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>> Councilmember Nguyen: Good afternoon. I'd like to call the Rules and Open Government Committee to order for October 19th, 2011. Are there any changes in the agenda? No. Let's go over the city council agenda for October 25th. Any changes to 1? 2 or 3?

>> Councilmember Constant: Just real quick on page 1 it says evening session cancelled but then it's crossed out on my draft. Is it cancelled or isn't it cancelled? It is. Thanks.

>> Councilmember Nguyen: Okay. On 2.7, 2.8, I got a note drop for 2.7 and 2.8 refer to November 15th, is that right staff?

>> Correct.

>> Councilmember Nguyen: Page 4 or 5? 6 or 7? 8 or 9? I believe we are -- those are dropped, right? Or I mean, I'm sorry, they are being deferred to November 1st.

>> Councilmember Constant: Yes.

>> Councilmember Nguyen: Okay, because we don't have a night meeting on the 25th. Okay. And I have a few additions here. Invocation from district 9. Approval of council committee report, and 6.2, agreement for amPCO systems parking for the airport parking. Anything else? There's another sheet, sorry, and some travel requests, Councilmember Constant is going to D.C. and Mayor Reed's travel to Portland, Oregon.

>> Councilmember Constant: All right I would make that motion to approve with the adds.

>> Councilmember Oliverio: Second.

>> Councilmember Constant: Just confirm the closed session will still be at 9, right?

>> Yes.

>> Councilmember Nguyen: We have a motion and second to approve the agenda, all in favor, opposed, that's approved.

>> Councilmember Constant: Did we talk about closed session, starting earlier than that?

>> Dennis Hawkins: Not that I'm aware of, just 9:00.

>> Councilmember Nguyen: Mr. Wall did you want to speak on one of the items? For 7.1?

>> David Wall: (inaudible) 7.2 on the October 25th agenda. This project right here can -- is potentially orders of magnitude worse than the incubator program with reference to all the negative publicity that you could get. This is very, very sensitive business here. It can collapse -- it probably would require two full time auditors just to monitor it. And on 7.2 this should reply to any type of study program for any department. If the study goes over \$250,000, which I believe is the City Manager's contract authority all studies should stop before that and come to Rules for some kind of guidance and corrective action. Thank you.

>> Councilmember Nguyen: Thank you. Anybody want to change their mind? Then we shall move to City Council agenda for November 1st. Any changes to page 1? 2 or 3? 4 or 5? Six or 7? I received a memo from staff, staff here? Thought they were going to present something. We received a memo from staff from the Rancho Del Pueblo golf course and Istar matters and asking for these two items to be dropped from the general plan update.

>> Councilmember Oliverio: Madam Chair I have acknowledged that as well but I have a question for staff why don't we just drop all of them since we seem to be dropping the majority of them, but maybe they can answer that later in the Rules meeting.

>> Wait for planning staff.

>> Councilmember Oliverio: But also I think we have to discuss the timing. I think planning staff was going to present the in the afternoon for final and then public comment in the evening or something.

>> Councilmember Nguyen: That is correct. So why don't we talk about the timing while we wait for planning staff to get here. 4.1, I guess --

>> Councilmember Constant: Yeah I think the timing issue is already dealt with because we have the afternoon item as 4.1 and we have the evening item as 10.2 already noticed so I think that covers it is that correct?

>> Allows you to discuss the item on 4.1 in the afternoon and you'll take formal action on it in the evening.

>> Councilmember Oliverio: So we'll just take it as it goes the agenda.

>> Councilmember Nguyen: It is the last item on the afternoon agenda so it should be fine. So why don't we just put this aside until planning staff gets here and then we can go through it again.

>> So table approval of that until later in the meeting?

>> Councilmember Nguyen: Yes.

>> Dennis Hawkins: Madam Vice Mayor, I forgot to note, there was a memo from the mayor resting to November 1st meeting, asking for a set aside of some time for assembly member Alejo to give an legislative update and it would be appropriate to take action on the mayor's memo at that time as well.

>> Councilmember Nguyen: Okay. Laurel is here. Would you like to speak on your item?

>> Laurel Prevetti: Thank you, Vice Mayor and committee members. This afternoon we submitted a memo for your consideration to drop, to be renoticed, two items as part of the general plan update. One is regarding the Rancho Del Pueblo item, and the other is regarding the Istar item. And what we would like to do is bring these forward. Most likely in 2012, when we've had the opportunity to do some further analysis and we wanted to essentially alert the public that because additional analysis is needed, we would like to drop them to be renoticed, so the public has ample opportunity to participate in a future council discussion on these items. So for us, we thought it was premature to bring them to the council on November 1st and so we respectfully ask they be dropped to be renoticed.

>> Councilmember Nguyen: Thank you, Laurel. Councilmember Oliverio.

>> Councilmember Oliverio: Laurel, let you catch your breath. I know you ran over here.

>> Laurel Prevetti: Yes, I ran over here from another meeting.

>> Councilmember Oliverio: It seems like we're dropping a majority. The question is why not drop all the amendments?

>> Laurel Prevetti: There's basically two pages of items. There is the full 2040 effort and then there are land use items associated with it, for example the open hillside discussion for which our task force was split and they requested that the council essentially decide how strong our policy should be on hillsides. And then there are two other private property requests for land use changes for which I think those property owners would very much like consideration and a decision. So that way they have some certainty. With respect to Istar here we have a situation where the private property owner himself is reconsidering what their request is. And so they would like to essentially have the deferral to a later date.

>> Councilmember Oliverio: And so I understand the Istar owner is actually hunter storm?

>> Laurel Prevetti: Well, the applicant. The applicant.

>> Councilmember Oliverio: So they have an option to buy the land?

>> Laurel Prevetti: I don't know the business relationship.

>> Councilmember Oliverio: But it wouldn't be accurate to say the actual property owner is requesting the deferral.

>> Laurel Prevetti: That's correct, it's the applicant.

>> Councilmember Oliverio: It is the person who has option to buy the land would ask it be deferred?

>> Laurel Prevetti: That's correct.

>> Councilmember Oliverio: Thank you.

>> Councilmember Constant: I would make the motion to approve this agenda with the --

>> Councilmember Nguyen: Not yet. Can we talk about --

>> Councilmember Constant: I was going to make that part of the motion. With the two dropped items and the addition of the mayor's request with the request for the legislative update.

>> Councilmember Nguyen: Should we designate a time for that, perhaps the assembly member can go after the ceremonial items and get it out of the way.

>> Councilmember Constant: So what I would suggest that since this is two weeks away, that we add it and then we can have the Mayor's office check with the assembly member in do time next week.

>> Our office had arranged for them to go after the ceremonial items.

>> Councilmember Constant: Then that's when it will be.

>> Councilmember Nguyen: Okay, we have a motion and second to approve the agenda, all those in favor, opposed, hearing none, motion carries. I didn't see anything under the Redevelopment Agency, is that right Richard?

>> No, madam Vice Mayor.

>> Councilmember Constant: I'll make a motion to cancel the RDA meeting on October 25th unless there are any joint items which I don't believe I saw or any closed items.

>> Councilmember Nguyen: Okay, we have a motion and second to cancel I'm sorry the Redevelopment Agency agenda. All those in favor, opposed, hearing none motion carries. And we have nothing under upcoming study sessions. Legislative update. Betsy do you have anything this week? Nothing? Great. Okay meeting schedules. Approve the proposed city council-Water District joint study session on non, November 14, 1:30 to 5:00.

>> Councilmember Constant: I'll make a motion to approve that and a question for Dennis after the second.

>> Councilmember Oliverio: Second.

>> Councilmember Constant: If I'm already scheduled to be out of town do I need to do a memorandum on this or is it already covered by the previous absence memorandum?

>> Dennis Hawkins: I believe it's covered but I'll verify.

>> Councilmember Constant: Thank you.

>> Councilmember Nguyen: Motion and second. All those in favor, opposed, carries. Move down to public record. David Wall.

>> David Wall: First item will be item I, topic is advanced water treatment and toxicity. Will toxicity of AWT brine kill the prompt? I really believe the administration needs to have a backup plan. With reference to getting rid of this brine. I think it is completely unfeasible to meter it in to the final effluent or any part of the plan. Therefore either solid handling or other form of handling this brine is needed. Otherwise, this program is -- can't work. And all the federal money that's been taken, well, this is going to soak the taxpayers a little bit more. Another big question: Why isn't the AWT advanced water treatment project permitted as an industrial discharger, industrial waste discharger? This is pretty significant business. And with problems with toxicity ongoing at the plant, additional toxic elements going into it is going to push it over the limit. Item L is going to be talked about later today. On H-3, but I just wanted for to you see it. This is entitled victory gardens will help stimulate the economy. Locally grown food is needed and in vast quantities. Thank you.

>> Councilmember Nguyen: Thank you.

>> Councilmember Constant: Motion to note and file.

>> Councilmember Oliverio: Second.

>> Councilmember Nguyen: We have a motion to note and file. All those in favor, opposed, hearing none, motion carries. Under boards, commission and committees, approve the annual report for 2010-2011 work plan for the small business development commission.

>> Councilmember Constant: Motion to approve.

>> Councilmember Oliverio: Second.

>> Councilmember Nguyen: We have a motion to approve. All those in favor? Opposed, hearing none motion carries. And then we'll move down to H-2. Approve the adoption of a resolution supporting the Santa Clara County suicide prevention strategic plan. Councilmember Chu is here and he has a memo. Would you like to speak to your item?

>> Councilmember Chu: Thank you, Vice Mayor and members of the Rules Committee. I'm here to recommend that the Rules Committee to agendaize an item on the future council agenda to adopt a resolution supporting the Santa Clara County suicide prevention strategy plan. As a former member of the Santa Clara County mental health board, suicide prevention is a topic that I feel is very important to address in our community. The Santa Clara County suicide prevention plan was approved by the Board of Supervisors in August 2010 and the City Associations in September 2010. One of their strategies is to encourage Santa Clara County cities to approve a suicide prevention policy. Today Mountain View, Palo Alto have approved a policy. While the subject matter concerning suicide prevention many things like a taboo topic, it is something that cannot be ignored. According to the suicide plan, the City of San José suicide data indicate that total of 410 deaths by suicide between the years of 2000 to 2006. That is a rate of 6.26 per 100,000 residents. In addition, if I can ask your attention to look at the suicide-homicide comparison table, in one of the attachments, you can see we are losing more people from the suicide death homicide, hue side death is a matter that concerns members of all races gender age and other social characteristics. Adopting a resolution would convey our support for the work the Santa Clara County is conducting through their suicide prevention strategic plan. So at this time I respectfully request the Rules Committee and my fellow members to support the recommendation adopting a resolution that will convey the City of San José's support for the work Santa Clara County is conducting through their suicide prevention strategic plan. Thank you.

>> Councilmember Nguyen: Thank you, Councilmember Chu. We have members from the audience who want to speak on this item. But if the committee have any questions for Councilmember Chu this is a good time to ask. Okay, then we'll go to the public comment. John Mitchell.

>> Good afternoon. My name is John Mitchum. I'm the immediate past president of the national alliance on mental illness in Santa Clara County. And I want to urge you to adopt the resolution supporting the county suicide prevention plan. Unfortunately, I have too many NAMI friends, NAMI is the name of the organization I belong to, in short, I have too many NAMI friends and colleagues who have family members who have died by suicide. I have some understanding of the anguish and heartache this causes and of wonderful lives who have been put out too soon. Also people with severe mental illness live on average, 20 to 25 years less than the rest of us Americans. A substantial part of that 20 to 25 years is due to suicide. Please adopt this resolution. Thank you.

>> Councilmember Nguyen: Thank you. Michelle Lew.

>> Good afternoon, my name is Michelle Lew and I'm president and CEO of Asian Americans for Community Involvement, AACI. Mental health is the largest area of work that we cover, and we are also here today to encourage you to support the resolution. According to studies, 60 to 90% of suicide victims had a mental illness at the time of their death. And every day at AACI we see individuals and families who are uncertain what to do when they have a loved one who has thoughts of suicide. We see families who are ashamed about mental illness and afraid to speak out about it and we see families who don't know any of the local resources available to go to for help. The county's plan will help us to increase awareness about suicide and what to do to prevent it. It will decrease stigma about mental illness and ultimately it will reduce the number of deaths by suicide. I see this as a public safety issue, as a Public Health issue some and as an issue where I would love to see the City of San José take leadership in supporting the plans. Thank you.

>> Councilmember Nguyen: Thank you Michelle. Kathy forward.

>> Thank you. Hole. Kathy forward. I'm the current president of NAMI, I'm a family member and I'm here too to urge you to pass this resolution. Much of what's been said before me is true but the big thing about mental illness is the stigma. And there's not a family member alive that really doesn't think about this topic. In NAMI we talk openly about it in all of our classes. We teach families how to recognize early warning signs. And we know that suicide is a fact that you know that comes with mental illness. And we want to change that. And a lot of it is the stigma, the shame, the fear of seeking help and anything that anyone can do to improve that is you know, really needed so thank you very much.

>> Councilmember Nguyen: Victor Ojagin. Sorry if I mispronounced your last name.

>> Actually you did a really good job with my last name.

>> Councilmember Nguyen: Thank you.

>> Somebody who's used to having it not pronounced for 60-something years. Thank you for agendaizing and hearing this matter. I want to thank Councilmember Chu for bringing it forward. We deeply appreciate that. Just quickly, who I am. I serve on a whole variety of committees, frankly starting at the federal level, all the way down to locally. But I am the chair of the county suicide prevention oversight committee and I've been one of the speakers or proponents around having a policy, the resolution and a policy passed. The reason why that is, anybody who works in this area will understand, there is no foolproof prevention for suicide. The way to be effective is to bet everybody involved, frankly you have to change the level of awareness. As part of that I brought each of you a summary of the plan, including different awareness. That involves a toll-free number that we've put in place as part of our committee work. So I'll leave these with the clerk. I brought an extra one for Councilmember Chu, also. I'm going to update the data that he gave because I've gone through the most current death reports in Santa Clara County. Santa Clara County lost 75 people this last year. That's about half of, equivalent to your population, it's half of the deaths we've had by suicide since 2010. As Councilmember Chu mentioned that exceeds probably your homicide rate, in most cases when we talk about this at the national level and even at the state level it typically exceeds a number of the illnesses that are much higher profile. There's a

great need here to do something. That rate that he mentioned which is the -- one of the standards of measurements that's used is now at 8 per 100,000. It's slightly above or right next to what our general county rate is. It makes you the fifth highest city in terms of rate of death in Santa Clara County.

>> Councilmember Nguyen: Thank you, Victor your time is up.

>> So I will leave these there, thank you.

>> Councilmember Nguyen: Todd Hanson. Todd Hanson.

>> I was going to speak on the next item.

>> Councilmember Nguyen: H-2, I'm sorry, okay, it's for H-3 then. Okay. Thank you very much. Are there any questions or comments from the committee?

>> Councilmember Constant: I guess my question is trying to reconcile the different pieces of paper we have in front of us. So it's asking to us adopt a resolution supporting a plan. But on the next page there's a resolution 50 cities association that actually asks -- talks about adoption of the county plan. And then when we go to Liz Kniss's letter, it calls on us to -- where is it here -- is asking each council to adopt their own policy. So I'm not clear what we're being asked to do. Are we being asked to support them in their policy? Which is one thing. Support them in their strategic plan which I haven't seen. Or for us to create a policy and plan of our own, which we don't have?

>> Councilmember Chu: Thank you very much for the question. Sorry for all the confusion. I think the first step is we pass the resolution, direct the staff to work with the county, to come out with the policy. And so work with the county and other cities who come up with a policy. We don't have to reinvent the wheel but at this point I would just like to at least have a resolution to recognize the problem and direct the staff to come up with a policy.

>> Councilmember Constant: I personally don't have a problem with us having a resolution supporting the county in their efforts. But if it gets to the point where we're talking about how we're going to allocate our staff resources, in the queue of all the other things we have going, not to diminish the value of this because we know it's a serious issue. But I'm just not sure where we should be going with this. I'm not comfortable saying, let's do this and send staff to go work with the county on this, because we already have been working on several dozens of things. I'd like to hear from my colleagues on that.

>> Councilmember Oliverio: Councilmember Constant, I'm too warned that this is a very serious issue, mental illness, the high rates of suicide, the shame and grief it brings to families and everyone. I'm fine with adopting a resolution but I can't see where we have the prerogative of assigning staff to go work on this because we simply don't have the resources to do work from our own city charter.

>> Vice Mayor if I could the assumption I had when I looked at it is we would prepare a resolution, a city council resolution using this as a sample. There is a reference to us approving the county prevention plan, however, it wasn't attached to this so it doesn't make clear what the resolution requires. We could adopt a resolution for the city to support the county in their efforts for suicide prevention, a resolution of support as opposed to approving or taking any other action that would be in their plan. Since we don't have a plan in front of us, it's not clear what actions they would require.

>> Councilmember Nguyen: I'm a little uncomfortable. Since we don't have the plan we really don't have anything to base on. Obviously we all agree this is a serious issue and affects our community. Perhaps we can -- perhaps we can defer this for a week or so and just have staff --

>> Get a copy of the plan?

>> Councilmember Nguyen: Get a copy of the plan, come back next week, we can talk about perhaps adopting the resolution but I'm just not comfortable in supporting any kind of plan right now if I don't have the content of it.

>> Councilmember Oliverio: I would say that would be fine, a deferral bringing back exactly what you want the council to provide a resolution on in support of. And then I think that would be much clearer. I'm assuming that it's very, noble things and policy ideas but again, it's -- to have it specifically -- otherwise it's the city's association one that's right here. But if it's the county then I think we should have that as attached to the Rules docket.

>> Councilmember Constant: So Kansen do you have a problem with a couple of weeks on this? I just want to make sure we know what we're getting ourselves into, and what the plan contains. I'm sure it's fine but my biggest concern is that we end up allocating a lot of staff time to something that we don't have the bandwidth for and while it is our community, the county's probably the more important person to be putting resources into it.

>> Councilmember Chu: I definitely share your concern. I'm really not anticipating too much work on this. They pretty much put in whatever's necessary to come up with a plan. But the only city staff time that I can envision is probably to just more fitting to our city, and again, I don't anticipate much else of staff time at all.

>> Councilmember Constant: But a two-week he deferral is okay with you?

>> Councilmember Chu: Sure.

>> Councilmember Constant: I'll make a motion that we defer this for two weeks and when it comes back we actually have a copy of the county's plan and any specifics on what we're anticipating our efforts to be.

>> Councilmember Oliverio: Second.

>> Councilmember Nguyen: All right we have a motion and second to defer this for two weeks. All those in favor? Opposed, hearing none motion carries. Thank you, Councilmember Chu.

>> Councilmember Chu: I have another item so I'll stay here for a while.

>> Councilmember Nguyen: We'll move down to item H 3, adoption of the resolution supporting the healthy eating active living cities campaign. Councilmember Chu.

>> Councilmember Chu: I just want to point out the eating eating active, living active, isn't a duplicate of let's move campaign. Ending childhood obesity. The healthy eating active living campaign is looking at the larger picture, promoting policy options, concerning land use, healthy food and employee wellness that the city can adopt to improve nutrition and physical environment in our community. In addition this is something that is definitely in line with the envision San José 2040 general plan. Today, 91 California cities have joined the campaign by adopting a resolution, after will speak to many stakeholders in our community, and there is no question that everyone is supportive of the intent of the resolution. I don't think anyone is debating the fact that the health and wellness of our community is important to all of us. The draft resolution in front of you is pretty much a guideline. I want to emphasize that the draft resolution was written to provide cities a menu of policies in the area of land use, healthy food and employee wellness. Specific policy items will still need to be worked out and can be modified to fit the needs for our city. The intent of adopting this resolution is to support the campaign's effort to adopt policies to promote and develop safe and healthy cities. Instead of debating on the specific points right now I'd like to ask the staff to look into our concerns and address them before bringing this forward to the full council for approval. In addition I'm aware that there are sometimes that they have -- they have been addressing the general plan update, some items. However, items such as prioritizing capital improvement projects to increase opportunity for physical activities, in existing area and so on, and so forth, are worth the effort of staff time to further explore. It isn't clear what additional staff time that may result from -- by adopting this resolution but adopting the healthy eating active eating resolution does not really appear to increase you any unbearable cost. I understand there are costs to doing nothing, and not adopting the healthy eating, active living policy, increasing health insurance cost for the city and its employees and a less health community. So the city has received funding to pursue policies outlined in the healthyed aing active living resolution. We have received over 100,000 from the community putting prevention to work, CPPW for short county grant. Another \$50,000 from the health trust to incorporate residents input to develop four urban village plans that will be used as tools to implement the growth and the health strategy of envision San José 2040 general plan. In addition, part of the grant funding received will be used to work on policies, and there will be opportunities for additional funding in the future to work on

additional aspect of this resolution. So at this time, I respectfully request the Rules Committee to support the recommendation by adopting a resolution in support of healthy eating active living campaign. The City of San José is not only promoting employee wellness but also supporting an improved quality of life for our residents. Thank you.

>> Councilmember Nguyen: Thank you, Councilmember Chu.

>> Councilmember Constant: I'd like to make some introductory comments. Because I personally have a problem with this particular thing going forward. And I'll just be blunt bit. As the fattest guy on the council I guess I could talk about the healthy living stuff. This is one of those issues that feels good when you say we want to take an action like this. But what it does is, it has a lot of negative side effects. And it's easy to say that, you know, kids are fat so they can't have fast food but issues are much more complex than that. There are some issues in here that we would make significant changes to how we do business in the City of San José. Number 1, we would have to reprioritize our capital improvement projects which we already have a process for. We -- it would basically ask us to relook at our whole envision 2040 plan to make sure that every one of these bullets is dealt with. We'd be mapping fast food outlets and drafting an ordinance that places limits on fast food around schools and neighborhoods and this and that, which I don't think is a healthy thing for us to do. People should have a choice in what they do, and we can't just assume that that all of our residents are dumb and don't know what to eat when to eat and where to eat it. We have to do a lot of analysis in here. If you look at just the list that's on the page, I built environment. That is a lot of work. If you go onto the next page you'll see we're going to change our employment policies and give people additional breaks that they don't have now that has a cost to the city. It also in the footnote says we're supposed to be providing food and snacks and things like that, that has a cost to our city. If you go into the healthy food access it says now that every restaurant doing business in the City of San José is going to have to have calorie counts on their menus. What about all those wonderful mom and pop restaurants throughout our city that many of us like to go to that don't have the time, resources or the money to implement something like that. You can just go on and on, and there are the staff work that would be involved in this is significant. Now, obesity is a problem. But I'll tell you, as a fat person, I know the difference between eating a big MAC and eating a salad. I'm an adult and I can make that decision. I don't think it's really the City of San José's

position to be telling people if I should be eating at taco bell, McDonald's, I have some of our McDonald's folks here, McDonald's Burger King, chipotle, Chevy's, Chilis or in my own kitchen. And I really think if we have this concern, it's a serious concern, there are better ways to deal with it. Education, it's a great way for our nonprofit partners, several of them are here today to talk to us, an education campaign, teaching parents to be parents. You can be fat like me and have wonderfully healthy, skinny kids who eat well. Just because I make bad choices doesn't mean they will. Or just saying that because I'm fat I make bad food choices I think is a bad, broad mischaracterization. Because obesity is not simply about the foods you eat. It's a complicated issue with a lot of medical issues that contribute to it too. While this feel good we're going to do something making kids and people skinny and healthy I think the cost and the impact that it's going to have is going to be negative. So I don't support this.

>> Councilmember Nguyen: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, madam chair. I spent four years on the general plan 2040 and part of that is the conception of how to promote health and healthy eating. And that's something that the council is going to be adopting on November 1st. So we spent four years on that and it's important that we sort of actually implement what we've been working on for four years. Some of this may all have merit but it really falls the wrong place in line in adoption of the general plan. I'm a believer in adopting the general plan. Let that general plan ride for a couple of years before we make changes in adoption. Some of these are economic. The city would like to have more places for the people to garden but it's also a cost. We don't have the the ability to maintain existing services or create new ones. I think it's fine, it has merit but it doesn't have merit when it comes down to the timing of our general plan implementation and the cost to actually provide these types of services so I wouldn't be able to support this today.

>> Councilmember Nguyen: May I make just a suggestion? Since we're bringing several issues matters and ordinances for discussion I think sometime in February, that why actually defer this to staff, and have staff bring it back as part of the work plan. And at that point the council has an opportunity to vote on all the issues and all the items in front of us, and if this should make it on, you know, the top 10 priorities, top five priorities, that's a really

good time for us to actually you know discuss this issue. Because I do have similar concerns that have been articulated by my colleagues. I think this is a huge drastic change to what we've been doing so far. In regards to the general plan update and some of the other matters that are really important and critical to the City of San José. So that would be my suggestion.

>> Councilmember Constant: Well, I appreciate the intent of the suggestion but quite frankly, staff's got a lot of stuff to do between now and February and our list is long and distinguished. So I really agree with Pierluigi, we've done a lot of work in this area. And let's at least give that 2040 plan a chance to be approved. Which we get to see if it gets approved in a couple of weeks here we'll know. And two, to give it some time to see how it's implemented, to even consider changing it as early as February I think is short-sighted and I don't think we should do it. But I think we should hear from the public.

>> Councilmember Nguyen: Yeah, sure. Okay we have some speakers who want to speak on this item. Amalia Tamora,.

>> Good afternoon, councilmembers, my name is Amalia Tamoru. I'm the director of local government affairs for the California Restaurant Association, and on behalf of our members in the City of San José we respectfully oppose -- there is one specific provision in the resolution which was referenced by Councilmember Constant with respect to the mapping of fast food outlets and the drafting of an ordinance that would limit fast food outlets around schools and look into an analysis of the overconcentration of fast food outlets. We believe this would be an administrative nightmare in terms of putting staff time into that work because how do you even begin to define what a fast food outlet is? I think that would create a lot of problems and in terms of figuring out what qualifies as a fast food outlet and trying to figure out how to map that out. The bottom line is there is no correlation between proximity to fast food restaurants and obesity. There has been a number of studies that have taken a look of this particular issue and I believe the summary of studies have been forwarded to your office and we would be happy to redistribute those to you to take a look at. But as Councilmember Constant said this is a very complex issue. I think just to place the blame on fast food restaurants as if you are we are the only sole creators of this problem. Just to let you know we have been very proactive as an industry in terms of trying to adapt to providing

better nutrition and healthier menu items. As you go into a number of restaurants today you can have your option of salads, fresh fruits, if you choose to have a hamburger that's your prerogative but you also have a wide variety of options. And California law has already mandated menu labeling in restaurants that have 20 or more units. So if you go into any of these restaurants today you have that information in front of you before you order. Can you see the calorie count, the saturated fat, all that information is already provided to you. And CRA just to let you know that we did support that -- North Carolina thank you your time is up.

>> Thank you so much.

>> Councilmember Nguyen: James Duran.

>> Hello. I represent Hispanic chamber of commerce Silicon Valley am the chair for that organization. I'll read a letter that I sent to several of you today as well as Mayor Reed. Hispanic Chamber of Commerce of Silicon Valley is to express our concern regarding their request to approve a resolution in support of the healthy eating active living cities campaign. This resolution although well intended may have a chilling effect on small and Hispanic owned food service outlets. We therefore respectfully recommend that the Rules Committee oppose the resolution for the following reasons: One we question whether the democratic process has been observed. To our knowledge the resolution has not been vetted with appropriate business and trade association which members will undoubtedly be affected, yet you're contemplating a resolution that will negatively impact them. Where and when was outreach conducted, and was business given an opportunity to comment? Our members are already burdened with regulatory process. Two, we're extremely concerned that the resolution will require city staff to map existing fast food outlets. First and foremost we are concerned about the criteria that will be used to determine what constitutes unhealthy food outlets. The section is far too vague and subject to interpretation resulting in additional negative business impact so we suggest it be deleted. 3 the resolution supporting the initiative will require extensive follow up by staff placing undue and unfair burden on city staff at a time when staff resources are decreasing and they face further reductions given the City's budget challenges. The Hispanic chamber of commerce and its members are concerned with the challenges this resolution seeks to address. We do however believe this resolution as presented will result in undue economic burden to our

members and undue consequences to the City's economic strategy. We understand the concept but cannot support a resolution which will negatively impact our members. We urge you to vote no on this resolution. Additionally I'll comment that I am a board member with the San José Silicon Valley chair who also submitted a letter and as a board member I support this resolution or this statement which was given to you I believe earlier today or late last week. And finally on a very positive note I would like to thank all of you on the city council, and especially Jeff Ruster, who I think has disappeared already, but he helped us on our OED -- through our OED with our Vestivale event with the Hispanic chamber last week. It's the largest ethnic business related event in the South Bay, actually in the Bay Area, we had over 1,000 attendees last week. In the San José convention center on Wednesday. Come next year, thank you.

>> Councilmember Nguyen: Thank you James, I was there. It was really fun. Todd Hanson.

>> Thank you, councilmembers, I apologize for the mistake on my card.

>> Councilmember Nguyen: That's okay.

>> I'm Todd Hanson with the health trust. I'm here in support of Councilmember Chu's recommendation that the healthy eating active living campaign be endorsed and adopted. I don't think I need to talk to you at all about what the problem is. I mean we all know, we have all heard about what obesity is doing to the health of our community as well as the health care costs that businesses of San José are bearing. But what I can talk about is the solution. And the solution is not about -- and we're in the middle of a five year ten million dollar campaign to reduce obesity. If there's one thing we've learned, it's not about telling people they need to eat less and exercise more. That's not going to work. What we need to do is, we need to change the environment, and we need to make it easier and the convenient thing to do to make the healthy choice. And we have to make that available to all the residents, not just those who live in certain pockets of the community. So as Councilmember Oliverio said, this aligns perfectly with the general plan. It fits hand in glove with that and it also fits very closely with the community's putting prevention to work grant which the city has already received and working hard to promote several of the policies on this. So again I would encourage you to support this recommendation.

>> Councilmember Nguyen: Thank you. David Wall.

>> David Wall: My tonnage comes from a little bit higher facilities like regional Joe apples, Sugar's in Japantown, Guadalajara number 2. Got to get there either in the morning. One thing about these fast food restaurants, they really do make you lose weight, on or before you step into oak hill cemetery as a resident, you lose weight really quick. I want to read into the record, something the honorable director of the downtown business association spoke at his last meeting. Item number 4, "the association will join with partners to identify a site and develop an urban farm in the downtown. We will help grow healthy and organic food, green and vacant, underutilized site, engage residents and volunteers in farm operations. And distribute food to support local agencies that work to get homeless individuals off the downtown streets." That's from the DBA. We spoke about item L on the public record. With reference to growing healthier foods at schools. Anonymous, whereas the ordinance there is on as Councilmember Chu presented may have things that could be reworked, the idea of healthier foods should be supported by the council and you have one of the greatest assets in the administration off to your immediate left. With Mr. Duen,,s and the collaborative, the schools collaborative. He's done an outstanding job and the schools are talking about this and this is one area where we could put San José on the map because we used to be an agricultural powerhouse and we should go back to the valley of the heart's delight. With reference to the corporate friends in the back I'm not a communist but you should get rid of them because of styrofoam and other pollutants they put into the environment.

>> Councilmember Nguyen: Thank you, Mr. Wall.

>> Councilmember Constant: Does that mean you are putting up a ten ounce side, Mr. Wall? Sorry.

>> Councilmember Nguyen: Councilmember Constant.

>> Councilmember Constant: Thank you. So there are ways to promote the healthy side without having all the negative impacts to businesses. And you know I'm a father and a councilmember and I try not to confuse those

roles. And I don't think it's my job to be parenting all the families and children in the City of San José and telling them how to eat. That's what I do with my kids. And we continue, just in the time I've been here, on the council, we continue to have more and more of this nanny style of government which I'm just vehemently opposed to. But you can go to a fine French restaurant and get ten times more fat in a meal than you do at a McDonald's. So are we going to ban them next? Can you go into a bakery or a regular sit-down restaurant and get a meal with more fat than a fast food restaurant. Are we going to ban that? Or shall we just go with my favorite, the barbecue restaurants? Shall we just ban barbecued ribs and brisket and pulled pork because there's a lot of fat in those, too? So it's easy to put -- to pick one villain and say, fast food is bad. But if there's a problem that you want to address, I just suggest we address it in a way that has more meaning, where we don't make a certain segment of our society the bad guys and others the good guys. And we look for ways to promote things with incentive rather than trying to put policies in place that tell people what to do, how to do it and put undue burdens and restrictions on them. So with that, the councilman in me not the father in me will make a motion to deny this.

>> Councilmember Oliverio: Second. Councilmember Chu Vice Mayor can I add that this is not really trying to sing many out the fast food or give them a bad rap. We are not trying to dict to parents what to offer to the parents but just to be able to ask the restaurant to provide more choices for their customers. So I know that McDonald's in recent years has added a lot of fresh food and salad to their menus. And so they may be a fast food but they may not be considered an unhealthy food outlet. So this is not trying to dictate what, you know, anybody should eat but to encourage restaurants or any food services business to provide a better choice, more choices for their customers.

>> Councilmember Nguyen: Thank you, Councilmember Chu. Okay. Well, Councilmember Constant said his peace. I'm not ready to support the resolution. Because I think it has tremendous negative impact on what we're trying to do as I stated before. But I also want staff to have an opportunity to look at this and bring it back to us. So I'm not going to support the motion, but I think you guys have to vote to oppose this so we can just take a vote now. Motion to oppose the memo from Councilmember Chu dated October 5th, 2011. All those in favor? Opposed, one motion carries. Thank you.

>> Councilmember Chu: The thank you, vice mayor. I promise to bring it back to you one more time.

>> Councilmember Constant: Bring it back with incentives.

>> Councilmember Nguyen: Okay I think we are done with the agenda except for public comment. Mr. David Wall.

>> Councilmember Constant: Mr. Vanity fair. Come on up.

>> David Wall: I never get to speak for five minutes. The mayor refuses to allow me to speak on ceremonial items. On any item --

>> Councilmember Constant: How about this: We'll give you fives minutes but we're leaving in two.

>> David Wall: No no no, two items. First of all, the tents outside. I want them gone. These anarchists are just causing a lot of problems here at City Hall. They're entitled to stay here all night long walking up and down the city sidewalk. Sleeping and camping, no. In addition, where are they defecating? You talk to your honorable security staff about these matters. So they just flat out have to go, in my opinion. As a citizen, they are defiling this honorable house. There's no good purpose for it. Second I'd like to talk about the crime of opportunity. A crime will happen if there is an opportunity. You leave your doors open in a high crime neighborhood or your windows. You should be able to. Don't unlock your cars or whatever. Lately the San José Mercury News has been a little bit disrespectful to our police department with reference to police shootings. They don't realize that with the reduction of prisons and prison population, and a whole two generations of no deterrence for bad could be deduct, somebody sees one San José police officer, let's see the person is physically strong, big and decides wait a minute, this is an opportunity. I have to do any of this, I have a weapon, can I go one on one with a San José police officer and then they find out how -- what a catastrophic decision that is. But let us not forget, cutting police officers, normally San José police will show up with a violent criminal on their computers. That's why they're being responded to, come in, en masse, two or three of them. When you send in one police officer, that police officer

has the responsibility of the authority begin by you to make the decision on the spot and so the crime of opportunity is now taken on a San José cop because only one cop.

>> Councilmember Nguyen: Thank you, Mr. Wall, thank you as always for enlightening us. Meeting is adjourned.