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>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call the San José city council meeting to order for May 11th, 2010. We will start the meeting with an invocation. Councilmember Campos has the introduction.

>> Councilmember Campos: Thank you, mayor. I'm going to ask the students that will be performing for us today, from Linda Vista elementary school and the Joseph George Middle School, to come down, so that you can get ready to perform. They are performing a short segment from -- scenes, one of the musicals, in the woods junior, and I highly encourage people that are watching today and also people that are present to attend tomorrow night's performance at Mt. Pleasant High School, and the performance starts at 7:00 p.m. So we are honored to have them here today. [∂music∂]

>> Into the woods for purposes of our own. [∂music∂]

>> Go to the woods. [∂music∂] [Singing] [applause]

>> Mayor Reed: We're going to do the pledge of allegiance next so let's just have all of you turn around and join us in the pledge of allegiance. Everybody please stand. [pledge of allegiance]

>> Mayor Reed: Thank you. We'll now take up the orders of the day. I have one change from the printed agenda. Item 2.3a the rules committee report for April 21st, and 2.3B the CED committee report for April 22nd will be deferred for one week. Other changes to the agenda order? Nope. We have a motion to approve orders of the day. All in favor, opposed, none opposed those are approved. We will adjourn today's meeting in memory of Wanda Daniel who served in the parks recreation and neighborhood services department for over 30 years. I'd invite Albert Balagso to say a few words.

>> Albert Balagso: Thank you, mayor and members of the city council. Just a few words about Wanda. I had the honor of working with her back in 1986, when she worked for me out at Solari Community Center. Wanda worked for the city nearly 30 years, and she was just shy of that point when tragically, on April 2nd, on her way to work experienced a medical emergency and died in a car accident. She touched many lives in her experiences with our department. She worked for many community centers, Evergreen, Southside Solari and Almaden, and every range from early children development to senior citizens. But there's one thing that I always knew about Wanda, is she enjoyed touching lives and making a difference. Tragically, she's not with us anymore but we know wherever she is now -- well, we know where she is, and she's looking down at us, and touching lives still in our heart, and remembering us, and us remembering her. So on behalf of the PRNS family I'd like to thank the mayor and city council for adjourning this meeting on behalf of Wanda. Thank you.

>> Mayor Reed: Thank you, Albert. Next item is closed session report, City Attorney.

>> City Attorney Doyle: The council met in closed session this morning pursuant to notice. There is no report out of closed session.

>> Mayor Reed: Thank you, I'll take up the ceremonial items. I'd like to invite Councilmember Kalra and Carlos Torrez from the network for a healthy California to join me at the podium.

>> Councilmember Kalra: Thank you. Thank you, mayor. Along with Carlos Torrez we have José Villereal from SNI as well as Alex Villalobos, and Maurice Rodriguez from the County Public Health Department, Roberto Luna from Mercado California, and Jessica Molina from Catholic Charities. And today we're here to issue a proclamation recognizing this month as fruit and veggie month. Fruit and vegetable consumption is essential in improving the health of the community, thus it's important for residents, local businesses and community-based organizations to join together to create places where fruit and vegetable consumption is convenient and socially supported. We are working to make the City of San José as healthy a community as possible. With that said it's great to recognize the Network for a Healthy California Bay Area region for their commitment to empowering San José residents to eat the recommended amounts of fruits and vegetables. They are working in partnership with the Eagle PIC SNI, Redevelopment Agency, District 2 council office, Santa Clara County Public Health Department, Mercado California and Christ the King Church to help educate San José residents on the benefits of fruit and vegetable consumption by creating a community event. Fruit and veggie fest, a free public health fair in my council district, is this Sunday from 11:00 a.m. to 3:00 p.m. in the Edenvale Shopping Center, and it is one

example of how community members have come together with neighborhood associations like our SNI in Edenvale and the Great Oaks plan -- the Edenvale Great Oaks implementation coalition, to collaborate with other organizations to find solutions to health issues such as obesity and type 2 diabetes. It is our hope that working together we can improve access to healthy foods and help reduce the incidence of chronic disease among our community members. So Mayor, at this time I would ask that you can present the commendation to Carlos Torrez from Network for a Healthy California, who will then say a few words.

>> Thank you, mayor and city council, for giving us this opportunity. On behalf of the Santa Clara County Public Health department network for healthy California and opportunity to collaborate with different agencies to bring this opportunity, it's been about six months for us to plan this healthful opportunity and I know working with SNI it was one of their safety concerns and also health. I would like to ask the City of San José for this proclamation. This proclamation is an important step in recognizing that good nutrition and physical activity are fundamentals to good health, and that without good health for all, the community is not able to achieve its true potential. Thank you very much. [applause]

>> Mayor Reed: Now I'd like to invite Councilmember Campos, our Parks and Recreation Director, Albert Balagso, and representatives of the Silicon Valley Taiwan Tree Project Society to join me at the podium. We're being joined by the Silicon Valley Taiwan Tree Project Society who have been working hard to raise money to help support the fragrance garden at Overfelt gardens. Overfelt gardens is a unique spot in the City of San José, a quiet blend of natural environmental settings within a park that celebrates the cultural diversity of our community. And the Silicon Valley Taiwan Tree Project Society has raised \$4700 to allow the city to replace the wooden border at the garden which has been in place for over 30 years. So we want to thank them for continuing to partner with us, to help support Overfelt Gardens, and I think we have a check here. It says \$5,000. It made money just while we were doing this script! So let's ... thank you very much. [applause]

>> Mayor Reed: Now I'd like to invite Councilmember Constant and Dan Fenton from Team San José to join me at the podium as we recognize this week of May 9th to 15th as National Tourism Week in the City of San José. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. Looks like we have several members of our Team San José team here with us today. Today we're going to proclaim this week as National Tourism Week in the City of San José. Travel and tourism is one of the largest industries in America. The travel and tourism industry supports \$740 billion in direct travel expenditures, and you know, that doesn't even include all the indirect expenditures that we see as a result of it. Based on data from the travel industry association foundation, travel and tourism in the United States generates \$110 billion in tax revenue for local, state and federal governments, creating about 7.5 million jobs in America. And we need that money. So keep the tourism coming. Other benefits of tourism and travel include reduction of taxes paid by residents, enhancement of local infrastructure, diversifying economic growth, creating jobs oops and supporting city and business services. The economic benefit of travel and tourism at a local level is also significant with over 6.7 million visitors visiting San José. This makes tourism a very important economic driver to our community. In fact we have a worldwide audience watching us on the web right now. We know people all over the world like to tune in to our council meetings. I'm talking about you guys, get out and travel to San José. We need your tourism dollars. We've got a lot of things to do this summer. With specific events directly related to the convention center and cultural facilities which are managed by Team San José, an average of 1.18 million visitors traveled to San José just last year, engaging in convention business, and supporting over \$117 million in visitor spending in our city. And over 229 million in gross hotel room revenues, which altogether support our community, our economy, and local business growth. So with that, mayor, I think you have the proclamation which is going to be given to Dan here.

>> Dan Fenton: Thank you, Councilmember Constant and Mayor Reed and the city council. I do want to quickly recognize the people that are behind me here, really make up two parts of Team San José, one certainly our governance. So let me introduce Marshall Jones from the Fairmont Hotel, Diane Dudak from the Extended Stay properties here in San José, Mark Casto with Casto Travel, and Kathy Kimball with the Institute of Contemporary Art in San José. Those are four leading members of our industry who are part of our governance. And of course I think everyone knows Megan, Stephanie, and Sara on the Team San José team. I want to thank you for the recognition and the fact that all the jobs that are created by tourism and all the activities, and even in a week like this where we have several thousand young future scientists and future engineers here on behalf of the Intel

Science Fair, it's just another great example of things happening in San José. So thank you very much for the recognition. [applause]

>> Mayor Reed: Our next item is the consent calendar. Are there any items on the consent calendar that councilmembers would like to pull for discussion? We have a motion to approve the consent calendar, any requests from the public? None. Motion is to approve. All in favor opposed, none opposed, that's approved. Item 3.1 report of the City Manager.

>> City Manager Figone: Mr. Mayor, I have no report today. Thank you.

>> Mayor Reed: That takes us to item 3.2, a statement of policy and questions for the fire chief recruitment process.

>> Mr. Mayor, members of council, Mark Danaj, director of human resources. I just have a few brief comments of introduction to this item. It is part of the city council process of providing the advice and consent of the appointment of a department head. The city charter as well as subsequent council action calls for two things to happen before that. First of all the council is to adopt a statement of policy for the department. And secondly a list of questions in which the -- or to which the prospective candidate would provide written responses prior to appointment. This particular item is anticipation of the fire chief search, the fire chief search is actively underway and is projected that a candidate will be brought to you in June.

>> Mayor Reed: Councilmember Liccardo has a question.

>> Councilmember Liccardo: Thanks, mayor and thank you Mark. I'm looking at attachment 2 the list of questions. And one question I'd like to see a prospective fire chief answer is knowing that no confidence motions have been passed by fire unions throughout the state, how is this candidate going to respond to similar motions passed within the bargaining unit in his department?

>> Okay, that question will be incorporated.

>> Mayor Reed: Any other comments, questions or anything? This is a report, and then we need to adopt this statement of policy so that it becomes part of the work going forward. Councilmember Liccardo.

>> Councilmember Chirco: I would move to adopt with the change as suggested by Councilmember Liccardo.

>> Mayor Reed: Motion is to adopt the statement as modified. All in favor, opposed, none opposed, so that's approved. Thank you very much. Item number 3, business tax suspension program.

>> City Manager Figone: We're here to respond to questions, Mr. Mayor, no presentation.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Just a quick question about paragraph 1 of the recommendation. Scott, given the fact that we've capped the number and capped the potential liability to the city, is there any risk if we were to extend the duration, since what this is really -- we're attempting to make this an incentive and I've concerned about it being simply a retroactive fee waiver which we're not all shooting for. And so I understand that the duration of time it takes to get these things ready means that often becomes irrelevant after the fact. What I was wondering if we were to extend this to September the 1st, knowing all that liability is capped, does that create problems for you guys?

>> Scott Johnson: Thank you, Mr. Mayor, members of council, Scott Johnson director of finance. I don't think it creates a problem for us. We did outline in the memo the application time line.

>> Councilmember Liccardo: Yeah.

>> Scott Johnson: And the process because --

>> Councilmember Liccardo: My understanding is the application is until September 30th, is that right?

>> Scott Johnson: Yes, from June 18th, allowing for the two readings of the ordinance. And then we'll be working with the downtown association and the other business districts throughout the city to do the advertising. We'll also have information on our Website.

>> Councilmember Liccardo: Okay, that's great. Given if fact that the application period only kicks in what, I think 12 days before the expiration of this period I'm really concerned about it being useful as an incentive. I would make a motion to approve with the amendment that the period in paragraph 1 be extended to September 1.

>> Second.

>> Mayor Reed: We have a motion to approve with a modification on the expiration date, September 1st. On the motion? Councilmember Herrera.

>> Councilmember Herrera: Thank you. I was -- I was wondering about -- I know that we've allocated a part time position to support handling the processing of this. At \$30,000. I'm wondering if we could -- if there's some way of holding off on actually doing that allocation until we know what the response is. I guess my concern is, I wouldn't want to see somebody hired and waiting to take care of some processing that might not be happening. And so not that we wouldn't need it if we have a sufficient number of applicants. But I would like to have that sort of be determined when we see the number of responses coming in, how can we -- is there some way to accommodate that?

>> Scott Johnson: Councilmember, we're recommending this you know as a temporary part time staff specialist, and we also identified that we have salary savings within the finance department so there will be no additional costs that we're anticipating. There's a lot of lead in, lead up time as far as the advertising, the marketing getting the forms online, working with the associations around the city. So I recommend we start working with the temporary staff specialist sooner rather than later. To the extent -- because this is part time, to the extent that the applications aren't as robust as we otherwise would anticipate if we don't get to that 1,000 level, then because it's part-time, it's basically the hours that we need to personally have them work on the program.

>> Councilmember Herrera: Okay, that sounds like you handled some of my concerns with that. I just want to support the motion. I think this is -- this is something that hopefully that businesses will take advantage of. And I think as is pointed out before in the original memo, that other areas have used such incentives and have -- it's resulted in new businesses being brought in and so it actually can increase revenue to the city in years following, so it is not a huge amount of money but it certainly could be helpful to some small businesses. And if they have that extra you know up until I think it's -- we've calculated it's \$636, if that goes back into purchasing things it could have a ripple effect that would be positive for our economy. Thank you for your work on it and I hope my colleagues will join me in voting to support this.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Mayor, I just wanted to register an opposition, the same vote that I took before on this I just want to be consistent, thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you mayor. You know when the package came before and included the proximate end of this, I was in favor of it and voted in favor when that came independently, this was the one area of concern only because I thought there may be more strategies including an amnesty which was discussed which could actually bring revenue in and still offer the same kind of incentives for businesses that are struggling, as opposed to \$150 to \$636 waiver of the fee. And so it looks like the range, the potential range, because we don't know exactly, the exact size of the businesses that would be actually applying, we know the ones that would qualify. But the range could be anywhere from \$150 to \$636 for a thousand -- and that's assuming again that a thousand businesses were to actually apply, I assume. In the recommendation, it indicates a transfer from the low

and moderate income housing fund of \$476,000, because of the decrease in the revenue from the loss of the business tax revenue. So that -- those funds, what would they otherwise be used for if anything?

>> Scott Johnson: Councilmember, the council directed that we identify the revenue source for the lost revenue for this program. This is the revenue that we've identified is related to the CRAF loan, that the general fund will be receiving for our administration of the CRAF loans processed throughout the five years. And the redevelopment agency administration will be funding for that, they will be paying for that fee. It will be a transfer to the General Fund. So otherwise it's General Fund revenue that goes for General Fund purposes.

>> Councilmember Kalra: So it's not even though it's transferred from the low and moderate income housing fund it's in actuality just a transfer of what would otherwise just be General Fund unrestricted funds?

>> Scott Johnson: That's correct. It's a transfer from the agency to the low and moderate housing fund to the General Fund.

>> Councilmember Kalra: However, if this -- if this tax favor, the business tax favor wasn't done those funds would remain in the low and moderate income housing fund?

>> Scott Johnson: They would be transferred to the General Fund.

>> Councilmember Kalra: Either way they would be transferred through the CRAF transfer into the General Fund?

>> Scott Johnson: Yes.

>> Councilmember Kalra: I mean the date, it makes sense I guess if it is going to be a business tax waiver is going to be imposed, that the date be extended to allow folks that took advantage of it, but it is still limited to the first thousand in any case?

>> Scott Johnson: Councilmember, I do want to clarify. Because we are putting a cap, and some people will mail their forms in and some will hand deliver them, the date we receive the first 1,000. We may get some after the fact that are postmarked on the same date that we'll recognize input through the program through the suspension.

>> Councilmember Kalra: Okay, I think that's only fair. I think that would be an unfair penalty. I do have my concerns, I think that the fact that those that would enter or that would renew a lease would be required to pay past-due obligations, that's my understanding.

>> Scott Johnson: Yes, it's a requirement.

>> Councilmember Kalra: Okay, well given that, and given the fact the other businesses that would be able to take advantage of what happened, new businesses that sign a new lease, which would imply that they are either a new business in San José or someone that is starting a new business from one location to another location in San José, I think I can live with it, because I wasn't -- I think I was not as clear the first time around the past due obligations have to be paid that are owed. I think at least then, if it's an incentive on them to get caught up on their past-due obligations at least we'll get some of the money that otherwise isn't coming into the city. Even though we don't -- it's impossible to know what that's going to be until they actually enroll in the program. I'm still very hesitant to be using General Fund money for this. I don't think this is the kind of incentive that, as was mentioned last meeting, I think it is more symbolic but I think if we can try our best to market to folks that have past due payments so at least we're getting some money in for -- that's past due that we may otherwise not see at all. I think that's one area where this could be a program that -- it won't pay for itself certainly but I can at least pay for most of the money that will be going as business incentive. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Just a point of clarification. In terms of the potential cost of this, that \$636,000 number that's calculated assuming we get exactly 1,000 businesses having exactly 35 employees each that are all going to apply, is that right?

>> Scott Johnson: That's correct, councilmember. It's on the high end. It's the maximum amount we are anticipating.

>> Councilmember Liccardo: If they have 36 employees they don't qualify.

>> Scott Johnson: That's correct.

>> Councilmember Liccardo: I think when we had this discussion before I think I recall hearing an average number of employees per business somewhere around 12 employees per business?

>> Scott Johnson: Yes.

>> Councilmember Liccardo: Okay, so if we assume that the average businesses are the same thousand that we're likely to get in terms of applications it's likely this number, this cost is going to be less than half as much as the \$400,000 that we've allocated, is that fair to assume?

>> Scott Johnson: It is. That's one of the reasons why our revenue estimate in our recognition of revenue was less than 400,000.

>> Councilmember Liccardo: That payment of past due obligation means it's reasonable that a significant amount of this \$400,000 will return to the General Fund after September.

>> Scott Johnson: Right.

>> Councilmember Liccardo: I just point out I think it would be helpful if we could reach out to our ethnic chamber of commerce of commerce, since we're targeting small business, those networks are incredibly important and I hope we'll do that.

>> Scott Johnson: We will do had a.

>> Mayor Reed: We have a motion on the floor to modify with the change in the date -- I just need to verify that that would extend the time period to September 1st of 2010.

>> Councilmember Liccardo: That was the motion.

>> Mayor Reed: That was the motion. All in favor opposed, one opposed Councilmember Campos so that is approved. Our next item is 6.1, award of contract for the 2010 proposition 1B street resurfacing project.

>> City Manager Figone: Here to answer questions, mayor.

>> Mayor Reed: We have a motion to approve. I had one question. How much of this is being funded by the federal recovery act funds? Which we have some of our own money in resurfacing and some federal money.

>> Mayor Reed, Jim Ortbal, assistant transportation director. Actually none of this is funding. This is state proposition B funds that are covering these projects. No federal funds are in these projects. We are in the middle of completing the first one, and you awarded the second one just last month, so we have a lot of federal and state money going into our program this year.

>> Mayor Reed: So we can thank the voters for approving this proposition 1B a couple of years ago.

>> Absolutely.

>> Mayor Reed: Okay, always make sure we thank the right people. So we thank the taxpayers for this funding no matter where it came from. We have a motion too approve, all in favor, opposed, none opposed that's approved. Next to take up some joint financing authority matters in a joint meeting, city and financing authority. Regarding issuance of bonds, loan of bond proceeds, authorization of ground lease and related documents for the fourth street apartments project. We have a motion to approve. All in favor? Opposed, none opposed, that's approved. That completes the joint financing authority agenda. Next item is the open forum. Robert Cortese, Joan Todd, Jim Piazso.

>> Hello, city council members, Mayor Reed, my name is Robert Cortese. I'm a resident of district 9 I'm also running as a candidate out there. I'm here today to speak with you about possibly repealing the fireworks ban that we've had for the last 30 years in San José. I think times have changed a lot. I think it would be good revenue for the city. There's ways we could bring that back and make it safe for our citizens. A lot of the laws in fireworks has changed, too. There used to be bottle rockets, those were legal. We used to have Roman candles. The little black snakes and wire sparklers, those are all illegal in California now. Other things have changed. We don't have as many shake shingle roofs as we used to. We don't have as much open space to catch fire that we used to. So some of the ideas I had, anyone purchasing fireworks in San José must also purchase a \$5 purchase license. So think of it like a fishing license. If you want to buy fireworks in San José you have to pay the \$5 fee to buy the fireworks. Fireworks can only be ignited in safe areas, as safe areas, there are permits issued by the San José fire department. And we would charge a fee for that, \$25 an acre. So I know a lot of streets close on fourth of July so we would actually charge for that which is currently a free service. And this would, can include but not limited to parks, closed off streets, private property. So I'm thinking places like the Berryessa flea market parking lot would be a great place to set off fireworks. Now, each of these areas must have safety captains. And these are people trained by the fire department as far as putting out fires and safe use, things like that. And well, looks like I'm out of time so thank you for your time, city council.

>> Mayor Reed: Joan Todd and then Jim Piazso.

>> Ladies and gentlemen, this stimulus package and the job fair put forward by green enterprises was evidently well rewarded by this group. However, in the ensuing 15 months, it has become increasingly apparent that you do not want this business to open. We get it. The really interesting question is why. In the wake of the Marin PG&E debacle, the PUC has, once again, put forward an evote, PUC AB law passed in 2002, 117, stating that existing utilities, no matter how large, must cooperate not obstruct with new companies, with new ideas, regardless of size, and with new processes. The PUC has recommended that these processes be documented for public education. And with that in mind, we are indeed making a documentary, one man's adventure in trying to establish a green energy company in San José. We're off. And you all of course have a part in it.

>> Mayor Reed: Jim Piazso.

>> Mayor Reed, councilmembers, I was grateful and hopeful when you signed Ed deputy City Manager to assist me in my cause of 14 months to open my small woman-owned energy business. But as in the past information provided was a huge disappointment as both money and required and time frame required is even longer than previous proposals given me, nine to 12 more weeks. Where is the help for small businesses that you constantly preach about but never follow up on? I am thoroughly disgusted with the stall tactics and postponements thrown at me and my attempt to open. My small business which in turn would provide revenue for the city, employment for our citizens and foster the green initiatives of San José. Technically my civil engineer basically said that I -- you guys could pass this in throw five days with a temporary occupancy permit and I just don't understand why we wouldn't do this. Thank you.

>> Mayor Reed: That concludes the open forum, that concludes our agenda for today. We're adjourned. If you didn't get enough today we'll be here tomorrow morning 9:00 talking about the budget again.