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City of San José Rules and Open Government committee meeting.

>> Mayor Reed: March 17th, 2010. Any changes to the agenda order that we should take up at this point? None, okay. First item then is to review the March 23rd council agenda. Anything on page 1? I had a question about the starting time, when will we have back to the council in closed session the work on the independent police auditor?

>> City Attorney Doyle: March 30th and we're thinking on March 30th to start at 9:00.

>> Mayor Reed: Okay, so that won't be an issue on the 23rd. Anything else on page 1? Page 2 or 3? Anything on page 4 or 5? Page 6 or 7? I don't know which draft of the agenda I have here but item 3.2, the status report on the citywide capital improvement program, I thought we would defer that to the 30th, I have a note that we were going to.

>> Okay, looking at the 30th that agenda is a little heavy so I would recommend April 6th if that's okay. Otherwise we can keep it on the 30th.

>> Mayor Reed: Let's try April 6th. 4.3, sign code ordinance, we'll have that last, as we have the other sign code ordinances. I'm not sure when we'll get to last.

>> It doesn't look at heavy. I think we'll get there pretty quickly, actually.

>> Mayor Reed: So having it last will be okay. Anything else on 6 or 7? 8 or 9? Or 10? We have an evening meeting for the mayor's March budget message. Is that the only thing we have on the evening agenda? Then we have some requests for additions to this agenda, proclamation of national surveyors' week, proclamation regarding the Iranian new year and proclamation regarding Assyrian new year. Any other additions? Okay, motion?

>> Move approval.

>> Second.

>> Mayor Reed: Motion is to approve as amended. All in favor, opposed, none opposed, that's approved. March 30th draft agenda. Page 1, 9:00 a.m., start on closed session probable, just to give us some time to do whatever we need to do with the IPA recruitment.

>> City Attorney Doyle: And we'll take the IPA or labor, first, depending on the length of the labor presentation.

>> Mayor Reed: Okay, we can adjust that. Anything else on page 1? Page 2 or 3? Page 4 or 5? Or page 6? I have some requests for additions, some excused absences, Councilmember Pyle for illness, Councilmember Pyle for illness, she's been sick and I hope she's not here today because I saw her last night and told her she needed to go home. But she wanted to be here for the vote last evening.

>> Lee Price: Mr. Mayor, we'll modify 2.4A, to reflect she was at the council meeting.

>> Mayor Reed: Yes, she did make it to the evening session. Excused absence for Councilmember Chu to go to league of California cities meeting.

>> Lee Price: We'll clarify that that is the right meeting that Councilmember Chu is attending. Thank you Betsy.

>> Mayor Reed: Any other additions?

>> Councilmember Chirco: Move approval.

>> Second.

>> Mayor Reed: All in favor opposed none opposed, that's approved. Redevelopment agency agenda March 23rd, anything on page 1? Moving the date --

>> Mr. Mayor, that's correct, we're recommending that item be moved to April 13th, next regular meeting. We'll need to coordinate between city and redevelopment agency staff to finalize the date of the report.

>> Mayor Reed: Anything else on page 2 or 3 or 4?

>> City Attorney Doyle: Mr. Mayor, on 3.1, just to ask call your attention, you asked to delay the presentation, they have fewer meetings so --

>> Mayor Reed: I think the agency presentation is okay, I just want to defer the city's presentation on capital, our objection, until we have dealt with the budget message, because that may have impact on the capital projects and we'd need to work that into the report. Anything else on page 4?

>> Move approval with 8.1 being deferred until April 13th.

>> Second.

>> Mayor Reed: Motion is to approve with the deferral of 8.1 to the 13th. All in favor, opposed, none opposed, that's approved. March 30th agency agenda?

>> Mr. Mayor, members of the committee, we have no items for the March 30th agenda, at this time. Assuming it remains that way, next week we would recommend cancellation.

>> Mayor Reed: Okay, we'll take it up next week then. We don't have any upcoming study session agendas to look at at this time, so we'll go to the legislative update. We have a report regarding Sacramento update.

>> Betsy Shotwell: Thank you, Mr. Chair, members of the committee, Betsy Shotwell, director of Intergovernmental Relations. I just have a very brief update on the status of items in Sacramento. First off, the city-sponsored bill, AB 1670 carried by Jim Beall will be heard in assembly transportation on Monday, and that has to do with the relinquishment of some state-owned portions of Monterey Highway, Alum Rock, and Almaden Roads. And Hans Larsen will be on board to testify on behalf of the bill, on Monday afternoon, and as always we'll update the council through the City Manager's weekly report as to the outcome of the city sponsored measures as they work their way through the legislative process. The other items, of course always ongoing is the state budget. And you may have heard that the governor's intending to veto the latest package of measures that went to him a week ago. And this is the gas tax swap. The legislative proposal is slightly different than the Governor's leaving a little bit more for public transit. The governor took all of it out, however the governor has indicated he is going to be vetoing this measure. It doesn't go far enough along the lines of what he introduced in January. He also vetoed legislation last week, so basically the \$4 billion in cuts or swaps or shifts, however you want to phrase it, is going to be putting the vetoes, putting it -- sort of the whole issue back to square 1, for lack of better words. So a key date coming up will be mid May, the May revise will be out. That reflects the results of April 15th, as well as other income and revenue features. But for now, we have nothing to show or I have nothing to share as far as specific actions that have been taken by both the legislature and the governor. So we're on hold from where things started in January. And with that, of course I'm happy to answer any questions. Continue to keep you of course informed as this plays out.

>> Mayor Reed: I'm attending a dinner tonight with the president of the senate pro tem, Darryl Steinberg. What should I ask him? Or plead with him, not to take our money?

>> Betsy Shotwell: Leave us whole, leave us intact, and as I've mentioned before, you know, one of the things we were very concerned on the gas tax swap was the removal of the constitutional protections and of course as I was reading the media the last week I can say with certainty, lawyers from all sides of the issue were lining up to take that to court, if the governor had signed it. So it's -- it's very frustrating but it is what it is. The hard stuff, we all fear and dread, whether it be social services and education, all of the health and human services issues haven't even been on the table, that we have been dealing with all these other minutiae of swapping and whatnot.

>> Mayor Reed: Well, they are certainly going to wait until the May revise because at least the members of the legislature that I've talked to think things are getting a little bit better as opposed to a little bit worse, and that there will be less cuts to deal with than currently being projected.

>> Betsy Shotwell: That's correct, the revenues are exceeding the estimates this fiscal year. I've been reading around \$2 billion. But again, when we were in Sacramento, it was like, well, what number were they starting from? But regardless, the revenues have been looking better than expected.

>> Mayor Reed: So that could be great news, if only \$18 billion gap instead of \$20 billion gap, that's going to make it a lot easier. Okay, any other questions on Sacramento or federal? Okay.

>> Betsy Shotwell: Thank you.

>> Mayor Reed: Thank you. Meeting schedules. We need to reschedule our Rules and Open Government regular meeting of March 31st to the day before, since the 31st is the Cesar Chavez holiday.

>> Lee Price: Mr. Mayor, if I could talk about this for just a moment. Since last week when we initially discussed this I learned from facility staff that we do have a tight squeeze that day. The room that -- this portion of the room that we're currently sitting in has been reserved for a homeless grant contract workshop by housing that's going to be in use until 12:00 noon. The facilities staff does need some time to set up for us. And additionally, beginning with the City Manager's office we would like to keep your agenda short if we could, to council agenda setting issues. But even with that, it's going to be kind of a time squeeze to have a Rules meeting and then switch over from the equipment that the television crew uses, to videotape the Rules Committee meeting over to the council meeting. So it could cause the council meeting to start a little bit late. But I just wanted to bring this to your attention, that there may be some transition issues with kind of squeezing this in, if you will, to a day that's already got some reservations for the room.

>> Mayor Reed: Could we shift back to the way we used to have the room set up, so that we don't have to squeeze -- well maybe squeeze a little tighter but if it's a light agenda we won't need as many seats.

>> Lee Price: That is a good idea. If the mayor is willing to do that we could work with your security team, if we could go back to the other setup just for this one meeting and then again to keep the agenda light so your meeting can stay short.

>> Mayor Reed: I mean that was our objective to keep that light agenda but it will still leave us that ability to deal with the council agendas and if everything else is became of postponed to the next week we should be able to do this in 15 minutes.

>> Lee Price: Yeah.

>> Mayor Reed: And in a smaller room because I don't think we'll draw nearly as many participants as we might otherwise.

>> Lee Price: Okay, I'll work with the facilities and your security team to do the other setup and try and keep the agenda short and hopefully we'll be able to do it without any delay in starting the council meeting promptly at 1:30.

>> Mayor Reed: Okay, well the council meeting start is delayed a little bit, that will just -- they'll have to wait. A few minutes won't hurt.

>> Lee Price: Thanks.

>> Mayor Reed: Do we have a motion to reschedule that?

>> Second.

>> Mayor Reed: We have a motion to reschedule the Rules and Open Government Committee meeting to March 30th at 1:00 p.m. All in favor, opposed, none opposed, that's approved. Public record, any matters from the public record the committee would like to pull for discussion? I have requests to speak on, I think this is all the same item, it is item A, the memorandum from the small business development commission, regarding economic impact of reduction of single use carryout bags. I think everybody wants to speak on that. So we can do that after we deal with the rest of the record. I just wanted to point out item D is the overview of my trip to Washington March 3rd and 5th which I reported on at the council meeting. But included in that is the written testimony that I gave to the House committee on oversight and government reform which is not the same thing as my oral testimony. But nevertheless, it's the written testimony. Officially given to them. And we have item number F, which is the letter from the home builders association regarding Santa Clara Valley habitat conservation plan. I'd like to refer that letter to the staff for response, it's addressed to me and the council about the urban intensification infill feed zone D. So the staff can just send them a response letter. And anything else committee wants to talk about besides item A? Judy?

>> Councilmember Chirco: I wanted to just ask staff --

>> Mayor Reed: Get a little closer to the microphone, it's not picking you up.

>> Councilmember Chirco: I will take the microphone a little closer to me. I know we had a presentation at NS&E talking about the urban forest and PG&E's cutting. I think this is something staff is working on. So maybe --

>> Mayor Reed: That's item E?

>> Councilmember Chirco: Yeah, the letter regarding PG&E and the two parks. So I'll look forward to that coming back to the committee because I think that is an area of concern to the community.

>> Mayor Reed: I know that staff has been working on it. I don't know that staff care to give an update as to what's happening with PG&E on that or not. If they -- if staff would like to comment on it this would be a good time to do it but I don't know if you're ready.

>> I'd like to have the folks that are working on that come back.

>> Mayor Reed: Okay. But the bottom line is our staff is working on it, we're engaged with PG&E and we're working with them on trying to sort it all out.

>> Norberto Duenãs: Correct.

>> Mayor Reed: In some other fashion other than chain saws. All right then anything else? We'll take up item A on this. People want to speak on that. There is a memorandum from the small business development commission to the mayor and council dated February 27th, providing input from the public, regarding single use carryout bags. The memorandum is a recommendation that the city should consider the economic impact of any single use carryout bag ban, by conducting an independent economic study. First question I had for the staff was, the direction that council gave when we sent the staff off to do the zoning work, and the environmental impact report work, there was some additional conversation at least, and some direction which I've forgotten precisely what it was about looking at the impact. So I'd like to give the staff a chance to talk about where we are in the process of getting this ultimately back to the council and what work has been done or will be done.

>> Jo Zientek deputy director environmental services department. We're currently implementing all of council's recommendations and they kind of come in three different buckets. One is the environmental impact report, we're finalizing the administrative draft of that and getting it ready to circulate to the public and we should be releasing that in mid spring of this year. And then that would go through the public review period and would come back, it would go to the City's Planning Commission and then go to council we anticipate in September along with recommended ordinance language for council's consideration. In addition to that, we're -- part of council's direction was to do extensive outreach with retailers, including small and minority retailers, we're doing that now, we've got knock and talks in the downtown area, we're doing that with staff, we're preparing it go forward with some focus groups on several concentrations throughout the cities of small and minority owned businesses, we're doing a citywide survey, mail survey for businesses, and then we're also attending a lot of events and trying get more participation in our community groups as part of that process. And then we're also look at the economic impacts of bags. We're including information both in our -- requesting information both in the retailer survey and in our outreach to residents on whether fees may drive residents to change their behavior with bags, including a particular concern to some of the retailer community, especially the small business commission meeting with, would it drive residents to shop out of San José. So we're looking at that. We're also doing economic analysis on the cost of bags to retailers and our retailer survey will also request specific information on retailer cost. So we can include all that have that inform our recommendation to council.

>> Mayor Reed: What about the regional component of this? I know that we had directed the staff to reach out to some of our -- the City's association and the waste reduction, recycling and waste reduction commission to ensure that we had some regional support for it. I've seen some communication come in on that.

>> Yes we've -- it's a standing item on almost all our waste reduction -- the city component of the waste reduction commission and also to the commission itself, we've worked with Sunnyvale whose council just made this a priority item for their city for 2010. Milpitas also made reducing single use bags a priority item for 2009. Our staff has contributed to the green cities California draft report that helps cities develop their own EIRs and then we're make sure that our EIR will help -- will be readily usable by other cities as soon as we release it. The west valley cities, Cupertino and Santa Clara, are all waiting for our EIR to come back get feedback and use that as a basis for taking their own action.

>> Mayor Reed: Okay, thank you for the update. Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. Just a couple of questions, follow up questions. Jo, you talk about the impact on the residents but I was wondering are we conducting any kind of outreach specifically how this will affect small businesses?

>> Yes, that has been the focus of our outreach to date. The residential part we are just starting with the survey. We've been doing knock and talks through small businesses throughout the city. We're planning six focus groups at high concentration of minority groups that happen throughout the city within the next two months and then full city retailer survey including small city businesses as part of using the business tax database to help get the word out. And then we have also been working with all the associations for businesses that allow us to come to our meeting and invite us to come to our meeting, so sometimes it's hard for us to get to small retailers and strip malls because we don't have the contact information. But we've been working with council offices and managers of those strip malls to make sure we have access to get on those listserves, so when we start pushing out our survey and pushing out information about our community meetings we're able to target those groups.

>> Councilmember Nguyen: And then the results and the analysis of that outreach will come back to us in May?

>> Some of it -- a lot of it will be included in the EIR, the draft EIR and the rest of it will come back to you as part of the staff analysis in September.

>> Councilmember Nguyen: And then just a final question. The role of the small business development commission since we received this memorandum from them and have actually spoken with members of the commission, they wanted to see if there's a roll that they can play in terms of expanding the outreach to the businesses that they're affiliated with. Is there an opportunity to staff to work with the commission in terms of doing the outreach?

>> Yes, certainly. I mean we want to be on their listserves and want to come and talk to the businesses that they associate with or are on this commission.

>> Councilmember Nguyen: Okay, great, thank you.

>> Mayor Reed: All right, we have some people that want to speak on this item. I'll take that testimony now. Tim James, Phil Cornish, James Duran. But first let me ask if James Smith, who is the chair of the small business development commission wants to speak at this time, give him the first shot.

>> Thank you, Mr. Mayor, members of the city council --

>> Mayor Reed: Squeeze the handle it will go up and down.

>> My name is Jim Smith. I'm the chair of the small business development commission. I think you have had an opportunity to read the memorandum, I would just like to say that we did conduct a number of hearings over a period of three months, where we received some input from the members of the public and there was concern expressed about any potential impact, negative impact on business. And as the small business development commission we felt it was the determination of the business commission to request that council look at the economic impact to -- any negative impact as they draft the legislation. So I'd like to thank you for that.

>> Mayor Reed: Okay. Thank you. Tim James, Phil Cornish, James Duran.

>> Thank you Mr. Mayor, councilmembers. California Grocers association representing about half the grocery industry in the city of San José from large grocers all the way down to one- and two-store operators. Speaking to you today in favor of performing this study. There's been a tremendous amount of wonderful environmental work done by the city and others to look at those aspects of this potential legislation. One of the concerns is definitely the the economic impact part to stores in dealing with other jurisdictions, they have not performed that level of analysis and I think they've actually had some unintended consequences that they wish they could deal with in other ways. I was thinking it was important to recognize what we are talk talking about here in San José is a first in California, and even in some specific ways a first in the nation type model for dealing with regulations on plastic bags. So making sure that we look at that whole scope, not only the environmental side, but the impact to businesses, especially all small businesses, is definitely are appreciated. So urge your aye vote.

>> Mayor Reed: Phil Cornish, James Duran will be next.

>> Hi, Phil Cornish, program manager with the Guadalupe River Park conservancy. That's a new name for us. It used to be the friends of Guadalupe. We are not in favor of a separate independent study. I think the EIR that's being done is very thorough and we don't want to delay the general legislation that's going to be enacted hopefully sooner rather than later. We're out there all the times, these bags are there, we don't want them there, and that's what -- so we do not support any more delay. We want to get on with the ban. Thank you.

>> Mayor Reed: James Duran. And then Teresa Baum Navarro.

>> Thank you mayor and councilmembers, James Duran, president of Hispanic chamber of Silicon Valley, representing Hispanic business throughout the Silicon Valley, including Sna José. We've appeared a few times before the small business development commission asking them to put together the recommendation that they ultimately have put together for you in terms of asking for a full fledged economic feasibility study. I think that's very important. I heard somebody here earlier from ESD talking about the outreach they're doing to small business but we don't know what the economic impact is so I don't think how they can talk sensibly to small business without that information. In order for the City Council to proceed with this they need to heed the recommendation of the SVDC and pay careful attention to the quantitative aspects of this and let's look at actual financial data, what is the impact. Thank you.

>> Mayor Reed: Teresa Baum Navarro and then Carey Hamilton.

>> Hold on. A little bit shorter. My name is Teresa Baum Navarro, and I come to the San José flea market. I would also like to ask for a second independent economic impact report. I have 45 signatures of our vendors that are asking for the same thing. It is hard right now, the economy is hard. We have vendors that are just struggling, struggling every weekend, every month, through the winter, it's summertime now or springtime going into summertime asking them to raise constant business costs right now is -- they're appalled, they're scared, they're just like I said trying to survive. People shop at the flea market because they can't afford to shop at Target or Walmart. They're looking for used, wholesale, cheap items. So we see it especially in these times that it could be devastating for our business and the thousands of families out there so we would like a second independent economic impact report. Thank you.

>> Mayor Reed: Carey Hamilton and then Felicia madsen.

>> Thank you mayor and committee members. Carey Hamilton for siege. We are very much against a separate study. We think it's a tactical issue and I've attended the December meeting of the small

business development commission. I think it was unfair that at that meeting, the representative of the American chemistry council was given as much time as staff at the beginning, and the end, of the issue. So the small business development commission members even indicated that they felt that it was somehow a staff-driven process and didn't understand that this had been processed through the council. And council had given direction for an EIR. And that there is a consultant that is working with staff on this issue. Speaking personally, I grew up in a small business. I would have no issues or concerns for small businesses regarding this, because simply we didn't have plastic bags in stores all that long ago. And they'll still have the option to offer recycle content paper. And that is sufficient for people who don't want to comply and use reusable. As far as the flea market goes, the flea market has great resources. They could help us and partner with this city in promoting reusable bags, as far as we're concerned and help their vendors. And we're always concerned about their vendors. As you know, our organization brought the vendors into the rezoning process for the flea market. Thank you very much.

>> Mayor Reed: Felicia madsen is our last speaker.

>> I think this works. Good afternoon, I'm Felicia Madsen with save the bay. We are also not in favor moving forward with the commission's recommendation mostly because we feel this is duplicative, to the work the staff is already doing so we are supportive of staff. They have been holding a stakeholder bag forum for more than two years. When you look at the commission their outreach in the last three months there were five members of the public according to their memo who spoke two against and three were for. I think an appropriate place for small business to get involved is through the stakeholder bags meetings that we have on a regular basis where they have, flea market has been very involved in that process. So we would like to move forward. We think staff is addressing all of these issues and we feel comfortable with the information that they will be bringing forward in the following months. Thank you.

>> Mayor Reed: Thank you. That concludes the public testimony. I don't think this is the time to put this back on the council agenda. The council spent a lot of time considering this when we gave direction to the staff to go out and do the work that they're doing. These issues were raised at the time. We have council direction and I'm not ready to prejudge the work the staff is going to do. If they come back in September, or whenever it is, and there's still more work that needs to be done, that will be something the council can decide at the time. Clearly, the economic impacts are important. I know they're important to the council and that will be an issue that council spends a lot of time considering but I'm not ready to say that we ought to take it back to the council so the council can give further directions until we see the quality of work that's currently being done. I wouldn't support putting this on the council agenda. I think we need to let the staff do their work before we decide to do what to do next. Any other comments on it? City Attorney did you have --

>> City Attorney Doyle: Just you really can't take action. The only action you can take is to forward it to the council for an agenda item.

>> Mayor Reed: Right.

>> City Attorney Doyle: Or later Rules Committee but otherwise it hasn't been noticed.

>> Mayor Reed: So I -- I think we do nothing, as part of the public record we note and file, and don't move it forward. Let the process carry its way and then we'll take this issue up along with everything else, half a dozen different issues around this. We'll have to consider when it comes back to the council. So is there a motion then to --

>> Councilmember Chirco: I would move to note and file.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion is to note and file. All in favor? Opposed none, that's done. I think the rest of the public record, and the motion on those?

>> Councilmember Chirco: Move to note and file the rest.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion is to note and file the rest. All in favor opposed none opposed, that's approved. Next item is G appointments to boards commissions and committees. We have a recommendation of City Manager's office to approve the appointment of Carmen Johnson and Melanie Espino to serve as committee members on the health neighborhoods leadership committee.

>> Councilmember Chirco: I would like to move approval with enthusiasm because we will have a full committee for the first time in years.

>> Councilmember Nguyen: Second.

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

>> Lee Price: Can we have a one week turn around to move it ton council next week? Thank you.

>> Mayor Reed: That's about. We have a request from councilmembers Liccardo, Nguyen and Kalra, to direct the City Clerk to work with the City Attorney and City Manager to estimate budgetary impact of importing an electoral system employing instant runoff voting. I have one person who wants to speak on that. Councilmember Nguyen did you want to speak on it?

>> Councilmember Nguyen: Yes, thank you, Mr. Mayor. As the mayor alluded to the memorandum that Councilmember Liccardo, myself and Councilmember Kalra co-signed March 8th, 2010, pretty much we are asking the City Clerk to work with the City Attorney and City Manager to estimate the budgetary impact both in the near term and long term for us moving towards electoral system employing instant runoff voting. This new voting process proposal would enable voters to rank candidates in order of preference rather than voting for a single candidate and the intention of the proposal is to reduce city cost by elections by shifting to a single election in November rather than having two elections. And with this memorandum some of the things that I would like staff to come back with is looking at some of the current cases pending, I note that organizations throughout the United States have actually sued municipalities over instant runoff voting, the elector system. And so if we can come up with sort of the status of these cases, I think that will be helpful for the council to consider. As well as looking at the education outreach methodology obviously San José is very diverse and our ballot statements actually being translated into many, multiple languages. So when -- if this proposal was to move forward, what is the cost associated with in terms of doing the educational outreach so that voters learn new system and translating that into different languages? And then, just looking at the municipalities such as San Francisco and Oakland and other municipalities that actually use instant voter runoff methodology and just look at the costs associated with that and whether it's been effective for them in the last five years, ten years and then currently. I think the most recently municipality that actually adopted this are Berkeley and Oakland. So those are the kind of things that we would like staff to come back to see if this is something feasible that we can do in the City of San José.

>> Mayor Reed: Well, a lot of work has already been done on this because we considered it for putting on a ballot two years ago, I think, along with some other charter amendments. And for budgetary reasons primarily we didn't do any of them, I think. Maybe there was one, maybe measures J and K.

>> City Attorney Doyle: We did the tax measures, yeah.

>> Mayor Reed: Right, so work has been done and the clerk has handed out some information today which I saw for the first time with the experience in some other cities. My question is, how much work do you think needs to be done? Because at some point we will consider whether or not to put anything on the ballot in November, sometime in June. I'm not anxious to have you do a great deal of additional work, because having read through these materials you gave out today a lot of work has been done. And it really is I think just preparing to be able to answer council questions, when we consider this along with others. Now I'm a fan of instant runoff voting and I've chaired the county charter review committee about a decade ago when we added it to the county charter to make it possible for the county to do it. But reading through the materials, it could be expensive to implement, and so those are issues that I think the council just needs to have the information on. But I don't think we're asking you to go out and do this gigantic work plan along with everything else.

>> City Attorney Doyle: And I think you've from our standpoint you've asked or mentioned a lot of the work has been done. More importantly and I think the memo references in number 2 that the elections commission, this is on their work plan. There's a study session that they're conducting on April 29th to deal with this issue and they'll come back with a recommendation. I think as part of what they will come back with, we will include budgetary analysis. I think that's the best vehicle, best way to bring it back.

>> Mayor Reed: One of the materials that you passed out there is litigation by a losing candidate, what a surprise, lost by only 58 votes. So I don't know where that is, but I'm always interested in knowing what the Courts think about these things so that we don't have to go through the bad experience and let somebody else do that for us.

>> City Attorney Doyle: We'll do the best we can to track down any and all cases and bring you that information.

>> Councilmember Chirco: First time I'd seen the material also and just to be sure that this material gets to the election commission as they do their analysis.

>> Mayor Reed: We have one request to speak on this item, Blair Bovier.

>> Good afternoon mayor, Vice Mayor, councilmember, my name is Blair Bovier, I work with the new America foundation, we are a nonpartisan nonprofit policy institute, we have offices throughout California and in Washington, D.C. We are in favor of this proposal. I will note that instant runoff voting is becoming

increasingly widely used, Oakland, San Leandro and Berkeley will be using it for the first time this year, Minneapolis recently used it and the Oscars used it to select best picture. It enjoys broad support in the community. I'll note that the Democratic Libertarian and Green Party support it, California Common Cause supports it, and a number of leading citizens including Bob Keeve, Victor Garza, Russell Hancock, Terry Christianson. Enjoys a great deal of support. I think the primary benefit is increasing voter turnout. Right now, most elections are decided in June when voter turnout is about 36% and this will shift decisive elections to November when voter turnout is 64%. So I think that's one of the greatest benefits of using instant runoff voting. I think it also has the potential to spend money. Don't forget that San José spends an awful lot of money on about specialty elections and special election runoff. This has the potential to eliminate those unnecessary elections. I have reviewed the paperwork of an attorney that's been filed in San Francisco. I think it's a frivolous suit, I think it's going to get kicked out. I'm actually glad it's been filed because I'm looking forward to having federal law on this issue in addition to the rather weighty state law that exists. In June the Minneapolis Supreme Court unanimously rejected a challenge based on very similar grounds. The San Francisco hearing is on April 2nd. The basis of the case is that the plaintiff's complaining that voters weren't given enough choices which is kind of ridiculous given the fact that people have three choices in an instant runoff for ranked choice selection and only one in other elections. My organization has conducted research --

>> Mayor Reed: Sorry your time is up.

>> Okay I'll leave information with you that we've conducted.

>> Mayor Reed: Please. Jim Stauffer.

>> Good afternoon, I work Californians for electoral reform. I'm the chapter coordinator in Santa Clara County and a San José resident. We're very much in support of instant runoff voting. We have been working in promoting and implementing this around the state and glad to see it seriously considered here in San José. From a local perspective, I'm just -- I'm happy to see a -- I'm happy to live in a city where IRV has already has pretty substantial report on the council. And we have a mayor who supports it. And it's -- I know the issue here is one of budgets, and costs and all that. And I believe that the information, all the data we have on it shows that this is a system that pays itself back very quickly. And also, I think it's important to remember, underneath all the dollar signs, this is an improvement in democracy. And we have a system that is not had a lot of improvements in it in the past couple of centuries, so this might be a good time to take a small step forward. And I also think that the charter amendment back in 1998 that mayor Reed referred to also shows substantial acceptance from the general public. Back in 1998, hardly anybody ever heard of instant runoff voting. They were reading only the description in the voter pamphlet and if I remember the numbers right it passed with 54%. And the phone number printed in the ballot to ask questions was my phone number and there was only a few people called up and they just sort of had general questions and they all said hey, that sounds like a really good plan. So I look forward to this moving forward and hope we can get it implemented. Thank you.

>> Mayor Reed: Steve chesson.

>> Thank you, Mr. Mayor, councilmembers. My name is Steve chesson. I'm president of Californians for electoral reform. We are a statewide nonpartisan organization that works in instant runoff voting and forms of proportional representation. And I was the person who brought the instant runoff voting to that charter committee.

>> Mayor Reed: I remember it well.

>> Yes. I don't want to repeat what the preceding two speakers have said. I support what they say, also support this recommendation. I will say I just received this morning the presentation that the San Leandro City Clerk had prepared for her council on instant runoff voting that shows how they break even after three elections and start saving money thereafter. They have additional costs that San José would not incur, for example, they've got to help pay for a firmwear upgrade for the machines up in Alameda County. That firmware upgrade is built into the maintenance contract for Santa Clara County, so that is a cost that would not be incurred. And I presume there were similar studies done by the Oakland and Berkeley city clerks that would also be available. I am also interested in obtaining a copy of the city clerk's report, I dot don't believe that has been made available to the public yet, I hope that would be available, the report she just handed out. I just want to re-emphasize what Mr. Bovier just said about how courts have held and instant runoff voting is constitutional. And our organization stands as a resource to be available to the city council and to staff in researching this issue. Thank you.

>> Mayor Reed: Thank you. The materials the clerk handed out are copies materials prepared by the county of Santa Clara I believe because they're addressed to Jesse de Rozzo as the registrar. Those are

all public documents. I do have a couple of questions about, not having read all of them but having read the cover memo. I'm curious what happened in Pierce County, Washington, Burlington, Vermont, both places voted to repeal instant runoff voting. I'm curious about the public acceptance of it. It's always an issue. Sometimes we get these great ideas and we can't quite get it over the goal line with the people. That can all be discussed when we get the report back from the elections commission as we're considering the potential ballot measures for the fall. Anything else on this? Okay. So we'll get a report back, we'll -- the elections commission report it's a previous report from the elections commission to the council so that will come back sometime in May I presume since they're meeting in April.

>> Lee Price: Yes, Mr. Mayor, that's the goal. Again that study session is open to the public here at City Hall 5:30 on April the 29th.

>> Mayor Reed: Okay, thank you. I think that concludes testimony and discussion on this item. There's no action for us to take. We need to move to the council committee agendas. Transportation and environment committee, request to add item for the May 3rd work plan.

>> Councilmember Chirco: Move approval.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion is to approve the consideration of potential changes to the private sector green building policy ordinance relative to state law changes. All in favor? Opposed none opposed, those are approved. Have one open government matter, a response to the public records act request from David Wall. I have a package of materials that I presume has been given to Mr. Wall from the city staff. And do you want to speak on that item, Mr. Wall?

>> David Wall: First of all, Mr. Mayor and for everyone that can hear my voice, your conduct in this matter is nothing short of exemplary. A standard for the entire nation to copy. I'd like to thank you for that. The packet that you've referenced that is in front of you is a packet that I created from a snippet of a packet that was given to me. It should concern the administration. This is just one snippet. The city administration is to be held out for a variety of chastisements which will not be issued forth today. In reference to the original request, this relies on the issue of the city intranet as a public record document. The organizational chart was initiated February the 12th, which was four days prior to the study session on the budget. And therefore, was a public record document, the instant that it went out to employees, in my opinion as I've learned from the sunshine task force. So the delay should never have gotten to this level. It should never have required your instantaneous direction to the administration to put forth the documents that were provided to me this morning which I'm grateful for. And I think that it is best that I conclude my testimony at this time period.

>> Mayor Reed: Okay, thank you. Anything additional on that? We didn't actually direct the administration to do anything. We just put it on our agenda for today. So it seems to me that no direction is necessary. Response has been given. Anything else on that? We'll move to the next agenda item which is open forum. I have no cards. I do have a card under open forum. David Wall.

>> David Wall: This is in reference to the ability -- or not ability, but the conduct of governments going for joint power authorities, for two specific issues that I'll speak about today. One was mentioned earlier, the Santa Clara Valley habitat plan. I will not discuss the fee because that was already discussed. The issue of the nitrogenous deposition is materially flawed. It does not take into account nitrogenous compounds deposited from aviation fuel from the airport, from jets, taking off and their incombustion of that fuel and that fallout. And other wind patterns that bring nitrogenous based compounds from all over the county: Santa Clara for example, City of Santa Clara, Milpitas. The other joint power authority that I'm very much against shows up tomorrow at the Public Safety, Finance and Strategic Support Committee that deals with county calm. Now, I am not against upgrading our communications. But the San José representation on this committee is not acceptable. San José will be paying the lion's share for all these upgrades and only has two positions on this nine-member committee. The other seven are from the county. It's my position that the San José police department and the San José fire department are the pristine lead agencies for public safety in the entire county and should be in charge of county communications. My opinion is county communications, the county can no longer afford it and has created this JPA as a creative financing tool in which the City of San José will basically be paying for the county's dictates. Thank you.

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