reed: Okay, motion is to approve the recommendations. All in favor, opposed, none opposed, that's approved. I think that's the last of the business except for the open forum, we have no cards, okay, we're done, we're adjourned.