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>> Mayor Reed: One of these clocks it's 2:00 so let's call this meeting to order, Rules and Open Government Committee meeting for December 1, 2007. Any changes in the agenda, I don't think so. First is the December 7th council meeting which we'll start at 9:00 a.m. with a closed session. Anything else on page 1? Page 2 or 3? Page 4 or 5? I have a question on items 3.2, actions related to Team San José. Item 3.2A is the-d listed as annual performance audit. Doesn't mention accepting or rejection or any action verb.

>> City Attorney Doyle: It should, it should have the word, accept annual performance audit. The same language in B and C should be the accept the.

>> Mayor Reed: Then the other question, I wanted to make sure if council wants to go beyond the recommendations from the staff on either the audit or the response to the grand jury report that we can do that without any further agenda description on this.

>> City Attorney Doyle: The council can always direct staff, for example, under the existing agreement there's the option to go out with an RFP, it's in 2012 I believe. And -- for selection in 2012 and council could direct staff to you know come back with various options under the agreement including that. If you want us -- if you want staff to actually begin preparation of the RFP I think it wok good to have that large posted as part of the agenda language. So really what the council would want us to look at various options and come back with various options including the RFP process or not.

>> Mayor Reed: I want to keep the council's options open.

>> City Manager Figone: I'm sorry, I will be issuing a supplemental which recaps the high level key recommendations from the audits and then also suggesting that we do come back with a work plan for an RFP process. So that you at least understand your options. So that would be in a supplemental. Now, whether or not that should be --

>> City Attorney Doyle: I suggest we add an E directing staff to look at various options and come back to council with various options under the agreement. Give you a broad range of possibilities.

>> Mayor Reed: And same thing with the grand jury report we had quite a bit of discussion about that. Probably nothing to add but we have a staff response that's not yet the council response. If we want to change that we can say we don't like that we want to say something else.

>> City Attorney Doyle: We're up against a tight deadline.

>> Councilmember Liccardo: As long as we do it at that meeting.

>> City Attorney Doyle: I've promised Judge Jacobs May that we'll have it in her hand on December 7th, so we'll have a quick turnaround and deliver it to her by 5:00 I hope.

>> Mayor Reed: Okay, anything else on pages 4 or 5?

>> Excuse me, mayor, on page 4 what were delayed from yesterday are the CADR and CAFR. That will appear under section 3.

>> Mayor Reed: Those would be the comprehensive annual financial report and annual debt report.

>> That's correct. Thank you.

>> Mayor Reed: And then we have the agency CAFR and CADR on some time?

>> That's correct, I think it's on the same agenda, the 7th will come to that shortly so that will be heard after this is accepted.

>> Mayor Reed: Anything else on 4 or 5? 6 or 7?

>> On item 6.2 the airport living wage ordinance, we would like to request a not before 3:00 on this item. And we haven't completed the review yet of the agenda but we'd also like to recommend starting the evening session at 6:00 given the high speed rail item.

>> Mayor Reed: You always like the afternoon session is relatively speaking light compared to the evening session. But we should be well done before -- on the afternoon session time to take a dinner break and then start at 6:00. Anything else on 6 or 7? Or 8? Or 9? Which are general plan public hearings. 10 and 11. 12 or 13.

>> City Attorney Doyle: Mr. Mayor, on the general plan issues, there are three CEQA resolutions. They're related to Items 10.1 and 10.2. 10.2 and 11.2 are related and 10.3 and 11.3 are related. They've not been posted as of yet, so we need to ask for a sunshine waiver.

>> Mayor Reed: These are the resolutions themselves?

>> City Attorney Doyle: Yes.

>> Mayor Reed: Okay, we'll include that in the motion. Forget what page I was on. I think 10 through 13. Anything on page 14? So a long evening agenda, there's no doubt I think about that. Any other changes to that agenda? Couple things. I have a recommendation later here, in a memo, to approve the appointment of district 5 councilmember to fill up the term expiring December 31st. We'll need to talk about the order we do those things. We have 2.6 which is the certification of the election results.

>> City Attorney Doyle: Mr. Mayor, I think this is since it's interim and it's independent of the actual election results the council has the power to appoint whether they certify these results. So can you take it up either before or after.

>> Mayor Reed: Okay, we're only doing this for a couple of weeks through the end of the month but we want to do that first. Right? After the ceremonial items, do the appointment item.

>> Make it the second ceremonial item.

>> Mayor Reed: Essentially the second ceremonial item get that done. Any other changes, I have no written requests for additions or changes.

>> Lee Price: Mr. Mayor, would you also like for me to go ahead and administer the oath of office to Councilmember-elect Campos at that time, so a two-parter?

>> Mayor Reed: Probably Although I want to hear from Councilmember-elect Campos to be sure about how we want to do that. But I think probably just do it right there, but he may want to do it some other way.

>> Lee Price: That would be his official oath of office, but he could also have ceremonial oaths of office at some other event, and I think is planning on doing that.

>> Mayor Reed: Right. We will talk to him about that. We have been in conversation. But I think that's probably the way it will go. Anything else on that agenda? We have the one sunshine waiver request and the modification to the agenda language on 3.2.

>> Councilmember Pyle: Move to approve.

>> City Attorney Doyle: If I can just -- the H, the items under H, you have H 2, H 4, I believe those are being asked to be added to the December 7th agenda.

>> Mayor Reed: Let's skip ahead and deal with those right now. So H-2 was the resolution approving a contract for Dennis Hawkins as the new City Clerk.

>> City Attorney Doyle: And on that item, I would like to ask for clarification. All council appointees with the exception of the City Manager, the contract is in the form of the resolution, which usually attaches the mayor's memo outlining specified terms and conditions of the appointment. We don't do a formal contract, and I just want to get clarification, is the intent to do a formal contract, or the contract really is the resolution?

>> Mayor Reed: The intent was to do a resolution. But the grammar is the fact that the council has already appointed him as the clerk. We're just talking about the compensation package.

>> City Attorney Doyle: Well, the IPA had a very similar thing, so we'll just do the same as we followed with that?

>> Mayor Reed: Yes. H-3 was the appointment of District 5 councilmember we just talked about, H 4 was a request designating operation prom dress, does that need to be on the December -- yes, December 7th meeting request. Are those the -- looks like H-7 a District 9 farewell community appreciation also needs to be on the December 7th agenda.

>> Lee Price: Yeah, all of those that relate to special events really should be kicked to the agenda so the council can approve them.

>> Mayor Reed: Okay, any comments on any of those special events out there an item H, want to include those on your motion?

>> Councilmember Pyle: Yes. Move to approve the agenda with H 2 through H-5. H-8 is the last one.

>> Mayor Reed: H-8 is not for December 7th.

>> Councilmember Pyle: Looking for a second.

>> Mayor Reed: That's for a January meeting.

>> City Manager Figone: That includes a 6:00 start-time.

>> Mayor Reed: 6:00 start-time the sunshine waiver for the resolutions that aren't out there yet.

>> Councilmember Chirco: Second.

>> Mayor Reed: Okay we have a motion a request to speak on this item which I think it is. Michael Chrisman.

>> My name is Mike Chrisman, I live at 905 Sweetbrier Drive, Campbell, California. Happy holidays, good afternoon. I'm sure everyone has missed me. I rise today to ask that the December 7th agenda item to order the annexation of Cambrian 36 be postponed because it violates San José rules and procedures. When we met with Vice Mayor Judy Chirco four years ago she stated she believed in process and wanted to honor it and follow process. And we agreed. Over the past few years, the residents of Cambrian 36 have attempted to follow San José's process. It has not been easy. On the contrary it has been a source of frustration and confusion. We have been consistently directed by staff, and the San José Planning Department to seek the answers to our questions in the award winning annexation answer handbook and the San José planning Web pages. Both those sources state the ordering hearing will take place not less than 45 days after rezoning. Simply, if December 7th meeting is less than 45 days. There is nothing ambiguous about less than 45 days. There is no room for interpretation. There could not be clearer. The city council expects the citizens to follow San José's laws and ordinances, the same expectations should hold true for the council. San José city council needs to set a good example for its citizens, and follow its own written and posted rules, procedures and policies. I ask that you please honor our agreement four years ago, that we follow process, honor that and defer the meeting until you can comply with the 45 days. Thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion. All in favor, opposed.

>> I'd like to ask a question.

>> Mayor Reed: Before we vote Vice Mayor Chirco.

>> Councilmember Chirco: I'd like to ask the City Attorney to address the question that was put forward.

>> City Attorney Doyle: As far as I know there is nothing legally deficient in any of the noticing. You may remember this item was initially posted well in advance. It was deferred and then it was -- the hearing was held to set the annexation in and to do the rezoning. That actually took place and now this is the formal hearing for annexation. There's been plenty of time, plenty of outreach and plenty of discussion and I don't think anybody's been prejudiced by any noticing or lack of noticing. I think if anything there has been an overabundance of that.

>> Councilmember Chirco: Thank you.

>> Mayor Reed: We have a motion to approve as amended with the sunshine waivers as we discussed. All in favor, opposed, none opposed, that's approved. December 14th council administrative draft. We've got a 9:00 start time for the closed session.

>> City Attorney Doyle: The evaluation that was to take place on the 14th has been kicked until January. The real question is, what time you want to start the open session. And that will determine what time we should start a closed session. Right now agenda items on the 14th for closed session are very light. Labor would be on there but right now it doesn't appear to be a lot of information.

>> Mayor Reed: I think we should assume a 9:30 start time then unless some additional things happen. We could get some things deferred from the 7th. But the 14th agenda looks shorter than the 7th agenda at this point. Anything else on page 1? Page 2 or 3? The 14th looks shorter because we have a meeting on the 13th and the 16th, which help shorten the 14th. Anything else on page 2 or 3? Page 4 or 5? Page 6 or 7? Page 9 or

10? Page 10 or 11? Page 12 or 13? I have a question on 7.1. That's actions related to the plant master plan update. Councilmember Nguyen and I had a study session at treatment plant advisory committee last week so we've heard a couple of hours of discussion on this. There's going to be a couple more meetings. The question is, how much more presentation do we need at a staff meeting? We certainly don't need two hours that we had at the study session. So we need to think about that before we get there the length of that and the rest of the meeting.

>> City Manager Figone: Yes, I think staff is aware of that and just basically wants to recap the key issues, and then you know leave it to council discussion for that.

>> And item 7.1A is a cross-reference from T&E. So the committee would have already heard the item. So.

>> Mayor Reed: It's transportation and environment's had a chance to hear it, TPAC will have heard it. I don't think we need a long presentation. Anything else on page 12 or 13? 14 or 15? Item 7.2 is actions related to single use carry out bag ordinance. I've heard that either the emergency session the special session or the regular session of the legislature is still going to consider a bag ordinance this week. I don't know if anybody else has heard anything about it. The legislature somehow manages to take action it would be interesting to note. But we'll know before the 14th if they're really going to do that. Anything else on 14 or 15? I have request for excused absence of Councilmember Nguyen meeting of November 30th, yesterday, due to illness. Any other changes or additions or otherwise?

>> Councilmember Chirco: Move approval.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approve as amended. Do you have something?

>> I was just going to note that when we reviewed it this morning in our senior staff meeting, we did recommend starting at 10:00 just based on a few of the items. But we can decide that next week.

>> Mayor Reed: 10:00 a.m. start of the regular session which would push our closed session start to when, 8:00?

>> City Attorney Doyle: It's whatever the committee decides. I think the concern was that some of the items like the general plan amendments for rancho Del pueblo and the plan master plan update as you indicated, the bag ordinance as well as the Evergreen provisions and the solid waste agreements would probably have some discussion.

>> Mayor Reed: Well we should at least alert the council that we're thinking about starting the closed session earlier so that they can plan ahead.

>> City Attorney Doyle: I can get a notice out and we can -- next Wednesday we can verify what time we should start. It really comes down how many items we would have. I don't anticipate many negotiation items and in terms of labor it really is wait and see and we'll have a better idea next week.

>> Mayor Reed: Okay, why don't we alert the council that that closed session is likely to start earlier than usual, then people can plan ahead a bit and then next week we'll be able to tie it down.

>> Thank you.

>> Mayor Reed: Anything else on the December 14th agenda? Any other changes?

>> Councilmember Pyle: Move to approve with changes as stated.

>> Lee Price: We have a motion.

>> Mayor Reed: We have a motion, I forgot. On the motion all in favor? Opposed, none opposed, that's approved. Taking us to the agency agenda December 7th. Anything on page 1? Page 2 or 3? 4? I have no requests for additions or changes.

>> Mr. Mayor, there are no changes or additions to the December 7th.

>> Councilmember Pyle: Move to approve.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion is to approve, all in favor, opposed none that's proved. December 14th draft, anything except the possible unknown start of closed session? And page 2 or 3? I have no other changes.

>> No additions sir.

>> Councilmember Pyle: Move to approve.

>> Councilmember Chirco: Second.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed, that's approved. Taking us to review of upcoming study session agendas. Medical marijuana agendized for December 13th. I had agenda, couple of questions, one is when are we going to be able to do the interviews for the appeals hearing board? And can we add them to the end of this agenda? It's certainly not going to happen on the 16th when we do the retirement board interviews. I don't think we have any extra time.

>> Lee Price: On this agenda I was going to be prepared to give you a verbal update on the appeals hearing board if you would like it I'm happy to give it.

>> Mayor Reed: Okay.

>> Lee Price: The council has a process by which each councilmember forwards to our office after reviewing the applications indications of interest. And the process is, any applicant who has received four or more indications of interest is then invited to come back and be interviewed by the full council. So I've passed out to you the matrix that the deputy City Clerk has put together and you will see that there are three applicants who have received four or more and actually 11 each indications of interest, Judy Jones, Troy Overton and Susan Racissicio, excuse me for the pronunciation. They are the only applicants that received four or more. They also happen to be the incumbents. So if the committee chooses to you could recommend to the full city council the appointments of the incumbents. They're all eligible and willing to continue to serve and forgo the interviews or you could go ahead and ask the three individuals to come and be interviewed either at the meeting on December the 16th or on December the 13th, as you suggested, Mr. Mayor.

>> Mayor Reed: I'd be happy to forgo the interviews.

>> Wouldn't break my heart.

>> Mayor Reed: So we would just put this on stay council agenda for the 7th.

>> Lee Price: Yes, sir.

>> Mayor Reed: On the consent calendar.

>> Lee Price: You could push it on to the consent calendar and reappoint all three incumbents for a full term.

>> Mayor Reed: Is there a motion to that effect?

>> Councilmember Pyle: Move to add to consent the appeals board applicants and three incumbents be approved.

>> Councilmember Nguyen: Second.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. So we don't have to worry about it on the 13th. On the 13th, I just read a piece about Los Angeles County repealing their medical marijuana ordinance. Due to lack of ability to enforce it. I just wanted to bring that to the city attorney's attention because I think it might be an interesting issue. But they don't control the enforcement. Apparently. I'm not sure who does but they were unhappy with the fact that they had this ordinance and they can't make people follow it, which is always difficult. So I think last week they're considering just repealing it altogether and have a ban. So you might want to take a look at that.

>> City Attorney Doyle: We'll be prepared to address those issues.

>> Mayor Reed: That was the county, not the city. Anything else on that special council meeting agenda? 1:30 to 5:00, we think it will take all that time probably. There has been a lot of work that has been done, we need to discuss, I think.

>> Councilmember Chirco: Move approval.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approval. All in favor, opposed, none opposed, that's approved. I have a question about boards and committees, the retirement board interviews. For the 16th. That agenda. We're not looking at that agenda today?

>> Lee Price: No, Mr. Mayor. We don't have that agenda for you today. We'll bring that back next week. Friday afternoon is the councilmembers' deadline to provide to our office the indications of interest. Those applicants you wish to bring back on the 16th to be interviewed. There were 32 total I believe. And so until we whittle it down and know exactly how many applicants the council will have, we won't be able to give you a good estimation of time but we have plan to begin at 8:30 in the morning and we'll release that packet next week with all of the applications and the city attorney's conflict of interest review.

>> Mayor Reed: Well, based on past interviews, it could take as long as 15 minutes per interviewee, although the last session we did whatever it was went faster than that. But I am concerned having 30-some people to interview. Staff did do a matrix and I think it would be helpful to the council if the staff could sort that matrix and identify the people that have what I call serious experience, like managing a billion-dollar plan or portfolio or something like that. You can go through that list and sort of pick them out. But I think that would be helpful. I don't know if the staff could do that like probably today, just resort the list a little bit. Because when I started going through it I'm thinking oh my gods this is a nightmare, trying to figure out from 40 people, I think there's more than 30 people, we don't have the time to interview 30 or 40. Could staff go through there and identify those who have the big fund experience?

>> Lee Price: Dennis Hawkins assistant City Clerk is coming up. He has been working very closely with Alex Gurza and Russ CBOs and Mollie Dent.

>> Mr. Mayor, members of the committee, a few weeks ago we were instructed to, we talked about developing the matrix. But the committee asked us not to make any qualitative judgments about the conversation qualifications of any of the applicants. What I understand you to say Mr. Mayor is you'd like us to make some evaluation of the qualifications and get that out to the council?

>> Mayor Reed: Well, it's not really a qualification analysis or recommendation. It's just a way to sort the list based on big fund experience, and the council can still pick anybody they want to interview but I think it's helpful

going through that just trying to narrow it down. There's at least probably 20 people in there that would fit that criteria alone.

>> City Attorney Doyle: I think you're just looking for factual indication of who has big fund experience.

>> City Manager Figone: Mr. Mayor, would it be helpful given the council's experience of register four names if some names were left off from the staff's perspective given the weight of their experience that we at least bring that to your attention, if that would be helpful?

>> Mayor Reed: You mean, if we went through the list if there are people that got missed?

>> City Manager Figone: Possibly.

>> Mayor Reed: I think so, it is possible for the staff to point that out. And next week, if we have 25 people that we're going to try to interview, we may want to talk about how to narrow that down again. Because we have -- I don't want to have a meeting on the 17th.

>> City Manager Figone: I agree.

>> Mayor Reed: I know Vice Mayor Chirco wants to have as many as she can before finishing her term of office. There is a Public Safety committee meeting that afternoon.

>> Councilmember Chirco: Limited caring that's enough.

>> My experience Mr. Mayor not all the applicants had that kind of information in either their resume or the response to the question. That might require us -- we're happy to do it to do some outreach with applicants to get some more clarifying information about their experience under funds managed. I'm not sure if we would be able to get that to the council by Friday. We could make a first-cut and see how many of the 30 some odd applicants

have that information, then we could bring them forward but I think it might require some additional outreach to the applicant pool to make that determination.

>> Mayor Reed: Well, we've set Friday as a day for us to check the ones that we want to interview, right?

>> Lee Price: That's correct.

>> Mayor Reed: Well, given the length of the list, the more forecast you could provide us the more helpful it is.

>> Okay.

>> Lee Price: Are you asking us should we provide an extension to the council and statement to put this information together for your --

>> Mayor Reed: How soon do we need to have the information to you so you can get whatever posted you need about the people we're going to interview on the 16th do we have a little more time?

>> Lee Price: Well a special meeting agenda requires less notice than a regular meeting agenda per our sunshine reforms, four days as opposed to ten. But we were definitely shooting to get it out a week in advance. I think the main thing is, give us enough time to communicate with the applicants who will be invited back. I mean everybody has this date tentatively on their calendar but making that communication with each applicant to let them know if they made that cut, so to speak, or not. Do you see any other -- any other issues with deferring it other than the fact that you and I are both out next week at a conference. We are both making a presentation at a conference but we have people who can assist us while we're out.

>> Mayor Reed: Is there a way to communicate by e-mail with all these complicates?

>> Yes we can start that immediately Mr. Mayor. I do know there are applicants who do have that information on their resume and the application. We can do a first cut to identify X number that do have significantly amount of financial experience. Do you have a threshold in mind?

>> Mayor Reed: Something that starts with a billion.

>> Okay, I think we can make that first cut and then we'll do outreach to the remaining applicants and get that information out to the council as soon as possible.

>> Mayor Reed: Yes, I think that would be fine. If you get an e-mail to them saying, the council has asked us to sort this, and we're not sure everybody had it on their resume. If there was additional information they wanted to submit to you about their experience they could do that. I don't expect you to call everybody and have a conversation them. Nancy.

>> Councilmember Pyle: I wanted to ask a question, is there some way that I.T. could help in reference to the sorting? In other words we should be able to have the capacity to have certain key words bring out that information. I don't know how technologically inclined we are.

>> The technology is not the difficult part. But there are several of us that have spent quite a bit of time with these applicants or applications, and to clarify the information.

>> Councilmember Pyle: Got it.

>> Just a side note, as we have worked with the application, since this is a new process for us, I think that we would want to come back to the committee and the council afterwards with some recommendations for some changes to the application in the future. I think we've learned quite a bit about potential applicants and the potential informational we would like to ask, that is something we would like to bring back sometime in the first quarter of 2011.

>> Mayor Reed: So about the timing of that, can we still do all of this by Friday, which is day after tomorrow? Especially in time for councilmembers to make their selection?

>> If -- I think we should extend the response deadline for the council to Monday or Tuesday. That would still give us time to get the posting completed. I think it may take us a few days to do all the outreach with the applicants. So definitely, I think we could commit to having that additional information out by Monday or Tuesday at the latest.

>> Mayor Reed: Okay, why don't we do it by Tuesday then.

>> If we can get it out sooner, we will.

>> Mayor Reed: Anything else on special meetings or study sessions? Don't have to worry about January. Legislative update, we have nothing scheduled. Except the new legislature is going to be -- I'm sorry. Sure.

>> My name is Jenny Rutherford, I'm here on behalf of Americans for Safe Access, their Silicon Valley chapter, and we're just wanting to request that the council allow us some time at the study session to make a brief presentation. This organization represents strictly patients. It's not a collective or dispensary or anything like that it's just the patients and they have a lot of experience, probably more than any organization in the country on implementing these laws within different states throughout the nation. So I would really appreciate it if you would give us some time on that day.

>> Mayor Reed: What you should do is contact my office and talk to my chief of staff and we'll talk about how we manage the meeting.

>> Great, thank you very much.

>> Mayor Reed: Great, thank you. Meeting schedules, item E we have a city budget calendar and budget study session schedule which Vice Mayor Chirco is --

>> Councilmember Chirco: Pleased to make the motion. This is just a thank you for the extra meeting before I leave off. Let me move E 1 which is the city budget calendar. Waiting for the second.

>> Mayor Reed: They're having to think hard about it, lot of meetings on there. Discussion on it? All in favor, opposed, none opposed, that's approved. Public record, anything from the public record that the committee would like to pull and discuss? I have one card from the public to speak, David Wall.

>> David Wall: Glad you're back with us Mr. Mayor. You're always missed when you're not in the town. This has to do with public record E. There's been some time and incongruity during consent calendar on how long a person has to speak per issue. In reference to the entirety of the consent calendar. Now, Your Honor is the boss. I don't dispute you being the boss. I just don't know about the rules because there has been a period of time where a citizen could redress government on a particular issue for two minutes. But then, the consent calendar gets awfully loaded up from time to time with a whole bunch of issues. Each issue should be given two minutes. And also, some of the issues themselves have subcategories within them that makes even addressing that issue impossible with two minutes. So its do not know what is going through the workings of Your Honor's great mind. And I need direction and counsel to understand, do I waste cards by filling them out, only to be given two minutes which is a physical impossibility to answer more than one issue or even a sub-issue on the consent calendar versus its entirety. Now, I know there's very few citizens that can comment cogently upon almost everything that you do. You being government. And I think citizens should have the ability to redress government on particular issues to augment your wisdom and give ideas to the city which may have been overlooked by the administration, not meaning Your Honor's but the administration. The other issue is dealing with the 84 police officers that maybe laid off during this next budget thing. I think you need to really come to lord Jesus on this one and start looking at shutting down community centers and other issues because you're going to need every police officer you can.

>> Mayor Reed: Sorry, your time is up. Is there a motion on public record?

>> Councilmember Pyle: Motion to note and file.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion is to note and file public record. All in favor, opposed none opposed, that's approved. We have some commission appointments, registers from Councilmember Nguyen of Alice Salee to housing and community development advisory commission. Reappointing Brian Darrow to the housing and community development advisory commission and reappointing Jacquie Irene Heffner on the Mobile Home Advisory Commission. Any discussion on any of those?

>> Councilmember Chirco: Move approval.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approve, all in favor, opposed, none opposed, consent calendar on the 7th, City Clerk those are approved. We have a work plan for the advisory commission on rents. We have a motion to approve. All in favor, opposed, none opposed, that's approved. And we already had the verbal update on the appeals hearing board item. We had several things for the December 7th meeting. Which we've already done under H, 2, 3, 4, 5, 6, and 7 were all taken care of. And item H-8 is for the Rules Committee agenda in January sometime. I think we're ready for open forum. Anything else to do besides open forum?

>> Lee Price: I'm sorry did we get motions on H-8 and 9 on your appointments, Mr. Mayor?

>> Mayor Reed: No, we didn't because H-8 -- oh, I'm looking at -- I was look at an old agenda. I skipped those. Okay, let's go back to H-8 and 9. H-8 is to agendize for January 25th if I got that right, for the appointment

of vice mayor specified in the charter as the second meeting in January which is January 25th, right? And H-9 was to agendaize for December 7th council appointments for 2011. So Vice Mayor.

>> Councilmember Chirco: On the item H-8, almost looks like it should be split. Where the pro tem part would be December 7th but then, I don't know. Since we're putting it on for that far in January --

>> Mayor Reed: Well, the pro tem is not a council appointment.

>> Councilmember Chirco: Okay.

>> Mayor Reed: The vice mayor is for the council. The pro tem is my designation for somebody to serve while we don't have a vice mayor.

>> Councilmember Chirco: Okay, what threw me was the forward to council for formal action on January 25th. So we're not doing an agenda item for the 25th, this just says this will come back for formal action?

>> Mayor Reed: Yes.

>> Councilmember Chirco: Okay so it will come back, so it's just the pro tem that will be on the 7th agenda.

>> Mayor Reed: No, the 7th agenda is the council committee appointments.

>> Councilmember Chirco: So what is H-8? I'm confused.

>> Mayor Reed: H-8 is really for January 25th. City Attorney straighten me out here.

>> City Attorney Doyle: I think the mayor is saying he can appoint the interim or the pro tem vice mayor, which he's designating in his memo. The standing committee appointments are to be ratified by the city council at the

December 7th meeting, and then the charter requires on January 25th that the Vice Mayor be pied for the next two years.

>> Councilmember Chirco: Okay, so H-8 is the appointment for the pro tem until January 25th when it will go to the council.

>> City Attorney Doyle: Yes.

>> Councilmember Chirco: Thank you. It's all in translation. I would move approval.

>> Councilmember Pyle: Second.

>> Mayor Reed: Notion is to approve H-8 and H-9. All in favor? Opposed, none opposed, that's approved. All right back then to the open forum. David Wall.

>> David Wall: Now that you've had time to digest our learned attorney's memo concerning the Consortium for Police Leadership in Equity, that report, a public record document by all counts, there is nothing in the contract with the city precluding the publication of the document. As a matter of fact, our learned and honored counsel has said basically it is up to your decision. So why aren't you publishing a public record document on the Web page, so disabled Americans or any other American citizen, especially San José voters who paid for that report and that ongoing program, can sit in the comfort of hair home and bring it off the Internet, versus wasting gas, you know, doing global warming, coming down to the City Clerk during business hours, to read the report themselves? And let us remember the poor disabled folks so we assert Americans with Disabilities Act here too. So issue turns that by not publishing we have a degree of political arrogance or conferring unjust enrichment upon a third party political group for their own enrichment purposes, at the detriment of the taxpayers who pay for that report and all the assorted shenanigans that goes along with that ongoing study. And I say that with facetiousness emphasized. Because it is a clear cut political agenda, not a research project. So at what point are you going to post it on your web page? Because I'm going to assert it tomorrow, post it tomorrow again. The other thing is,

there is money to be made here with this parking control program. Also in reference to that regional municipal storm drain permit. There's a lot of money to be made here, and also, to help the environment that has not been properly addressed by staff due to, I believe, lack of creativity and the ability to integrate the resources under their respective commands. I'm going to give you a plan for this on the public record but this report --

>> Mayor Reed: Sorry your time is up. Susan Quan.

>> Dear Mayor Reed, city council members and committee members, thank you for hearing me out today. I come before you to call your attention to the actions of one of your agencies, the San José animal care services, AKA animal control. I speak not as a passionate dog lover but as a tax paying citizen along with many others really upset over the reckless manner over this rogue agency has repeatedly spent resources to pursue my case. My case was denied, I have had to comply with all of their requirements so I'm not appearing before you to discuss the merits of the case. Actually that part is over. The problem that I have is in the -- is the manner in which the investigation and the case was conducted even now ten months later. In our most tough economic times when you are charged with painful budget cutting and holding city employees accountable to performing their jobs this agency has demonstrated blatant disregard for my due process in spending valuable city resources time and money pursuing my case even to this day. The city statutes outline how an ASO is to conduct investigations and in my case repeatedly badgered neighbors to make unsworn and false statements when affidavits are required. I also approached her superior to try to come to a settlement regarding the matter way before it proceeded down the legal road that it did and she felt that my dog, quote, needed prosecuting and chose to go through a whole bunch of legal matters before this case was settled. So that was over six months ago. In court their ASO officer proved to not tell the truth, in presenting their evidence. When medical records were later subpoenaed in the appeal trial, that also came back to prove that the truth had not come out in the first hearing. So let's see. Through this process notices were sent to neighbors all around me within a 300 feet perimeter and I know that that is normal practice however --

>> Mayor Reed: Sorry your time is up. Mark Pappas.

>> Good afternoon, Mr. Mayor, members, ladies and gentlemen of the city council. My name is Mark Pappas Cupertino, California. I'm here also to speak to animal care and services, let you know some of the things that I have observed in the last six months with my dealings with them. I was in superior court as a witness and I observed animal care and services officer testify that they do not adhere to the statutes of the City of San José as it pertains to witness statements. These witness statements are supposed to be notarized and sworn statements so there's some accountability. After reading what the statute was animal care and services officer testified under oath that he has never seen such a statement. And that they don't follow the statute. That they have their own procedures. Now if animal care and services has procedures that are outside of the city statutes and outside the procedures as delineated on their Website, the city council, the people of San José, I'm in Cupertino, they are a customer of animal care and services. They should let us all know how they conduct their business. I too was in an administrative hearing and information was not presented to the commissioner so he could make an accurate determination during the hearing. This information was later presented, in superior court, and it refuted the forensic findings of animal control. So I think that what I've seen is that they're acting in an unethical and unprofessional manner. I think the city council and Mr. Mayor should investigate how they're conducting their business. Thank you.

>> Mayor Reed: Thank you. I think that concludes the open forum and I would like to refer this last item to the City Manager and City Attorney to report back to the Rules Committee on. Since it sounds like both City Attorney and City Manager's people were involved. Look at the ordinance versus the policies. And come back bring that back to Rules. Anything else? Okay, that concludes our meeting. We're adjourned.