The following transcript is provided for your convenience, but does not represent the official record of this meeting. The transcript is provided by the firm that provides closed captioning services to the City. Because this service is created in real-time as the meeting progresses, it may contain errors and gaps, but is nevertheless very helpful in determining the gist of what occurred during this meeting.

>> Councilmember Liccardo: And we'll do a little impromptu roll here. Councilmember Rocha, here. Councilmember Campos is absent, I understand Councilmember Herrera will be joining us shortly and I'm Councilmember Liccardo. We do not have a quorum, is that correct?

>> That's correct.

>> Councilmember Liccardo: Okay, my superior math skills got us to that point. We hope to have a quorum shortly when we need to start taking action but in the meantime we can review the work plan. There are no items under work plan no under consent so I guess we go straight to committee reports and shall we start with the key legislative items?

>> Okay, I thought you wanted to start with the storm water.

>> Councilmember Liccardo: I actually have no preference. I recognize we have a short agenda. Elaine is here, why don't we start with Elaine. Hi Elaine.

>> Good afternoon, Napp Fukuda, acting deputy director of watershed protection division, and we're here to report on our fiscal year 11-12 activities related to our storm water permit compliance activities. For background, just to remind you that the permit that the city is under is a regional permit, and we're permitted with 76 other co-permittees throughout the Bay Area. So the permit involves 16 provisions with many requirements of which all of us, the city as well as our other partner agencies, are required to implement and comply with. So the City's implementation strategy has to do with four things. One essentially is, and first and foremost is to manage our storm water to ensure that we ensure clean and healthy creeks. Secondly, we ensure that the city complies with the storm water permit requirements in a cost effective manner. We integrate new permit requirements into existing programs to minimize resources, as well as implement pilot projects to sort of establish and give us well positioned place as we negotiate a new permit which is coming up in 2015. Six key strategies that we use to implement these -- I'm sorry, six key implementation areas that we implement our four strategies are listed here to ensure city operations integrate water quality protection, prevent pollutant discharges through effective

enforcement, guide development to protect the watershed, develop and implement strategies to reduce target pollutants, motivate public stewardship of the watershed and collect high quality monitoring data. The city can have great influence over the quality of storm water runoff that flows into the storm water system. We have influence over our own activities but also for those of our businesses and public. And we implement that by education, outreach and enforcement. Because there's so many facets of our permit many departments collaborate to implement an effective program and many of those are listed here on the slide as well. The storm annual report has many activities that the city does as well as our partner agencies. However, we're just going to go over a few of them today, and Elaine Marshall, our program manager for stormwater program, is going to go over some of those.

>> Thanks, Napp. I'm Elaine Marshall. I am the storm water program manager for the city. I'm going to go over our highlights and accomplishments kind of based on the implementation areas that Napp just went over. So the first one being ensuring city operations integrate water quality protection. As Napp mentioned, city operations can impact storm water quality if it's not handled properly. And the storm water permit has very specific provisions that require the city to implement and minimize that potential impact. The supplies to many facets of city operations including park maintenance, street maintenance and street paving and even our storm sewer and sanitary management crews. This also applies to general operations at our corporation yards, our storm water pump stations, and even our municipal water system. So therefore we do place an emphasis on staff training. We want to ensure that all of our staff are aware of and incorporate and implement these best practices to prevent storm water pollution in their daily activities. We conduct a training to more than 164 municipal staff last year. And continue to do so. There's another specific requirement of the permit that focuses on planned discharges from our storm system -- from our municipal water system and it requires that during routine maintenance or any releases from the storm -- from the water system that we are deploying best practices and monitoring the quality of the water of those releases. It includes things like requiring that we dechlorinate the water as it is released from a hydrant for example. So our municipal water system staff have incorporated those measures into their routine maintenance of the system, and as you can guess, it has had -- has impacted and required additional resources. Last year alone, Muni water staff monitored over 850 of these discharges, collected kind of infield water quality data and recorded that. We have been looking kind of closely at that data over the three years that

this requirement has been in place and we worked with other co-permittees in the Santa Clara County area as well as the Santa Clara County storm water program. And we confirmed that with the best management practices in place most of these releases of water by the time they reach a water body are at a safe level. So what we are doing this year with our annual report is submitting the data, our study findings, along with the annual report and requesting that the water board reduce the monitoring and the data collection requirements. That they provide some relief to municipal water purveyors like our Muni water system, since we demonstrated over the last three years that these releases, if these best practices are in place, aren't going to be harmful or at risk to receiving water. So what we're asking is instead of having to monitor and collect data from the for example 850 discharges and releases that Muni water had last year that we only do 5% of that therefore reducing the workload on our staff. Key implementation area number 2 focuses on preventing pollutant discharges through effective enforcement. An important tool to protect potential impacts to storm water is a rural best enforcement program. The storm water permit contains three provisions that focus on inspecting commercial industrial facilities, construction sites as well as investigating and responding to reports of illicit connections or illegal dumping. Staff continue to work to ensure proper storm water pollution prevention through our city's storm water inspection program. During the past of year ESD inspected more than 4200 businesses. Public Works and ESD staff conducted more than 973 inspections, covering 100 construction sites. And our rate of resolution continues to be high, meaning that violations or issues that are found during those inspections are resolved fairly quickly, within the ten business days their required within the permit and that happens on a very high frequency. D.O.T. staff, Department of Transportation staff also screened 488 outfalls as a part of their storm system maintenance program and found no signs of illegal dumping or illicit connections during their screening. An important accomplishment last year was that ESD completed an upgrade to our environmental enforcement data management system. The upgraded system and the new technology that our inspectors are now using has improved the administration of our numerous inspection programs and our compliance tracking. The new system will provide data that will better enabling us to reevaluate our inspection program and make data driven decisions and changes with the goal of increasing the efficiency and effectiveness of our enforcement programs. Key implementation area number 3 focuses on guiding development to protect the watershed. The storm water permit contains provisions to ensure that new development and redevelopment include appropriate source control, site design and storm water treatment measures to control pollutant discharges and prevent increases in the volume

of runoff coming off of new development. These requirements are often referred to by the provision number, C-3, or also known kind of in the industry as low impact development. To guide the development to protect the watershed, city staff worked closely with the development industry customers to ensure that they were aware of these new low impact development requirements that came into effect December 1 of 2011. Low impact development requires that projects treat their storm water onsite with a fairly limited tool box and come mainly focused on landscape based measures such as infiltrating the storm water onsite, harvesting the storm water and reusing it, or utilizing bioretention as a mechanism for storm water treatment. This is more constrained than the other conventional measures and actually don't allow the conventional measures such as underground vaults or flow-through media filters to treat storm water at development projects. Staff also served in a leadership role in negotiating with other Bay Area co-permitees and the water board to establish a low impact development credit system which allows smart growth projects with more flexibility. So while most projects, all projects that are subject to the permit have to use LID measures smart growth measures because there are other environmental benefits because you are locating them by a transit oriented development and you are reducing vehicle travel miles, can have -- should be allowed more flexibility in how they treat storm water. So this proposal was also approved by the water board last year. It essentially allows high density development that are within -- that occur within certain local or local areas or meet certain density requirements to use the other conventional measures within their storm water treatment tool box. So they can use a vault, underground vaults or high flow-through planters to treat runoff because you know another challenge with smart growth projects is land area is more limited. So they aren't going to be focused or forced to use the landscape based measures to treat storm water. For staff from planning and Public Works and ESD worked to prepare the redevelopment community as well as our own city staff for these new requirements and we updated key city policies, developed new development application forms and worksheets, and also, contributed to a storm water handbook that provides a lot more detail on utilization of low-impact development measures as well as the special projects that are allowed to use other technologies. In fiscal year '11-12, 30 projects were subject to the permit requirements, and 24 of them used low-impact development to treat their storm water. Key implementation area number 4 focuses on reducing target pollutants. The storm water permit contains several provisions that target the monitoring and control of specific pollutants of concern from legacy contaminants such as mercury or PCBs or less visible contaminants like pesticides to very visible pollutants such as trash. And San José continues to be a leader in

addressing these targeted pollutants. Through their internal chemical advisory board park staff reevaluated the list of pesticides that are used at city parks and reduce they'd list by 40%. ESD and park staff continue to work on piloting new maintenance strategies such as using sheet mulching which is resulting in decreasing the City's application of pesticides. And with funding from the California Department of Pesticide regulations, the city completed construction of two sustainable landscaping demonstration gardens. These gardens are at the part of the Guadalupe river park and gardens, and they will be used as a showcase and a training grounds to encourage residents to adopt less toxic and sustainable landscaping means at home. We are looking forward to opening the gardens officially, which will be scheduled for September. So that would be a great event. During the fiscal year 11-12 the city also made great strides in addressing trash impacts on creeks. The last April, this past April the environmental preferable procurement policy was updated to official prohibit city-funded purchases of polystyrene foam food service ware, and in January, the city successfully rolled out the nation's most comprehensive single-use bag ban. We also continue to invest in infrastructure to capture trash in the storm drain system to prevent it from getting to the creeks. We are now treating 360 acres of land area with large trash capture devices and small trash capture screens and we have more going into the ground as we speak. We are working with Public Works and this summer installing seven additional large hydro-net dynamic separators to capture trash. So this is my last slide and we're going to cover two implementation areas on this slide. Motivating the public, stewardship of the watershed, and collecting high-quality monitoring data. The permit requires that the city develop and implement programs that foster responsible behavior change and promote greater knowledge and respect for local creeks and waterways. Staff continue to connect with the community, with -- to continue to connect the community with these local assets through interactive activities, community presentations and community events. A highly visible tool that the city has is our storm drain inlet markings. This is a visible reminder that nothing but storm water -- nothing but rainwater should go down the storm drain and encourages people to report any illegal dumping in the storm drains to our hot lines. Department of Transportation staff installed 6400 no-dumping inlet markers last year. This was the second year that D.O.T. staff did the installations. Prior Tao to that we had a private contractor doing that and we found that actually in taking this work in-house we have cost savings of about $120,000. So it was more cost-effective to have our D.O.T. staff do this work on overtime than it was to have a private contractor do it. And we also found better quality in terms of the installation of these markers. Through our grant-funded clean creeks healthy communities project more than 400 community volunteers removed 60 cubic yards of trash

from our project area along coyote creek. We are going into the second year of this grant project, and the central part of it is our partnership with the downtown streets team. They worked to provide housing and other support services to the homeless community within our targeted area. There also with their crew of 25 homeless individuals on their team, they collected more than 1700 cubic yards of trash last year. And they hired 15 homeless individuals. Citizen monitoring is also a great way to get volunteers, neighborhood groups out into our creeks. And last year we have trained community volunteers to actually monitor water quality in our creeks. We established about 34 monitoring stations and have kind of an active group of volunteers, somewhere between ten and 20, that are collecting data on water quality from their stations, and reporting it back to us on a regular basis. We also, city staff also collaborated with the Santa Clara Valley Water District and the county wide storm water program to conduct a comprehensive monitoring program of eight stations along Guadalupe river last fall. This monitoring occurred from approximately September through December. And we were able to capture last year's first rain event so we know kind of the -- what the water quality was during that rain event, before and after. We also piloted Algotoxin monitoring within Alviso slough. So finally city staff continued to act in a leadership role with Bay Area storm water and wastewater agencies to develop a comprehensive behavior change campaign that is designed to protect and prevent pollutants from getting into San Francisco Bay. This past year, the campaign focused open message and brand development and was successfully awarded grant funding for initial campaign rollout which will occur over the next two years throughout the Bay Area. That concludes our 11-12 highlights. We are here to answer any questions and we recommend that the committee accept our report and forward the report to the full council with the committee's recommendation that the council authorize its certification and submittal. Thank you.

>> Councilmember Liccardo: Thank you, Elaine, thank you Napp. Okay let's start with questions or comments. Okay. Councilmember Herrera.

>> Councilmember Herrera: Thank you for the report. In one of the slides you were talking about reducing to 5%, or sampling of the discharges of potable water.

>> Right.

>> Councilmember Herrera: Reducing by 5%. What kind of savings would that bring, do you think, or -- you're reducing it to just picking 5%. You weren't reducing it by 5%. You were going to get a sample.

>> Right, exactly, so part of the ongoing maintenance of the system includes kind of routine hydrant flushing to the tune of almost 800 a year. So we are working with Muni water staff. Right now we noticed that they did have longer -- it took them longer to conduct their monitoring in addition to all the other activities they're doing during the hydrant maintenance. We don't know yet exactly what the 5%, reducing it to 5% will save, we will be looking at that going forward.

>> Councilmember Herrera: But it's basically staff time, and we're short on staff.

>> Exactly. It's staff time, and what they're doing in the field they have water monitoring kits now on the back of every one of their trucks so it is requiring --

>> Councilmember Herrera: And you're saying if you're not seeing a huge difference, the 5% probably makes sense?

>> Yes.

>> Councilmember Herrera: And you can just -- do you need any approval from us to do that or -- will you bring that back with a recommendation?

>> I believe approval will be part of the recommendation.

>> Councilmember Herrera: Part of the recommendation, so great. Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you. Let's see here, had a few questions. In terms of maybe the City Auditor's report, and how that's related to this, is there any connection at all? I understand the City Auditor -- and I haven't had a chance to look at it, I think it's going to the other committee, PSFSS, does it look at some of this stuff?

>> Yes, it primarily looks at our inspection programs, and yes, it's mentioned in here, on one of the slides, on how many inspections we did on construction site as well as our industries. And it's addressed in there about looking at perhaps program efficiency and effectiveness. We're in the process of doing that all the time. Our business inspection plan is actually built to do that. Elaine mentioned our data management system which evaluates the data on each individual inspection we do. It looks at the risk of each industry and how many violations we find and essentially -- I'm not an I.T. person, but it spits out a number, says this is how many you should do a certain year. Yes, we do that, the auditor acknowledges that we are in the process of implementing new efficiencies, reducing inspections, refocusing in certain areas. So yes. Exactly, to answer your question.

>> Councilmember Rocha: Outcome based approach, can you -- what's your understanding of what that means as far as some of the auditor's points, what does that mean in terms of the monitoring?

>> Being more efficient and more focused, and really looking at the high-risk areas is my understanding speaking with Sharon on that. Meaning are we putting our resources in the right area. And that's what we've been doing. That's how we look at it, we look at it as risk based as far as the industries we look at and try to be efficient on that. I think you may have read that it talked about out-of-business, businesses that are out of business, why are we inspecting them? Part of that is, we don't know that they are out of business until we see them. So yes, certainly we are doing -- we are implementing some new methodologies on trying to identify them sooner.

>> Councilmember Rocha: Okay, thank you. On another item, Santa Clara Valley Water District and their role in this as partners, can you explain a little bit what their relationship is with this or is there none whatsoever? Because I didn't see much mentioned or maybe not at all to look back when I read this.

>> We didn't mention them, call them out specifically. But as Napp mentioned, the permit covers the entire Bay Area region and has 75 co-permitees. So the Santa Clara Valley Water District is one of those. So the permit covers the activities of cities as well as flood control agencies. So the Water District for their operations must also implement best practices. They are subject to some of these specific pollutant targets and they participate collaboratively with us on the water quality monitoring. So they are also a permittee covered under this.

>> Councilmember Rocha: So they're doing their own?

>> Yes. And then we look for opportunities to partner and share resources.

>> Councilmember Rocha: Okay. Last year's discussion on the annual report, we talked about the percentage point that would be attributed to different mitigation efforts and what those percentage points would ultimately look like.

>> Are you referring to the trash, the short term trash plan?

>> Councilmember Rocha: Uh-huh.

>> Yes. So that, the plan is still being negotiated with the water board. In February we were here, at committee, with our recommended plan as well as the regional methodologies for those mitigation points. And we are still right now -- we had just received feedback from the water board staffer I believe in late June, early July and are continuing to work with them to address some of their concerns. So they did have some concerns about some of the credits, and the points being too high, and wanting more data and validation of the trash reduction efforts. We're continuing to have conversations with them on that. That system hasn't been officially accepted at this point.

>> Councilmember Rocha: So when would you expect that we would see some of those issues worked out and come before this committee or the council?

>> We're meeting with the lawyers, actually there's a meeting on Wednesday with members from key cities around the Bay Area, with the water board's executive director, and staff, where we hope to work out that time line.

>> Councilmember Rocha: Okay. I'll jump to another item so you know that I'm not following the same line of thought and you're confused. Because you know this stuff a lot better than I do. The storm and sewer master plans, how do those fall into this or are they part of that packet so to speak?

>> Certainly Public Works is lead on development of the storm and the sanitary sewer master plan and we are working with them to ensure that their planning and the march plan incorporate its water quality protections going forward. But I think Public Works would speak more directly to that.

>> Councilmember Rocha: Do they need to be referenced or cited or do they really stand alone?

>> They are a very large consideration as we look to rebuilding and rehabilitating this system. For example, the infrastructure investments for trash capture will be you know, are not just a permit requirement but do impact the system.

>> Councilmember Rocha: So those are the screening of the greats?

>> Yes.

>> Councilmember Rocha: That is my next question so perfect segue. In terms of where we are, in terms of planning and funding and all of that.

>> We have seven of the large hydrodynamic separators being constructed this summer. So that, part of the funding for those units came from the -- an ARRA grant that was made to ABAG via the San Francisco Estuary

partnership, and the constructing funding was paid for by the city. So we are on track to have those seven units come online by November 1st of this year. Which will bring our total to 9 large devices. We had two installed last summer that we're now monitoring and learning -- monitoring and maintaining.

>> Councilmember Rocha: As far as our permit do we reference that in the document?

>> Yes we do. There's a requirement for a minimum amount of land area to be treated with those devices. So the permit requires 895 acres and we're at about 40% of that right now. And we'll exceed that by the time these additional seven units are in.

>> Councilmember Rocha: Great. Generally the reason for my questions is so I better understand how we -- all these different documents complement each other or don't. So I have a couple notes and then I'm done. The HCP, is that any relationship whatsoever, is there going to be any kind of connect often this, and what we're doing in that? I might be a question for planning.

>> Yes.

>> Laurel Prevetti: Thank you. Laurel Prevetti, the assistant director for Planning, Building, and Code Enforcement. The HCP really addresses habitat issues, and of course if we've got good habitat, then that also helps us ensure better water quality. The habitat conservation plan is a more of an indirect outcome as it relates to the water quality element that Elaine and Napp have described for you.

>> Councilmember Rocha: And that came in mind when I was looking at the DAG development to protect the watershed. And under that I was thinking, I wonder if there was any kind of role there. Okay, thank you. And you talked a little bit about Muni water, that was already my other question so thank you. Thank you very much. Great report.

>> Councilmember Liccardo: Thanks. I had a question about the discharges. I understand we had over 800 planned discharges from the potable water system. I'm trying to understand the purpose of all that. So basically, we're taking water out of the drinking water system and putting it into the creeks, and that's to reduce chlorine and pH levels of the storm water?

>> No, there actually -- the requirement to monitor is kind of a requirement because that operation happens. So as part of the routine maintenance of the system our staff checks to see that the hydrants are functioning properly, that they're not broken --

>> Councilmember Liccardo: I'm sorry whatever systems --

>> As routine maintenance of our water system, so they check hydrant maintenance. It's part of checking the hydrants to make sure they're functioning and that they're operational, that they're available, there's good water pressure in them in case they're needed for emergency response. And so staff goes through on I think a three year cycle to check every fire hydrant. Part of that includes opening the fire hydrant so that water comes out.

>> Councilmember Herrera: Hydrostatic testing.

>> Right, and so --

>> Councilmember Liccardo: If the water comes out that's good.

>> It's good. It's definitely good.

>> Councilmember Liccardo: I can figure that out.

>> But as the water comes out the water has higher chlorine level because it's treated drinking water. And so the storm water permit requires that that water is dechlorinated as it is released out of this hydrant. So as it flows

down the street and into a storm drain and into a creek, by the time it gets to the creek there should be no or little chlorine left and the pH should not impact the creeks or be a risk to the water quality in the creeks.

>> Councilmember Liccardo: So you have to do something to the water that's being released.

>> Yes.

>> Councilmember Liccardo: Okay, got it, that was very helpful. I noticed, there are 488 outfalls of the creek were inspected, no sign of illegal dumping of pollutants. Did you find that surprising? I mean, I find that surprising we don't catch any. Should that tell us something about that, are we looking at the right things, or what do you conclude from that?

>> I think we have, you know different ways of looking for illegal dumping so the outfalls is kind of at the end of the line.I by one of our emphasis from our inspection programs and enforcement programs is kind of visual kind of dumps into the storm drains at the site. The last year, when we did this, there were a similar number of screening incidents and three incidents found. So I think by the time they get to the outfall it's pretty hard to detect unless it's a connection that's not correct. So if a sanitary and a storm line get -- are connected, accidentally cross connected, there will be a lot more visual evidence at the outfall of sanitary waste coming out or et cetera. So kind of the incidental incidents, probably by the time it gets to the outfall, and by the time our staff get through their inspection program, it's hard to see.

>> Councilmember Liccardo: Are we required to do those inspections that we are thinking are not likely to reveal anything?

>> To also gather data on maintenance that the outfall needs to be maintained. It was already integrated into their existing maintenance operation so it wasn't additional work.

>> Councilmember Liccardo: So you're doing other things while you're taking that trip.

>> Right.

>> Councilmember Liccardo: Okay, great. I guess this builds on or follows on Don's question, with regard to the audit. I know that there has been criticism in the past about increasing in staffing Environmental Services. And my understanding is with the NPDES permit, we have new requirements that we didn't have before that are requiring us to staff up, is that right?

>> That's correct. I mean, not that page numbers are anything, but simply put, our initial permit, our prior permit was 27 or 29 pages or thereabouts. Now we're up to 200 and something, 16 provisions higher level of requirements on. There's new things in there, higher level of requirements on inspections and how fast to respond. So yeah, our belief going in and through when the new permit was being developed and issued we believe we had to build up to there to meet our compliance obligations and have an effective program. Certainly as we move through we continually value whether or not we're focused in the right areas. And we acknowledge we need to look at perhaps opportunities to be more effective, and that's what we're doing.

>> Councilmember Liccardo: I can recognize the need to continue to learn. Finally, in the report, in the written report it mentioned testing that happened on the Guadalupe river over the last part of 2011. And I'm just curious did we learn anything surprising from whatever we found in the Guadalupe? Is it getting better?

>> I'm going to have James Downing, he's our supervising environmental services specialist, who was the key lead for all the cities on that project speak to that one.

>> So it sounds like you're already very aware of the repeated challenges we've had in Guadalupe river. They began in 2008, when we had a fish kill that we didn't expect. Of course we never expect one, but the subsequent two years also saw fish kills. And those happened to correspond with years of extremely low flow in the Guadalupe river. And some unseasonably early rains. And the combination of the two has really put some stress on the wildlife that live in the river. This last year we did not see a fish kill. We had a base load on the Guadalupe

river that was about twice what it was in the three previous years, and we think that was a large piece of what prevented that from happening. But the Guadalupe is also a very complex watershed that's going through a lot of changes right now. Especially in the lower watershed where we're opening up the salt ponds to the flow of saltwater and greatly changing the salinity regime in the bottom parts of the river which is where we've seen most frequently the fish kills. So we have some follow-up on it during this plan for this year and we're going to learn some more. I don't know if we're going to have all of the definitive answers even after that but we'll know an all of lot more about what conditions exist when we do not see fish kills and hopefully we can maintain those conditions.

>> Councilmember Liccardo: Great, well thank you very much. Well, thank you. We have questions from members of the public and I'd like to take those now and I owe David Wall an apology. Not only did he have a comment to make on this one but also on the review of work plan. David come up, and let's hear your concerns about the annual storm water report, and then when we -- I guess before we move to the next item, we'll take on the review -- we'll go back to the review of the work plan. Is that right? Okay.

>> What's your pleasure, sir?

>> Councilmember Liccardo: So please proceed on the annual storm water report, and then we'll come back to the review of work plan.

>> First of all, good afternoon, your honors and assorted members of the gallery here. The audit finding number 4 page 75 to 100 spells out a little different picture than the testimony we've heard today. However, there is cause to celebrate for this report. For example, on page 5, where the it sites, "116 individual connector pipe screens are also in operation." We should celebrate that fact. Because it could have been 112. When you consider, there's over 30,000 storm drain inlets, and also, since October, 2009, the municipal regional storm drain permit has been in effect. So we ask ourselves, what Lew Wolff would say, performance is relatively simple to measure and performance is what counts. It's up to you as the decision makers to see that perhaps over $1 million or close to $1 million of staff time here in this room today has performed up to your expectations. If I was an elected official in

this city I'd change the city charter to eliminate the office of City Manager so we would get better performance. That's just personal opinion. With reference to the dechlorination aspects of the hydrants I'm suspect of this. Because chlorine hitting the city streets and in the collection system, whatever's in drinking water is going to burn off before it gets to the storm drain unless you have open hydrants throughout the city flushing the system. So without credible laboratory data you should focus on your storm water inlets and get that problem clarified. If there's ever a fire anywhere the fire department is not going to waste time to dechlorinate. Why? Because as soon as it hits the streets, rats, raccoons and whatever live in the collection system so that's not an issue. With the Guadalupe river I think that dissolved oxygen study might be helpful. Thank you.

>> Councilmember Liccardo: Thank you, Mr. Wall. Roland LeBrun.

>> Good afternoon, thank you for the opportunity. I'm back with my favorite topic which is the Santa Teresa spring, which as you know was the source of the very first-ever bottled water company in the city of San José back in the '50s. And thanks to Mr. Liccardo we had a visit from Mr. O'Connell last year who verified that the spring is actually discharging in the storm waters system, not in the sewer, which is what we thought. But the concern is still there, that we are basically dumping according to our calculations three acre feet of water into the storm water system every year. We have the Coyote Alamitos canal right there. We don't understand why we can't reroute the waters of the canal. It will only find its way back into the water table, where it eventually find its way back to Almaden Lake. And the county refused to do anything about this. If my neighbors overwater, and their water goes down the drain, they will get a code violation. This area has been incorporated since 2007. It is county property, and I believe the city has jurisdiction, and potentially we should be able to do something about this. Thank you.

>> Councilmember Liccardo: Thank you, Mr. LeBrun. We'll raise that with staff after the meeting. Okay. At this time, unless there are other questions or comments we'll entertain a motion.

>> Councilmember Herrera: Motion to approve the recommendation.

>> Councilmember Rocha: I'll second.

>> Councilmember Liccardo: All in favor.

>> Councilmember Herrera: To accept the report and the recommendation.

>> And forward to city council.

>> Councilmember Liccardo: All in favor? Okay that passes unanimously. Then we will move on. Actually we'll move back. Thank you, Napp, and thank you, Elaine. We'll go all the way back. To the review of work plan. Mr. Wall. Since there are no items on the review of work plan, I can't imagine these will be long comments.

>> No, they will be very short. I would respectfully submit that due to the article in the San José Mercury News concerning the water pollution control plant staffing which gives some form of excuse-making, and also, to how the sewer service and use charge has been relied upon since 1975. So we're talking, what, 37 years on an economic model that is obviously out of date. I would submit that you should include these items, like current problems, what's going on with water pollution control every single month because of this item that's on your agenda for tomorrow. And also, to initiate some form of reformulation of the rates. Because 37 years is at least a lifetime, and it's way overdue, they need to be corrected. Thank you.

>> Councilmember Liccardo: Thank you, Mr. Wall. Okay, we'll now move forward to the key legislative items. Betsy, welcome, and thank you for your patience.

>> Betsy Shotwell: Thank you, Mr. Chair, members of the committees, Betsy Shotwell, Director of Intergovernmental Relations. I have before you our regular update to this committee on key legislation of interest to the Transportation and Environment committee. You'll note that probably about 75% of the bills are in the appropriations committee. They have until Friday to get out. If they don't get out they're pretty much dead for this

year because this is the second year of the two-year session. Then the legislation, if it does move forward, will have until the end of August, August 31st to pass and go to the governor's desk. And then the governor has a month to take action whether to veto or sign into law. And if I could just reference, just a few of the bills, in the memo. Obviously, want to take note of the passage and the signing into law of AB 57 authored by Jim Beall which will give the City of San José and Oakland a permanent seat on the Metropolitan Transportation Commission. It was a team effort, a lot of folks involved, the mayor, councilmembers, Department of Transportation here with assistance and our lobbyist in Sacramento Roxann Miller and Silicon Valley leadership group great effort been a long uphill road on this issue going back a number of decades so I was quite pleased to see that take place. So -- I want to also turn to page 7 at the very bottom, in AB 2382, by assembly member Rich Gordon, the innovative delivery team demonstration program legislation sponsored by VTA is still alive in the appropriations committee and as I speak they're hearing a number of these bills. So as I've done in the past, on the outcome of these bills, the City's taken position on I'll put them in the City Manager's Friday report in order to be timely. So with that I'd be happy to answer any questions. There's nucleus bills here that you can see have been brought forward to the Rules Committee by the Department of Transportation and the environmental services department with city positions. And the status of those bills. And again, as I learn of the outcome of them I'll insert them into the City Manager's report on Friday in the next few weeks.

>> Councilmember Liccardo: Great, thank you, Betsy. Questions? Comments?

>> Councilmember Herrera: Do we need to defer --

>> Councilmember Liccardo: I just want to say thank you Betsy for your work on AB 57 and thanks to Jeff and a lot of the folks on the mayor's team, you're right it was a team effort a lot of folks were involved. I wanted to give a shout out to folks on the MTC board, namely, Scott Weiner oops to enable us to step forward because I think we were stuck in the mud a few months ago and it was helpful to have other folks pushing with us. Anyway thank you.

>> Councilmember Herrera: Also really happy about AB 57. It's very, very important for us to have that seat and appreciate Councilmember Liccardo's efforts in that regard too. I was curious about the new federal transportation authorization you talk about that at the front part of this.

>> Betsy Shotwell: Right.

>> Councilmember Herrera: As well as niece other legislative things. I just had a question.

>> Betsy Shotwell: If you have any question, staff is here to answer your question.

>> Councilmember Herrera: How do you -- so what do you foretell with your crystal ball how that will impact some of our transportation projects? I understand pretty much things aren't probably going to happen until after the election I guess but just any -- just a brief any response.

>> Betsy Shotwell: I would tend to concur but director of transportation Hans Larsen I'm sure has some thoughts.

>> Hans Larsen: Mr. Chair, members of the committee, I'm Hans Larsen director of transportation. Councilmember Herrera, thanks for that question. I think the way I would characterize this bill is essentially a two-year extension to what the past legislation has been. So it is -- it renews the federal transportation bill for a two year increment at the same level of funding it's been at the past. Our sense is the level of funding at the federal level for transportation is woefully underfunded. We're concerned that this really doesn't move us ahead in terms of any of our key initiatives at the forefront of that is trying to get more resources to manage our transportation infrastructure and pavement. We don't see this as helping us in any significant way to some of the challenges that we have. On the positive side, what it does is, it takes a lot of federal programs and stream lines them into fewer buckets of funding, and so that's a good thing, so there's not as much administration and chasing all these different buckets of money. So there's more flexibility that's provided with the current level of funding. And that flexibility's really going to be played out at the MPO level. So MTC will have little more discretion

on how they use the moneys, and it will be policies that MTC and as money gets translated down to the VTA we'll make more local decisions on how we use those funds. And I think the advocacy has been you only want to invest in sustainable transportation, transit, bikeways, streetscapes to promote walking, and MTC has taken a strong position of supporting rehabilitating our infrastructure. So I think those are kind of in a nutshell. I think we -- many of us were you know, hoping to get some additional money. I think even on the money just my last point on this is that there is a decline in the level of federal transportation moneys available. So as we know gas tax is actually a decline source. And in order for the federal government to maintain its level of transportation program funding, it is tapping sources beyond the traditional gas tax and is actually getting correction from the federal General Fund, as well as the leaking underground storage tank fund, in order to maintain the current level that they've had. So I think that sort of it points out or really sort of lack of political commitment to try to you know generate appropriate levels of transportation investment at the national level.

>> Councilmember Herrera: Thank you. So the bright spot I'm hearing is at least we have a guaranteed member on the MTC board so whatever piddly amount of money we get it will at least have some ability to influence that. Thank you.

>> Councilmember Liccardo: We'll get our share of the smaller pie. Thanks Hans.

>> Motion to accept the report.

>> Councilmember Herrera: Second.

>> Councilmember Liccardo: Okay, before we take a vote on that, David Wall.

>> There are four bills that I consider not worthy of being enforced. AB 485, local planning transit village development districts. For these urban villages to work they have to cater to people of means. And that means that you can't keep siphoning off for low income, very low income, no income type housing representatives. And that's the only way that utopia is going to work is people of means pulling together. So this is just another RDA

type scam. AB 2231, Fuentes, sidewalk repairs. It is my position sidewalks are probably one of the most anti-environmental devices that cities have. When you consider the acreages that they represent with reference to water hitting them and not being able to percolate into the groundwater, urban villages won't have much of a water supply. SB 1464, Lowenthal, vehicles bicycle passing distance, first of all I would like to thank you Councilmember Liccardo to your outstanding contribution to bicycling and bicycle safety. This is rather hard to do I mean because it just needs more review in my opinion. Because I always try to, you know, not hit a bicycle obviously but sometimes the bicyclists drift. And I give them as much room as I can.

>> Councilmember Liccardo: I'll remember that and I won't drift.

>> The other bill, Senate Bill 1572, Pagli, is a global warming solutions act of 2006 investment fund. This is another on the surface good idea. But it lacks a lot of anticorruption measures and accountability issues. So I'd review that, thank you very much.

>> Councilmember Liccardo: Thank you very much. Betsy, I'm sorry, one last question. On the Perez bill, the Infrastructure financing districts, I know I've been eagerly hoping that this would get some traction, the 55% requirement on votes for these financing districts.

>> Betsy Shotwell: Right.

>> Councilmember Liccardo: Is there any hope of that actually getting out and getting on the floor?

>> Betsy Shotwell: I have mixed opinions on that. I think six months ago I would have said no way. But it still has legs, it's in appropriations. It's gone further than I ever thought it would. So I think the jury's still out.

>> Councilmember Liccardo: Okay, there are downtowns throughout the state that could benefit so thank you very much. Okay so there's a motion on the floor. All in favor, opposed, none opposed, passes unanimously. We'll move on to item 3, the cap and trade program. Welcome. Our Multi-departmental effort.

>> Hans Larsen: Absolutely. Again Mr. Chair members of the committee we're pleased to provide with you a report on the state's cap and trade program. And our goals here in this presentation, we want to raise the committee's awareness and provide information about the program, the time lines, and the potential significance of this to the City of San José. We are seeking your initial feedback on the program on how this may apply to the city. And then, in terms of the City's process, the legislative positions or priorities that we would take, they would ultimately run through the Rules Committee and we may be in front of the Rules Committee with a report on August 22nd. But because this topic significantly affects the areas of transportation and environment, we wanted to bring this to you here today to, one, provide background education and then to seek your feedback in a process that is actually moving fairly quickly. So this is a multi-department effort. The Department of Transportation, environmental services and housing, our three departments are kind of perhaps most focused on this because of the opportunities that we see. But we're also supported by Planning, Building, and Code Enforcement, and Laurel Prevetti is here. Office of economic development, the attorney's office and of course Betsy with the City Manager's office. And so I will start here with a little bit of background. So this program initiated as part of the effort, when the legislature and the governor approved the global warming solutions act in 2006. Two years after that there was a scoping plan put together that was focused on how we could meet the goals of the greenhouse gas reduction targets. And those, as a reminder, are for the state to return to 1990 emission levels by the year 2020. So eight years from now. And then, in additionally, to reduce 1990 levels by 80% by the year 2050. So we have fairly aggressive near term goals in 2020 and then a longer term goal in 2050. And the scoping plan was intended to put together a regulatory framework and market mechanisms to help achieve that. And one of the elements of the market mechanisms is the cap and trade program. Okay. So what -- how the cap and trade program works is that it establishes a greenhouse gas emissions cap for stationary large polluters which are defined as producing more than 25 metric tons per year. And so by capping these large polluters, you essentially create a market for pollution credits or pollution allowances. And so there's -- if you exceed the cap then you need to purchase pollution credits. And that creates a revenue source in which that can then -- the state can use to offset greenhouse gas emissions by other mechanisms. And so the cap in trade program first was discussed four years ago. Is now being implemented. There's going to be a trial auction for the emission credits in August, later this month. And then there will be an official auction done sequentially in November, February and May. So for the

program, they're going to roll this out in two phases. Refineries and factories are subject to the program immediately. And natural gas and other fuel sectors will begin in 2015. One of the things that is astonishing with this, is the projections of revenue that would come from this program. So initially, it's projected in the order of up to $3 billion available in 2012. And as more industries become part of the program after 2015, there could be up to 14 billion annually from this program. One thing to note is that the revenues are considered mitigation fees. And so they must meet the legal nexus test that there's a relationship between how the fees are spent and the efforts to reduce greenhouse gas emissions. Right now we're in an environment where the program is going forward but it hasn't been decided exactly how the revenues are going to be implemented. So that's the policy making that's going on now, in which we'd like to have the city to be an active player in. So looking at some of the initial feedback, the governor has put out his goals of using the revenues to maximize economic and environmental benefits, enhance air quality and benefit disadvantaged communities. There's a couple. There's actually several pieces of legislation but the two that have had the most significant focus are outlined in our staff report. But they're the Perez built and the Pavley bill. And briefly what the Perez bill deals with essentially the structure would provide California air resources board as managing a program. And they would put together, through a public process, three investment plans, with the first one being 2012 to 2014 and every three years after that there would be an investment strategy. It kind of looks at it incrementally, what do we do the next three years, and then later, and you can learn through that process as it goes along. The Pavli bill is a bit more targeted to towards how are we going to use the moneys immediately that are generated in 2012 to 14, and it has specific use of the funds by certain percentage formulas. And I think one of the things that's particularly emphasized with this bill is putting a lot of the resources towards energy efficiency, towards public educational facilities. About 44% would go towards those. Other stakeholders are weighing in on this. MTC has a policy position out that, one of the key features is a recognition that transportation produces about 40% of the greenhouse gas emissions in the state. And they're advocating that 40% of the funds be dedicated towards transportation sources, and that the MPOs, the metropolitan planning organizations like MTC, be charged with distribution of those revenues within their regions. Spur has been active in looking at this, particularly -- they have a program that's looking at ways that you could finance the California high speed rail system and they've identified a comprehensive funding strategy for high speed rail that identifies $13 billion coming from the cap and trade program. There are many affordable housing advocates organizations that are weighing in on this. I think there's two things. One is affordable

housing. There is a linkage between reducing vehicle miles traveled, by having affordable housing within your communities you reduce trips. Folks who live in affordable housing units tend to walk, bike and take transit more than others. There's also a dynamic that, with the elimination or reduction of affordable housing programs due to redevelopment, this is being viewed as a potential off-setting source of money to continue affordable housing in California. The organization transform is advocating both transportation program as well as moneys for affordable housing. We're getting more and more information on this as it goes. We did see prior to writing our report, Silicon Valley leadership group has taken an active interest in this. They have a very good position and opportunity piece that they've come out with recently. And I think one of the things that they highlight is, let's use the moneys for maximum benefit. And so they have an orientation towards the most effective use of the funds. So for the city, this collage here kind of illustrates some of the opportunity areas that we have, ranging from energy, from jobs, the environment, affordable housing, and transportation. And one of the things that we think is a real opportunity here for the city is that we already have in place a very strong policy that are very much aligned with the goals of reducing greenhouse gas emissions. And so these are elements of the Green Vision we have, envision 2040, our economic development strategy which focuses on San José and Silicon Valley being a leader in clean tech industries and then our housing investment plan with the connection to affordable housing. Some of the specific areas under these policy directions are low emission transportation, so alternatively transportation, walking, biking, transit, alternative fuels, electric vehicles, generating clean tech jobs, affordable housing, green building energy efficiency, including our LED street light program, renewable energy and urban tree planting. These are some of the areas we're already focused on and we think could be financed through the cap and trade program. We understand this is a broad, wide ranging topic so we did find some information that was put together on really what are the most effective investments that are out there now. This is a summary of information from one research piece that was put together by next 10 which is an academic organization, nonprofit, nonpartisan, that studies the linkages of invocation with the economy, environment, and quality of life. And they recently came out with an assessment of the opportunities of cap and trade program and identified these as areas that have a high effectiveness. And they pointed out that energy efficiency with low income residential and small businesses is a big opportunity area, as well as other residential retrofits in terms of building, lighting and appliances. A medium effectiveness is clean vehicles high speed rail and smart growth. Smart growth being land use actions that mix uses and reduces vehicle miles traveled, including affordable housing. And then couple surprising things

in the low category. In terms of energy efficiency, they identified industrial and commercial and even public buildings. And part of what they found is that there already have been investments in these sectors, that large companies recognize that being efficient and reducing energy is good for business. So some of these sectors have made the investments, but things like low income or small business haven't been able to afford those one-time investments, even though they do show long term gain. There is a lot of energy that goes into moving water around the state for water supply and goods movements. But compared to other areas those weren't as identified as, as high of a priority. But again these are very broad generalizations, and so there may be an individual project, either in goods movement or water supply or any of these that's a good opportunity. But as a general categorization we thought we'd provide this to the committee to provide some guidance on what the sweet spots might be.

>> Councilmember Liccardo: Hans, can I interrupt for just s moment? Is that just affecting this or reducing greenhouse gas emissions? Is that the standard?

>> Hans Larsen: That's correct. This is specifically focused on how the state might use the cap and trade revenues in an area that meets the nexus requirements that is targeted to greenhouse gas emissions. So we have just some final thoughts here. Is we believe that this is a substantial new resource. There is near-term activity in the area and so for the city to weigh in on this would be important in a timely manner. And we think because of our past policies that we've taken that there is very strong alignment between this program and other city policy goals. So some of the key questions we might float out there for you, in terms of where this is at, the questions are you know, what's the process going to be, who's going to make the decisions on how the moneys get allocated, is it a state level, is it delegated to other entities? What will be funded and what is the criteria? Will it solely be on effectiveness or are there other strategic priorities we might want to pursue? Do we look at near term investments or should moneys be settle aside for long term investments recognizing that you need to start doing things now, in order to meet the long term goals. We have a lot of things within the city, that fall into this category. Are there some specific strategic priorities that we have, that we may want to float? And then lastly, there are a lot of other entities working on this issue, and who are some of the key alliances and partnerships that we may want to pursue as we go forward. Again, we just want to remind you that we are looking to take

something to the Rules Committee on August 22nd, is our target goal. And so the feedback that we hear from the committee here today will roll into a report that we provide to the Rules Committee in a week and a half. That concludes our presentation, invite Leslye or Kerrie if they want to add any other specific color commentary, or we can address that as part of the questions and discussion.

>> Leslye Corsiglia: Thank you, Leslye Corsiglia, director of housing. Just one quick thing to mention. When Hans talked about the total amount that may come from this, if it is $14 billion, what we university used to get annually from redevelopment was about $5 billion annually. So this is a considerable amount of money and could help us in replacing some of those revenues.

>> Councilmember Liccardo: Leslye, when you say 5 billion, is that just 20% money statewide or is that --

>> Leslye Corsiglia: No that's total redevelopment, about $1 billion housing.

>> Councilmember Liccardo: Kerrie, do you want to jump in? Great, thank you all. Let's go to questions and comments.

>> Councilmember Herrera: At least it's good news talking about money that might be coming in here. That's a refreshing change though.

>> Hans Larsen: We can't use it for pavement though.

>> Councilmember Herrera: Just refreshing about the opportunities. In terms of input from us. On your first point about what process the state will use, what input do we -- how will our input be directed? Sounds like there's some state legislation, there is some other discussion. Can you kind of outline how we would move forward on weighing in on the process?

>> Hans Larsen: Yeah, I think that there -- the bills or the advocacy really look at two things. I think there -- is this managed at the state level through the California air resources board? And does the state tightly control this? Or do they allow moneys to be released to other organizations. So MTC is advocating for the organizations that have some specialty in these funds, you know, they would like some of them, some of the revenues brought down for more local control. You could see energy efficiency programs, things maybe going to the PUC or other entities that are out there. I think one of the things that is advocated is that we not create sort of new systems or administrations for managing this. But that we try to be efficient with the funds and utilize the existing funding distribution infrastructure that we already have to manage these dollars. I think a key thing is, you know, is it realistic that we -- the state will delegate control of this? Or you know are they going to manage it tightly and how we might want to position ourselves.

>> Councilmember Herrera: I think -- yeah I wanted to kind of understand if we have any ability to -- sounds like the state would want to control that I guess, tightly and I certainly would not want to see another entity set up to manage it. I think we've seen that with another big project statewide and don't think we need that to happen with this one. are there any thoughts from staff right now in terms of strategic projects that you would like to -- that would you think would rise to the top of this in terms of what would be funded?

>> Hans Larsen: Yes, this is group policy-making here. I think there what -- I think the approach that staff has taken has really to create an awareness of what the opportunity areas are. It still is kind of very early in the development and formation of this. So I think we're looking to take sort of more of a watch-view and see how this plays out. And then look you know strategically for opportunities to ensure that you know our goals are being met. I would say, and Leslye might want to comment on this, is the area of affordable housing is one that is -- there's a lot of advocacy for that. You know, it's a -- it's -- step back. I think kind of one of the things we're looking at is with the 2020 targets, is that are they going to look for things that produce immediate benefits or do we set aside, money for more longer term benefits I would say like high speed rail or transportation or affordable housing, maybe have -- are more in the lock range evident. Whereas short term benefits may be you know low income residential affordable housing energy efficiency type improvements. Those are just me speak be. As I think politically the initial focus is going to be towards you know let's get some immediate benefit from the

investment and at least the early investment strategies might be more focused towards immediate benefits. And as the program goes on there may be more opportunities to look at the more longer range strategies. I know Leslye has --

>> Leslye Corsiglia: No I think that that's true. I think there's a lot we can do with existing apartment projects, for example, to make them more energy efficient. And we've got models of that that we've done in the city but just don't have the money. As well as if we have those resources we could start working on the affordable pieces of the urban villages which is one part that we are concerned about, how that -- the feasibility of affordability in those urban villages, this would provide us with some money to start making that more of a feasible alternative.

>> Councilmember Herrera: I think it's interesting in the report that you received from next 10, high on the list is energy efficiency in homes and low income residential. So I think it does point the way to some of the immediate benefits.

>> Kerrie Romanow: I would add that from our perspective we want to ensure that we get at least our proportional fair share. Of course we would like more of it and we would like to have some control over that and we would like to do things that are meaningful to our business community as well as our residential community and things that create jobs sooner, and then as Hans talked about thing that get people out of their cars in a longer term that also has local effects that benefit downtown and the region as we grow. So lots of facets to it. I think we're struggling with kind of how do we get a seat at that table so we can ensure that the model makes sense for San José. So something -- recall how ARRA money was distributed, we got a big chunk of money, and then we could ask for money for other projects. There's lots of models for how money has been distributed. We just would like to know we're getting money and then come up with projects, rather than have a competition for larger projects.

>> Councilmember Herrera: That's what I was talking about, if we can silt around and talk about all the projects we want, how do we make sure we get our fair share and are you asking that in terms of our feedback right now? I'm asking you that too, how do we get a seat at that table and what's the likelihood that we will?

>> Kerrie Romanow: I think that's part of what we need to strategize on is we're going to need to put some resources on it. We think the bucket of money makes sense to do that and we also need to make sure that our business community is as positively impacted as possible. Because clearly, they're going to be playing in this arena as well.

>> Councilmember Herrera: And they should be one of the partners we are talking about. We haven't mentioned, well leadership group certainly on the tech side, but I think we ought to have some small business organizations involved with us too in working with us.

>> Leslye Corsiglia: I think it's accurate to say that a lot of folks haven't been paying attention to this, and it is now becoming something that people are realizing is going to be reality. And so it really is -- that is why we are focusing on it now, trying to figure out how we begin to have those conversations. But other people aren't necessarily as familiar with what's happening.

>> Councilmember Liccardo: Councilmember Rocha.

>> Councilmember Rocha: Thank you. Start with the process question. You mentioned it was going to go to rules August 20. Is that just as part of the council agenda or did somebody why to have this item heard separately and what would be their purview around this discussion?

>> Hans Larsen: Yes, so what Rules Committee would be doing is two things. One is, the legislation that's active on this topic, so we take the staff recommendations in terms of positions on that, would go through rules. The other thing that goes through the rules process is establishing legislative priorities and strategies. And so we believe this is a key program that we want to focus attention on, in the coming year. And so we'll be developing priorities and strategies related to this program, and so that process also runs through the Rules Committee.

>> Councilmember Rocha: Okay. So I had put some little work into some direction in a memo but honestly not this kind of conversation for me, it will be helpful to get a sense of where we're going. Staff report is very good but trying to understand a little bit how this is going to play out especially as it relates to what we could potentially get out of this in what form. So I kind of waited. So hearing it's going to go to rules committee on the 22nd when do you expect it will go to council following that?

>> Hans Larsen: I don't know, Betsy, if you could assist us on the process question.

>> Betsy Shotwell: Thank you. One of the thoughts behind going to Rules Committee was, you might say, a guiding principles documents, legislative priorities, is that we would have the document go through the Rules Committee, the full council and seven your direction. As the legislation is make out the remainder of the month, as I mentioned previously, we have that direction and those priorities. So if our lobbyist if she has to work quickly with the review of the city attorney's office the City Manager and the mayor, we can move forward and report back to the council. So it gives us that opportunity if, and I underline if legislation indeed moves forward in this cycle. We certainly though would be prepared going into 2013, as well, and you would see this in -- folded into the 2013 ladies and gentlemen legislative priorities that I bring to the council in December.

>> Councilmember Rocha: So after August 22nd, you're looking at maybe September? Maybe I missed your answer.

>> Betsy Shotwell: Well it would give us -- to go to council I would think in a one-week turn around as we usually do with legislative items, so we can be timely, particularly with August 31st being the deadline or the governor even reviewing measures if anything does reach the governor. But prior to that we would have direction and input from the full council at the meeting the following week.

>> Councilmember Rocha: That was going to be my next question in terms of deadlines. Any other deadlines out there that we need to keep in mind as we move forward on this?

>> Betsy Shotwell: I think the one week turnaround and then the deadline of the legislature may or may not act on these bills that you've seen before you by August 31st. They may also be amended considerably. It's not over yet but this can give us some direction.

>> Councilmember Rocha: In terms of other options in front of us, there's two pieces of legislation as I read that. Had we considered looking at our Bay Area delegation and some alternative legislation, maybe, I don't mean competing but just alternative?

>> Betsy Shotwell: I think this meeting today and going forward is the step in the direction of working collaboratively with the region, the delegation. We certainly needed the input from the council prior to that sort of discussion. If there are outside groups doing it I'm not familiar. Maybe others know of other groups that are involved, maybe spur and others might be working in that regard. But we felt we had to and we must go forward, following council direction.

>> Councilmember Rocha: I guess -- gotcha. So looking what's in front of me the question I have for staff though, do we think this legislation, the two pieces, one or either of them, should we hang our hat on them or should we encourage someone from our delegation, to introduce other legislation? Is that the kind of feedback you're looking from us?

>> Betsy Shotwell: That is the kind of feedback and again because it is still so much in play and again it is in play with so many other issues I don't need you to be concerned about but you are aware of, issues in play with the November ballot and forms and here and there, it's all in the mechanism. So we didn't feel comfortable going forward with recommendation on those two particular pieces of legislation as Hans has indicated because is it enough and does it really encompass some of the things that you just raised in the past few minutes such as our fair share issues and proportionality.

>> Councilmember Rocha: And on that I'm sorry go on.

>> Hans Larsen: Let me just add in the discussion, correct me if I'm wrong Betsy, but the bill that has the most strength is the Perez bill, AB 1532. What that does is essentially just sets up a process that between now and 2020, there's going to be three investment strategies. And the first one being 2013-14. And so if that's the process, that bill passes, it would set in place that process. And it requires the California air resources board to have a public process where they seek input in terms of what's going to be in the first investment strategy. So probably even with the fastest or most likely, or highest potential, you know it sets in place a process in which over the next six months, there would be six months to a year, there would be input opportunities into what's in that first investment strategy. If this doesn't pass, you know, then I think this topic will get picked up as part of you know, next year's legislative session, and we'll see how it plays out. So I think that there is -- there is an urgency since this is happening quickly. But I don't think we're -- we're --

>> Councilmember Rocha: Doesn't seem like we're prepared to --

>> Hans Larsen: We're not, you know, there isn't a real strong opportunity or structure that's been established yet for us to participate in. The reason we're raising this is because we want to be ahead of the process and work to build the alliances and partnerships and have an agenda to advocate for, so that when there's more definition on the process, you know, we can be effective as a participant.

>> Councilmember Rocha: And to that point about proportion, or getting our fair share, I mean that's one that we struggle with quite often whether it's in the Bay Area, whether it's statewide in temps Southern California versus Northern California. Looking at the air resources board I don't know enough about them in terms of their makeup. Do you have a sense of that board's makeup, I guess, and their historical work as far as being fair? Any opinions on that?

>> Kerrie Romanow: Ken Yeager is our local rep on the Air Board, and he's been fairly successful in having our voice heard. As Leslye pointed out, these, with these kinds of dollars it's sort of hard to say which way it's going to go. I think that we need to be a lot more aggressive than we have in the past, and be thinking about what we want. And then if we have to respond to how it pans out, then we do that. But getting in front of, hey, here is an

idea of how it should go so the biggest city in the Bay Area with the least public transportation sort of gets in front of that. So it's a little bit tricky, we would like to be aggressive though, so we're looking for a little bit of feedback to let us run with that.

>> Councilmember Rocha: Okay.

>> Kerrie Romanow: I would also mention that the plant has the opportunity to sell some credits down the line. That would be how the city would participate in a hopefully revenue generating stage but we would be years away from that.

>> Councilmember Rocha: Okay. As far as the criteria for where these dollars can be spent, do we feel we need -- will there be further clarification in one of these pieces of legislation or is that the legal side of things when they programs start rolling out?

>> Betsy Shotwell: I wish I could say. I don't know how this is going to play out because we're really in uncharted territory. Maybe others have some thoughts.

>> Hans Larsen: Well I think just to mention, I mean the two pieces of legislation that are out there take a different approach. One sets out a public process and then through that process, the project selection would be generated. The other piece of legislation, Pavli was very specific and said moneys are going to be allocated on a percentage for these different categories. And so those are two different philosophies in terms of how you deal with it, the near term investments.

>> Councilmember Rocha: Okay. Well --

>> Hans Larsen: I think again the two it's probably the City's interests would be better served by the more open public process, than the Pavli bill the way that it's current structured.

>> Councilmember Rocha: I'd have to concur absolutely. I'd like to defer to Councilmember Liccardo since he's got the opportunity to ask some questions. At the end of the day if we are going to put forth a motion, I'd like that motion to include some direction to staff to provide some framework about some recommendations to come out of either the Rules Committee or when the full council meets based upon obviously any new information that we're going to get. So maybe a supplemental memo if you wouldn't mind might be helpful. I'll stop there until Councilmember Liccardo's done.

>> Councilmember Liccardo: Councilmember Herrera, do you have any --

>> Councilmember Herrera: I heartily agree with my colleague and I don't know if it's appropriate for us to make a recommendation out of this committee to support the Perez bill as it goes to Rules, I guess that wouldn't -- it wouldn't necessarily input into Rules but if that's appropriate I think that should be included in the motion too since it clearly would be a better outcome for us. But it sounds like we will be dependent on some sort of legislation to come forward. Clearly this program's going to lap so it's been given its blessing, it's just how does it happen, what's the process and how the money gets allocated. So I appreciate when you first started this, I sort of got on board with you after halfway through it understanding where you guys are really trying to go. So I appreciate you bringing this around giving us a jump start on this. It could be hurry up and wait to a certain extent, but it sounds like it's going to come, and I think it's really to our advantage to be working on this with all diligence.

>> Betsy Shotwell: If I might, perhaps the motion could include the -- some of the facets within that bill, but not supporting the bill per se. Because I still think it's a work in progress, and I don't want to get us in a support, but now we really need these amendments too, that there are again getting to the legislative priorities. But not the specific bill recommendation quite yet.

>> Councilmember Herrera: Thank you for that feedback. Yeah so that's probably the more appropriate thing is to talk about the -- the aspects of that bill that we're supportive of.

>> Councilmember Liccardo: Yeah, I know I agree wholeheartedly. I think we're shooting at a moving target at these bills right now, and the Perez bill is going to change quite a bit. I agree with Councilmember Rocha's concern is what's carb going to do. Great respect for supervisor Yeager but I think we all hesitate too think of what great project has landed on San José's doorstep as a result of whatever carb has done. I think we should take a step back. I have a few strong feelings about what principles we ought to be pushing, and one is I think we ought to be pushing hard for formulaic distributions. I think to put it too bluntly and I'm sure I'll pay the price for this, Sacramento is not heavily tilted in San José's favor, generally Southern California gets more than its fair share and when folks like Pelosi and boxer and Feinstein weigh in, San Francisco gets its fair share and we don't simply punch our weight. And we don't want the forces in Sacramento deciding whether or not San José gets its share. I think we want formulaic distributions. That's why I tend to lean towards the MTC formulaic approach that they're implementing. I know they want 40% for MPOs, but given the fact that they're making a strong move towards formulaic distribution of transit dollars and transportation dollars through the OBAG process, that is an area where San José and Santa Clara County come out way ahead of where we were before. And as long as they're willing to stay, keep to that kind of approach, that they're laying out with OBAG grants, I think we probably want to support it. Whether it's MTC or any other regional agency that is committed to formulaic distributions. That would be my first I would say opinion for whatever it's worth. And I'm not very knowledgeable about carb so I'd be interested in knowing more. Secondly in terms of who we partner with you know I think there are certainly organizations that have San José's interests at heart in many ways. I think SCVLG has been a great advocate for us, certainly, and the chamber as well, but I think that organizations like the Bay Area council which are focused on needs of big cities, because I think we recognize there is going to be a tug of war between big cities and small cities for this money and we want to be on the side of big cities and Bay Area council would certainly help in that regard. I also think we ought to think about partnering with the emitters the PG&E'S of the world, because I think ultimately how this money gets distributed is going to be profoundly affected by what the refineries and the factories and the energy producers are saying about whether or not particular rules are going to affect how and where they locate their facilities. And I think they are going to have a lot of influence over the legislature. And to the extent that we can have conversations early on with them, I think that will be to our benefit. I know PG&E doesn't have its ox getting gored until later in the process, I guess 2015 or so. But I know that's big money, when we start talking about energy distribution and production. And it seems like making sure that we're pushing a direction or they're

pushing a direction that we want them to push in would be really important. Because let's face it. We're not going to have a seat at the table. Other people have seats at the table with lots more money and influence, and I think we want to make sure they're pushing in the right directions. So that's why I'm thinking about the partnerships with folks like PG&E and MTC and others. I guess the other opinions I've got, one is in terms of what criteria we use, I don't think we should be GHG reduction specific only. I think we should incorporator other goals we have here certainly social equity is a strong concern we have and I think we can certainly match many of those concerns with DHG reduction goals for instance. Focus being on low income housing and how that can be made more energy efficient, reduce burdens on both residents and landlords in those buildings. I think that's a valuable approach. So I think we built strong political coalitions by incorporating other objectives. With regard to strategic priorities we ought to be focused on long term capital projects that will produce either long term savings or long term revenues. Pull out a couple of examples I think about things like express lanes, while we know there's a large up-front capital cost, we may have issues in terms of generating the capital, because there are all kinds of financing issues in getting that off the ground. But we know over the long haul that those express lanes are going to generate revenues that are going to support what we know is a failing transit infrastructure right now that we have, because no agencies have really figured out how to solve the long term transit O&M problem. So I think a strategic approach that focuses on those large capital costs that simply cities and regions haven't come up with a way to solve, think about you know I would have said CalTrain if we hadn't been able to secure the funding we did recently, might be a similar-type project. So anyway those are my sort of broad set of opinions for whatever it's worth and I'm sure there will be lots of other opinions and hopefully some of those will be a whole lot more informed than mine are. I guess we have time for public comment and then come back to formulate a motion if we will. David Wall.

>> As it is written, this is a very horrible bill. This is basically a tax base enabling program for special interests, in the flaming wreckage of redevelopment agencies. You heard three testimonies today from three department heads within the city all applying their case for sectors of this funding. But I turn to the learned wisdom of Councilmember Liccardo, with the Santa Clara Valley habitat program or plan, rather, as it applies to this. Air deposition. You're going to have continuing cases for region after region on whose pollutant is incorporated into their calculations. And without any specific accounting, either scientifically and/or financially with the distribution

that Councilmember Liccardo has mentioned, as well as other members, this program is doomed for a generation in the courts as it is today. I look at this as a drug delivery system. In other words, the model that has to change is cities. You can't keep bringing people in to cities. The nation has to start investing in other states. There's no entitlement program to live here in San José or the state of California through affordable housing. Where's the ultimate urban village? In this region, Los Altos hills, certain aspects of Gilroy, okay? There, they don't have these problems that we have. But to keep going down this path of governments trying to find money in the -- since redevelopment agencies are gone, it's not going to work. And also, businesses, you're going to see business flight. Businesses will convert to green measures because it is their interest to do so. Forcing something to take away their bottom line, and also everybody in this room with increased taxes throughout the energy spectrum and what have you, no, that's not good for California and it's certainly not good for San José. Thank you.

>> Councilmember Liccardo: Thank you, Mr. Wall. Okay.

>> Councilmember Rocha: As far as process, the chair is free to make motions, correct? Because generally my interest, the chair tends to be a little bit more versed in these issues, based on your representation on a number of different boards. Are you comfortable making a motion?

>> Councilmember Liccardo: I'm not sure I'm allowed to make a motion. But I'm also sure I'm not all that better versed. I spend a lot of time in transportation, but --

>> Councilmember Rocha: Is the chair allowed to make a motion?

>> You know, I actually don't know the answer to that.

>> Councilmember Herrera: Don, you can make a motion, and he can make a friendly amendment.

>> I think there are ways to deal with that issue.

>> Councilmember Herrera: I'm sure Sam will help us along with it.

>> Councilmember Rocha: My struggle is I just felt I wasn't versed in a number of these different issues based on the lack of information not due to the report but due to where we're at in the process. So I was a little uncomfortable as far as making any direct notion. I think moving this forward is probably the best thing with the comments that you've heard from the committee is probably where I'm most comfortable.

>> Councilmember Herrera: I think you make that motion, they have been take notes as our chair has been talking.

>> Councilmember Rocha: So moved.

>> Councilmember Herrera: So I'm sure we've captured a lot of it.

>> Councilmember Liccardo: I'll support that. Is there a second for that?

>> Councilmember Herrera: Second.

>> Councilmember Liccardo: Okay, yeah. I recognize there's going to be a lot of folks going to be weighing in, and we'll be discussing this actively as the money starts to become more apparent, which we hope will happen. Okay, all in favor? None opposed, thank you very much. Great. So we now move on to open forum. And I have two cards. One from Mr. LeBrun. Who has submitted a funding plan.

>> I need a driver, I have a small presentation. Are you going to drive, Hans?

>> Hans Larsen: Oh, I'm sorry.

>> Somebody has to be here to help me with the presentation.

>> Councilmember Liccardo: You have a slide that you would like to show?

>> There it is. Okay. So what I'd like to do is to segue on a couple of remarks that were made about the largest city with the least transportation and hopefully our guaranteed vote at MTC is going to help steer things in the correct direction. So back in March we touched on Transbay. And if you look at this, phase 1 is the terminal, which is fully funded, $1.6 billion. Phase 2 is the tunnel, I wanted to give you a update on that, which as you can see has got a $2 billion hole in it. Next slide. So that's the current proposal, and what you can see is this $2.7 billion tunnel it is the tree track cut and cover tunnel, it's 1.2 miles long, designed like Muni tunnel with three sharp ends. And please note in purple is the new underground station at 4th and Townsend. What we're going to try to do hopefully is stop this train wreck and hopefully bring some money to San José. So next slide, please. So this is the other proposal that the San José technical group has come up with. And it's a twin-bore tunnel alternative, and so the green lines are the two tunnel bores. The red rectangle is the Transbay. And it's designed to be obviously much faster than what they had on table just now, and the price tag should be way, way below $500 million based on the tunnel contracts they have got for the central subway right now in the city. So the question is that given the airport as set forth already has a BART connection, and the planned HSR stop at Millbrae, what could San José do with $2 billion. Next slide, please. The obvious answer obviously is BART, and extend BART to Diridon, and then I would like to touch, then what we could do is a change, explain to you what all these lines are. The dark red line is the CalTrain alignment. The green line is Altamont, or the capital corridor. And the bright red lines would be tunnels. And what you see there is something in green at the airport, that actually is a station. And that station would -- could basically be twice the size of Transbay. It could be enormous, if you use the western parking lot. It would give us, if you take the left tunnel, that would be a connection to CalTrain, go to San Francisco. We could cut right across 101 and connect with the Altamont. And also, you can see -- and then obviously, there's a southbound tunnel that would give the high-speed connection between Diridon and the airport. And then the green line, last slide, please. That green line is a very low-cost underground, you know, passageway under the runways that would give us a direct connection between the high speed station and the airport terminals. And I hope that you'll give some consideration to this next time high speed rail shows up on the agenda at T&E. Thank you.

>> Councilmember Liccardo: Thank you, Mr. LeBrun. David Wall.

>> First memo is basically on your agenda concerning workers compensation adjustors. You'll note that there's a $5 million, roughly $5,100,000 appropriation request that's coming up on your agenda. This is another issue of substandard management from the office of City Manager. Because you eliminated or the office of City Manager eliminated five out of the six requested positions. The master agreement with RMC water and environment to develop the master plan for South Bay water recycling program was rightfully and justly pulled at Rules by Mayor Reed. This was done in reference to an info memo from the office of City Attorney, because this is predicated on the sewer service and use charge. It is my contention as well as several other jurisdictions that this project has exceeded its scope and authority in using this fund. As a matter of fact, it should never have flowed from this fund in the first place, and two, it's not even needed. So we're looking at that. Then with reference to other related issues concerning the water pollution control plant with reference to further substandard and incompetent decision by the office of City Manager, $3 million allocation last week at TPAC for these 9 positions, three industrial positions and six instrument control positions really pencil out to $2 million for fiscal -- little more than 2 million in change for fiscal year 2012-2013 and 2.2 million and change in fiscal year 2013-2014 with no foreseeable stop in the future unless you take dramatic steps about changing that management at ESD, but specifically, regime change with the office of City Manager fors this are grossly incompetent. The last thing I want to talk about is this farmers market, certified farmers market. I think that you're going to have less of a participation by backyard growers or schools program, if you require this Cal fresh electronic benefits transfer. In other words, food stamps. Farmers don't want to have to deal with food stamps unless they're corporate farmers. And I foresee kids at schools being able to generate a lot of vegetables to be sold in the community. But they don't have the wherewithal to collect on food stamps. So I would look at that closely. Thank you.

>> Councilmember Liccardo: Thank you, David. With that, the meeting is adjourned. Thank you all.