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>> Mayor Reed: Good afternoon. I'd like to call the San José city council, for January 25th, 2011. Start this meeting with an invocation. Councilmember Constant will introduce the invocator.

>> Councilmember Constant: Thank you Mayor. Today we have with us Pastor Joseph Leon from District 1. He is the pastor for Pueblo de Dios Church which is in West San José. He's been there for seven years. He's a graduate of the Pacific Lutheran Theological Seminary, and began his priesthood at Bethany College. He has done an incredible job at Pueblo de Dios in the community. He and his congregation help every Saturday and Sunday to feed over 300 families in our community. He works diligently with the learning company program where he helps children make a difference by helping them learn computers, both on their campuses and at pueblo de Dios. And he also runs two soccer leagues, both a youth and adult league that meet monthly during the rainy times and twice a month during the summer. He has done an incredible job in our community. He serves on the mayor's gang prevention task force, takes youths to Mexico every year to work on various projects, he takes his family to Mexico to build homes and to clean up neighborhoods in the community, and he gathers youth in our community to do graffiti clean up and to build awareness. He has been an incredible asset to the West side of San José, thank you for all that you do, and thank you for being here and getting us off to a good start today.

>> Gifts to our community, to regularly refurbish our intentions to do good. To give to ourselves in ways that make a difference. To our families, to our town, to the City of San José. To the nation, to the world. Grown so small, it can be explored and conquered with the click of a mouse. To keep us during this time to make good changes, to make a difference, with the distractions and political uncertainty, to maintain focus with the sense of humor born with the knowledge and with the mortal men and women that we are. To fuel our work to give us vigor, stamina, to keep pressing on I pray -- and lift up the council this day and the decisions that have to be made, in the name of our lord and savior Jesus Christ, I pray, amen.

>> Mayor Reed: Thank you. Now we will do the pledge of allegiance, and we are joined here today, country lane elementary school district 1 is going to help us with the pledge. Please stand. [pledge of allegiance]

>> Mayor Reed: Thank you, country lane elementary school. Appreciate your help. Thanks for joining us today. First item of business are the orders of the day. In order to try to keep everything moving and get us done on time, make a couple of changes to the agenda order. First, I'd like to take up the city Redevelopment Agency joint board items before we get into the city business, so we would do the agency joint items, the agency agenda, and then start the consent calendar agenda, move through those with -- on the city items. Item 8.4, which is a joint item, was put on the agenda in response to the governor's proposed state budget package and proposals to eliminate the Redevelopment Agency. That I'm recommending we defer for a week. I'm meeting with the governor tomorrow with the mayors of the ten largest cities in California. And I'd like to defer taking any action until after that meeting. We need to defer the San José financing authority item number 2 agreement with the housing trust, for a week. That would be to February 1st. Then when we get to the city council portion of the agenda, I want to hear item 3.4 before we take item 3.2. 3.4 is a discussion and direction regarding second-tier retirement benefits for employees and 3.2 is council labor negotiation guidelines. And finally, item 3.3 which is a tax qualification ordinance for retirement plans I'd like to defer for a week on that. Any other changes to the printed agenda order? We have a very long meeting to get through, and I'm sure we can do it but we do have some ceremonial items scheduled between meetings as well to swear in the vice mayor. Motion is to approve orders of the day. All in favor? Opposed? None opposed, that's approved. We will adjourn this meeting in honor, memory of Herman R. Alvarez, father Alvarez senior, and many other members of the Alvarez family who have contributed to our city for years, obviously are related to Herman Alvarez who passed away on January 23rd of this year. He was a World War II veteran. He was a commander of the American Legion post 809 in San José, worked for 30 years with the southern Pacific railroad in San José but it was his love of community and service and human rights that will be his legacy because he's inspired Sal and the entire family to work in the pursuit of social justice. Mr. Alvarez was a great member of our community who has inspired a whole generation, generations now of people. We appreciate his memory and we adjourn this meeting in his name. We're honored to have members of the family here, thank you for coming we appreciate your service and your loss. Our first item would be the closed session report. City Attorney.

>> City Attorney Doyle: Mr. Mayor, the council did meet in closed session pursuant to notice there is no report.

>> Mayor Reed: Ceremonial items. We have one this afternoon, that would be to invite councilmembers Herrera, Kalra and Oliverio, and Joe Rosenbaum of the Jewish Federation of Silicon Valley to join me at the podium. As we present a proclamation declaring January 25th as International holocaust remembrance day in the City of San José. This of course is an annual event where we take a few moments to remember and acknowledge the importance of the international holocaust remembrance day in San José and Councilmember Herrera has some additional details.

>> Councilmember Herrera: Thank you, Mayor Reed and my colleagues, councilmembers Kalra and Oliverio, for joining me here. At this time I would like to introduce and thank the representatives from the Jewish federation of Silicon Valley who have joined us here today. We have Giles German, CEO of the Jewish Federation of Silicon Valley, Diane Fisher, director of the community relations council, and our very special guest and holocaust survivor Mr. Joe Rosenbaum. Those who do not remember the past are doomed to repeat it. It is inscribed on a plaque at the Auschwitz concentration camp. January 27th marks the anniversary of the liberation of Auschwitz Birkenau, the largest Nazi death camp. In 2005 the U.N. general assembly designated this day as international holocaust remembrance day, an annual day of commemoration to honor the victims of the Nazi era. It reaffirms that the holocaust, which resulted in the murder of one third of the Jewish people, along with countless members of other minorities, will forever be a warning to all people of the dangers of hatred, bigotry, racism and prejudice. One of the most important points of this resolution is that it rejects any denial of the holocaust as either an historical event either in full or in part. It is important to tell the story. To speak for those who cannot. To never forget. Today is particularly meaningful to me personally as a Jewish American and someone who lost family in the holocaust. This is the sixth year the City of San José has acknowledged international holocaust remembrance day. And I've asked the Jewish federation of Silicon Valley to join us today because this organization has done so much to strengthen and enrich the local Jewish community. Its members take an active role running campaigns to assist with humanitarian needs locally in Israel and throughout the world as well as educating the community about the holocaust. Holocaust remembrance day is an opportunity for us to recognize the nearly six million Jews and millions of other victims that were murdered by the Nazi regime and its collaborators during World War II. And to enjoin the community to condemn discrimination and violence based on religion or ethnicity. To speak up in the face of injustice. We must not remain silence. Our courageous survivors have played a vital role in keeping the

lessons of the holocaust alive for future generations and we are very honored and grateful to have Mr. Joe Rosenbaum, a holocaust survivor, here with us today. Mr. Rosenbaum was born in Cologne, Germany, and was only 10 years old when his family was banished from their home. He traveled by train and foot with his family through Poland, Russia, Serbia and Uzbekistan, ending up in an orphanage in Teheran, Iran. Eventually the political advocacy organization for human rights, Hadasa, helped eight to 900 orphans, one of which was Mr. Rosenbaum, travel from Iran through Egypt to Palestine. Mr. Rosenbaum's father's had meanwhile survived and made it to the U.S. with his son when he was 15 years old. We are truly grateful to have Mr. Rosenbaum present to share his story of survival. Mayor Reed, I would now ask you to please present the proclamation to Mr. Rosenbaum, who will receive it on behalf of the Jewish federation. And I then invite Mr. Rosenbaum to say a few words. [applause]

>> Good afternoon. I'm very honored to be here today at the San José city council meeting to help our city acknowledge international holocaust remembrance day. Which is obviously around the world, the Jewish community, and the world would like to thank Mayor Reed, and the council, especially Councilmember Herrera, Rose Herrera, Ash Kalra, Pierluigi Oliverio, for sponsoring this proclamation which brings our community together to honor the victims and the survivors of the holocaust. And with that honoring, we renew our resolve to prevent future acts of genocide. I am happy to be living in this country, which has provided freedom and opportunity for so many like myself. Councilmember Herrera said a if you minutes ago, some of my story. I was not in a death camp. If I would be, I wouldn't be here. Very, very few little children survived the death camps. Very, very few. Out of the million and a half that were slaughtered in the death camps. My luck was, I was not in a death camp but I traveled all over the far East, including Siberia where I lost my mother, my grandparents and a whole bunch of uncles. My little sister, I tried to save her, and she passed away Uzbekistan -- or Kazakhstan in 1941. She was six years old. At the time I was 11 -- ten, I'm sorry. I was very lucky to be -- I entered a hospital, I was more dead than alive in 1941. I made it out of it, and came to an orphanage, Polish orphan an and then went to Persia, Teheran. I did arrived after being in a hospital in Karachi, which was then India, I arrived in Palestine in 1943, February 18, like today, almost. Some 60 some odd years ago. I got some education there, and in 1946, I joined my father and my sister who survived who came to America before the war, in America. So it was the first time I came to the United States. I went back for a short while to Israel, to live there, and to get married to my wife, Rena who is a

Palestinian. She was born in Palestine, not Israel. We came back here with our two children in '68 and since then we live in the valley. I'm very happy and very honored to be here today. Thank you. [applause]

>> Mayor Reed: We're now going to convene in joint city council Redevelopment Agency joint board meeting to take up several items to be followed by the Redevelopment Agency portion of the agenda and then the city council portion of the agenda. The first item would be 8.1, that was agendized as discussion of state budget impacts to Redevelopment Agency budgeting to allow us to have that discussion giving direction to staff that we might need to take as we work with the governor and the legislature. I don't know that if -- whether or not we're going to have a staff presentation at this time, I think not but this was a chance to have a public questions and answers if we needed to. We've obviously done a lot of work since this made it onto the agenda but there are a few things that I think are important to point out as I go to Sacramento tomorrow to talk with the governor. I'll have some this to say with the governor and the members of the legislature that we'll be meeting with. First, our Redevelopment Agency has been very successful. It's one of the most successful in the state. We don't have money just laying around. Some agencies perhaps haven't spent all their housing dollars the way they should have been sent on affordable housing. We have the most successful affordable housing on the state. I want to thank Leslye Corsiglia and her staff for coming out with an info memo on the impact of the governor's proposal. I think that's important for our staff to get those impacts together on the agency, the general fund and housing so we have the facts that we can present to the public. Yesterday, the state controller announced that he would do audits of 18 Redevelopment Agencies, including San José's. We welcome that. We are not afraid to have anybody look over our shoulder. We are very careful how we follow California law, generating many, many many thousands of jobs and many billions of dollars of private sector investment in redevelopment areas. Downtown San José is not the only downtown that's been revitalized with redevelopment funding. That is the message from most of the big city mayors who have revitalized their downtowns, not possible without redevelopment funding. The other important message is that we have to compete with not only other cities, but other states, Texas, Arizona, Oregon, most of them have substantial funds available at the state level to help bring Silicon Valley jobs to their states. We have the opportunity because the jobs are created here. We've got great companies. But as they look to expand, and many of them are quite interested in expansion, we have to compete with other states. We've just been through that recently and redevelopment funding and enterprise zone that the

governor's proposing to eliminate are two of very few tools that we have to work with to compete with these other locations. So the jobs that redevelopment has helped create and those kinds of important impacts on the state would not be available if this funding source is taken away. Now, there are certainly people in Sacramento, apparently the governor thinks that there are better ways to spend redevelopment funds than the way they've been spent. That is an interesting debate but I think that debate was over in November with the election when the people of California voted 61% yes, in favor of proposition 22. Which prohibits the state from taking local revenues including redevelopment funds as well as other sources of local funding. So the California constitution creates the redevelopment opportunity. It's been a local funding source for 50 years. The people have just spoken in November. That was only two months ago about the importance of preserving local funds. And so when I go in to talk to the governor those will certainly be things that we talk about but nevertheless, we're prepared to go to the table, work with the governor, to see what we can do to help with the great crisis that the state of California is facing in its budget. But we will not go in and agree to the termination of redevelopment. That is something that we will vigorously oppose. We have the people on our side. We have the constitution on our side. But nevertheless we're going to go to the table. I think we'll have a productive session with the governor tomorrow. Mayors have been working together as a group for some time now and so I think it will be a very useful meeting and with that, I think let's see if there is any additional information the staff needs to get out to the council that hasn't already been presented. I do anticipate we'll be having some additional information memos on some of the facts and background. I assume staff is working on those.

>> Harry Mavrogenes: Mr. Mayor, members of the board yes we are. We're working together with the city to morefully explain the potential impacts of this agency going dark and the impacts to the city, they are significant and we are looking at all aspects of this including protecting the City's General Fund and other sources, in the event that something like this happens. Our best protection of course is to continue to do the good work you all have done with talking to your legislative representatives, letting them know how important this is. This is happening all over the state. And hopefully, would preclude such legislation coming forward. That's the key. I think then we can work from a position of strength to look at reforms and other things that may need to be done. We will be presenting this memo to you hopefully in the next meeting. And after that, on February 8th of course we

have our mid year budget review where we'll be talking about other options related to this. And I continue to thank you, mayor, and the council for the strong support. It's very much appreciated.

>> Mayor Reed: One of the things I think it's important to note is that the actions we're taking and will take, we are working very hard to ensure that we can meet our obligations. We have bonds, we've got debt, we've got covenants, we have contracts, we have agreements, we have commitments. We have a lot of different obligations that we want to make sure that whatever happens in Sacramento, that we'll perform on our obligations, meet our obligations, and whether any legislation is passed or not, high on our list of what we're trying to do and will do is to be able to meet our obligations and not just to the people of San José but to all the people that invested in San José, the securities markets, the bond holders, we're going to meet all those obligations, although it may be a little confusing as to what's going on because we're not sure which way the governor or the legislature might go. Our objective is to meet all of our obligations including those to Santa Clara County and others in which we have made commitments. Any council questions or comments on this? I don't think we're going to have any further staff presentation. We'll be back on Tuesday of next week if we need to take additional action after the meeting with the governor. So no action taken, I don't think we even need a motion on this. It was just a report and an opportunity to have this discussion and do things if we needed to. All right, then we'll move on to item 8.2, approval of capital equipment and assistance agreement in a participation with Maxim. Speaking about reinvestment of redevelopment dollars, it helps keep companies in the city, this happens to be one of those projects.

>> Harry Mavrogenes: Mr. Mayor, members of the board I am pleased to present the recommendations to you today to approve the capital assistance agreement and participation agreement of Maxim integrated products. Maxim is a semiconductor company currently headquartered outside of San José. They have a presence here and they are now moving their headquarters to San José and will occupy over 500,000 feet of space in our North San José redevelopment area and that includes 434,000 feet of vacant space. That is a major major help to us. Maxim has over 65 sites globally. The company was considering going out of county and possibly out of state for its expansion. We're grateful that they continue to choose San José. This will allow us to retain over 2250 jobs over the next five years. 800 of which are new jobs, that might otherwise have left the

state. So I want to open this up, for any questions. I'd like to thank the office of economic development, that worked very closely with us to provide the assistance that we're proposing today so that this company can stay here.

>> Mayor Reed: Thank you, Harry. First I want to disclose that my staff and I have met with representatives of Maxim, including Paul Tomack and Scott Smithers in preparation for this meeting. This has been great collaboration, really good work by our Office of Economic Development and redevelopment staff to make sure that a local company stays here and grows here. And some of those folks are Nancy Kline, Richard Keith, Chris Burton, Edith Ramirez, John Lang, and Julie Amato, several of them are here. Congratulations. I know that we work on a lot of transactions that maybe don't always bear fruit but this one is bearing fruit big-time. This is a huge building that's being acquired, and will be occupied by thousands of people. And I want to thank Maxim for its confidence in San José, welcome them, their expansion. We will hear from Phil Tomak who is here to speak in a minute but I want to give some kudos to Councilmember Herrera because while this is partially funded by redevelopment dollars another part of the funding is coming from money we once had set aside in a catalyst fund. Maybe it was a year ago, I can't remember exactly when Councilmember Herrera said we ought to think about how we're using that fund and try to be more direct with the investment. So there's $500,000 coming out of that fund that is available and important to help make this transaction work. So congratulations, Councilmember Herrera, for your foresight, all this is a pretty big deal. I don't know if you were thinking that big. But it's always good to think big, so that was a good recommendation that council approved on your request. With that I'd like to hear I think from Phil Tomak who is here from Maxim.

>> Good afternoon. Mr. Mayor, councilmembers, citizens of San José, I do represent Maxim. We just completed an extensive search to relocate our headquarters campus. We looked at several locations within the Bay Area and this locality, and we're happy to say as the mayor has said that we've chosen San José and will be bringing 1200 people to this location, as soon as the improvements to the building that we have purchased are completed and we plan to grow from there. This relocation is going to help us in our growth in the location we're in now, we're essentially land locked and unable to grow the way we desire to with everybody in one location. This will enable us to do so under one roof. We expect to occupy this building in mid 2012 after our improvements are

completed. It will be about 80% full, we'll grow from there over the next five years or so. We really feel that this move will help the image of our company, and bring it here to San José, on North First Street, and help the morale of our employees. So we appreciate all that the redevelopment group has done for us. They've been very supportive and helpful in accommodating us, hope that you all realize how important the development money is and the incentive is to get companies such as Maxim to this location. It was a clear inducement to get us identity here. I do have to say, as a California native and you know raised in the Bay Area and graduate of San José State, that over the years, since I was going to San José State University I've seen what the Redevelopment Agency has done for the city in improving it and it has come a long way and it shows and I think that the city has really earned the respect of the local area and other cities. It you know has really something to be proud of.

>> Mayor Reed: Thank you. Well thanks for investing in San José instead of one of the other 64 sites that you have around the world.

>> Absolutely.

>> Mayor Reed: That kind of illustrates the challenge we have of keeping jobs here as companies have a lot of options so we're really proud to have been able to work it out and our staff deserves a great thanks and we appreciate the investment and the jobs.

>> Absolutely pleased to be here. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thanks mayor. I just want to say this is an outstanding use of redevelopment funds, ones I'd like to see, if given the opportunity to do so, more, but I'm happy with this and happy that Maxim is choosing San José. Coming from the semiconductor industry, Maxim is one of the premier analog semiconductor companies. You have such great products that engineers like to use early on that it's a custom of people waiting

and paying a little bit more for them but they're worth it I think they're one of those companies that will be bought for a long period of time. Unless you're bought by one of your competitors by multiple millions of dollars. .

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you mayor. I want to talk about the fact that our economics development and RDA worked together to make this happen. A great team effort, thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: I'm going to echo what was just said and thank agency staff and OED staff for their hard work and also Maxim for their considering San José. Thank you very much.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thanks to all and welcome Maxim we're happy to have you here.

>> Mayor Reed: We have two items, one for the agency, one for the city, joint meeting, take that in one motion. All right, we have a motion? City Clerk did you get that, got a lot of people wanted to make it. Councilmember Chu, who's getting ready to welcome Maxim into District 4, has a motion. Is that it? Councilmember Herrera got the second. Discussion on the motion? All in favor? Opposed, none opposed, that's approved. Welcome to San José, again, Maxim, we appreciate it. Our next item, item 8.2, capital equipment and assistance agreement and a participation agreement with SunPower. Also another great San José company.

>> Harry Mavrogenes: Mr. Mayor, members of the board again, we recommend your approval of the action here, a joint action again by the city and the agency. Again, thanking our Office of Economic Development partners with the agency staff to provide a level of assistance to this company. SunPower is a solar energy company which is currently headquartered in San José and moving expanding its headquarters in North San José again and will

occupy 185,000 square feet of currently vacant space. Again, Another big plus for us. Again, they were considering out of state locations, and we are continually being -- our companies are continually being looked at by other states, so we're again thankful that SunPower has chosen to retain its location and create 500 jobs over the next five years, 200 new jobs that ultimately may have been elsewhere. So their investment will be approximately $25 million leveraging our money significantly. $500,000 is proposed from each of the funds so this is great leverage. They also will do major tenant improvements so $7.5 million to achieve LEED gold certification and it will help tremendously for the city. We recommend SunPower and recommend your approval.

>> Mayor Reed: All right, we have a motion to approve. I want to disclose that I think over the past year I believe this has been going on for at least a year if not longer I have met several times with SunPower CEO Tom warner his executive team, real estate consultants, property other than Scott Smithers and T.J. Rogers who is often the boards and involved with SunPower all in the search where they were going to expand. San José was not their only choice and it was a long process, our staff got very creative. We put together some opportunity to get some financing through the State of California and we were able to keep SunPower here. Of course they wanted to stay here. This is the headquarters. They produce the world's most efficient solar sell. They are proud to be partly of San José but when they start looking they have to look very broadly and worldwide. We are very happy that we're able to keep them here with again a cooperative effort with the Office of Economic Development and Redevelopment Agency staff demonstrating what we can do and demonstrating what we can do with redevelopment funding. And again, this is one that includes redevelopment funding and catalyst fund money as well. So it was good to have that available thanks to Councilmember Herrera. I do want to mention again our staff members, Nancy Kline, Chris Burton, Richard Keith, Edith Ramirez, John Lang, and Julie Amato who worked on this deal as the Maxim deal. Most of all I thank SunPower for their continued investment in San José, we appreciate the investment, we appreciate the jobs and of course we still have work to do once we get through the council there's still a lot of staff work to be done permitting and all those things. So there's plenty of things that have to be done but I'm sure we'll execute on that as we have in the past with these transactions to get it over the goal line. And I just hope the governor and his folks are watching to see how we're spending redevelopment dollars today. This is a great example of the job creation part of the redevelopment story. I would certainly support the motion and encourage everybody to do as well. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I also want to disclose that I've spoken with Tom warner and various members of the SunPower team about this move as well. And I wanted to thank the agency and the Office of Economic Development for their really hard work on this. I know there were also many sites they were considering and the fact they've been expanding in other states for manufacturing and so this is a really victory, thank Nancy Kline in particular because I know that we've actually had a lot of conversations over this and I really appreciate Nancy's willingness to run into the building when it's on fire and put it out and try to see if we can keep the deal moving forward so this is a really great win for the city. Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: I'm going to roll through the same thank yous. Thank you OED and agency staff for your work on this and thank you to SunPower for staying committed to San José and I'm going to add Mayor Reed in your continued efforts on economic development and supporting our corporate community thank you very much. I had the pleasure to in my previous life do a site tour with SunPower, promoting a number of different sites throughout San José and trying to get them committed to San José so I'm happy to see that that work finally came to fruition. Almost two years, thank you.

>> Mayor Reed: We have a representative from SunPower here, Julie Blunden. I'd like to ask Julie to come down and speak at this time.

>> Thank you very much. Mr. Mayor and councilmembers, wonderful to be here today. SunPower is 25 years old. And we are five years old within San José. We are home town solar company and couldn't be more pleased to have seen the progress of solar in general, and the mayor's Green Vision throughout San José and in fact more broadly throughout the state. San José is really the capital of Silicon Valley and, in fact, the capital of the clean tech economy and a large reason for that is that San José has made a very substantial effort with its surrounding communities to make businesses welcome and allow us to grow. I joined the company about six years ago. We had just finished an $11 million year. I was employee number 40-something. We are now at over

5,000 employees globally. About 1,000 in the U.S. About 900 of those are in the Bay Area. And we will be adding people in San José and California because of the support of our local government. The warm welcome we've received tremendous support over multiple years from the City of San José, and the state of California. As we looked around for how to grow our company, one of the things that we considered was growing in San José, growing in Richmond where we have a very large facility comparable in size to San José today and other places within the state as well as outside of the state. We made the decision to expand our headquarters in San José to move essentially down the street and around the corner, in order to take advantage of the tremendous talent pool we find in the South Bay. The great enthusiasm and dynamic business environment for the solar industry as kind of the leading solar company in the U.S., and certainly, kind of the leader of the pack in Silicon Valley. It's nice to be able to reinvest. We'll be building a solar car park actually at our new headquarters with the support of the financial incentives we've been given to demonstrate solar power in action and to reduce our electric bill. Just like the City of San José can do with the tech museum and the clean tech showcase across the street. So we very much appreciate the support and recognize that the decisions we've made to look at adding jobs in the U.S., including in other states, put us in a position to really consider whether or not to continue investing in growth in San José. It was a challenging decision, a very competitive business climate. We ended up deciding to add a facility in Austin, Texas but we were able to find ways, with redevelopment dollars and support from the city, to reinvest in a larger facility that we can grow into over the next five years in San José, and are very, very pleased to be growing our business here in our own backyards. Thanks again for your support.

>> Mayor Reed: Thank you, Julie and thank you SunPower for your willingness to invest in San José. Any additional questions or comments? We have a motion on the floor. All in favor? Opposed? None opposed, that's approved. Congratulations.

>> Thank you so much.

>> Mayor Reed: Congratulations and I'm really glad you're staying. We have one more joint item and that would be 9.1 the council confirmation of Vice Mayor Madison Nguyen's appointment of vice mayor. Motion to approve. There will be a ceremonial swearing in later this afternoon. Councilmember Nguyen.

>> Councilmember Nguyen: Thank you mayor read, I'd like to take the opportunity to thank you and my colleagues for this extraordinary opportunity and your continued support. Thank you.

>> Mayor Reed: On the motion? All in favor? Opposed? None opposed, that's approved. Congratulations and thank you for being willing to serve. That concludes all the joint items that we're taking up this afternoon. 8.4 was deferred a week, item 9.2 and 9.3 will be heard this evening. I think those are the joint items. Now we have the still agency items to take up, did I get it right? Okay, so joint items are done. We will take up item 3.1 on the agency agenda which is report of the executive director.

>> Harry Mavrogenes: Mr. Mayor, members of the board you heard a lot from me already today regarding our financial situation and we will continue to provide you up to date information as things move along. So I'll keep it fairly brief today. That's it.

>> Mayor Reed: Okay. 3.2 is Redevelopment Agency's revised conflict of interest code.

>> Harry Mavrogenes: Recommend approval. This is again to get it in line with the City's process as well so recommend your approval.

>> Mayor Reed: Motion is to problem of. All in favor. Opposed, none opposed, that's approved. I might have missed something earlier, I'm going to check with Gary Miskimon.

>> Yes, sir when you finish with these we do need to pick up 2.1 and 2.2 on the consent calendar for the agency.

>> Mayor Reed: Okay. Let's do that now, so I don't forget it. There were two items on the consent calendar which we didn't do, anybody wish to discuss those? No, this is the agency's consent calendar. Sorry to get everybody confused. Two items on the agency's consent calendar that I managed to skip. I have a motion to approve. All in favor, opposed, none opposed, those are approved. Looks like we have 3.3, and 7.1 still to do.

>> Harry Mavrogenes: That's correct.

>> Mayor Reed: 3.3 is an agreement with Keyser Marston associates for financial consulting services.

>> Harry Mavrogenes: Recommend your approval on this contract. This is in compliance with the J.P. Morgan extension of credit, extension of the letter of credit where they required us to have a financial analysis done/. We have interviewed a number of firms with J.P. Morgan and Keyser Marston was selected in the process and we recommend your approval.

>> Mayor Reed: Motion is to approve. All in favor, opposed none opposed, that's approved. 7.1 is an amendment to the agreement with AE com for environmental monitoring services. We have a motion to approve by Councilmember Nguyen. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just had a question. I know that we've approved a supplemental agreements with AE com several times but I'm trying to remember why it was we, in the disposition agreement with Adobe, we agreed to retain responsibility for environmental remediation. Was that required by law?

>> Harry Mavrogenes: The -- my recollection was, this was a requirement of the state in order to continue monitoring. We are trying to get closure on this. We're doing this one more time. But our objective, our staff is pursuing a way to get closure to not continue this anymore. But as of right now, it's been a requirement, I believe, on the state to keep the water clean.

>> Councilmember, I think your question is really, was the actual requirement that we continue to pay for it, yes. It was a business deal of the DDA. Just a point of negotiation.

>> Councilmember Liccardo: Okay. Somehow we got a better price as a result, we hope. Okay. All right, thank you.

>> Mayor Reed: Anything else on that? We have a motion to approve. All in favor? Opposed? None opposed, that's approved. I think that concludes Redevelopment Agency agenda joint items except for the ones we're having this evening and we will now take up the City of San José consent calendar. I know there's some requests to pull some things off that for discussion. I have no cards from the public to speak on the consent calendar. So are there items councilmembers would like to pull? Councilmember Herrera? 2.14. Sam did you want 2.17?

>> Councilmember Liccardo: Yes and 2.2 as well. And --

>> Mayor Reed: All right we have a motion to approve the balance.

>> Councilmember Liccardo: And mayor also 2.7 I need to recuse myself from.

>> Mayor Reed: All right pull off 2.7 as well.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: Motion to approve the balance. Any other comments? On that motion all in favor, opposed, none opposed, that's approved. 2.2. Councilmember Herrera. I think you wanted to speak on that one.

>> Councilmember Liccardo: I think that was mine.

>> Mayor Reed: I'll let you go then.

>> Councilmember Liccardo: Thank you, mayor. Understand there are revised development standards. I've been working with the applicant and with Joe. And I understand there are some legal challenges with us approving revise the development standards at this time, is that right Rick?

>> City Attorney Doyle: That's correct. If the council wants to go back to square 1 and do the first reading and then have the second reading come back that's the only basis, reason we could go back and do it again. Otherwise you've had the first reading.

>> Councilmember Liccardo: Right.

>> City Attorney Doyle: Development starts are part of the rezoning and I think the director probably has maybe perhaps a solution or --

>> Councilmember Liccardo: Yes, Joe would you like to speak to us?

>> Joe Horwedel: Yes, thank you, Councilmember Liccardo, Joe Horwedel, director of Planning, Building, and Code Enforcement. In going over the transcripts of the December 7th council meeting and going over the development standards staff presented to the council for today, I think staff did in error add a requirement about the second driveway, that was never discussed at the council meeting it was in our staff report as one of the concerns. And so as a part of that, in talking with the city attorney's office we don't feel that that's appropriate to be in the standards for today. To not reopen this item. It is something that the council if desired could provide direction at the permit stage that we would look at that question but we would not make it a zoning start.

>> Councilmember Liccardo: Okay then your recommendation Joe is that we proceed with simply cutting out any language underneath parking requirements and all that will come in a future permit?

>> Joe Horwedel: The one piece that staff does believe is appropriate is that we reflected the 1 to 1 ratio. That is what exists today, so we want to be sure that they would not be subject to more rigorous parking standards than they had today. So I would recommend that stay.

>> Councilmember Liccardo: Great then I would make a motion that we approve with the language one space per unit and the remainder of that language would be stricken.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion is to approve with a light modification. Any further discussion? All in favor, opposed, none opposed, that's approved. Item 2.7, San Francisco Bay Area water quality improvement fund grant application. Any discussion on that? Motion is to approve. All in favor, opposed, none opposed, one abstention, Councilmember Liccardo. Item 2.14, Councilmember Herrera wanted to pull that one I believe.

>> Councilmember Herrera: Thank you, mayor. This is for the purchase of property for southeast branch library. I just wanted to take a moment to thank the staff who worked really hard on about this happen Jane Light and Matt Morley. Jane was involved in selecting the final site and worked really hard to reach out to the community. She sent out 7500 postcards eliciting their input, met with the community and I really appreciate her professionalism compassion and commitment to quality and access to the library experience for all residents. And Matt Morley, whether he liked it or not was added to my speed dial working in -- he had to work in the unique environment of Evergreen village square, with all of the CC&Rs of an existing shopping center, adding a new dimension to the negotiation. His commitment to protecting the city, getting the best deal for the city, and ensuring a quality library for future users paid him the perfect person for the job and I really appreciate his dedication. I look forward to working again with him in the future. So southeast branch library is the last library of 20 libraries built through the city for the voter approved library bond program, no dollars from the General Fund. It's going to be located in Evergreen village square which is a true village in every sense of the word amidst retail and very creative location. The city library chose this location, I think it is a creative way to use the city facility as an anchor tenant as well as a library. It can be easily walked to, is on a local public transit loop, it's going to be part of the

one stop shop experience that Evergreen residents will enjoy at Evergreen village square, part of the walkable and pedestrian friendly village, I'd like to make a motion to approve item 2.14 in agreement for purchase of real property at Evergreen village square.

>> Mayor Reed: We have a motion to approve, all in favor, opposed, none opposed, that's approved. Item 2.17, which is the 09-10 independent auditor's report on San José convention center.

>> Councilmember Liccardo: Mayor, I'd be happy to proceed with this, but I know that I haven't had an opportunity to speak with staff about specific items because we had several members of my staff out this week. I'd be happy to defer it unless Scott wants to field questions or City Auditor, in either case I'm happy to proceed I just would really proceed as staff would preacher.

>> Scott Johnson: Thank you, Mr. Mayor members of comb. This is a report-out from the Public Safety, Finance and Strategic Support on the independent auditor's report today, I can answer questions or if you would like to defer it a week that's not a problem.

>> Councilmember Liccardo: Perhaps I'll pose the question, if you would like to defer it we can. That's not a problem. On the report there is a loss of 8.4 million that's been audited, that appears to be a bit more than we understood the loss to be in December. I understand we're often counting different things based on what's accrual or cash or so forth. I'm wondering if there's an obvious answer to why there's a discrepancies between those numbers? I see Sharon coming down.

>> Scott Johnson: Councilmember, in the accommodation of the agreed upon procedures audit that we presented to the council in December, as well as the City Auditor's office, we did -- we have the final numbers. We did note the loss per the financial statements. In that report, maybe Sharon wants to speak further about that.

>> Councilmember Liccardo: Okay, great.

>> Sharon Erickson: If I could just briefly, Sharon Erickson City Auditor. The difference is that we calculated in our audit report in accordance with the management agreement, which is on a slightly different basis. If you'd like the details it would perhaps be helpful if we deferred for a week and we can get you those details, the reconciliations.

>> Councilmember Liccardo: Okay, I want to -- I'll spare everybody that a lot of the details I'm happy to discuss with you off line but essentially you're saying there was a different yardstick we were using because we were relying on the agreement, is that right Sharon?

>> Sharon Erickson: Correct.

>> Councilmember Liccardo: Great that's helpful. The next question hi was on page 7, the 5.5 million in uncollected receivables that's reported, it seems from a layperson's perspective to be awfully high considering this is an organization that would in the best of years even after taking food in-house and everything else only had you know, revenues in the teens of millions. Does that number seem unduly high to our staff?

>> Scott Johnson: Councilmember, let me add some additional information on that. The finance department is working very closely with Team San José in regards to those receivables and we've actually offered our revenue management collectors to work with Team San José on collecting that. Team San José has changed their policies in regards to deposits and that type of thing for events. So we don't anticipate other receivables uncollectible being that high in the future. In addition there were some debts that they did have to write off. And we'll be coming back to council you know for that official authority to write those off.

>> Councilmember Liccardo: Great, thank you very much, Scott, thank you, Sharon. I'll move to approve.

>> Mayor Reed: Positions to approve. All in favor, opposed, none opposed, that's approved. That concludes the consent calendar. We'll now move to item 3.1, report of the City Manager.

>> City Manager Figone: Thank you many, many members of the council I just have one update today and that's a labor update. And we have begun negotiations with all of our bargaining units except one and that would be operating engineers known as OE 3. While OE 3 proposed a date in February to meet we have proposed to meet with them in January to get things started in their contract, we have yet to hear back from them but we will continue to pursue that request with them. Meetings with the POA started two weeks ago and in the last week we met with representatives from the other eight unions. We are still in communications with the fire union, regarding arbitration under the new rules, passed by voters last November. One bargaining unit, ALP, the association of legal professionals, has just expressed a strong interest in holding negotiations in a public setting. We will be exploring the logistics with them further to see if we can reach an agreement on how that might occur and we will keep you updated as we proceed. That concludes my report.

>> Mayor Reed: Thank you, City Manager. We'll now take up item 3.4, discussion and direction regarding labor negotiations on second tier retirement benefits for new employees. Which we said we wouldn't take up not before 3:00. Right?

>> City Manager Figone: Correct.

>> Mayor Reed: Okay, same thing about 3.2, the council labor negotiations guidelines, not before 3:00, so we will move past those to Item 4.2, the Cal home program grant. We have a motion to approve. All in favor? Opposed? None opposed, those are approved. Item 4.3, actions related to the consolidated annual action plan. Positions is to approve. All in favor, opposed, none opposed, that's approved. Item 4.500, a public hearing to establish Kirk park community center rule 20A underground utility district. I have no cards on that. Correct? Councilmember Rocha.

>> Councilmember Rocha: I do have a question of staff if anyone's available. Can you speak a little bit to the public outreach on this?

>> Sure Mr. Mayor, members of the council, David Sykes, acting director of Public Works. When we go forth to establish an undergrounding district we reach out to all the community to get their interest on the district. It's not uncommon that these community meetings are not very well attended. Typically the public's interest stems around issues for the connection to their home. In this particular district there are I think only two homes that we'll need to make the connection. And so we will work with them on that. So that the community meeting process, I think we only had five attendees. The process from here on out would be, the council would if they establish the district today they start the design process and then reach out to community once again before we start construction. Actually this project will be constructed by PG&E so it will be a requirement that they have.

>> Councilmember Rocha: Thank you, if you will include my office when you do the next round please.

>> Absolutely.

>> Councilmember Rocha: Thank you, I move approval.

>> Second.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. That concludes everything we can do before the 3:00 items. Do we have any cards on open forum? We do. We'll take the cards on open forum at this time. Angelica Arpin. Angelica Arpin. All right, going to pass on that. Yes, thank you. Sorry I mispronounced your name I think.

>> Yes, well, I attempted to come here, I have three issues with the inspector of the city. Electricity, a roof and fans. Poor like me and seniors and women are target like this. Inspector handed a final with it being final and without permits. And they justify no time for these things because of the budget. The leverage in my house and the roof is unfinished. My neighbor has sue me and now he's waiting to collect about $12,000 in a few years, without a permit, and without an agreement. And I would like very much that somebody pay attention to me. Because I, like I say, nobody pays attention to me. So that's all. So please, help me on those three

issues. Electricity, my roof, unfinished, and that and final was handed, and licensed contractors, they just walk out. So please, help me.

>> Mayor Reed: Okay, thank you. We're going to take a recess here in a minute and when we do that if you will see this gentleman over there, Ed Shikada, he can talk to you about that and see what the city's role may be on this. I believe this concludes the open forum. We're scheduled to take the other items not before 3 o'clock, we'll take up 3.4 and 3.2. So we're in recess. [Recess]

>> Mayor Reed: It's now 3:00 and I'll call the city council back into session so we ask continue the rest of the agenda. We had taken a recess because we had noticed a custom of items not to staff before 3:00 p.m. We kill start those items as soon as the city council members can get back to the dais. First item, to take up is 3.4, discussion and direction regarding labor negotiations on second tier retirement benefits for new employees. We will have a staff presentation on that, I think City Manager will start.

>> City Manager Figone: Thank you, mayor. Members of the council. Today's item is very important in continuing the discussions about the future fiscal viability of our city. We are going to show you some costs today that can cause you great concern. And they certainly have caused me to be very concerned. There is no question, in my mind, that our retirement costs are increasing at a rate that is not sustainable. Changes must be made so that the city is able to continue to provide even the most basic municipal services to the public, and not to divert those limited resources to retirement benefits. The city of San José has over a $3 billion unfunded liability that still must be paid regardless of a second tier. While the discussion today is just on a second tier, which is -- which will do nothing to impact our unfunded liability, this is a very important step in pension reform, but only the first step. As we begin to confront these issues I want to emphasize that city employees are not to be blamed for this problem. Our employees provide high quality services to our community and I know that we all appreciate everything that they are doing to adapt and excel in this time of change and constrained resources. As you've seen in our memo our recommendation is to have the city council decide what the maximum cost of the benefit will be. One question that you may be asking is: What will that buy? It is a good question and we will have some examples for you in our presentation. I recommend that our first priority be to establish a goal of the negotiations

in terms of savings for the second tier and have the actual benefit design be something that is discussed at the bargaining table. This is similar to how the city council established the 10% total compensation reduction last year. How the 10% reduction was achieved was left to the bargaining table. And as I mention although this is a critical first step I don't want there to be any confusion that a second tier will solve our problem. Unfortunately, it will not solve any of the unfunded liability, and we will need to take further steps to address that through other retirement reforms, including looking at potential options for current employees and retirees. There are legal issues that would need to be evaluated however, in the regard. So with that that I'll turn it over to Alex Gurza the director of employee relations to provide you with an overview of the City's retirement plans the costs and our recommendations for second tier retirement benefits for new employees.

>> Alex Gurza: Good afternoon Mr. Mayor members of the city council, Alex Gurza director of employee relations. With me this afternoon are members of my staff Gina Donnelly, Aricelli Rodriguez and Jennifer Shembry. What you have on the screen right now is a place for people who may be watching on the internet or at home to be able to navigate to the information that the city provides, on the Internet, remitted to retirement benefits. There is a very complex subject and there is a tremendous amount of information that we have made available on the Internet not only about retirement benefits but about labor negotiations and personnel costs. So this is one way that people can navigate and know how to access that information. We do have a somewhat long closed session -- I mean open session presentation and PowerPoint presentation this afternoon, and by the end of the day it will be posted not only on the City Clerk's Website but also on our Website for people to be able to review. As the City Manager indicated, this is the agenda that we plan to go through this afternoon. Talking about the council direction we've already received, what retirement form is, why a second tier is needed, but before we get to the second tier we also think it's important to review our current benefits, and the current cost of those benefits and then look at options. This is a very complex subject. Definitely the most complex subject that I and members of my staff work on and although that we are working this presentation this afternoon it would be remiss not to thank the assistance and the knowledge that has been transmitted to us 50 Department of Retirement services and their staff as well as the budget office given the significant budget implications and the City Auditor's office at the audit that Sharon and her staff have completed on this important subject. So to review, on November 18th the council provided us with direction. That not only was related to the labor negotiations and achieving the

10%, but also, directing staff to continue the analysis of options for a second tier retirement program, and return to council with recommendations in early 2011. And hence here we are. I do want to mention though that this direction that was received on November 18th was not new. The council had given us this direction to look at second tier actually one year prior. The council also said that the options that we should look at should include recommendations and input that had been made by the General Fund, structural deficit elimination plan stakeholder group, as well as the recommendations made by the City Auditor in her report. The other thing that's important to note as the City Manager indicated we've actually already begun negotiations with the bargaining units. Some of which the retirement benefits are going to be part of those negotiations. And in other cases we're going to collaborate with several bargaining units at the same time about retirement benefits and again, those discussions have begun. Some people think that retirement reform is synonymous with a second tier. The way we see it is, it's much broader than that and it is not synonymous with the second tier. We think it's important to point out that we do not believe the administration believes that a second tier is a panacea for the unfunded liability, as the City Manager indicated. However it is an important step. Second tier is a long term important step. It will not help the city solve its budget shortfall in 11-12. But the sooner a second tier is put in place, the sooner savings will begin. And we're going to go over that in our presentation today. So I mention retirement reform is broader than simply looking at benefits on a second tier. This is from a pew center on the state's report that we also have available on our report called the trillion dollar gap and they put retirement form in several key categories in their study. And we think they are very important. Number one, keeping up with funding requirements. And as the city is experiencing, that is a quite a challenge to be able to keep up with the incredibly increasing amount funding requirements to fund the current level of benefits. Number two, improving governance and investment oversight. The city has taken significant steps and the city council approved a complete restructuring of the the governance model of our two boards and this month both boards have now added people with significant expertise onto the boards and if you attended those boards you would see the level of expertise and the questions that were asked is quite impressive. That is also quite an important step. The oversight step is something Russell Crosby and his staff are taking quite a bit of time on. Number 3 is reducing benefits or increasing retirement age. In this category there may be two different ways to look at that. Second tier which is what are the benefits for new hires? As well as potentially looking at options for current employees. The focus, however, of this presentation is for future employees, there are clearly legal and other vested benefit issues that

need to be explored further, as the City Auditor recommended, as it relates to current benefits. Number 4 is sharing the risk with employees and 5 is increasing employee contributions with last year several of our bargaining units agreed to either temporarily or in some caress on an ongoing basis contribute more into the retirement fund money which otherwise the city would be contributing. So why is the second tier needed? Just to point out, a couple of the more local recommendations about what the city should do is, an excerpt from the City Auditor's office report. Indicating that it's important that the city move aggressively to rein in pension costs that threaten the stability of the general fund and the services it provides to the residents of San José. The Santa Clara County civil grand jury in its report entitled city must rein in unsustainable employee costs, also mentioned the need to try to negotiate, approve and implement considerable cost containment measures so that employee financial obligations do not continue to escalate. The grand jury pointed out that the compensation continues to increase while revenues and services decrease. Now, what we're going to show here and I know it might be hard to see the small numbers but a comparison of the ten year growth in total compensation. So you see here on the left side is a pie chart of total compensation that shows back in 2000 and 2001, when we had 7,000 approximate employees what the total compensation was. And the important part is not just the numbers but the allocation of base payroll which is essentially cash compensation how much of that pie is going towards that versus how much of the pie is going towards other benefits. So if you notice the retirement benefits, the City's contributions towards the retirement benefits in 2000 and 2001, was approximately $63 million, which represented about 12.2% of the total compensation dollars. Now, flash forwarding to 11/12 base budget, we think the most important thing to look at is, the retirement benefits portion of the pie has grown as a percentage while base payroll has decreased. So what it indicates is, of the total compensation dollars, more and more of the percentage is going towards retirement benefits. You have $63 million in 2000-2001, and you'll notice it says 194 million in 11-12. Now, you may have seen very recent information that estimates that our 11-12 is not going to be 194 million but is now estimated to be approximately $250 million. This pie chart was based on information from last February's forecast. Even if we had anticipated an increase the increase is even more than we had anticipated. So there it shows that on those numbers 24% of the total compensation dollars are going towards the contributions towards retirement benefits. Also important to note, as I mentioned, the 7,000 employees now in 2011-12 we have less than 5700 employees which is a 24% decrease in number of employees. So we'd like to briefly provide an overview of the current level of benefits so we think it's important to keep in mind the current level of benefits, as

the city is contemplating what a second tier might look like. So very briefly, there is much more of the benefit plan than this chart. But to make it simple, the minimum age in the Federated plan which again for those that are not familiar, Federated is anybody who's not a sworn police and firefighters at the city. You can retire at 55 years old, or if you have 30 years of service, at any age. Of course in order to accomplish that you had to start employment you know at a relatively young age. In Police and Fire you can retire as young as 50 years old. You have to have 25 years of service in order to do that. And also, you can retire at -- with 30 years of service at any age. The maximum benefit in the Federated plan is 75% of your final average salary. Whereas in Police and Fire it's 90%. Now, not everyone receives that. That is what the maximum is after 30 years of service based on a formula so if you had 25 years of service that's going to be different than 26 or 30 years of service. But that's the maximum benefit. And another very key and expensive benefit is the cost of living increase and in both plans it's a 3% fixed increase compounded, that is not tied to the CPI so every year it is 3%. We've provided a lot of information about the average pension benefits. But for this discussion today, we calculated what the average pension is for people who retired in the last five years. Why did we pick five years? Why did we pick more currently as opposed to older time frame? That is because in looking at the benefits that the current benefit structure provides we think it's appropriate to look for -- what are people retiring now what are they receiving? There is no question that people who retired 20, 25 years from now are not making these numbers. For looking what a current employee might get in the Federated plan the average pension current by the person retiring in the last five years including cost of living is a little bit less than 44,000. Average years of service of those employees about 20. In the Police and Fire plan the average is a little over 100,000 per retiree and you see the average years of service is higher average of 26 years of service. Now there are other pension benefits that are received. There are survivorship benefits that eligible retirees receive. There is the SRBR otherwise known as the 13th check that is part of the plan. There is reciprocity. Now reciprocity is something where, when people move, from a PERS plan for example, which is the state plan, into our system which is an independent plan or vice versa or between independent plans, there are some benefits to those individuals. There's also disability retirement benefits that are received both as somebody if they're disabled, either for a nonwork related reason or work related reason can be approved for a disability retirement. And for those people that do receive a work related disability in the Police and Fire plan there's currently no offset for the workers compensation benefits that they may receive. So they may receive both workers compensation benefits and disability benefits. Retiree health

care benefits, are summarized here, the maximum benefit in both plans is 100% of the low-priced plan, single or family. So what that means is, is that if an eligible retiree the plan would pay 100% of the premium for either single or family coverage. And the eligibility is approximately 15 years. For dental, it is five. You can see there are some differences. Now the value of that benefit we just put for 2011, what is the value of that benefit in a yearly basis? So if somebody is eligible for single coverage that is about 6,000 of coverage. For family it is about 15,000. So it's a very significant benefit that also relates to the liability that we're going to talk about a little bit later. Now, the thing, also thing that's important the connection between retiree health care and our pension benefits is the most significant cost of retiree health care benefits are actually the time that are premedicare years. So the earlier someone can retire so for example if you have somebody that can retire at 50 or 55, the most significant part of that cost is those years between that retirement and 65, when Medicare kicks in because the plan's cost do go down when the person becomes Medicare eligible. So what do these benefits cost? When we think of cost of retirement benefits, we often simply ask what the contribution rates are. Bun but of the things that we -- but one of the things that we want to point out is contribution rates don't always tell you what the cost of the benefit. An extreme example is in the 1990s when the state system PERS was superfunded and some member agencies didn't have to pay anything into the plan. San José was never in that situation but when you looked at the cost just as a contribution rate, one might think the benefits were free. So there is a much different way to look at what a cost of a retirement benefit is. Now this is the long quote. And this actually comes from the Police and Fire retirement board's actuary, the Segal company in a report dated November 22nd, 2010. And it says that the chairmen assumptions do not determine the quote unquote actual cost of the plan. The sentence that we highlighted said the actual cost is determined solely by the benefits and the administrative expenses paid out offset by investment income received. It may seem intuitive when you read it. If you pay out benefits and you have investment income, that's actually cost of the benefit and sometimes the contribution rates may seem lower than they otherwise maybe should be given the cost of the benefit. So the other part that's very important that this quote indicates is that it is desirable to estimate as closely as possible what the actual cost will be, so as to permit an orderly method for setting aside contributions today, to provide benefits in the future, and to maintain equity among generations of participants and taxpayers. We think this quote says a lot of very important things because in funding a retirement plan the idea is that you're setting aside both employees and the city enough money to pay those benefits, while that service is being rendered to the community. So the taxpayers who are paying part of

that money, they are paying for the services that our employees are providing. When you don't set aside enough money and you have a very large unfunded liability, that is what is referred to as the intergenerational transfer of the liability. Because you may have taxpayers a generation from now paying for services that were received years, if not decades, earlier. So why do we bring this up in the context of a second tier? Because of the importance when designing it that we use as realistic assumptions as possible to estimate what the true cost of that new benefit will be. So talk a little bit about terms that we've used, we've mentioned this to city council but also to people that may be unfamiliar that may be listening. Talk a little bit about what normal cost is versus unfunded liability. When a plan develops contribution rates they come one the total contribution that is needed to the plan. Both from the city and from the employees. And it's made up of two key components. I'll talk a little bit about the normal cost first. You see the arrow goes forward. The normal cost really is the amount of money that the actuaries estimate that need to be put in for every year of service moving forwards. So an employee today now how much do you set aside to set aside the amount of money today? So that's a going-forward basis. The unfunded liability is looking backwards. So that is where assumptions that may not have met with reality, when it's looked may create an unfunded liability. Retroactive benefit enhancements may create an unfunded liability. So for example, if a benefit is all of a sudden changed, during the working life of an employee, and instead of now let's say retiring at 75% final average salary, but it's now changed to 80, and then changed to 85, and then changed to 90, but it applies to service that is already been given, neither the city nor employees were putting aside the money to fund that benefit, right? The normal cost was not put in. So that creates part of an unfunded liability. So we often think of unfunded liability as oh, those investment losses. Unfunded liability is made up of much more than simply that. The way we've come up with thinking about the unfunded liability is think of it as a mortgage payment. You don't have to pay the $3 billion all up front but it has to be paid, and it gets paid over time. Like your mortgage does. And it depends on that amortization of your mortgage. Some of us may have 30-year mornings, some of us may have 15-year mortgages but it has to be paid. And this important part of the discussion about second tier as the City Manager indicated in the beginning that no matter what the city does with benefits for new hires the mortgage has to be paid. And we think that as this discussion proceeds this afternoon, we think it's very important to keep in mind that mortgage payment. Because it isn't like we're starting from scratch a new company and deciding what benefits we need to provide our new employees. We also need to consider how much needs to go for the unfunded liability for benefits of our current employees as well as our retirees. Who

are receiving some benefits that weren't completely funded when they retired. Retiree health care is a very important part, example of that. So the unfunded liability. Again, testing my ability to explain these somewhat complex actuarial terms. These are these big numbers. You can see here on the right if you just look at the City's unfunded liability, you see it's either 2.96 or 3.54. Either way, very significant numbers. So somewhere between 3 and 3.5 billion. Want to explain the difference? One is based on what they call actuarial value and one is what they call market value. If I can start with market value, when an actuary does evaluation they simply look at the value of ought the assets in the plan at that moment in time. What are they worth and come up with that market value. The actuarial value is a somewhat different way to look at it because actuaries actually recognize unexpected asset returns or losses over a period of time depending on the smoothing period that is decided by the plan. So for example, the significant losses that both plans, as well as plans across the United States experienced in '08-'09, were not all recognized immediately. They're being recognized over a five-year period. So you'll see that we're only in the second year of recognizing a lot of these losses. So the actuarial value is really for budgeting purposes in some ways and to moderate big fluctuations from one year to the next. Councilmember Liccardo stepped out but I remember that he asked a question when he was on the Police and Fire retirement board as if I was asked and I was out somewhere and a resident asked me, what the unfunded liability is, he asked the actuaries, should I give them the actuarial value and the market value? The answer is both because both are important and accurate reflections. So that's why we are providing these to you today. What this shows is what's called the funding ratio. So if I could take just a moment to explain what a funding ratio is. It is the measure of the fiscal health of a retirement plan. And when a plan is 100% funded it means that the assets match exactly the liabilities. So of course, you're never going to be at exactly 100% but you'll see here that in 2001, the Federated plan was about 100% funded and the Police and Fire plan was almost 115% funded. But you'll see the dramatic drop. And this is based on actuarial value whereas in the most recent valuation, you have the Police and Fire plan at approximately 80% funded, and the Federated plan at 69. So although some may say you don't need to be at 100, some may say well 90 is good enough or 80 is good enough I think the significant issue to look at is the trend, in what direction are you headed? And you can see how quickly things can change in a plan in the funded ratio and in the unfunded liabilities that these numbers represent. So this is now just to break down these funding ratios a little bit for you both in market value and actuarial value you can see here on the Federated plan between 60 and 69 and 69 and 80 on the Police and Fire plan. But I did want to show this to point out the retiree

health care. You can see here in Federated only 12% funded. In the case of Police and Fire, 7 or 6% funded. If we were looking at our pension plans that way I think there'd be some sense of panic about that level of funding. But this information is actually what led to the very significant agreements with our bargaining units to start funding that benefit. So hopefully, we're on a long road but a road to have that number at least start to go up. We have agreements with all of our bargaining units to begin funding that except for the San José firefighters. So what are key factors that impact retirement costs? Benefit levels and enhancements that are made are keys to that. What is the pension formula itself? How much do you get per every year of service that you work? What is the cost of living adjustment? If you look at actually cost of our cost of living adjustment, it's very significant. So whether it's -- it may seem like a small difference, a 3% cola and a 2% but it can be very significant in the cost. What is the final average salary calculation? For example we have a -- it is based on your last year, highest year. Is it that or is it three years or is it five years? And one of the most significant indicators of cost is when you can retire. So clearly, the earlier you can retire, the younger you can retire, makes a dramatic difference in the cost of the benefit. And then what retiree health care benefits do you get? So what are the costs? We provided to the city council very recent information about the estimated costs for fiscal year 11-12. Couple things to point out about these numbers are, these are all funds. And so the current estimates are that it is approaching $250 million in 11-12. Now I want to point out that we do expect that to go up, not significantly, but the retiree health care valuation for Police and Fire has not been completed and it is expected to go to the board next month and so there will be again further adjustments as these valuations come in to adjust the number. In the City Auditor's report she was actually looking at a potential of $250 million several years out. We're actually there in 11-12 and as I indicated in the prior slide, just in last February's forecast we thought the number would be 194 which is still very significant. But we're now looking at 250 million. Now, these are a lot of numbers and really, it just represents the contribution rates that the boards have established. So for those people that might be watching I just want to show here the key points. This is going from fiscal year 10-11 to 11-12 both city and comparing employee. And if you look at, for example, the City's rate, contribution rate in 10-11 was 29.59% of payroll. And in 11-12 it's going up to 35.5% of payroll. That's a 20% increase in the rate. For Police and Fire, you see going up from approximately 44 to almost 56 in each case which is an approximate 26% increase. On the employee side you'll see what's going up is because some of the assumptions changes the normal cost does go up but nowhere near the same percentage as the City's cost. So Jennifer Maguire the budget director distributed

an information memo to the city council yesterday that based on this information we have a revision to the General Fund shortfall and it is now estimated to be $109 million. The two columns represent the difference between the preliminary forecast and the updated forecast, and the difference really is in the updated information we received based on actuarial valuations. This is the actuarial time frame over these last few months whereas before that it is just estimates, best estimates that we had received. But every time a valuation comes in and we understand the impacts of some of the methodology changes these numbers are updated so currently the shortfall in the General Fund stands at $109 million. Now, the other thing we have asked for is, from the Department of Retirement services if they can provide us with an estimate of where contribution rates are headed. They have provided this estimate a year ago but now that the numbers are higher where are the contributions rates headed in the next several years? And that's what this next slide represents. Now I think I know that when I reviewed this with the City Manager I say that I think alarming might be one word that we can use about the reaction to these numbers. You can see here in 11-12 we anticipate the contributions again to be about 256 because again we're still waiting to see some -- the updated retiree health care valuation. But look here in 15-16, the City's contribution to both plans will be $400 million. Now, that if you add up all those five years, over that time frame, in all funds, the city will have contributed $1.7 billion into both plans. The other key part to remember about these plans, about these numbers, though, is they don't take into account any possible future changes in the plans including assumption changes that we know the boards and the actuaries have indicated may be coming. As well as any other changes that may occur. So now that we've covered our current situation with the current benefits and what it costs we'd like to move in talking about the second-tier retirement benefits for new employees. As the council knows the voters of San José overwhelmingly passed measure W on November 2nd of last year that simply allows the council to adopt an ordinance that excludes future hires from the current benefits and minimum benefits that are in the charter. The city charter currently has two things, one is minimum benefits but also a cost-sharing structure for what's called normal costs which is an 8 to 3 ratio. So this provides the city council with flexibility to provide a benefit that is different than what is currently in the charter. In looking at the possible designs for a second tier as the council directed us we looked at the City Auditor representations. She has many more recommendations but as it relates to benefit changes recommends additional cost sharing, eliminating or limiting SRBR, negotiating prospective changes for existing employees, an issue I looked at, I mentioned earlier, establishing a second tier for new employees and also considering joining

Cal PERS to reduce administrative costs. The General Fund structural deficit elimination plan also had recommendations and their top five high level ideas, create a second tier pension system, increase the retirement age, change the automatic cola and change to a defined benefit plan. Now, remember, some of these things are mutually exclusive. Some of the recommendations are related to if the city continued to define benefits and some are related to a defined contribution. And not having a city pension holiday always pay the full normal cost again still important to point out that we never had a zero contribution rate as PERS agencies did have back in the '90s. So what are the goals that we are proposing for a second tier? One, is to minimize intergenerational transfers of the cost of retirement benefits. Now as we talked about that's unavoidable given the current unfunded liability but in designing a new plan how do we minimize potential for future intergenerational transfers for the cost of retirement benefits, we believe one way to do that is to use realistic assumptions when valuing the cost of a second tear. Have long term sustainable benefits reduce future costs as well as to reduce risk. One of the issues we've heard about a lot is that we also still need to be competitive. Although we do think the city is and should continue to be a competitive employer, we do want to point out some challenges with having that as a goal only for looking at -- at retirement benefits. We do not believe that you can use a model that relies primarily on comparison of retirement benefits of other cities. And I think the history kind of maybe shows part of the challenge of using what other cities may be providing in deciding what retirement benefits the City of San José should provide. As you all know the state started providing 90% benefit back in the '90s. That spread like wildfire up and down the state in providing 90% benefit to public safety employees. Competitiveness was the main reason given for the need to provide a 90% retirement benefit. But we think it's important to really be able to know what is the cost of providing that benefit and I think that if we were to look at up and down the state right now in PERS although there are some agencies that it has started to move to a second tier the majority for example for public safety is still at that time 90% benefit. So how do you design a benefit, for example, that is competitive for everyone? When the city hires, the city hires all different types of employees at different skill levels coming in at different points in their career. Early in their career, later in their career. So how do you design a benefit that might address the needs of all of those? We looked at a report that was put out by maine, the state of maine, to design a retirement plan that attraction and reincreased job marketplace mobility means that workers of all employment enter employment at different times. So in essence, it is somewhat difficult to make sure you're addressing the needs of every type of worker that we have and what stage of their career and what one person may want and

somebody else may not. Some put a priority on portability and not necessarily long term employment so it is quite a challenge to try to design a plan that's going to address everybody's interest. We believe as the City Manager indicated given the $three billion unfunded liability the city faces and the ever-increasing portion of the General Fund that's being put towards the retirement benefits we believe the primary consideration should be the fiscal health of the city and the city's ability to provide basic city services to the residents. We do believe it's important to recruit employees. Recruit employees who are interested in a career in public service. Now there are some gross where that means a choice to forgo greater income and in some cases maybe they may be making more here but the key is to focus on people who are looking for a career in public service, and specifically, to come to work in San José. The other thing we think it's important to remember, is San José is a major employer. We have more employees even today with our reduced staffing, than every city in Santa Clara County combined. So one of the things that we want to point out is that San José can drive the market. And so will we wait to see what every other city does or in some ways do we need to be the leader, especially given the fiscal situation that we face with our pension plans? So we believe that though, however, in looking at a second tier that we should take into account a cost and a structure of retirement benefits that provides for future flexibility. If you remember that pie chart that I showed you, the total compensation dollars retirement is taking an ever-increasing portion. When you provide a benefit and if it is indeed a vested benefit that can't be changed it provides future city councils with little flexibility about how to allocate those total compensation dollars. Perhaps in the future, more cash compensation may be the way to attract employees. But if you have a retirement benefit where such a large portion is being put to the retirement benefits it takes away that flexibility. So we think that in designing a plan is to have flexibility to react to the labor market. So future city councils can add let's say some -- to a retirement benefit. A greater matching to our 457 plan which is like a 401(k) or add to the pay line so we think it's an important consideration to be able to remain flexible as we react to future labor markets. So what are the alternatives and I am getting close to the end of our presentation. We put the major categories in our memo. One a divined benefit plan that is what we have now. That is where an employee if they work under a certain number of years of service they get a benefit for the rest of their life. That is based on a formula average years of service and all of that. You can have a defined contribution plan. Now a defined contribution plan in the private sector often known as a 401(k) or a 401(k) match. We do think it's important to point out though that if the city chooses to pursue a defined contribution plan, that necessitates putting new employees into Social Security. Currently we don't have any employees in Social

Security and that's because we have a defined benefit plan that decides to opt out of Social Security. So if we were to keep a defined benefit plan as a second tier it simply has to meet that requirement. If we were to have a defined benefit plan it would add on to social security. A hybrid is simply a combination between a defined benefit and a defined contribution. So for example in the private sector you might have a 401(k) and maybe a modest defined benefit so that's possible so it's a little bit of a combination of the two things. Now, in this last phase of the presentation, talk a little bit about costs and things to keep in minds as we look at the cost of a second tier. So this is looking at 11-12 city-only pension costs. It does not include the employees' cost for the person of this slide. It is normal and unfunded liability. If you take a look at the charts the red portion in each column, Federated and Police and Fire is essentially away I've called the mortgage payment. That's the payment towards the unfunded liability. That is not affected by the second tier. The blue portion is the normal cost, the cost of every year moving forward. So in think about a second tier, the city can only affect the blue portion. Meaning how much is that blue portion going to be? You see in Federated the City's cost on the normal cost is 12.76 or in the case of Police, 27.69 or 28. That's the only part that can be affected by a second tier. Now I'm transitioning to the total normal cost because when you design a benefit you really look at the total normal cost both what the employee pays and what the city pays. So in Federated, the total normal cost is 17.44. And that's split 12.76 that you saw on the prior slide by employees, and the 4.66, hard to read there with the purple, 4.68, with employees. For a total of 17.44. And then you see the same over in Police and Fire. What the normal cost the city pays and then what the normal cost that the employees pay. So when you're looking at a second tier you have to say okay, well, how does the new tier compare for example in Federated to 17.44 the total cost? A secondary decision then would be what is the cost split between the employees and the employer, the city? This currently represents the 8-to-3 ratio that is in the charter. But since that flexibility is now provided to the council for a second tier there can be a different cost-sharing mix and in our memo we're recommending a 50-50 sharing of not only normal cost but future unfunded liabilities that might be created in that second tier. Now in our memo you see that our recommendation is that we establish a second tier whose total normal cost is 12.4. That is the cost of Social Security. We do think it's a benchmark. That does not mean that we are recommending going into Social Security although clearly it is an option for the city council if it wishes to pursue that as an option. What we are recommending is taking the 12.4 total and putting it towards a defined benefit plan. So what does that do? So if you look at the chart that's on the left here, which is this is the current Federated cost. Okay? So this part we're

keeping now this is the mortgage payment so to speak. So got to keep in mind that this payment is still going to be there although the new employee won't have an unfunded liability the city still has to pay that unfunded liability in the past. We're putting that here for display to show that we can't forget that mortgage payment we still have to pay. What is to change if we do a 6.2% normal cost? 12 be 4 benefit split 6.2 by the new employee and 6.2 by the city. You can see that goes down in half from 12.2 to 6, because the normal cost in Police and Fire is so much they're reduction to 6.2 is more significant. So we're just showing here current fire, and then if we had a 6.2 normal cost here for new hires, same with police, here. Now one question is well if we did that, how much might that save? So as we've indicated the moment this is put into place, nothing is saved. It's the time you hire the first employee, it starts saving. Because the normal cost on day 1 is going to be less. And the issue with looking at second tier is you're always going to be able to look backwards when you put it into place and you're going to look at how many employees you could have had into that second tier. Right now in a situation where we're actually unfortunately reducing our workforce, one night say well, why put a second tier in, we're reducing. But as true as that reality is we know that we're in a situation with an increased number of people that are becoming retiree eligible. We know that in five years it's estimate they'd a third of our workforce will be retirement-eligible. We will be hiring again. In ten years it's estimate they'd a half, 50% or half of our workforce will be retirement eligible. So it's really a matter of estimating the longer-term savings and having a long term view as opposed to something that would necessarily help the city balance its 11-12 budget. So we've done some estimating on those savings that might happen if the city were to be able to have a retirement principal whose normal cost is 6.2%. Anyway I'm going to do that, I'm sorry I skipped one slide. So let me go there first and I'll go backwards. So in five years, we estimate that that savings would be $21.9 million per year in savings going forwards. If a third of our workforce was in the new tier at that time frame. In ten years it would be $33 million. So that gives some sense, again, of what are the savings of reducing down our normal cost down to 6.2. If the city were to decide to spend more than that it simply makes those savings less. Now, one question, started to talk about a minute ago is what might you be able to get for that? What kind of benefit? Well, weto the city council decided to pursue going into Social Security you would know at least what those benefits are today. And you know what those would be. Well we've done some very rough calculations, on well what might 12.4 normal cost do? What kind of benefit might that provide? And this, again it's a range. And the reason it's a range is because what you do in one area is going to significantly impact the cost. For example the earlier you can retire, the less benefit you might be able to provide

to stay within the cost. So what this charts shows, that we get, we think, as close to 2012.4 as possible but the -- and the retirement age would be somewhere between 58 and 65 and the formula per year of service would be somewhere between 1.25 and 2. And you might ask well why such a big range? Well it depends open the age to a great degree. The cola could affect it. You could still have a cola of 2%, maybe make the benefit a little bit less or if you had a zero cola maybe would it make the benefit better. So as the City Manager indicated we think this is a very, very good discussion for the negotiations to start talking about, what are the kinds of interest? Earlier age, later age bigger benefit then work with our bargaining units to have some specific actuarial estimates that we can talk about but we want to provide some sense. The last thing on there is the calculation of the pension. Is it based on your final average salary or something different than that? Average three years average five years, again we hope to provide you with some sense of what it might provide. So our recommendations are in our memo, which is to work towards a normal cost that does not exceed 6.2% for the city with 50% of the normal cost and any future unfunded liability shared. And the considerations again are there in the defined benefit plan which are similar to the recommendations that were made in the City Auditor's report as well as the stakeholder task force group. Continuing here, looking at the issues of vesting how many years of service do you need to have? What are the survivorship benefits, what are the retiree health care benefits for the new employee, what is the cost sharing for the new employee? There is many, many issues in the new plan of a second tier that would need to be discussed during our negotiations with our bargaining units. There are other retirement forms that we just wanted to mention briefly, that would still need to be continued to look at is options for current employees and first and foremost consideration there are the legal issues surrounding that that we'll be working closely with the city attorney's office, the SRBR check which we have issued several supplemental memos regarding that and also, opinion of workers compensation offset in the Police and Fire department retirement plans. As the City Manager indicated, we have begun negotiations, we have almost every bargaining unit have begun negotiations. We have OE3 proposing to start in early February, with the firefighters union again as the City Manager indicated we are not currently in negotiations with them but pursuing to binding interest arbitration under the amended charter section. We apprciate your patience in the length of the presentation and hope it provided the city council as well as the public and our employees with ground in the basis of the issues we provided to you in our memo. Thank you very much.

>> Mayor Reed: Thank you for the presentation Alex. I had a bit of information to add to it. On Friday I will be releasing memo with a results of the poll that we did as part of our community based budgeting process, a polling that was done in January. But I do have some top line results that we wanted to share because we did ask quite a few questions in that poll about second tier retirement benefits and I thought it might be interesting to hear than you can see the details on Friday when we get the package back from the pollster. Almost all of the items that Alex talked about as possible things to change on a second tier, we asked about. But public support for doing those items ranged from 61% to 73%. With the highest being eliminating the traditional pension plan and replacing it with a 401(k) style plan. With the other elements reducing the percentage of pay, increasing the age of retirement, lowering the pension cola, ending sick leave payouts and other things all polled in the 60 to 70% range. So I think there is tremendous public support for doing something, and I believe that there is you know there's going to be obviously a need to do something. And I'm hopefully cautiously optimistic that in those negotiations already scheduled we'll make some good progress on this because clearly, we have to do something. And then the second thing is I'd like you to go back to that slide that shows the future projections, payments, before you started talking about the elements of the second tier. Yep, you just passed it, that one. This slide is stunning. You got an earlier slide where ten years ago, the pension or the retirement payments were $63 million. So now we're looking at $256 million, going up to $400 million. And I don't think we can just sit by and let that happen. We need to anything out what we can do with the existing first tier, with the existing employees, existing retirees, whatever it takes to try to save us from hitting that $400 million mark. And I know that's not the topic of discussion today, but considering the size of increases we're looking at with the existing obligations we can't wait for the second tier. It's not going to save us. We have to do the second tier, that's really important as you said but these are enormous numbers and we need to figure out what we can do and then begin putting together a strategy to do that in a negotiations with our unions and so I know you've already been thinking about it. And that's an important thing to do but we'll have to figure out a way to bringing that back to the council with what we can do so the council can get into the policy discussion about what we want to do. And finally I just wanted to go back to the 1990s when the PERS gave pension benefits to state employees, that started the domino effect throughout the state. And it's pretty clear now I've read many, many accounts of what happened in the late '90s time frame. And there's no doubt that that is the biggest fraud ever perpetrated on the people of California. It is many times larger than Enron. The idea that we could vastly increase retirement benefits and we

wouldn't have to pay for it because the stock market was going to go up forever, it's incredible, looking back. You know that's -- unfortunately we're going to be paying on that for a very long time. But I doubt that the employees across the state who are counting on those pensions are going to get to see them because we're going to see other cities go the way of Vallejo, Pritchard and other cities across the country, they're just not going to be able to pay, make good on the promises that are made. We have to figure out oa way that we can cope with that problem make good on the promises and people that are counting on us for our pension benefits. Given that kind of numbers that's going to be a huge challenge for the people of the City of San José to come up with and still maintain basic Services but I know we're creative here and we'll try to figure that out although that's not the agenda topic for today. I do say that's a lot of public support for whatever the bargaining units are willing to negotiate, what are if elements might be you've outlined them, we're not trying to specify exactly what should be done today but there's a lot of public input for what needs to be done . Councilmember Constant.

>> Councilmember Constant: Thank you mayor. I know it's obviously that we have to do something. A couple of years ago when we started talking about this it was one report that said it was a problem, and we is had some spirited discussions and not necessarily agreement that it is a problem. But as we go forward the evidence continues to mount not only in our own data that we have in front of us from our pension plans and from our actuarials, from both of our pension boards, but we see it playing out over and over through the audit from our City Auditor, from the grand jury report, the national attention everything that's happening not only to us but to governments all over. So we really don't have a choice, but to go forward on this. I think, though, I have a lot of question. Just some clarifying questions. So let me get through those first here. If you go and I didn't write down the page number but I think it was a couple before this chart, it's the one that had the funding ratio declines from both of the plans happening at the same time. That one right there, page 20, write that down. Have we or have you overlaid on either this type of a chart or a dollar chart that just shows the dollar amount of the unfunded liabilities for each plan, drawn in the time periods when benefits increased or formulas changed, to see the effect, a cause and effect relationship?

>> Alex Gurza: Councilmember Constant, no we have not done that specific analysis. A lot of that is done in the CAFRs, comprehensive annual financial report, but.

>> Councilmember Constant: We won't seat it in our unfunded cost but we will see it hopefully in some of our normal costs. On page -- let's go back to 26, the one that you just had up that the mayor called up. Obviously, this escalation is considerable. Looking at the fact that $150 million more dollars being contributed just in the five years ahead of us is going to be incredible. Have we looked at what that's going to do to our five year projections in the budget? We see those continually, but these numbers are much larger in forecasting the budgets going forward. I know we have red all those years but I would imagine that makes those red numbers considerably larger.

>> Alex Gurza: Councilmember Constant, this information was just recently received so the only work that the budget office has done is calculate the impact, the General Fund impact for 11-12 and the budget office is working on the five year forecast that we released in February and they are going to be using as more updated numbers, numbers updated even further when they do retiree five year forecast in February.

>> Councilmember Constant: Just most of us off the top of our heads can think of what our total General Fund budget is today and then add in an extra $150 million on top of the projected deficit we have for next year. Just those two numbers together add up to almost $300 million. And you take that out of our overall General Fund, we're talking about having less than half of what we have now, to spend on services throughout the city. And I think it's going to paint a very weak and dramatic picture of what's to come in the near future. I know second tier is not necessarily going to address all of that but it's something that we have to continually look at.

>> Alex Gurza: And also if I could Councilmember Constant it's important for us to point out that these are all funds and so when the budget office works on the General Fund forecast it ABC affects all funds but these numbers are all funds.

>> Councilmember Constant: But we do know that the largest impact is from the jeched.

>> Alex Gurza: Yes.

>> Councilmember Constant: Significantly largest impact. And if you could go to the chart which I think it is page 39. If I wrote down the right number. So this chart is showing the potential impact to overall contribution rates going forward. Now I'm assuming that based on the fact of the unfunded liability, is still spread amongst all the future employees in the second tier, this is assuming that we don't close the system, and that if we have a new defined benefit program, it's within the two existing systems, and that unfunded liability continues to be shared over the entire workforce, is that correct?

>> Alex Gurza: Well, and really this is for display purposes really, the new employee starting let's say we have the second bar chart, a brand-new employee is hired in the Federated system. They themselves that person does not carry with them an unfunded liability. We're simply showing this to show that the city still has to make that mortgage person. Not for that person but the mortgage payment is still going to be there but to answer your second question that in our recommendation we are proposing a defined benefit plan still within our current plan, a second tier within our current plan and really when you -- the first tier would simply be closed, we would not be closing the entire plan so to speak but the first tier would be closed and the new employees would go into tier 2.

>> Councilmember Constant: That is an important distinction because if we do elect to go to a defend contribution plan, or some sort of combination of defined contribution and Social Security, or simply just Social Security, that would require closing the plan which would have other impacts on contribution rates, is that correct?

>> Alex Gurza: Yes car, clearly if that was the direction the city council wanted to head, we would have to consult with our Department of Retirement services and what the implications are but the cost social Security would simply be paid to Social Security and we'd still have to pay that unfunded liability.

>> Councilmember Constant: Right.

>> Alex Gurza: But yet other implication of closing the plan we would have to have our retirement staff advise us on that.

>> Councilmember Constant: Well the unfunded liability wouldn't disappear, it would be spread across a much smaller amount of people as you go forward because you have people retiring out of active employment. In other words, these charts as a percentage of payroll, as the active participants in the plan decline, the numbers or the percentage of payroll would increase because you have less people to spread it amongst.

>> Alex Gurza: Well you're right. That's part of the problem of gleying things as a percentage of pay. Really when you have a tier 2, it's less -- you can get a sense but really it's a dollar payment that has to be paid your mortgage payment. Less as a percentage of payroll but as what's that mortgage payment. We're really showing this for an easier way to kind of graphically show that we've still got to make the mortgage payment.

>> Councilmember Constant: Right, what you're saying is away we recently did is our contributions are an annual required contribution or the per-employee rate whichever is greater.

>> Alex Gurza: Exactly You're referring to the methodology change where you say you have to pay a certain dollar amount. Important to point out as well, the red portion, except for those agreements that we have bargaining units that on an op going basis have agreed to pay part of the City's share, that unfunded liability on the pension side is 100% paid for by the city.

>> Councilmember Constant: And going forward as we start to negotiate, whatever the direction happens to be today, can you kind of lay out for us the things we have to do in addition to negotiate? In other words the actual analysis that has to be done on the different proposals and how we would approach that from our side?

>> Alex Gurza: Sure. One of the things is, when we start discussing it, if we want to have certain things priced out or costed out as they say, we need to decide what that is. Because you know it's not exactly a back of a napkin calculation that needs to be done. We can use some rough calculations, but once we get down to looking

at what, you know getting close to what a benefit might look like, we then would have to have a full sort of actuarial evaluation. If you did that on every possible solution, it takes quite a long time, to get an actuarial report done. So it would be earlier on they would be estimates and once we got closer to looking like a potential second tier that we're looking at then have a more full actuarial report and when it came back to council for actually adoption we'd attach an actual written actuarial estimates of what that second tier would cost.

>> Councilmember Constant: Okay. And now just changing my line of thought just a little bit, so we're talking about second tier pensions for current -- or new employees, not current employees, we have the Jones-Day opinion about vested benefit rights. And this question is for the City Attorney. Now, and Alex, sort of alluded to it, it's if we go down that path of saying, they are vested rights, but there are some ambiguity out there and some differing opinions from different law firms in different cities, as to, you know, how vested they are and what exactly is vested, so my question to the City Attorney is, based on the opinion, that we have, the outside counsel opinion we have so far, did that address making changes for current employees in formula only, prospectively? In other words, saying you are hired on X date and you are promised this benefit and to date you and the city have paid in based on that promise, at this percentage. So our commitment, that is vested retroactively or going backwards, but as of this date in the future, calculations will be based on this calculation rate for an altered benefit, prospectively?

>> City Attorney Doyle: Councilmember, the first -- that's a topic that's best agendized for a later meeting. This is you know, it hasn't been agendized for purposes I think we have to talk second tier. I can tell you I'm aware of at least one firm out there that has a fairly more aggressive approach on what's called the reasonable modification doctrine. That's what we'll have to come back with if the council wants us to come back with that calculation.

>> Councilmember Constant: I think that's going to be important because in order to make a decision on how we proceed in a second tier is really understanding all of the potential options on the current tier.

>> City Attorney Doyle: Yes the Jones day opinion dealt with employee health care specifically and follows the general rule that the benefits vest as of the date of employment and it doesn't look backwards or forwards. It's

that's what your benefit is, again if the council wants us to come back with looking at first tier questions have been raised that's something we can come back with.

>> Councilmember Constant: With that in mind I might have some other questions in a little bit but I'd like to take a stab at a motion early on to help maybe frame the discussion and that is to make a motion to approve the recommendations in the staff memorandum, with direction to the City Attorney to explore those issues that I just brought up in relation to prospect arive changes in formulaic benefits, and depending on the outcome of that, potentially have a future council discussion on that.

>> Mayor Reed: All right, we have a motion on the floor. We have a few more questions I think before we're getting around to a vote. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. I don't know if you wanted to break from the council discussion allow superior courts to speak since they've all been involved with the presentation or did you want to continue.

>> City Attorney Doyle: The council discussion?

>> Mayor Reed: I don't have a preference. I've got about a half a dozen councilmembers who wanted to speak.

>> Councilmember Oliverio: I just wanted to make that offer out there so to have the people in the audience that long.

>> Mayor Reed: They were here mainly for to you speak, Councilmember Oliverio. p.m. I'm sure they'll like this slide 10 with the growth of the retirement really denotes one thing. The think will continue to have less people working getting paid less because of what the pension costs are and in the fall voters were pretty clear on measure W passing it overwhelmingly citywide. Not in geographies of the city but citywide and by some of the preliminary information of the mayor's resulting from the citywide poll that's making that more apparent. Clearly in

your staff report 96% of Americans are under Social Security. There's something of the benefit to be a shared plan all Americans sharing in the same situation. I'm of a belief that defined benefit -- defined contribution 401(k) plan would be best. It's number 1 it's something easy that residents understand. Number two the majority of people that work have that plan. I think you can be still a premier employer with a 401(k) based on an bloir match to 911ize those to retire. Whether it's a quarter on each dollar or 50 cents on each dollar it then allows the individual to make the choice of how much do they want to contribute. It gets us out of this over time, out of the actuarials out -- what are the retirement ages what the vesting period is, et cetera and puts it in the hand of the individual as much as in the hand of every individual mostly in the City of San José. There is as Councilmember Constant's brought out and you've laid out in your presentation the understanding that it dons release us from the unfunded liability. It doesn't release us of just the pure liability that exists but it's the freshest break you can ask for because we no longer have a 3% cola, we no longer have the possibility of creating an unfunded liability in the plan, it allows us flexibility, in any given year. So if the -- if budgets 22 years from now, appear to be better, then that council can decide to raise the percentage match on the 401(k) or if budgets tend to be -- could be worse then that council then could decide to lower the match. I think it needs to be for all employees not just Federated, they all employees need to be part of this plan. There will be particular positions in this city where we might have a competition issue but I think that will change over time. But within the early period of time I believe offering higher salaries for the specific position that requires the recruitment to the city, not the entire bargaining unit not the entire city. So if we need an advanced chemist at the water pollution control plan and that position is particularly hard to find, then we pay extra salary to get that position. When it comes to public safety, we know we have a huge difference in the applicants of police officer versus firefighter. Therefore, the plfers should be higher especially at the entry level to attract those officers some people want money up front they might want it to save for a property, they might want to buy a boat. It's up to the individual. And clearly going to a cash benefit system allows that individual to make that choice, plus it allows the flexibility for this council, a future council, our children who may be on the council, whatever to make the decision at the appropriate time based on compensation of dollars versus a plan that you captain get out of. You're stuck and we've been stuck. And because of the charter language no council before us has been able to change it. And now the voters overwhelmingly have chosen to do that. San Diego is looking to changing to 401(k) system. The whole entire state of Utah switched to a defined, to a 401(k) like system so I think that's where we really need to go in the future understanding we are still going to

have liability but staying within an existing system that still sort of handcuffs at the same time requires us to have all these actuarials and all these folks doing all this constant items so you know an issue on medical I'm really going to leave that up to staff to talk about that. We clearly have more of an issue there and those details, retirement age et cetera work those on the table but I truly believe in clear words a 401(k) plan would be the best break for the city moving forward, thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I had a couple of questions Alex. In reference to the highest for fire and safety was 90%. Do you have a percentage of how many people actually retire at 90%?

>> Alex Gurza: Councilmember Pyle we can look at that. As is mentioned in the slide there, we've got an average years of service for Police and Fire I think at 26 years of service. In the last five years at least. We can go back and look at it more specifically but that's very high average. So if you think average is 26 years you're pretty close to the 90% at that point. So not everyone retires at 90 but we can go back and give you much more specific information.

>> Councilmember Pyle: Okay but you say the majority do retire at 90.

>> Alex Gurza: At 26 years of service so you're relative close to 30. We can go back and look at when the 90% benefit went in place for Police and Fire two exact dates and exact lier what each person received we can provide the county with that information.

>> Councilmember Pyle: Thank you and the last years of service is about 26?

>> Alex Gurza: 26 for the last five years maybe but we can do a more specific analysis to respond to your question.

>> Councilmember Pyle: And since it was mentioned with the SRBR that's no panacea for anything right? That is used whenever the marketplace is at a certain percentage and it brings -- there's a certain amount of money available plus it only goes to help with incomes that are below 25,000 for retirees?

>> Alex Gurza: No couple of things Councilmember Pyle. One is, the definition of extra funding is an issue we mentioned in the report. There is money even this last year that was taken out of the pension plan that you saw as significantly underfunded and moved into the supplemental retiree benefit reserve. One thing we've asked in the memo is when the plan has. Secondarily, who got SRBR payments in the last couple of years, indicate that retirees of all income levels received some payment, we gave you the breakdowns of percentages so you even had some retirees of pensions of over 100,000 still getting an SRBR check. It isn't currently designed to go to only those.

>> Councilmember Pyle: It was originally designed to do that ?

>> Alex Gurza: I believe some people believed that that's the way it was. But in actual implementation of the point system it isn't exactly that way.

>> Councilmember Pyle: Okay in reference to family coverage you had two distinct differences in the numbers. There is single and then there's family. So in other words, if you have two people in a family, or a couple would be considered a family?

>> Alex Gurza: Yes, the way our structure is we have an unusual structure both for actives and retirees where we only have two rates single and family. In some plans it's common to have single plus one, single plus two, single plus two or more.

>> Councilmember Pyle: You do have a single plus one?

>> Alex Gurza: No we do not, it is very common to do that but the city has that for actives and retirees.

>> Councilmember Pyle: Is it possible to do that because the difference was substantial.

>> Alex Gurza: The oles rate breakdown in the end, one cost of premium is going to go up and the other might go down so at the end of the day, we're going to end up probably paying the same amount of money except the premiums for others may vary. But we have looked at that and should continue to look at that.

>> Councilmember Pyle: Well I'm happy to hear that there's been a link with Social Security and other factors, too, such as the 401(k) because Social Security is darned hard to live on and there are a lot of people doing that. I don't believe it was ever intended to be a retirement plan. It was intended to be more of a supplemental. So I really would not want to subject employees to that by itself. Thank you.

>> Mayor Reed: Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you. Thank you very much Alex for the presentation and I think that the attorneys that are laid out in the presentation definitely ought to be looked at and reviewed. I wanted to follow up on Councilmember Pyle's questions about using Social Security as a benchmark. Obviously that's my understanding is that that's all we're doing. Because, you know, we don't want future employees to think that we are providing the same retirement plan as Social Security. So when I looked at the page 3 of the staff memo, just a paragraph right above background, could you explain a little bit to me or just clarify what is the intent of that paragraph? Because I'm actually very confused as to why we're going in this direction, if our intention is perhaps to use Social Security as a benchmark and to include that with perhaps 401(k) and other types of plan and not as a plan by itself for our whole retirement plan for future employees.

>> Alex Gurza: Vice Mayor Nguyen want to make sure I understand your question. On page 3 of our report are you referring to the two bullet points above background?

>> Councilmember Nguyen: Crebt.

>> Alex Gurza: What we're suggesting is the council set an amount that the council wants to pay for new hires for the normal cost. So it is saying a total of 12.4 which would be split 50-50 with employees so 6.2. In our recommendation we aren't recommendation going into Social Security although that matches the cost that it would be to do that.

>> Councilmember Nguyen: Right.

>> Alex Gurza: So clearly if the council preferred to go into Social Security that is clearly an option. The cost savings we showed would be the same. What we're suggesting is saying let's take the 12.4% cost of Social Security both city and employees and design a defined benefit plan that would as closely as possible approximate that cost of 12.4.

>> Councilmember Nguyen: Okay so that's my understanding but just reading this, that's not the direction that I -- that I'm getting. I mean in this -- the first full point it doesn't say we will include other pension plans, along with the 12 be 4. I assumed the 12.4 is just a benchmark, it is the minimum number and then we will include other retirement plans as part of that.

>> Alex Gurza: Well our recommendation is no actual or less than 12.4 total. So if we were to 69 --

>> Councilmember Nguyen: Which would be the same as Social Security?

>> Alex Gurza: Which would be the same, correct. The same cost, not the same benefit. I think that's an important distinction.

>> Councilmember Nguyen: Yes. I'm having a little difficulty accepting that and moving forward and asking staff to move forward with that direction. Obviously it's not my intent for future employees to think that you know, this is

something that the council would be agreeable to. I would love to hear from my colleagues but this is definitely not the intent that I have in mind.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. You know, to pick up where we left off Alex I think you made an important statement which is the fact that the cost be capped, at Social Security limit, 12.4% or 6.2 for the employer, is not the same as saying that the benefit is capped. Obviously we've got plans that invest funds and get rates of return that are I presume significantly in excess of what the equivalent return would be for a Social Security recipient who is receiving Social Security checks at the end of tear career. Do you have any articulating data that can help us understand or capture that?

>> Alex Gurza: Not quite sure Councilmember Liccardo, I understood your question exactly.

>> Councilmember Liccardo: Okay. So I understand Vice Mayor Nguyen's concern was that we're somehow or another relegating our employees to Social Security and nothing better. And it seems to me that by capping the cost if not to say we cap the benefit.

>> Alex Gurza: Yes, correct.

>> Councilmember Liccardo: That in fact these funds are being invested and now by very competent boards.

>> Alex Gurza: The idea is that our current retirement boards would administer this retirement years of service and a multiplier that is less than the current benefit. We believe that we can provide a benefit that is better than the Social Security benefit. But clearly, what we're trying to do here is establish what the council wants to spend or what we -- the council thinks we can afford towards the benefit. It could be 6.2, any number. We're proposing 6.2, for the main reason, recognizing that massive unfunded liability that's still there. Again, I -- as I think I was quoted in the paper once a couple weeks ago, it's very different than I believe if you were starting from

scratch. So if you were starting from scratch and starting a new city, I don't think we would be here recommending the 6.2%. It would very, very likely be higher than that. The question becomes, been, how do you you know match up what's a new benefit that should be given that mortgage payment that we simply can't forget about when we make our recommendation.

>> Councilmember Liccardo: Right, we've got the significant load we're carrying around on our backs while we're trying to move forward.

>> Alex Gurza: Right.

>> Councilmember Liccardo: Going back to the scary slide, slide 26, the one that makes us gag a little bit in our soup, the $400 million number that pops out in I think fiscal year as I recall two years ago that number in the total column was about $137 million if my memory serves is that right?

>> Alex Gurza: I don't -- based on my memory it sounds approximately correct.

>> Councilmember Liccardo: Jumpletion to 200 and now we're at 256 right now. Escalations, in a fairly short period of time, eerms inability to deliver services right now because of staff cuts. Even this number found million does it incorporate any assumption that the pension boards are going to be reducing their rate of return assumptions in future years?

>> Alex Gurza: It does not and that's an excellent point Councilmember Liccardo. It only put into place what the boards have already approved.

>> Councilmember Liccardo: Right and 7.75 or 7.95, depending on which board.

>> Alex Gurza: And the actuaries have pointed to the potential of moving that down further which is going to move downward significantly these numbers to quote we showed earlier.

>> Councilmember Liccardo: And I appreciate that we're trying to get there now because frankly we haven't been very good about making realistic assumptions in the past on the boards. And now we've got both internally in the retirement services as well as externally, Segal company are both suggesting rate of returns south of 7% as I recall.

>> Alex Gurza: Yes.

>> Councilmember Liccardo: So they're significant jumps theoretically.

>> Alex Gurza: Councilmember Liccardo, you are correct. The number is around 6.93%, where they've talked about where the actual assumption should be.

>> Councilmember Liccardo: Right.

>> Alex Gurza: And again, contributions when you go from even 7.75 to something like 6.93 are going to significantly affect those numbers upwards.

>> Councilmember Liccardo: So as soon as next year the boards will reconsider their assumptions and we shouldn't get too used to these numbers?

>> Alex Gurza: Correct.

>> Councilmember Liccardo: They'll get worse.

>> Alex Gurza: Right.

>> Councilmember Liccardo: Now going into the mix does this include any assumption about decline number of employees will have to shoulder the burden, that is, if there are fewer employees shouldering the burden doesn't that mean now city is going to have to assume a larger share of the unfunded liability? That's, it always assumes 100% that is a larger share will be left for the city.

>> Alex Gurza: Well as you indicated the city for the pension side is responsible for 100% with exception of the payments and I'd have to go back and confirm your question to be certain. But again because of the new methodology, the boards have adopted, they're going to want the city to pay a certain amount of dollars to make sure they pay the arc, regardless of a declining workforce. I'd have to go back and see if that was factored into these numbers.

>> Councilmember Liccardo: As we look at the deficit, the 100 million will probably be larger coming on June we know we're going to shrink been, 5600 employees, south of 5,000 we don't know but it's going to be bad. Fair to assume, that if that trend continues as we see deficits, those numbers are going to increase.

>> Alex Gurza:

>> Councilmember Liccardo: That's a certainly a starting reality. I think we have to be concerned about this whole thing unraveling in a very serious way and being hesitant in making large changes in retirement plans, this really isn't the time for that. We're really up against the wall here. And I hesitate to think about what it would be like to live in a city in which we're cutting another 150 to $200 million out of our General Fund, from basic services, from basic services like Police and Fire and if we have any libraries by then, libraries. These are really the times for taking very major steps and not timid ones. So I -- you know I hope my colleagues appreciate that these numbers are likely to get worse based on everything we know. And that we -- that really this isn't the time to hesitate.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. And I thank my colleague for asking the clarifying questions I think that is pretty sobering when we look at these numbers. I do want to say, though, that I -- on the positive side if there's any positive side, from what I have, from what I have heard, there's some sense, you know, that certain -- certainly employee groups realize there's a need for a second tier. I mean I think that's a very positive, you know, notion going forward. And I think that a lot of the things that are listed in the memo from the City Manager including reducing minimum retirement age, reducing benefit formula, cost of living, the cola tying that to cost of living increases, a lot of things are going to be met with the positive and I don't know if folks are going to be talking in the audience here but I think there is a lot of positive move forward on those kinds of issues. I think there is a concern about the 124% and I think it's helpful to understand that you're not talking about Social Security benefits but that as we just got finished discussing, it's the same formula but certainly the benefit would be a lot larger. I think it would be helpful if somehow we could see that you know on a chart looking at what -- I know it's hard to say what that would be because there's a lot of differences but looking at what that benefit would be. I have a lot of problem here today kind of playing it all out and seeing what this would mean in terms of retirement for real people in the future. I'm not saying that we don't need to take a stab at it. I agree with Councilmember Liccardo, this is a very tough time, these numbers are sobering, we need to make some very big changes but I'm also concerned about the future of our city, the future employees we want to track that we want to keep the best police force, the best firefighters, we want to make sure -- especially we can only look in the last few weeks at some of the challenges we're facing right now and that law enforcement is facing around the country. I am concerned about that. I guess one of the things and it's not on the agenda today is dealing with the current situation with the large unfunded liability the mortgage payment that we have to continue to pay. Are we short changing those future employees to the point where we you know we won't be able to attract them? And it's just a question, I don't have the answer. I'm not Einstein up here. But I just think that hopefully, as you work with the employee groups out there and I -- and my highest praise to you Alex for putting all this in a report that helps explain it. Because I think and I sat on the board but you just keep hearing it over and over again because it is so complex. It is really complex and I appreciate you explaining it. But I think you know I really hope that there can be some heart to heart negotiation, realizing that we're all facing this together and these numbers are serious and they really challenge the very survival of our city in the future so I'm hoping that we can work together with our employee groups. And in 12.4% might be it. I don't know. I'm just wondering if there's some other you know it concerns me

that you say that if we didn't have this big you know elephant there it would be a different number. And so I just hope there's some room for discussion. I definitely support a hybrid model. I'd like to see a hybrid model put into place if we can that has some defined benefit and contribution so I think Councilmember Oliverio brought out a good point that some members depending on age and other factors may want to have a higher salary or may want to have more of the ability to set aside money. But I think that we are not the private sector. I want to see police officers stay here until they retire. We're putting 150,000 -- I don't know, isn't that about the right amount we're putting in, investing in them? I don't want to see them leave after two years. I know you had some description in earlier slides about the workforce how it changes. I was part of that workforce, they were long term employees after two years. But it's a different -- this is not -- I don't want this to be like a lot of the companies that I've seen where people come in and out, especially for folks like bloifers. And I'm not saying we don't need to make the hard decisions but we better think about too what kind of a workforce we want in the future and we need to retain and bring in these top people. San José can set the standard here but let's do it with eyes wide open with what we're going to get in the future here and not totally mortgage that future based on this really tough problem we have facing us right now with the unfunded liability.

>> Alex Gurza: Councilmember a couple of points you mentioned that I wanted to raise, in terms of getting more specific when we're at the bargaining table we'll get use showing you the product of those more specifics. If we priced out exactly this model what does it provide. The other thing I wanted to mention is the negotiations that have commenced, why had a meeting on Friday with several bargaining units on retirement and one of the first statements they made is they were here to work together on the problem, recognize the problem we face and wanted to work together. Other bargainings have mentioned the same thing that we're going to remain optimistic in working together in crafting what the benefit might be for future employees.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you. I'm going to thank my colleague for her comments. That was well put, thank you very much. You had mentioned now verbally twice about recommending a 12.4% towards a defined benefit and I'm looking for that in a memo. And help me, there's a number of pages here. But what it says is --

>> Alex Gurza: Yes, Councilmember Rocha, you know I'll have to look through it as we look through it. We could have been a little bit more specific but when we talked about the bullet points that Vice Mayor nieng mentioned when we talked about the total normal cost that again, where we are at sort of implying a defined benefit. In addition to that, on page 16 of the memo, which I can turn to in a second here, we've got a sentence that says, "it is recommended that the city council direct the City Manager to achieve second tier pension retiree health care benefits that normal cost to the city and employees 12% of pensionable pay. Equivalent to the second tear benefits, to the cost of Social Security. Again it might have been clear but clearly our recommendation is a 12.4% total normal cost of and it would be a defined benefit plan would be what we would start working towards. Clearly however if the direction of the council at the end of the day is to have a -- go into Social Security that's clearly a different option that we could look at but recommendation is a defined benefit plan within our benefit plan.

>> Councilmember Rocha: Okay that's a clear statement and a pretty significantly direction to go in but I don't see it in the memo in terms of the clear direction that this is significant the decision the council is going to be making today. For me I guess I'm a little bit behind the curve, pain, I am behind the curve given I'm all of three weeks here. I think would you go to the slide what it buys you a 12.4%?

>> Alex Gurza: Sure. 540, right there.

>> Councilmember Rocha: So this slide in your mind is descriptive enough to tell me what we're getting for 12.4% as a retirement package?

>> Alex Gurza: Councilmember Rocha, in order to tell you what it buys, it buys simpt things. If you were to say I want the retirement age to be 60. Well then you fixed that one. And then we need to work on the others. So the question is that 12.4 can buy you different things. And it really is based on having an actuary tell us this. This gives you a range. So if you say 60 is the age that people needed to be that people could retire before that and we wanted to stay within moving pieces. And multiple opportunities. What we're trying to seek is council direction about the cost and leave the bargaining stable for discussion of ideas and interests and what's more -- you know

what might be more important and work on a variety of things that night achieve the cost parameters the council has set for their negotiators.

>> Councilmember Rocha: So then on page 3 the two bullets that have been mentioned a few times here, explain to me the need for you to have chose established today.

>> Alex Gurza: Yes. Dsh uyou're going to go forward an negotiate.

>> Councilmember Rocha: You are going to go forward and negotiate, we are going to have proposals, the employees are going to have proposals. They're going to have ideas, they're going to have different cost sharing negotiations oop the necessity for does that exist in that?

>> Alex Gurza: That's excellent, Councilmember Rocha. As I should have mentioned earlier, this direction, in the past what happened in closed session, we would have gone in to you in closed session, we would have said to you what do we put on the table, what's our goal? But in trying to be more transparent we're asking you to set our economic parameters. Because otherwise we have no idea what to propose. Do we propose a defined benefit plan, do we propose a defined contribution plan, do we try to achieve savings that is $1 million a year or $10 million a year? We need to know the direction from the city council as to what is it we are to negotiate. Otherwise we have no authority to put a proposal on the table because --

>> Councilmember Rocha: I'm not sure I agree with that but --

>> Alex Gurza: Well, if you -- it really is ultimately up to you as policy makers to give us our negotiating parameters. And again as part of transparency we're asking for this in open session. So for example, if you simply say a second tier we don't believe that gives you the authority to do any second tier no more than if you were to ask us to achieve concessions on total compensation that we wouldn't need to know exactly what that session means so it is very similar to your direction to achieve a 10% total reduction in compensation. What is it you want United States to do so we then have ability to make proposals on behalf of the city. When we make a proposal, it

is not the City Manager's proposal, it is the proposal we're making on behalf of the governing body. Dpr okay, thank you for the clarification. I'm still not completely convinced that's necessary. And I'm also looking back when you make the reference or the example of the compensation or I'm sorry the concession amount, and what I did see from the council when they were in that debate was a pretty good understanding of what those 10% concessions melt or at least options given using the snerks term what that buys and the impact to the employees. To me there's an impact going forward to future employees. For me to leave those two in there, I'm not comfortable I understand what that impact means let me clear, this isn't being hesitant about the need for a pension reform, to me that's not a question, it's been answered, obvious by what the voters right track absolutely and I appreciate you keeping the range of options open for you to design the right retirement system. But I need to consider all of the possibilities and what this means, so in my opinion I'm going to need a little bit for information before I'm comfortable going with those two. I can accept that retire report absent this fraismed and you suggest Tao the cost target and unfunded liability cost sharing recommendation. That doesn't provide me specific information on how these translate into those benefits frequent, for me I'm more interested honestly in submittalling a two bullets, thank you.

>> Mayor Reed: I'm going to take that as a substitute motion and I heard a second here from Councilmember Pyle. So we have substitute motion. On the floor. Further discussion?

>> Councilmember Constant: Can we clarify what two bullets specifically he's talking about?

>> Councilmember Rocha: The last two bullets above 3.

>> Mayor Reed: The last two bullets immediately above background?

>> Alex Gurza: Mr. Mayor, if I could if the council made that direction we would certainly before we make a proposal need more specific direction. A second tier I don't feel should be seen east a goal unto itself? You could have a second tear that is almost the same as the first tier. We would need at some point the negotiating program trs from the city council.

>> Councilmember Rocha: What does 13.2 give me? if you're asking that of me I'm asking the same of you.

>> Mayor Reed: Part of the progress is, what does it by? I think that's what some work has to be done, I guess. But we have to give some sort of direction otherwise, Alex can just sit there and listen at the bargaining table. City Manager.

>> City Manager Figone: And I can place the analogy when we received the 10%, how we achieved the 10% was hammered out of the table and some of that really unfolded at the end of the meeting. The city cannot footer a whole lot here so the 12 be 4 set hing the investment parameter in terms of the cost but the design would be hammered out at the table and coming back to you you know if we find that design that is sennable to the council and we can't reach agreement, that's where you would then be given options about if you wanted to you know make it a richer plan or you know whatever it might be. So that's really why I think Alex is emphasizing that the parameters are important for us to get started.

>> Councilmember Rocha: And I'm comfortable making that decision. And again I'm comfortable about making it in open session, it is not about closed session at the table or here I personally would like to see a little bit more information. This is I hope you agree very early in the process of this negotiation, the second tier concept so we've got a little bit of time. I'm not suggesting we have a lot of time by no means so thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And just on the point, the 10%, there is a little distinction there because the 10% was a cutting we had to do that and I think that's part at least what I'm hear is we don't know compatibity what we're getting in terms of what we can offer our employees with this number. And keeping in mind I guess there was a suggestion of up to 12.4%, equal to or less than. And I appreciate the comments, and the concerns of Councilmember Rocha as well as the clarification by the mayor that the idea here is just get a little more of a sense of what it is that we're doing especially this early on especially with revised numbers we're

just getting. And a couple of comments on the presentation, Alex, thank you for the presentation. One had to do with not being able to compare with other jurisdictions which I agree we don't want to compare with other mistakes that have been made throughout the state by everyone in terms of promising maybe more than at this point in time we can deliver but we can certainly do a comparison with other jurisdictions on what they've done in the last year or so, a lot of relative to look at the state, especially when we're looking at public safety. But even otherwise. So that may be helpful, for our discussion going forward as to what have other jurisdictions have done in this past year past 18 months because -- because we all know that most jurisdictions are facing the same thing. I think that could be a fair comparison as opposed to well if we give less than 90% we're not competitive. So we still -- I think that goes to the desire I've heard from a number ever my colleagues, as well as yourself, competitiveness is something we do have to think about as we go through these difficult desiring's and these changes. And I can speak as someone that had worked as a public employee with the county prior and I know that obviously Councilmember Liccardo did as well. That you know I worked certainly out of public service here in San José because that's where I was from and I wanted to serve my community here but that's certainly not necessarily the case especially when you start talking about Police and Fire, attorneys, engineers where there is a legitimate amount of competition for that type of employment. And you know, the compensation was very much a part of the discussion and decision about how people ended up in San José, especially when the compensation level started increasing through there was a lawsuit with the county and all that was about ten, 12 years ago when that compensation started gaining parity or even exceeding siren jurisdictions we certainly saw an increase in the am of interest in the county as far as attorneys as well as the quality of applicants. It does especially for the hire level and more skilled and specialized employees I should say and the counter of that is where you're going to see less options is on the lower end of the pay scale and those that aren't going to have the opportunity to advance six digits those are the ones that are going to suffer the most and those are the ones that are going to feel the least power to go up and search around the state for the best opportunity. That's something again when we tack about competition it is not always the same in general we'll have to consider in looking at when you had the slide up there 12.450-50 just for clarification case for anyone that's watching for all of us here oochtion what is the exact I think it's on another slide but what is the current percentages that we're giving including the percentage in terms of what the employee-employer as well as the overall percent do you have that slide?

>> Alex Gurza: This slide Councilmember Kalra?

>> Councilmember Kalra: I think that's the one yeah, so just -- currently Federated this one doesn't have --

>> Alex Gurza: This one has only the comparing the city costs.

>> Councilmember Kalra: Yes.

>> Alex Gurza: So are you looking for that or are you looking for the one that says city and employee?

>> Councilmember Kalra: Yeah, both, the total combined as well as the riesh yow between.

>> Alex Gurza: This one here on slide I 38 is only the normal cost for the current tier, so it's not the mortgage payment. So for example if the city were to provide brand-new employees, with the same benefits that we provide today, this would be the normal cost. Right? Because that new employee hasn't created any unfunded liability yet. So that's the a good comparison of the total cost oopsd and the split that you're seeing here between the employees and the city is the charter 8 to 3 ratio.

>> Councilmember Kalra: So just looking at Federated then just to compare to the suggested recommendation, 12.76, city, 4.68 employee for a total of 17.44 and the suggestion that the staff report would be 6.2, 6.2?

>> Alex Gurza: Right so that 17.44 would become 12.4 total.

>> Councilmember Kalra: And that would be the same for Police and Fire?

>> Alex Gurza: Correct.

>> Councilmember Kalra: 38 down to 12.4?

>> Alex Gurza: Correct is that our recommendation.

>> Councilmember Kalra: That certainly underscores the concern of going forward at this early stage as Councilmember Rocha stated it doesn't mean necessarily that's how dramatic we'll have to act at some point necessarily but I think to put that there as our guiding principles at this point is premature. Looking at savings over the next five years and about five years, the prkses is we're going to have about $400 million, not billion thankfully, billion dollars that we're going to have to -- maybe five years after that, 500 million, if that's where it stays assumed rate but again we don't know what's going to happen to the markets and other factors. So we just stick with the 400 even if we were to dramatically shift to the 12.4% recommendation, that would move it from found.7 to about 378.8, from my calculation, 378.8 million so as has been indicated it doesn't put a huge dent, it doesn't mean we shouldn't do something because I think everyone agrees that we should but I think that as has been indicated right now, there are a number of things that are going to be -- we're going to need to do. A number of things and that includes a number of things we're going to have to do to solve our budget deficit this year. And we're going to have to do it together, all of us, the amount of emphasis and energy that we put -- and the amount of cooperation we put into the resolving this pension second tier issue I think will speak very closely to how we're going to be able to resolve our other issues like balancing this year's budget. Over the past year year and a half that I've been on council here I haven't seen, at least to the best -- at least in my opinion I haven't seen to the best of our ability us really working together, and I'm not putting blame anywhere because certainly, we can put blame on ourselves, blamen the bargaining units and blames on other interests what have you but we haven't gotten to that point where working together to solve these problems and we just -- the whole discussion of how many officers retired 90%, I think the retirement is under 10%, 78% is what the retirement every officer retires 90%, they do. They think that every Federated employee retires at 90%. It's used in a way to frame the public debate and I don't mind using facts, the fact is that officers can retire at 90%. But let's not use the data and the numbers and the polling to continue to pit the public against "employees. If it's truly not their fault let's act like it's not their fault and let's solve the problem before us which is extremely daunting for all of us. It's not easy for any of us, we all know we are going to have to cut the budget, we all know we're going to have to cult library hours and homicides the increase in crime gang activity, we don't want to exacerbate the amount of tension that exists just because the

economy we're in and because of the nature of the deficit by creating further tension up here and by causing more tension in the neighborhoods because of the way that we dialogue with each other. So I appreciate the fact that Councilmember Rocha wants more time, and I agree, to really make sure we go in a direction not only that we're comfortable with but that everyone understands. Both the public and our employees so that when we do get to a final resolution when we have the other 20 things we're going to have to do to balance this budget or to face layoffs that at least we have some credibility and some respect amongst all the parties concerned.

>> Alex Gurza: Councilmember Kalra if I can add a couple of things. We've been exceedingly careful as to indicate that not everybody retires at 90%. I think we have data every which way you want to see it, this indicates that in 2006 the average Police and Fire retiring is 26 years which is not that is the cost to provide a benefit of 100,000 by.

>> Councilmember Kalra: That's a very helpful slide and I think the other slide looking at the other portion of the Federated showing that the average Federated employee ask retiring at 43,000 of a pension so they're not becoming millionaires off of their pension plans. I think these kinds of numbers are facts let the public know this so when we dramatically cut it they understand we're going to be dramatically cutting from here. If that's what we do that's what we do but make sure there is a clear understanding that's how we got from where we are and where we need to go.

>> Alex Gurza: The other thing I want to mention about other cities, we do track what other cities do, there have been second tier that have happened. City of Palo Alto, city of Gilroy, city of PERS agencies can only choose from a menu, a menu of formulas that are available to them. They cannot design something different, it has to be off the menu. The other thing to keep in mind though when you compare other places is they may not have, and for the most part do not have a level of unfunded retiree health care benefits that we have here. So it -- that's another part of comparing. So if you compare well the second tier went into effect there but it's not just the pension side it's the retiree health care side. So we clearly know the second tiers in California and what they are. We know the PERS formulas and what they may be and can certainly share that information and we'll be discussing that I'm sure at the bargaining table.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you mayor. I certainly echo the comments of Vice Mayor when Councilmember Pyle, Herrera, the maker of the motion, which I will support that motion. And a lot has been vetted out of here already, so I'll make my question very brief. I know we're talking about the 12.4% Social Security number. What are we looking at in terms of an average rate of return on investment on that? Is it I think when we were interviewing board members for the retirement board I think 7.5% would be what the council approved for a respected rate of return is that correct?

>> Alex Gurza: I'm sorry can you repeat that last part? I want to make sure I understand your question.

>> Councilmember Campos: What's the average rate of return for retirement, 12.4%, what is the average rate of return on 12%, 12.4% --

>> Alex Gurza: Benefit?

>> Councilmember Campos: Benefit.

>> Alex Gurza: What the actual rate of return no one knows, it is only in the future that we'll be able to look backwards and say when we had this plan what rate of return existed? The key to evaluating the cost of the benefit is to use realistic assumptions because you can make a benefit look at if you had high assumptions on everything. So what we would like to do is we need to use realistic assumptions when evaluating the cost so that we can approximate as best as possible what the cost will turn out to be. Because you only know the cost retroactively. So in answer to your question I think we would defer to the assumptions that the boards are going towards, 6.93 or around 7% to use when we start modeling what the benefit could provide. If we for example assumed a rate let's say a 10% rate just to throw that number out there the benefit that you could think you're buying would be much -- would be quote unquote better or more generous because you're assuming that the

investments are earning more. That's what we're planning on doing is using what we think the boards are moving towards .

>> Councilmember Campos: So I hope you appreciate our concern because you know many of us have retired parents, we know what the Social Security benefit payout are, we know that living in Silicon Valley, that's poverty, and one, you're looking at wanting to be able to be competitive and I know we don't want to compare ourselves to other jurisdictions but the reality is, that we sort of do have to be competitive, with other jurisdictions, and not San Diego, but jurisdictions in the Bay Area, Northern California, because I don't think any of us want to create a new generation of employees that you know 20 years 30 years down the road into poverty, and we're creating this level of our community, that's even going to be more reliant on county services, on our cities if it exists in 30 years, our own cities, senior nutrition programs and programs like that. I hope you appreciate where we're coming from.

>> Alex Gurza: I do, Councilmember Campos and I would say if you look at any ten largest, whether they be the ten cities in the Bay Area, the majority of them will be a 90% benefit at 30 years and really will end up with essentially similar to where we are. So that's the issue of if it simply is looking at the most common benefit for public safety still today in California for public safety it's a 90% benefit after 30 years. Little bit different how they get there but after 30 years it's 90%.

>> Councilmember Campos: And I wish, Councilmember Kalra was pointing out we talk about all of our employees. Because not all of our employees are public safety. And what Councilmember Kalra's comment that people really do believe that Federated employees are retiring at 100,000 and I think that's the wrong pefnlg to send and it does, again, it pits public opinion against our workforce. And you know that's not fair. I don't think that's what any of us want to do. So thank you.

>> Alex Gurza: Sure, Councilmember Campos one point about that. You make excellent point about the difference in the benefits. I think the bar charts we've shown show you the cost benefit between the 90% by Police and Fire and the Federated benefit. I think it's important to point out that for decades the maximum benefit for

Federated was the same for Police and Fire. 75% maximum. And it started to diverge to where Federated is still at 75% maximum and Police and Fire at 90. There's no question those differences have dwermingd single highest year but the cost benefits between the public safety benefits and Federated I think are very cheer and dramatic, when -- in our presentation.

>> Mayor Reed: Thank you. Before we go through council a second time I'd like to take the public testimony, there are folks here who wish to speak and I want to get that done before we have to adjourn, in case we have to come back to finish this discussion tonight. So, Jeff Welch, Pat Saucedo, Aurelia Sanchez.

>> Good afternoon, mayor, councilmembers. My name is Jeff Welch, on behalf of San José firefighters I want to discuss our desire to move forward quickly and negotiate a second tier retirement benefits for new employees. We are hopeful that these negotiations will be open and helpful so we can discuss all options for our future employees, we are supportive of benefit changing the cola factors and other modifications proposed. However having a closed mind and rijt framework going into these solution for our city and its future employees. We feel all options should be explored. We're also supportive of moving quickly to make these changes. We know that discussions, we don't want discussions to just drag on and linger forever but that being said there should be a thorough analysis of whatever solutions are recommended for adoption and we need to understand the cost and savings associated with any changes to the pension system. We want to make sure whatever changes we make they provide long term stability for the city and employees alike. We hope you set a broad framework for finding a solution and we look forward to getting to work on this issue as soon as possible. Thank you.

>> Mayor Reed: Pat Saucedo followed by Aurelia sen chez and Kay Denise McKenzie.

>> Pat Saucedo: Mayor, council,.

>> Pat Saucedo: San José Silicon Valley chamber of commerce. Let me say how much I appreciate Alex' presentation. It is a really complicated issue. there was a discussion earlier in regards to enemy and so forth and

I just wanted to really clarify for everyone here. The business community does not see the employees as the enemy either. We really think that there is anger but the anger is across the board, because we have been used to a financial and economic paradigm since the end of the second world war that has fallen apart on us and we are all trying to come to grips with it. It is not anger with any particular group. It's just the way things are. I'd also like to comment. We have a $3 billion unfunded liability in front of us. The other day, the mercury post id an article that the state of California has not had one net new job in the past decade. There is 12.4% reported unemployment, which really is a 16 to 17% true unemployment in our community. I've heard discussion and concern about Social Security, I just wanted to clarify for everyone. Over 70% of your constituents are in the Social Security program. Plus, their 401(k) and their personal savings. I'm concerned to hear it's such a terrible program when your constituents are participating in it. I think you should not fear that so much. I do recommend a hybrid system for pension benefit needs to be seriously look at. We support the City Manager's recommendations before you this afternoon. The couple things I would like to comment on on retirement age we do strongly believe that the Social Security retirement age structure is one that needs to be given serious consideration and you may have --

>> Mayor Reed: Your time is up. Aurelia Sanchez is our next speaker. Followed by Kay Denise McKenzie and Kay Locar.

>> We are all equal my religion tells me there are no southerners, westerners, we are all body. My point is this council politicians in general, have loved to divide the city government workers from the private workers, we are all the same. We have kids to go to college, we have mortgages. We have the same bills. We have to pay the same amount for the food that we eat. But politicians love to praise God and they love to praise America. But let me remind you, we are all one. Another thing that I'm hearing what really irritates me is the business community and the public where they say you know what what, we want our budget, we want things to be right. The city says we want a fiscal house, the fiscal house of the city is a top priority. This should also apply to the business and the planners that come before this board. Why is the city, why are the counties, why is the federal government supplementing businesses? You know what we have banks. A lot of the people in the chamber know each other. Why aren't they helping each other? Why do they come to the city and ask for money? That's

ridiculous. The city should just operate for the citizens and not absent as an automatic teller for everybody who wants to come. I don't know why we're spending $32 million for Lou Wolff. Let his wife sell a diamond ring or so. Why isn't he helping the business community that's what I want to know. We're having officers murdered almost every week, and this is because of hatred that's being pitted against government employees. You know what I bleed just like you and I cry. That's all I have to say. Thank you.

>> Mayor Reed: Kay Denise McKenzie followed by John Mukar and Yolanda Cruz.

>> Good afternoon, honorable mayor and city council. My name is Kay Denise McKenzie president of California IFPTE local 21. I'm here to express my organizations desiring to move forward quickly on a second tier retirement program for new employees that is fair and reasonable and in the spirit of true collaboration we hope that second tier retirement discussions will include an analysis of all the options including those proposed by the City Manager, and that the thorough analysis are performed and shared with all of those that are involved in such discussions. We need to understand the cost and the savings, too, that would result from any prive changes tot stability for the city and for our new employees alike. On behalf of my membership, we hope you will set a broad framework for this effort, and we look forward to getting to work on the second tier retirement discussions for new employees as soon as possible. Thank you.

>> Mayor Reed: John Mucar, Yolanda Cruz, Ben Field.

>> Honorable mayor councilmembers, good afternoon or een. My name is John Mukar the president of association of architects, IFPTE local 21. On behalf use quickly on negotiating a second tier retirement benefit for new employees. After an in depth analysis of all option on exactly what that means. To place an arbitrary cap on what benefits should or will be prohibited discussions in an open fashion and viability and minimize viability options, that could achieve the goal that you desire. We feel the options should be all explored. AEA supports moving quickly on this very important issue on trying to find common grounds. It is important for everyone both to understand the cost and saving associated with any changes to the current pension system and that any changes to be actuarially found. Reducing benefit increasing retirement age increasing years of -- to vest and other ideas

included in the manager's memo are all items that we are ready to explore and discuss. We hope you set a broad framework for finding solutions and we look forward to working with you on this issue to resolve it. Thank you.

>> Mayor Reed: Yolanda Cruz, Ben Field and Bob Brownstein.

>> My name is Yolanda Cruz and I'm president of retirement security and equity for workers in San José. This two-tiered pension alternative would radically change a system that provides a stable and dignified retirement for thousands of AFSCME employees who are also members of our communities. We need to have a serious discussion about the causes of San José's budget deficit and what are some real solutions. For example, setting up a two-tier retirement system does absolutely nothing to address the unfunded liabilities in the current retirement plan and will achieve no cost savings in this current budget. The City Manager's recommendations are based entirely on reports that come from the same points of view and promote a race to the bottom for city workers benefits as shutions. Undermining middle class jobs in our community is not a solution, especially in these economic times. As front line city workers we want to be true partners in discussions about retirement and not simply a target of misinformed recommendations. We look forward to working with the city and members of the city council to offer real solutions to problems that San José faces, as we stand up for retirement security in our community. Thank you.

>> Mayor Reed: Ben Field Bob Brownstein, Bob Leninger.

>> Mr. Mayor, members of the city council, my name is beb Field I work for the South Bay labor council. wrong direction city workers realize that they will have to make sacrifices once again this year, but the administration's approach is unnecessarily punitive. As the City Manager's memo recognizes, even with a two-tier retirement beefs the existing unfunded liability is not reduced and yet the memo goes on to recommend the most Draconian two-tier system capping pension contributions at the percentage legally required for Social Security. The effect of this sort of low ball tactic is aggravated by the fact that the memo is silent about ensuring that any second tier system does not increase the unfunded liability for the existing pension system. Will it be the policy of the city to try to extract every concession from its employees while ignoring the costs and without knowing the benefits? I

ask you to support Councilmember Rocha's motion, Mr. Gurza says that he needs more direction. I would like to point out, on page 3 of the City Manager's memo, the administration's recommendations for key elements that would be included in the benefit structure of a second tier, which include increased minimum retirement age, reduced benefit formula, a cola tied to CPI and more. With these very specific goals Mr. Gurza would have clear direction but also, there would be flexibility at the bargaining table. Thank you.

>> Mayor Reed: Bob Brownstein, Bob Leninger, John wolfram.

>> Bob Brownstein: Mayor Reed members of the council, let me take several comments on the issue of two tiered pensions. The first is replacing the defined benefit with either social Security significantly increases the cost to the city of the tier 1 plan. That's because you replace an investment plan with an indefinite investment horizon with a closed plan. That means investment returns must decline, and the city's contribution must increase significantly. Second, there are some very difficult and harsh realities that we're confronting today but one that we also have to recognize is labor markets. There are consequences if San José offers one of the worst pensions in the region and in the state. It may be that councilmembers choose to accept those consequences, but they're real. And they should be part of our discussion. Finally, there has been a suggestion that simply because we have a large number of applicants for some jobs, that means we can automatically get high-quality staff, at low costs. I would suggest that there is a massive difference between the number of people who think they might like to be a firefighter, and the people who have what it takes to fight a fire. I think there is a very big difference between the people who fantasize about being heros and the firefighters who walked into the burning World Trade Center ten years ago. In our minimum qualifications for jobs, we cannot use words like honor and courage because they are not quantifiable. But that's what we expect, and that's what we need from our sworn personnel. Thank you.

>> Mayor Reed: Bob Leninger, John wolfham John Reger.

>> Thank you, Bob Leninger, president of the pension side of this, there is a lot of very low income Police and Fire income as well but certainly a lot lower than the 40,000 average pension indicated on that chart and there can be some real impacts to going ahead on some pension stuff I hope we are going to proceed on a slows basis

because the impact is on existing retirees two-thirds of them have pensions as I mentioned before that would put them in the city's housing standards into the extremely low and low income categories. I hope we can proceed on that and look at this memo when it talks about current glows vested right and the retirees the same way. If I can take a couple of seconds, I can only share the concern I have if you look at the Mercury News six on average pay more to their safety personnel and ten of 11 pay more to their nonsafety. Now with the city that has the highest workload and the highest risk whether it's gang work or whatever it is with the police to go off into the future and have this discrepancy, we're going to be the training grounds and they're going to go somewhere elsewhere they're paying more. This may be irrelevant to the discussion but you're going to be working at staring at right now is what we put into motion starting in about 19 tbhief to become the bedroom community in San José and you need to as a leadership take the role to stop that and you can do it when you get to the general plan in a few months. Thank you.

>> Mayor Reed: John wolf RAM followed by John Reger,.

>> Hop d Holm, my name is John wolfram cred couple ever other components some of you may be aware of the Department of Labor's efforts on retirement, there's an advisory council on employee welfare and pension benefit plans. What I see happening here seems to be in my opinion going in the opposite direction as what the federal people are doing. This advisory council is trying to ensure retirement security. And some of the recommendations on the retirement security include better financial literacy. Some obviously things that you play have been aware of, one of the ones I find interesting is that they have a definite appreciation of defined benefit plans and the fact that what people are doing right now is not sufficient. And 401(k)s are not sufficient. The secretary enconvening an interagency task force to review and revise the current burdensome regulatory rejeej and by charging the PBGC to develop initiatives. I think that's one part that would be interesting for you to look into that, if you want to do a little research on what the Department of Labor is doing on pensions. The former secretary of labor Robert Reich has written an article that is a lrl little more political, it is about the scapegoating and that is to say things that are not helpful about public employees about these pension plans are breaking backs when nationwide, it's not as extreme as we've found that they're the benefits that people get are not as much as has been said. In fact

it says here in the past 15 years the pave public sector workers has dropped relative tot private sector employees with the same level of education .

>> Mayor Reed: Sorry your time the is up.

>> Thank you.

>> Mayor Reed: Last speaker I believe John Reger.

>> Thank you, good evening, Mr. Mayor, members of council, my name is John Max Reger, this year will be my 19th year of Service also a member of operating engineers local 3, on the negotiating team the thirds year this year. Some things I will share with you, this will follow a path of truthfulness trust and transparency that we're all on the same page that we don't have comments and moamtion within the city saying one thing and talks to the Mercury News saying something contrary. The other issues are, we need to understand the problem. Define it, explicitly. Don't work in haste. It took us nine, ten years to get to this situation. Small changes can result in very large changes. Be sensitive to that. Don't work in haste. Maintain flexibility. Be aware of what these changes will do. And perhaps consider new and different solutions. And lastly I'd say it's going to be -- and you experience this now is a budget, it needs to be a reiterateative approach we need to be truthful with each other we need to establish the trust and trch in what we do.

>> Mayor Reed: That concludes the public testimony. We still have councilmembers who have comments. If we don't get done before that we'll bring this back after the dinner break and take it up first in the evening. I think we'll probably need to defer item 3.2, the council labor negotiations guidelines until next week because we do have a long evening session already scheduled. But we do have some additional councilmembers who want to speak on this thing so we're going through again. Councilmember Constant.

>> Councilmember Constant: Thank you. First of all I want to make sure I understand the substitute motion because the bullet points that were deleted are actually in the executive summary but the recommendations and

where my original motion was maids was from page 16 through hmm all of 19, the recommendations for the second tier benefits. So I really would like clarification on what the substitute motion is.

>> Councilmember Rocha: To accept the report with the deletion of the two bullets, the last two bullets on page 3.

>> Councilmember Constant: So accepting the report really isn't giving any recommendations.

>> Councilmember Rocha: Okay, except -- well really what's in the recommendation here, the sentence here. With removal of those two bullets.

>> Mayor Reed: City Attorney.

>> City Attorney Doyle: Can I ask the maker of the motion, page 16 of the report, the middle of the page writ says recommendations for second tier retirement benefits. That first paragraph, essentially is the same thing as those two bullet points, I think so we don't have any ambiguity as to the intent of the motion, as I understand your motion you want that deleted as well.

>> Councilmember Rocha: Well yes, any language that speaks to that anywhere in the report, thank you. Thank you for clarifying.

>> Councilmember Constant: So the motion is basically all the recommendations from 16 to 19 except for that first paragraph. Pretty cheer what the recommendation is geeing into a lot of detail. I just want to make sure I understand.

>> Councilmember Rocha: Yes which really just describe more of those nine bullets that are on page 3, absent those two, yes.

>> Councilmember Constant: So what I'm really concerned about is the fact that we have already, as a council, given direction to move to second tier, we've had our voters with the very significant majority saying e-say that we need to go to a second tier and this motion says nothing but the same. It drives us nowhere, fast. Quite frankly, it doesn't put us anywhere different than where we were before we walked into this council chambers. And what I believe was the intent of this meeting today was to really clearly give a box, so to speak, for the -- our negotiators to work within and we haven't really done that because we haven't put any parameters and we're saying go out and explore second tier which is something that we've said and something that the voters have said clearly. So I just implore my colleagues not to support this motion because it gets us absolutely nowhere. I do think that if we get a chance to get back to the original motion, that one of the things that we really need to look at in addition to what's under the cost of living adjustment paragraph on the top of page 17 is that we really address the timing of the cost of living adjustments. Because back in the pre-2002 years I believe it was or maybe it was 2003, whenever it changed the cola you actually had to be retired for a period of time before you are eligible for a cola and current you can be retired one day and receive a cost of living. Even though there's no change to the cost of living burden for people. If we can go back to page 13 in your slides here. In my minds, there's no doubt at all why people leave at 26 and 20 years and that's because we incent them to do so. Our current plan incents people to leaver early because at 26.3 years you're very close to receiving 90% of your take home pay the day after you retire. In fact it may be a little bit more than that if you factor out the union dues. I think that when you look at our Federated plan, because of the fact that we have low vesting periods, both to be in the plan only five years, and I pointed out when we had the discussions about the SRBR a lot of those really low pensions that keep getting quoted on these people who can't afford to live on these low pensions is because they only had six or seven years of service because we allow the pension vesting in such an early age in our Federated system and we also allow vested in the Federated four year retiree health care at 15 years so it's not uncommon for people to work in the privately sector and come here with just enough time to gather their benefits and leave the program and I think that's something we really have to address in our new tier of pension benefits because we incent people to leave early. I think if you look at the average instead of at a dollar but as a percentage of take home pay, people are probably getting the same amount as they did before, they're just leaving with less years of service so they're not paying in. And I think that's really important for us to keep in mind. So I really am concerned that we are doing

absolutely nothing with this motion. I think I heard Alex say that and I'm just going to ask you very bluntly if this substitute motion passes what direction do you have to go do something?

>> Alex Gurza: Excellent question. Really those other elements of reducing age and doing all those other things have already been approved by the council. It was approved by the council when you accepted the auditor's report. It was approved by the council when you approved the General Fund stakeholder report so again, I can certainly have discussions but without any direction about what proposal we should make. Because you can make a change in age and say the retirement -- change the retirement age in Federated, moving it from 55 to 56, again, we need to have some more -- some parameters around where we are headed. And not to have discussions. You can have discussions, it's a matter of them making direction and knowing we're making discussions in the way the council wants us to go. Council, you made direction about the 90% benefit, there's a lot of discussion is evenly in PERS agencies, you hear references the brain drain ins Police and Fire departments people living earlier because of the impact of that change. The other thing is we hear a lot about whether you can live on 43,000 as an average or whether you don't. I think that is an assumption that people are making that that is the total amount of that retiree's income. For example in Federated it is much more common for people to move from place to place, so somebody may have a PERS pension because they used to work at the county or something else. Or they may have another full time job if you can retire at 55, many people go on to full time jobs so I think it's important to be cautious about assuming that it is their only level of income. As well we have a 401(k) type benefit not benefit here where it's employee contributed and we have a very high participation rate in employees setting aside money into their 457 plan deferred compensation, so again it's important to know we don't know what a retiree's full household income might be.

>> Councilmember Constant: I know we have to go, mayor it just clicked past 5:30 on my watch. One comment someone made, I think it took us ten years to get out of this problem and it took us ten years to get into it. I couldn't agree more. It's been inaction that got us into this problem, it's been delays in addressing it and not bringing it to the forefront and not make definitive hard decisions to make the change. We know it's the right thing to do. We've given this direction before we've gone over all the things that Alex I won't repeat them again said,

we've had voters tell us what to do if this motion passes we're going to leave and have accomplished nothing today.

>> Mayor Reed: I do think we need to stop talking now and adjourn. I mentioned earlier that I thought we'd have to defer 3.2 for a week We're in negotiations with ten out of 11 unions, I think we need to take this up tonight so we're clear for negotiations guidelines for Alex and each of us because we're in the middle of this. We'll take this one up, finish I.T., take up 3.2, do the evening agendas, do the ceremonials first but take this up when we come babe 7:00.

>> Councilmember Constant: Can we come back early, can we adjourn to 6:30 and keep working on this? I'd rather?

>> City Attorney Doyle: You are taking the afternoon items but it's really how long the event takes.

>> Mayor Reed: How much time we get to come back. We could get some extra time that way. Vice Mayor Nguyen, 6:30 we should be done with all the smoint things. That gives us a one-hour break, is that okay with everybody, take it up at 6:30. All right, 6:30 it is.

>> Mayor Reed: If we have councilmembers in the back room it's timed to come back out. We're going to get started with trying to complete the afternoon agenda. [Gavel] I'm sure we'll have a quorum any moment now because there are councilmembers in sight. We'll get a quorum and get started. ∂∂ ∂∂

>> Mayor Reed: We have a quorum and I'd like to get started when we get mostly everybody in our seats. We were in the middle of a long discussion on second tier retirement benefits, with quite a few people still wanting to speak. I have a suggestion that could help resolve things. First I can't support the substitute motion. I think we need to give our staff sufficient direction so they can negotiate. But it's also clear that the staff's intention and I believe collectively probably our intention is to have something that's better than Social Security. That the Social Security has nothing to do with what we're talking about, we're just setting a dollar goal. But if we can't achieve something better than Social Security, with the authority we've given Alex, I for one would be willing to increase the authority. Because it's not my intention to drive down to the Social Security level. So I think if we vote down the substitute motion and modify the main motion, just to express our intention to do better than Social Security, and our acknowledging of the fact that if we can't through the negotiations very quickly get to something that's better than Social Security we're going to have to modify our authority. Because you know I think we have to put the stake somewhere, we have to set the parameters otherwise our staff really can't negotiate. And I would like to get Alex's thoughts on, if we don't set parameters what can you do at the bargaining table and you can't do?

>> Alex Gurza: Thank you, mayor. One of the indicators of good faith negotiation is each side sending negotiators to the table with sufficient authority to make an agreement. Because when we enter an agreement we sign a tentative agreement behalf of the city. And so we wouldn't be able to do that so the risks we run is sending negotiators to the table without sufficient authority to make a deal. And I think that's why we're asking for that authority is that we can actually make an agreement that binds the city subject to your approval.

>> Mayor Reed: My point is if you can't reach an agreement with the authority you've given us, you will come back and ask for more authority.

>> Alex Gurza: Absolutely like sometimes occurs.

>> Mayor Reed: And I'm saying that if you can't come up with a plan that is better than Social Security, I'll willing to increase the authority, and I think probably others are as well, and we ought to state that intention in the modified main motion. Councilmember Constant.

>> Councilmember Constant: Thank you. I first had a question, since we left we had this substitute motion on our desk.

>> Just put that together, there is also a front and a back too, councilmember.

>> Councilmember Constant: Based on this, this is a little bit different than the motion we had first off. So I just wanted to see if it was the intent or if it was just missed. Because the bottom of page 16, the cost-sharing portion has been dropped off the motion. Is that what your intention was? It's the very last paragraph and heading under page 16.

>> So your question is, I'm sorry?

>> Councilmember Constant: I'm trying to find out when I asked for clarification on your motion before we broke, it was not counting the first paragraph underneath where it says recommendations for second tier retirement benefits. That's the motion that was made. This not only exempts that but the next two paragraphs as well and starts with the beginning of page 17. So I'm trying to figure out which is the motion.

>> So this is a quick cut and paste and if I omitted it, I apologize. Again I'm going to reiterate the intent. The intent is to remove any intention of 12.4 or 50-50 unfunded liabilities.

>> Councilmember Constant: So you're cutting out the 50-50 unfunded liabilities. I didn't hear that the first time around.

>> I understand. Thank you.

>> Councilmember Constant: I have even stronger objections to the motion then, because one of the biggest problems that we have with our system is, not just the normal cost, the normal cost is a contributing factor. But the real problem we have is the unfunded liability. And the fact that the city, the employees share in the upside but not the down side. And we have these huge unfunded liabilities that are created. And it basically gets 100% dumped on the taxpayer. So I even more emphatically ask the council to not approve this motion because that's a major difference from prior. And I was opposed to it before. Secondly I do concur with the mayor. My intent is not to say Social Security and that's it. That was not the intent and I don't think that was the intent of the City Manager or Alex. He -- I think Sam made sure he clarified that, it's not Social Security benefit, it's funding similar to Social Security and what benefit that would receive. Like the mayor, I would be willing to, once we see costs and what the differences would be and what we would be able to give for that money, be willing to up the authority if that's what it takes. And we maybe can further have that discussion hopefully if the substitute motion fails, because my intent is not just to say sorry, you're on your own, you got Social Security, that's not it at all. And I think we need to have some flexibility. But I'm really concerned of the two issues, and just to be really clear the issue is that all of a sudden the cost-sharing of unfunded liabilities which is our number one problem is eliminated and that number 2, the -- we give no authority for us to go into negotiating in good faith. And we accomplish nothing other than what we had previous to coming into this meeting.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor. I actually agree with the mayor's idea. I think it's a good compromise that will at least get us in a place where we have something to bargain over. I think we're probably demanding more than Alex can possibly or his team can possibly provide to create any amount of certainty around what the benefit could look like given the fact that this is all subject to negotiation. What we start with is a

cost number where we put a lid on the cost and negotiate in a way that the employees and retirees feel best serves their needs. And hopefully, we can craft something accordingly. Obviously, there's -- for instance, if -- as I understand it Alex if we've got a package that says folks can retire at age 65, rather than age 58, we've got a very different level of contribution. That's going to be required. And in fact, we could probably go significantly higher, if forecast are retiring later in life, is that right? .

>> Alex Gurza: That's right. The later the retirement age is the more of a benefit that could be provided.

>> Councilmember Liccardo: Right. I really think it's important that staff has the responsibility, in fact that bargaining units have that flexibility to come up with the ideal scenario within some cost limitation that we establish. And I don't think we're ever going to get the facts that I think some of us may think we're going to get out of Alex and their team or out of anyone else to be able to get a precise number of exactly what a benefit is going to be. The other concern I have, more generally, is I hear a lot about somehow or another retirement benefits are key inducement to get the best and brightest to come to the city. And frankly I question that assumption. I don't doubt that compensation may be quite relevant in inducing the best and the brightest. I don't doubt that the job environment, the ability to be promoted, the ability to take on more responsibility, the autonomy, all those could be really key inducements to getting the best and the brightest in the door. I don't think that retirement benefits are, in my sort of anecdotal knowledge necessarily rise to the top of that list. I don't think people go out in the workforce at age 25 thinking about, I'm going to take a career in X with this particular organization, because of the retirement benefits. And I think it would be really helpful, Alex if, and I'd be interested in this information from any side of this debate, to really understand whether or not retirement benefits are a significant inducement or not to getting high quality employees. I don't doubt that some people might want to stay a certain number of years because of retirement benefits and in fact they may leave earlier because of the retirement benefits but that's very different from the question of what does it take to get the best and the brightest into San José to serve our residents. So I would be very interested whenever we come back to really have some information. I know a lot of folks do studies, in area of human resources on those very issues. It would be really helpful to have some data if it's available. And I guess you know finally I know that you know it's easy to Dis Social Security because we know that's the minimum. But then it's a minimum cost not a minimum benefit, that's

an important distinction. But keep in mind that Social Security is scheduled to become insolvent by roughly 2037, I think. It's not as though that's all that sustainable. So if we think that going higher is going to be putting us on more stable ground we should think twice. And particularly over this issue of cost sharing, you know I agree with Councilmember Constant, I really think that flies in the face of voter intent. They -- the residents of this city are tired of being saddled with a $3.5 billion unfunded liability that they didn't create. And they are very frustrated with it and they let their frustration be known at the voting box and we need to listen. And so I think it's critical that cost-sharing be part of this formula and we simply can't go on running in place here hoping we'll be able to negotiate something without any kind of cost limitation. So I hope we get to a place Alex where you can actually negotiate with and I look forward to seeing how this dialogue unfolds.

>> Mayor Reed: Vice Mayor.

>> Councilmember Nguyen: Thank you, mayor. So I just spoke half an hour ago about having the ability to live in a deficit-free city and I like to live up to my end of the bargain on that statement. I had concerns about the potential of us moving towards having -- using Social Security as a retirement plan as the ultimate retirement plan and it doesn't seem that that's the direction that we're going. I think that the mayor brought up a really good compromise. It's very clear to me now that none of us up here want a Social Security to be the ultimate retire plan and we're willing to increase that authority, should it come to that. So I like to go back to -- I'm not going to support the substitute motion. I'd like to have the ability to go back to the first motion that was made by Councilmember Constant, and perhaps, we can explore different options and flexibilities or give staff the flexibility to come back and maybe introduce to us maybe some of the other kind of plans, cost-sharing plans, the hybrid plan that Councilmember Herrera brought up earlier and see if we can actually craft something to give better and more solid direction to staff. So I'd like to have that discussion, if the substitute motion fails. Thank you.

>> Alex Gurza: Vice Mayor, I also wanted to medication that we'll clearly be giving the council regular updates on the negotiations. And so for example, if a bargaining unit or bargaining units make a proposal on a second tier even if it costs more than the 12.4 we will be bringing it back to you for your review and consideration. And you can then decide to get -- direct us to accept that proposal. So we will clearly be bringing back to you any proposal

that is submitted to you. Will be made available to the public and will be made available to you for your review. So it's not only the City's proposals but any ideas the bargaining units may bring to us.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you mayor. As a standard form at a city council meeting, usually the people that speak have the most vested interest, and we saw that with the speakers of tonight. And I don't blame you, I'd be trying to keep everything I got. But the reality is we can't. And I don't know how many times we can have this discussion and then fall back to some myth of how we're going to finance everything. So my job as the elected member is not to take in what the eight speakers who just came before me but actually pay attention to the 163,000 San José residents that voted for measure W. And we need something substantive and that was with the staff report. I can't support the substitute motion, I'll be looking forward to supporting the original motion. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. First of all I think this has been a very productive and have good discussion I'm glad we're having it in public frankly and I do appreciate all the speakers who have come forward to speak whatever your position happened to be. I find myself not agreeing quite totally with either of the motions that are on the floor but as I'm listening to this I think part of discussion earlier when we were sort of talking about Social Security which I do want to say, I appreciate what Pat Saucedo from the chamber said is there are a lot of folks out there living on Social Security so we certainly should respect that program, it's a great program and we're glad it's there but clearly we're talking about a benefit and that's different than looking at the percentage that we're going to be contributing. And so we don't know exactly what that's going to be and I found myself wanting to have Alex come back and explain various scenarios so we can have more information to try to understand what that would mean. But as I'm sitting here listening to the debate I'm realizing that I'm wanting to hands you an impossible task Alex to come back here and give various scenarios with no marching orders. I like the mayor's suggestion not make -- I was getting hung up on the 12.4 as being the absolute number. And so I want there to be

some flexibility that it could go higher if we have an opportunity, if there's a good proposal and if it makes sense. I think I was thinking about the 10% total comp last time and we were drying to that and we were going to be very you know, that was going to be the number and this I think has a lot of variables. And we need to look at how they all interplay, you know, the age at which people retire, all of the various things, is it going to be 2% that grow to 2 that you talked about all of those factors. So we're trying to get our arms around something that is very complex and has a bunch of different variables and I think you know -- I like the idea of having some starting place but I want that flexibility. So I'm hoping if I vote against the substitute motion that there will be enough flexibility in the other motion because I do want to make sure we have that, and I also again want to commend our employee groups for coming here and for their willingness to work with us on a second tier and I think that in spite of the fact that there's anger in the community, there's anger in the employees, yes we've heard from our citizens that they need reform, we need to march down this road together and I'm hoping that we can do that. The positive attitude, I think we do still need a positive attitude that needs to be reflected in our rhetoric.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Question for you. In terms of the range, so just so I can frame it for myself, we're talking about 12.4 right now and then our current levels that we're paying I believe from that side are 17 point something or other.

>> Alex Gurza: For the Federated plan.

>> Councilmember Rocha: Was about 17.4?

>> Alex Gurza: Correct.

>> Councilmember Rocha: So really that's the range for us to go forward talking about a two-tier pension, somewhere in that numbers, so there's a range actually not that we've declared that to you but --

>> Alex Gurza: Yes. In other words if we end up with a normal cost of 17.44 for Federated that would be the range we currently pay and 12 be 4 again is the other end but I mean you're right anything higher than 17.4 would be an increased cost of benefits.

>> Councilmember Rocha: Okay. Well maybe I wasn't clear in I guess at least on one point and I'll speak to that a little bit in terms of the cost sharing of future unfunded liabilities. Nowhere did I mean that there wouldn't be some cost-sharing It would be without seeing the whole package we're talking about I'm going to be clear about that from beginning to end so thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Just a point of clarification. I liked your proposal mayor and I don't know is that incorporated into Pete's motion or stands loop or --

>> Mayor Reed: Right now we have a substitute motion on the floor, if the substitute motion fails I'm going to suggest we amend the motion on the floor to incorporate what I suggested.

>> Councilmember Rocha: Would you mind repeating the language that you suggested?

>> Mayor Reed: The language would I suggest to amend the first motion was to add to it the statement of our intention that we are intending to provide a benefit that is greater than Social Security. And that after Alex has an opportunity to negotiate and define and get it refined if he can't do that with the 12.4%, that we anticipate we would change our authority and he would bring that back to us.

>> Councilmember Rocha: And your thoughts on the second bullet in terms of future unfunded liabilities in a second tier shall be shared equally between the city employees and if that second bullet read the same except removing equally but just shared, what's your comfort level there?

>> Mayor Reed: I think one of the greatest weaknesses of our system is the employees don't share in the unfunded liabilities.

>> Councilmember Rocha: Yes I agree.

>> Mayor Reed: There's a huge incentive to create unfunded liabilities and we have to do with that. Whether it's 50-50 or 60-40, I don't really know. I think we should give Alex that this direction and if that can't work we'll have to modify that place. Starting place 50-50 seems like the best place to start.

>> Councilmember Rocha: Okay, thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. In regards to comments that were made some time ago regarding SRBR a quick comment if we are going to do anything to modify that that we target those that really really need that money. I think there are some retirees that truly need every extra dollar they can get. So certainly we can use that in a way to make sure that we're helping those that are suffering. I think we should try to at least examine that. In regards to the discussion that we've been having here, I don't agree that if we go forward with the motion on the table that we haven't done anything or accomplished anything. The reality is that we are going forward with recommendation that have been put together through research of the staff through the task force, through audit, and what the discomfort level is giving a rigid number to start off with when we don't have all the information. Everyone up here has said it in one way or the other, we don't have all the numbers to be able to know exactly what it is what we're doing when we go at 12.4%. Alex indicated it needs parameters. Right now these parameters are too rigid. Even saying that Alex can come back, we don't have a basis to say that. We can say Social Security Yes, 70% of the people in the county may be getting Social Security, but it isn't their only source of income. They are not living on Social Security, not 70%. My father gets Social Security. If that was the only money he was getting he wouldn't be able to keep his house. Let's not pretend that's a great program, it's a safety net, especially in this county. To use that to start our discussion and to start our discussions are just not

right not because we don't have all the information, not because staff somehow thinks it's right and the only way to go, we just don't have all the information admittedly with the staff especially with Councilmember Rocha's questions what does it really mean? I think we need a range to choose from than simply being given a number. I understand direction needs to be given but I can't give direction unless I'm certain what the direction is that I'm giving and right now there are too many unanswered questions with the parameters that are being said. That includes the 50-50. Mayor just indicated now, I'm not sure the 50-50 is the right number If it's the right place to start that's the concern at least that I've heard even from those that say they may not be supporting the substitute motion, one time or another people have concerned some expression over the fact that they have set a number without knowing what that number means and certainly, Social Security as a guide as to how we should set up our retirement or our pension benefits I don't think is an appropriate one. Cost sharing has to be part of the solution, no doubt about it we have a huge problem not just the voters but everyone up here publicly has said myself included that we have to do pension reform, the bargaining units come forward and said it. There is not a question of whether we are going to do it, we have to, the question is how we're going to do it, that's critically important since we know once we go forward with this it's not going to have an immediate impact. If we go throughth with this and put something forward tomorrow, we're not going to have cost savings next day or next week. Let's make sure we do it right so we have the credibility as well as the information that we need because right now we haven't been given enough information because it's still not there. Let's get that information and get that work done as soon as possible, so that Alex can have the appropriate direction. But right now, by giving this direction, and giving this starting point, we're starting a discussion, we're starting discussion with parameters that bring -- that start us off with such a low compensation level, without having the data, that I think it really leaves a bad taste in my mouth and I can imagine just as the residents are upset with how we got here, I can imagine that getting to bargaining table they're not going to be very happy with how we got here with this number knowing that there's a lot of confusion up here.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you mayor. First of all I'd like to thank Alex for all your hard work. You know I wish we have this conversation in a closed session so we can give Alex a range. And we will not disclosing that

the highest possible range. But I am with Councilmember Rocha, I just -- if we're in the closed session I will give you a range I feel I can defer some of my questions to a later date, like let you test the water then we come back and then figure out what this 12.4% actually buys, you know. And I am a firm believer that a lot of people that choose to be in the public service are looking at a better retirement than their private sector. And we should not lose the sight that we San José need to compete for the best employees in the labor market. So without really knowing what 12.4% buys us, I'm having a hard time to support the original motion. But I do sense from Councilmember Rocha that he would be willing to put the cost sharing on the table, just limit the 50-50 split. So I think we can give you the authority to negotiate on the pension and unfunded liability but not to a rigid 50-50 split. Am I correct? So is that part of your motion, to say well, let's go out with this proposal? And let's also include the cost-sarge on the unfunded liability, but just not to limit it to 50-50. But we don't want to give you a number. We don't want to give you a number in public but we want to you negotiate and come back with a best -- a mutual, agreeable split on that.

>> Alex Gurza: Councilmember Chu, I appreciate the difficulty but I think this really shows the public the challenge of labor negotiations and about the discussions between closed session and open session. But in terms of let's take that issue that you're raising about the unfunded liability and the cost-sharing. Remember a brand-new employee has no unfunded liability so what we're really talking about is what number do we think it should be? Without authority from the city council I cannot make a proposal across the table without knowing that it's something that you would accept. So is it 50-50? Is it 60-40? At some point I need to get a sense from the council whether that be here, whether that be in closed session about where you want me to head. Otherwise I have nothing to make a proposal come back and report that to you but again, part of negotiations is making a proposal. What do we think it should be? And at some point I need to know even on that element what -- where the council would like me to head.

>> Councilmember Chu: I appreciate that, again, I wish we have this discussion in closed session because I can give you a range. But without fully understand what 12.4 will buy for us I will be supporting the substitute motion.

>> Alex Gurza: And I did want to add the slide that's appearing above you now, actually shows the ranges. And again there are multiple, you can design, multiple options within that range there. And so if you ask me to come back with every possible solution that comes to 12.4, it's almost an infinite number. Because you can make and move an age from half-years to multiple years. Any of those -- there are many, many options. You can say you can control one number and let's say the retirement age was 60 and I wanted to stay within it and I wanted to give a cola then you can move the other options, okay? We're trying to provide the council with a range but trying to explain there are so many options in designing a defined benefit plan.

>> Councilmember Chu: Mayor if I may continue, is it possible that you can, say for 12.4% have some correlation, this would be like equivalent of the retirement package back in 2002? You know, that kinds of -- that kinds of correlation to --

>> Alex Gurza: It would be -- I can tell you it would be less than that. Let me give you an example, maybe it might help the council here. Let's take if you wanted to have the multiplier be 2%, so at 30 years of service no, not everybody works 30 years but at 30 years of service you'd be getting 60% of the benefit. That -- in order to do that you'd have a retirement age of 60, a cola of 1%, and an average salary of three years. But you can change each of those items to get to a different number.

>> Councilmember Chu: .okay.

>> Alex Gurza: So here there is a lot of flexibility but if the council were to say look, don't come back with a plan that has a minimum retirement age of anything less than X, well then I work on the other variables.

>> Councilmember Chu: Okay, let me rephrase my question. Say if I want to bring the retirement benefit back to the 2005 level, what would be that number?

>> Alex Gurza: Well, at the -- I'm sorry can you rephrase the --

>> Councilmember Chu: If I'm bringing the retirement level back to I'm just picking up a year, 2005, I could say 2002 level, what would be the number we're shooting for?

>> Alex Gurza: Well if you're looking at a historical benefit level in Federated really the maximum amount of benefit hasn't changed in decades. So if you're looking at Police and Fire you know, you'd be going babe to the last change that was made for Police and Fire going 85 to 90. Is that what you mean if I went back and said what was the benefit level in Police and Fire at 2005?

>> Councilmember Chu: If you can adjust that, can you -- to --

>> Alex Gurza: To 12.4? Crg or any other numbers.

>> Alex Gurza: Any benefit that approaches 90% or even 85 is going to be significantly higher than 12.4.

>> Councilmember Chu: So even if it was reset a clock back to the 2002 level we will probably be looking for a number higher than 12.4?

>> Alex Gurza: Yes, yeah, absolutely, my staff just handed me a sheet. In 2000, for example, both Police and Fire were at a maximum benefit of 85%, right? So again the difference between 85 and 90 there might be some small savings. But if you again kept the cola the same, the change is smaller between what the norm cost you know might be. So that's why we're proposing focusing on what the target, I mean if the target is really designing the benefit, you can -- then the cost is a result of the benefit that you want to achieve. We're splig suggesting because of the size of the City's problem with pension funding, that it ought to be set how much do you want the second tier cost and design and benefit it around that way.

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

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. So Alex, the 12.4 is really, we're looking at, we have the mortgage payment which you -- I thought that was a great analogy in terms of the unfunded liability. And if I'm understanding this correctly what we have left, what we can really pay after we pay the mortgage payment is 12.4.

>> Alex Gurza: Absolutely.

>> Councilmember Liccardo: That's really what we're looking at here and that's what's restricting us, if we didn't have the unfunded liability and you were starting from a clean slate, I don't mean, I guess this is all about putting people on the spot, what would you -- what do you think would be you know a reasonable kind of number you'd be looking at if we didn't have that?

>> Alex Gurza: Excellent question councilmember I hadn't given that a lot of thought. I think there is no -- because of the unfunded liability is so huge, it's hard not to think about that but if we were starting from scratchy assure you the City Manager and I would be coming in with a benefit that was higher than 12.4. What that right number is I can't say for certain.

>> Councilmember Herrera: Can it be higher ooms.

>> Repeg to the city council that the benefit be much higher than 12.4.

>> Councilmember Herrera: That is a big factor in what's driving this 12.4 number is we have this huge debt we have to pay. We don't have a choice. We have to pay that and so that is affecting what's going to happen with future employees and it's unfortunate but it is what we're faced with so I hope that we can work some creative ways and I actually hope in the future we can address that unfunded liability which is something we are all going to want to address, not just us up here but I think employees and everyone, thanks.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: So Alex, if I may be so bottomed as to suggest, I know we've he been debating a bit on whether we think you've provided enough information or you haven't. In my mind I have heard from a number of folks that feel that may not be the case. You tend to feel differently, I understand. I'm going to ask a question of protocol in terms of a substitute motion. And can I withdraw the substitute motion or do we have to vote on that?

>> City Attorney Doyle: You can withdraw with the consent of the seconder.

>> Councilmember Rocha: If I do withdraw will we have to vote on the original motion or will the original motion be amended as suggested by the mayor?

>> City Attorney Doyle: The original motion will be on the table and it can be amended.

>> Councilmember Rocha: I will withdraw my substitute motion with concurrence of my second.

>> Mayor Reed: We are back to the original motion, the substitute motion being wrawnd. The original motion if I got my notes right here was to approve the recommendations in the memorandum and adding directions to the City Attorney to explore the prospective changes and bring that back to us I believe that is the motion on the floor and what I would request by friendly amendment is that we do that but we add expression of our intention, the council's intention to provide benefits greater than Social Security, and acknowledge that if we can't do that with the 12.4% budget we've given Alex to work with, that would be with authority. That would be my request with friendly amendment if Councilmember Constant wants to respond.

>> Councilmember Constant: So that is accepted and I also --

>> Mayor Reed: Who had the second?

>> Councilmember Liccardo: That's okay with the seconder.

>> Mayor Reed: All right.

>> Councilmember Constant: And I think what I would like to just make sure that the overall intent is clear, that if Alex gets into negotiations and he feels he needs to come talk to us about some hybrid options or 401(k) options or any of those other things that he comes back to us and asks for whatever authority he needs, that this is really a starting point in making sure that he has what he needs to start negotiating in good faith.

>> Alex Gurza: Councilmember Constant that's understood.

>> Mayor Reed: All right on the motion, we have a motion on the floor as amended by friendly amendment. All in favor, opposed, none opposed, that's approved. That concludes item 3.4. We still have item 3.2 left from this afternoon's agenda and that are the proposed modifications to our negotiating guidelines since Alex is in the middle of negotiating with ten or 11 bargaining units, we need to move ahead and try to get those done this evening.

>> Councilmember Oliverio: Mayor Reed.

>> Mayor Reed: How you doing here?

>> Councilmember Oliverio: I know we planned commendations at 7:00, I know there are some students who have a bedtime. If that's okay.

>> Mayor Reed: Go ahead and do the ceremonials, we have to sympathetic for students, they have to promise that after we're done they have to go home and do homework. Otherwise we'll make them wait, all right, promise accepted. Turn to the ceremonial calendar and we'll start by inviting Councilmember Herrera and Christa Vo to join me at the podium.

>> Mayor Reed: Sorry for the delay. We've had a very long afternoon meeting and we'll go well into the evening. But we want to take the time to do the ceremonial items at this point. The first is the accommodation to Silver Creek high school student Christa Vo, for her comploirks in placing first in the network for teaching entrepreneurship Bay Area regions and placing third at the national business plan competition finals.

>> Councilmember Herrera: Thank you mayor, I'm very epees business magnet program Ms. Colleen Skapatoni. Crystal is part of the business magnet at Silver Creek high school, entrepreneurship and educates entrepreneurial literacy among youth. As part of the student's course work students spend hours learning business concepts, receive hands on training in launching a business and were taught real world chald her students to write their own business plan and build a company of their own. Crystal succeeded in this baking presented a business opportunity when she sold out of her home made treats while completing her course project. She also challenged herself to take her business venture to the Bay Area regionals placing first in the competition. Crystal advanced to the nationals in New York to compete in the business plan competition with other aspiring youth entrepreneurs from around the country. Among 32 youths finalists, Crystal exceeded in this competition and placed third. As an entrepreneur I know how much energy and competition it takes hard work and dedication Crystal exceeded accurativity she was able to take her business skillets beyond the classroom to compete at a national level. We're really proud to acknowledge Crystal for her accomplishments, congratulations and hopefully she will be setting up a business here in San José. Mayor Reed will present the comengts and we'll have Crystal say is a few words. We'll get a picture. [applause]

>> It's really such an honor to be here tonight and receiving this commendation. About a year ago, I wouldn't have imagined I would have accomplished so much. But due to the support of my teacher, my friend $, family and all the wonderful people in NF temperatureE, I found anyone can accomplish great feats if they are given the opportunity, and the support. And I know that now, my future is a lot brighter and I'm off to big things. Thank you. [applause]

>> Mayor Reed: Thank you. I know these things don't happen by accident. There are probably some friends and family of Crystal's please stand up. Family, thank you for helping her. [applause]

>> Mayor Reed: I'd like to invite Councilmember Oliverio, coach and members of the Willow Glen high school football team to join me at the podium. We'll present a commendation to the Willow Glen high school football team for the division 2 C CS football championships.

>> Councilmember Oliverio: Councilmembers, before you is a representative of the Willow Glen high school varsity football team, CCS division 2 championships. [applause]

>> Councilmember Oliverio: This is the first CCS division win for Willow Glen varsity football system where they defeated Sequoia at and the community. The stands were filled, especially at night, and even for us that held out when you beat Los Gatos in the rain with lightning and thunder! It was quite the incredible event, rain soaked but not nearly as hard as you worked. The team provided a dazzling entertainment for the community both defense and especially open the offense. A great season and it was an incredible gift to the area. On a personal note my classmate and friend from Willow Glen high school was the quarterback And his son is now the quarterback. And unfortunatelily and sadly my friend passed away of cancer and Mitch is a spitting image of his father, in every way. Mayor I'd like you to present the commendation to the varsity team here. [applause]

>> I just want to say thank you to Councilmember Oliverio and everybody that put this commendation together. It means quite a bit for our team. Including our coaching staff, to be recognized in this way. And especially the football players for all their hard work and effort throughout the season. They did a wonderful job and we are very proud to have wonderful young men like themselves. Thank you very much. [applause]

>> Mayor Reed: Now I'd like to invite Councilmember Constant and executive director Kathleen Rodolfi to join me add the podium as we provide a commendation to Northern California innocence project. To recognize your 10th anniversary.

>> Councilmember Constant: Thank you, mayor. With us this evening, we have cookie Rodolfi, the executive director of the Northern California innocence project and Linda star who is the legal director for the Northern California innocence project pment the innocence project is celebrating their ten year anniversary this month and they do quite an incredible job. I knew nothing of them a couple of months ago until I met cookie and then cookie has been on a mission to kind of convert me in a number of areas and this is one of the areas where you've had some effect, cookie, the other areas not quite so much yet but the Northern California innocence project embodies the mission to create a more just and humane world to exonerate innocent prisoners cps wrongful convictions. There are several common causes that have kind of developed a pattern for these wrongful convictions and that is eyewitness misidentification, unwarranted or false convictions or bad lawyering over the past ten years the Northern California innocence project has received 8,000 requests for help and through those they investigated all the claims and got down to some of the serious ones and actually found 10 people who had been incarcerated who were wrongly convicted and they all have been freed. And that's incredible not only for those individual people, which is a huge thing but it also really makes sure that law enforcement continues to look for the real perpetrators of the crime. Because oftentimes there are really bad people who are out there because the wrong people have been convicted. I might note that none of those wrongly convicted people were arrested by me prosecuted by Sam or defended by Ash because we all did our jobs very well when we were in the law enforcement field but we know that the Northern California innocence project will continue to raise public awareness of the prevalence of these issues and the causes behind wrong offul conviction. In fact they have started breakfast briefings which have been incredibly informative. It is my pleasure along with the mayor and the city council to recognize the work of the Northern California innocence project and say thank you for what you're doing not only for those wrongfully convicted but for those victims and their families so the pursuit of the real perpetrators can continue. So congratulations. [applause]

>> Thank you very much for this. Our criminal justice system remains strong only if it can correct its mistakes and make the changes necessary to prevent those mistakes from happening again. We thank the City of San José for supporting us, as we work to make sure that that happens. Thanks. [applause]

>> Mayor Reed: Now back to the more difficult parts of the agenda. We're getting ready to take up item 3.2 which is my recommendations to modify the council labor negotiation guidelines, to amend them, to make some changes, and at some transparency, and this came out of my meetings with the city labor alliance which I do quarterly, as well as very difficult negotiations so I've met with the members of the city labor Alliance, here Tom Sagow in preparation for this meeting but it was clear from talking to the city labor Alliance that they thought that the labor negotiation process could be improved if they felt that the offers they offered are made in closed session there's really no way for them to be aware of the content of the presentation because our closed session discussions are confidential and that binds all of us. So sometimes bargaining units seek meetings with individual councilmembers to explain their offers. And that's resulted in situations where we're not hearing the same information, and where bargaining units have drawn inaccurate conclusions about what the council's direction was to our negotiating team. Our negotiating team represents the council collectively. And we give direction collectively, sometimes in open session, like we did earlier today, and often, in closed session. So I thought we could help resolve some of those issues by having offers presented to us in open session. That would allow bargaining units to comment on them at the time and we would all, 11 of us, and the City Manager and everybody would hear the same information at the same time and I thought that would be helpful. I do want to add that in ten years that I've been here now, a little over ten years, I've been through lots of negotiations, over lots of difficult issues. And I have heard people say we don't think that the negotiating team is accurately presenting our offer to the council, and we need to talk to you about that. But in my experience also, there has been zero, not a single time, when somebody said they didn't think what had been presented was presented accurately, that not a single time was that correct. That while people may have a different understanding of what Alex presented, they weren't there. But when I was able to find out what people thought had not been presented or was inaccurate, it was wrong. So our staff has done a great job, Alex and his teamwork very hazard to make sure that whatever offers are presented, are brought to the council, explained in great detail, at great length sometimes. And they've done a great job. And for anybody to say that they're not presenting them accurately, is -- has been in my experience erroneous and typically has been a negotiating tactic. Which you can look in the book, that is just one thing in trying to discredit the negotiators, it happens unfortunately. When people wanted to explain their offer was really an opportunity if I would change my position or I would agree with some they wanted or I would put a little more money on the table. Those were really attempts to get me into negotiation or gauge my support for

something. That's not something we're supposed to do and our labor negotiations guidelines are a policy to guide the council in the work that we do. But we are prohibited from interfering with the negotiations. Our charter gives the City Manager the responsibility and authority to manage the city. We give policy direction, and we're not to interfere with your ability to do that. We have delegated the authority to negotiate to the City Manager and her team. And that is the way we do it. Now, it's difficult for all of us to come together and try to figure things out. Anybody who made it through today's agenda with us going hours on a single topic understands the difficulty of coming to a collective decision. But when we do come to a collective decision it is Alex and his team's job to carry that out. Sometimes with gray difficulty but always, they do it -- in my experience here and any criticism of them not doing their job is just erroneous and a mistake and not fair to them and personally I think that they have the most difficult job in City Hall and I'm glad that they do it and I don't have to. So in order to clarify the opportunity to do this in open session and have this discussion in open session and to clarify what it is our role and the fact that we should not be engaged in negotiations, that's why I brought these changes forward, as a recommendation to the council to increase the transparency, and clarify what our roles are, a little bit. I have had quite a few suggestions, comments, criticisms and other things that have come in since I published the memo. So do I have a couple of changes I'd like to have made as part of a motion to clarify things. First, we have added references to the council appointees several places in the document because it is the City Manager and her team that does negotiations. One place I neglected to put that language in is in paragraph 5 which states nothing in this policy shall prohibit members of the city council or council staff from listening to bargaining unit representatives or persons acting on their biography. That's known as the meet and listen rule. So in that sentence we need to add, or council appointees. So it would apply to city council, counsel staff or council appointees. Because they do have obligations to meet and listen sometimes and they need to be able to do that. The second thing I would like to change is in paragraph 11, where we talk about the presentation of offers, proposals, whatever we're going to call these things in the open sessions. And what we have -- what I've tried to do here is to ensure that those sessions don't become bargaining sessions because that would be a violation of the Meyers Milius Brown Act bypassing the all things prohibited. So the language says the city council may listen to these statements made in the public forum but sham not respond to the comments or engage in a dialogue or any other form of bogging with the representatives. That language does not prohibit a clarifying question and there's no better place to ask a clarifying question than in public when we have the City Attorney on one side and the City Manager in one side, if

they are foregoing something or doing something inappropriately, they may say that's better done or whatever the case may be and finally I need a paragraph then again to clarify the fact that we're not trying to with this policy interfere with the council appointees doing their jobs and I would add just a statement that nothing in this policy shall limit restrict or modify any of the powers provided to council appointees under the city charter. Because the charter is the law. And we have to follow the charter and we're not purporting to change the charter with this policy. So with that, those are my recommendations. I think the City Manager and probably has some comments on it as well, because this proposal to present things in public session does present some problems and dilts and she and Alex may have a position they want to share City Manager.

>> City Manager Figone: Thank you, mayor, I do find the need to comment, editorial that appeared in the Mercury News this morning so I do want to put a few things on the record. First of all we will carry out your direction as it is determined tonight to the best of our ability if you choose to move a change in the council policy as you've indicated. And under this proposal, clearly there will be no question about the accuracy. however I must say that I am very concerned that there is a belief that we would convey closed session. As you are aware as the council you are the employer, so in labor negotiations we carry out your message and we negotiate in your behalf. As your representatives at the table we act consistently with our professional and ethical responsibilities to convey both your accurately as possible. And as you know your closed session discussions do not always end with a unanimous vote but once you have reached a decision we always carry out the message that you have directed as a body. And so given these discussions do occur in closed session and you have evidence tonight that we'll be doing more of this in open session, we do need to ask ourselves how would an employee representative get the impression that we're not accurately conveying what staff is telling the city council? You said mayor perhaps it's a tactic and a strategy. Perhaps it's when they do meet with councilmembers, they may walk away with an incomplete picture or misunderstanding about what's been conveyed. I do think though that baseless allegations are very harming and editorial I think that clearly needs to stop. So we will intra's your direction because there should be no question in anyone's mind on whether the administration including our director of employee relations and his excellent staff are being accurate or complete in their discussions with the city council.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I'd like to move the memorandum, dated July 14th, with the modifications you suggested. I'd also like to raise the issue that's raised by Councilmember Rocha's paragraph B, regarding allowing council to ask questions for clarification purposes. I didn't -- I don't believe I heard explicitly, mayor, whether or not you would support that. And I'd be interested in knowing your position.

>> Mayor Reed: The language does not preclude that and if you think it would be better to say that I certainly would be supportive of that.

>> Councilmember Liccardo: I'd like to add that language, I think that's a good suggestion, as long as the questions are asked in open session I think they're certainly appropriate.

>> Mayor Reed: You're the maker of the motion and the seconder was a little early on the motion but I assume you're still a second, okay, motion on the floor. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I think it's an excellent memo you put forward, and with the modifications, I've been advocating for these negotiations to be 100% in public not just what the session is but the whole thing. But this is a step in the right direction and the current process is nothing but test the goodwill of people on both sides. It wastes an incredible amount of time and is a full time money maker for lobbyists. So I think this is a much better way of doing it. We're all on the same page, we're all presented with the same facts, none of this he said she said, of that closed session up here I'm happy so I'm very appreciative of the memo, thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you I just wanted to chime in as well that I think these are very good changes, that they'll help us continue forward in what's going to be very challenging negotiating territory for quite

a while in the city given the extreme challenges that we had. I do think it's important for us to listen, I like how you referred to it as the listening rule. It's important for us to listen but also important for us to not negotiate outside the proper procedure. I fully support it.

>> Mayor Reed: Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you, got a little while to get used to. Thank you mayor. I just want to echo the thanks that my colleagues have mentioned towards your memo. I think it's a great direction. I think it's very concrete, very solid, I don't think that there's a misunderstanding in terms of what we need to do in terms of being councilmember when we're listening to representatives from the various unions who come and talk to us to clarify perhaps concerns that we have during negotiation. I just have a really quick question. There's nothing, and this is actually to the mayor, there's nothing in this memo, and the amendments that you made, that preclude union representatives from coming in and just talking to us about issues that relates to the budget, pension policy, perhaps emergency response programs, as well as other policies that affect our city?

>> Mayor Reed: That's correct, this does not deal with that. Although there are cities that have that policy, this is not what we're proposing here.

>> Councilmember Nguyen: Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you. I have a question in section number 4. Part of the first sentence, and it states, should not discuss. So in your mind, should that prohibit?

>> Mayor Reed: No, we actually -- had quite a bit of discussion along the way of whether that should say shall or should. It's very intentional it says should. We are not trying to prohibit the councilmembers from meeting or listening, that's why the next paragraph makes that clear. I think it's something you shouldn't do because it's easy

to get the snookered into negotiating when you're not intending to. This is basically a warning to be very cautious about those meetings because people ask for those meetings for a reason. They're not necessarily just there to pass the time of day. They would like to come in and try to count your blink rate and look and see if you're sweating, you know are you going to fold, this is all intelligence gathering and you just have to understand that you're dealing with professionals. These people that are doing the negotiations are professionals. And we have a professional staff and they're very good at that but when somebody comes in and wants to talk they're doing it for a reason and the more information they can collect, the better it is for them. And sometimes, I know that last year I mentioned last year we had situations where some of the bargaining unit members would meet with councilmembers, and come to Alex and said Alex that authority you gave you misunderstand the council's authority. Even if we had a two hour meeting talking about authority, they alex didn't understand the authority and that didn't help the bargaining process. So that's why it should, because councilmembers you know I think all feel the need to be able to talk to people who want to talk to them. But it's not shall.

>> Councilmember Rocha: Well I had submitted a memo requesting some amendments and you've already addressed one of tell, thank you very much. And the additions you made were very good thank you for the work you've done. My brown Act, and I reached out to your office before I submitted it. And this sounds a little bit more like a parent telling me you shouldn't do something but you can. And I'm not sure if that belongs in council policy. If my colleagues feel that that is necessary, then I'm not going to disagree, I guess. But again it was more of my concern about a clear policy that we're going to establish in terms of a serious issue of contact negotiations with bargaining units and having some language in there or an entire section that states something that I shouldn't do and I might get in trouble for, felt a little bit odd honestly. So I'd like to hear what the rest of my colleagues have to say, thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor and I appreciate the clarification and the ability to ask questions if we do have them particularly out in the open and in public. And I had an opportunity to read Councilmember Rocha's memo and agree with some of the concerns, insofar as the ability for us as elected officials to be able to

meet with the people who decide to come to us with their concerns, understanding that there is a unique relationship when it comes to the bargaining relationship between bargaining units,/employees, and the City Manager,/, employees. That appears to be clearly food. And how much, but no matter who comes to talk to me whether it's a resident that has concerns about the budget, whether it's a city employee or whether it's any other taxpayer group I don't care who it is, I think we should always have our door open to anyone who wants to come speak with us. I think otherwise the guidelines in here make it very clear as to what councilmembers can and can't do during those discussions. If we just sit there and listen quietly and transfer any questions we have to Alex or the City Manager and what have you, the fact that it does seem to put a negative or a -- as Councilmember Rocha says kinds of lecturing that we shouldn't meet with someone is -- I agree that I don't know if it belongs in the policy. But I think the further clarification at least seems to make it seem like it's still allowable. But I also would like to hear what others have to say about that particular portion of the policy only because I don't know if it's necessary if it doesn't either prohibit or restrict the question that is its necessity if we otherwise understand what rules we operate under as councilmembers.

>> Mayor Reed: I think I'd like to take some public testimony at this time. We have some people that want to speak. Councilmember Campos I'm sorry I didn't see your light.

>> Councilmember Campos: Thank you, mayor. I was just going to echo what Councilmember Kalra said. I mean it seems like five, section 5 implies section 4. And so it almost seems redundant to me so that's -- you know that's -- so the rest of my colleagues know where I'm at. Thank you.

>> Mayor Reed: All right, public testimony, please come down when I call your name. Brian Doyle fomed by.

>> Pat Saucedo: , we started this this afternoon so some of these people might not be able to stay. Brian Doyle, Pat Saucedo, LaVerne Washington and then Ben Field.

>> Pat Saucedo San José Silicon Valley chamber of commerce keep it brief. The chamber supports the memo before you as modified by the discussion this evening. We think it will provide clarity, conciseness and be in the best interests considering the challenging times we're all facing, thank you.

>> Mayor Reed: LaVerne Washington and then BenField.

>> Good evening, mayor and city council members my name is LaVerne Washington I am president of the City of San José AFSCME confidential employees organization. I am proud to be a city worker serving San José and proud to be a resident of District 9 our new councilmember Don Rocha's district. I'm speaking on behalf of the members of AFSCME of which 71% live and work in this city. I'm not a professional negotiator but I will be part of the negotiation team. We are against Mayor Reed's proposal because it is overly broad and would scope and form of almost any discussions involving any issue concerning the employment of AFSCME members while our contracts are negotiated. As an example this would preclude any conversation with AFSCME members layoff procedures and classifications. When presented to the rules committee this February and possibly city council in the spring. We are also against this policy because it does nothing to provide additional transparency in the negotiation process. To provide increased transparency we support Councilmember Rocha's memo which allows any city council member to interact with employees and constituents that may be employees regarding staffing levels, city operations or working conditions. We appreciate Councilmember Rocha's efforts to address flaws in the proposal, and modify it in a way that will not silence nor affect your ability to hear from city workers, and by association, city residents and constituents as well as to promote transparency in the negotiation process. Thank you.

>> Mayor Reed: Ben Field. That's the last cart I have, if somebody else put in a card.

>> Mr. Mayor, my name is been field, I council's negotiation guidelines would both increase and restrict the flow of accurate information between the council and city workers. On one hand it would mandate public reporting by the administration and workers on negotiations. A change that worker supports. On the other hand, it would discourage communication between workers and the council outside of open session. There is no policy reason to

bar councilmembers and their staff from discussing, quote, with any bargaining unit representative or person acting on their behalf, any matter that is the subject of negotiations, end quote. There is no evidence that, quote, misunderstandings and potential labor practices end quote will be avoided by presenting these discussions. If anything, banning these discussions or discourage you them will result in greater misunderstandings and city policy already prohibits councilmembers and their staff from negotiating with city workers. The language in the mayor's memo is also so broad that it could be read to bar discussions between councilmembers and city workers about pension reform, the budget, public safety, staffing and other important policy issues that could be considered matters that are subject of negotiations. Fortunately, Councilmember Rocha's memo addresses these concerns, moving towards improved communications is good public policy. I ask you to adopt the mayor's memos with the clarifications recommended by Councilmember Rocha. Thank you.

>> Mayor Reed: That's the last speaker, I believe. Back to the council for discussion. We do have a motion on the floor, Councilmember Rocha.

>> Councilmember Rocha: If I may ask respectfully would you consider a friendly amendment in respect to section 4 and eliminate it unless of course you feel that the Regulation of this policy doesn't accurately address that .

>> Councilmember Liccardo: As I read it -- you're talking about the elimination of the entire paragraph?

>> Councilmember Rocha: Yes.

>> Councilmember Liccardo: No, I wouldn't support that. The concern that I have is if there's going to be a claim of any unfair labor practice of any side, I think it's important for us to go into this with our eyes wide open, if we are going to go into the middle of meetings, talking about issues of negotiation, we're doing that at our own peril. I think that clearly conveys that and it's very important or the that to be clearly communicated.

>> Mayor Reed: All right, I think that concludes the council discussion. We have a motion on the floor. All in favor, opposed none opposed, that's approved. Oh, we're done with the afternoon agenda, I think. Not even midnight, yet! We will start the evening agenda with item 4.4, that's our envision San José 2040 draft environmental impact report and a whole bunch of actions on pending general plan amendments or request for different draft envision 24 land use diagram land use designations and lots and lots of other things. It seems like somebody's been working here for years and here it shows up. Not a surprise because we've had the discussion quite a few times before but we're finally getting down to the point where we're going to do the environmental review of this great body of work that's been done. I believe there will be a presentation on this. Joe Horwedel.

>> Joe Horwedel: Thank you Mr. Mayor. Joe Horwedel, director of Planning, Building, and Code Enforcement. Tonight we are trying to bring home the general plan process, to get it out on the street. There were a couple of considerations that have policy that we would like the council to consider tonight. The recommendation, I'll skip back since we already have it on the agenda. As a part of the issue we'd like the council to focus on tonight one is that the fundamental foundation is a reminder of the plan is on the job's fiscal sustainability of the city. It's been an important consideration throughout the plan preparation, we're going to talk tonight about the preferred land use scenarios that relates to the EIR that we're working on. Some policy questions that as we've worked through some general plan amendments that we think are appropriate for discussion tonight, around the urban growth boundary and what occurs in and outside of that and then lastly we'll talk about the schedule and scope of the update itself in the EIR. First as it relates to the council, the task force itself, this plan is very much a different plan than what our current general plan and that we're focused on how job growth happens in this community. We have a very strong goal of 1.3 jobs to employed resident, in order to help achieve our fiscal takennability, and that it's important that as we go through and deal with individual issues, either land use or policy related, that we go back to that foundational question, is that it's really the work of the task force, and of the staff, that we put together a plan that really moves the city forward in a better direction than we have been in the past, that ten years foundation this plan is about that and we want to make sure that we stay in that direction. As we went through and talked about with our community residents it was first and foremost in their mind that out of all the choices that we gave to them that was just the one that resonate Wednesday our community. And as you can see some of the others about fiscal stability was right behind that and things we're

working on about green and a new urban form for the community. As we've debated about where this city is heading into the future, we have looked at a number of really important directions where ABAG has projected we should head as a city. Focused on meeting region-wide goals and we have very much in the past been driven by ABAG's projections and with this plan we're looking about setting a course that really reflects where San José wants to go and so ultimately what you see the star number 6, was a scenario that reflected still a tremendous amount of job growth and residential growth, but it's putting it in the direction that puts this on a better foundation and we still think that that is the right direction to go. The numbers sometimes it feels like there isn't enough growth that's happening in the plan as we talk about some of the issues tonight. But when you look at it this way is that our plan capacity of over 800,000 jobs, 400,000 dwelling units is a significant amount of growth. That the amount of job growth planned with this plan is the size of many cities, or exceeds most of the cities in California. So we are still a very ambitious, growing community and we just want to make sure that it is in that right direction. As a part of the preferred scenario that the task force has looked at over the last several years and that the council adopted in April, it goes back to those fiscal foundations, good land use foundations, looking at a better transportation network to support that, we'll talk a little bit tonight about Diridon how that fits in, the community and a tremendous amount of thought and a tremendous amount of detail about how that plan comes together. And it's one that we think that the scenarios 6 that we have moved forward really takes the city in the right direction. And so we want to -- that is the EIR that we're working towards tonight and it's based on the growth maps that we've presented to you previously. The second issue is really based upon what I just talked about is how do we go through and deal with modifications to what the task force has been moving forward? We did receive a letter on the pleasant hills golf course that came to the council, and so staff has looked at that, has thought about it and how do we go through and think about changes in the future? And there are some good questions that come from that, that of how we think about the future. But it's one that as we go through and think about changes to what's in the draft plan, the preferred vision, we also need to think about where we're going as a city. And that's why I started with the preferred alternative we have, what the focus has been with the general plan about our fiscal sustainability, that this plan is a different plan than in the past where instead we added housing capacity every year. This plan really restricts that. And so it's one of how do we move those jobs and housing in the right places that best moves the city forward? And so that's part of what we'll talk a little bit about tonight and really the basis of the plan itself. I did want to spend a little bit of time because some of the comments that were

received in the letter, staff really has some concern about. Of how it's for trades about the plan and whether this is a staff plan or a community plan. It's a little bit of background that, going back into 2009, we did identify the pleasant hills property, as a low priority growth area, it's one of the areas we looked early on about where the city might grow. We did this stir wide and identified sites that never went any further. That the chart as you see on the right-hand side where we looked at different growth scenarios this was before scenario 6 was created. Only one scenario, the scenario 3 which was the ABAG projections, the high housing plan, 160,000 units as opposed to where we epted up about 120,000, did we look at putting any housing on the pleasant hills golf course, so it's not a site we looked at for recent growth for ultimately as we went through this year and looked at that time job growth that we could accommodate in the plan in different parts of the city where it related to transit existing specific plans where that job growth would help move the city forward versus where it would not, ultimately that dropped out of the draft plan as a potential growth area as you see in the map. As that came forward to council in April. We also if council did accept the recommendation of the task force and the staff to put no growth on this village, village 56, and retaken the private recreation designation, it is something the task force has had some conversation, has not had extensive conversations but they have talked about the goals of how private lands and public lands help meet the recreational and open space needs of the city. I want to go through and explain a little bit about how we've put together these villages and the assumptions about where housing and jobs would go. This is a picture of a spreadsheet that we have, many different versions for each of the different scenarios. So this is one that looked at how we allocated retail employment jobs, housing, across the number of villages, and in this the golf course is kind of in the middle. It says EEBS pleasant hills golf course with empty line going across this is a result coming out of scenario 6 where we did not show development open this property. It's one of several and that's what you see here. There are a number of potential growth areas or villages that as we've gone through this process we've either moved housing off, we've moved jobs off it, essentially we turned them dark that we did not need that job growth or housing growth in those areas, for the life of this plan. It's not that at some point in the future that that might not make sense, that there might be something that comes along in the future but at this point we did not see it rise to the top of the high priority place for growth to occur. And just lastly, that we have met with the property owner to talk about the uses of this property. This site had a general plan amendment as part of the Evergreen east hills process which the council denied at the request of staff in December but we had worked with the property owner to explain what we were doing, obviously the property

owner would have liked us to go have more meetings with us and explain more what was going on and I think they're here tonight to talk about that. But it was in January of -- this last month that we did receive a letter from the property owner asking to be included into the process. The council remember that we went back and I think it was September, and was doing outreach out, so that in November, we would have a dead line, kind of a bright line of anything and everything that people wanted to do, that we would go and look at it, bring it into the plan. And be able to assess should it be into the EIR, should it not. We are going to talk about some of those tonight on other properties. The challenges on doing an environmental impact report if we do not have that bright line we essentially will never circulate an EIR. At some point we need to have a fixed project description to be able to move forward. And so we did set that for the November date with our goal so that we could circulate an EIR in December. That we've slipped a little bit as a part of getting that EIR on the street and so that's why we're here tonight to talk about there's a slight opportunity with that. Certainly we could go through and you know extend the deadline and start that process back over again. But it does then extend where we are with the EIR process and so that's one of the considerations night and that staff is recommending that we not reopen that. The third issue is one that is a result of a general plan change that we received back in I think 2005. To build a private cemetery out in the hillside area of how we would address that in our general plan. And there's certain uses that you normally find outside the urban areas and it was a good question that as we thought about it some more we've come up with some thinking of staff and we wanted to have a little discussion with council around that. The first one was we really realized our general plan did not do a good job of telling the story about open space outside the urban service areas. We had a number of designations that really didn't say what we wanted to accomplish. We have come and created an open hillside designation that does what we think is a better use of that property. It gives does defer some of the ultimate decisions to the zoning stage which we think is appropriate. But it does have some questions about what ultimately can occur there and as we noted in the staff report there are things that are in here that belong outside, as you see here, of open space habitat, agriculture, in some places, some communities, you'll go through and find like wineries, you know the Paul masson winery, the mountain winery, evolved over time intense use in an open area. You have conference centers sometimes that are located outside of that. So pure assembly uses such as you can have religious institutions that have located there. Those are all types of uses out there and it's one where really it's a policy question about what kinds of uses activities can occur outside and inside the urban service area. We have had as a city a very strong

delineation of inside and outside, the voters have resoundingly approved our urban growth boundary saying they wanted to go through and protect our hillsides and green belt. We do not think we should vary from that. There are we think opportunities for certain types of uses which really don't belong inside the urban service area. So cemetery was one I would say we probably really shouldn't think about a traditional cemetery inside the urban service areas. That said, staff does not believe we should be building large chapels at that sort of facility. That's how you need a balancing, do you need a 5,000 acre site or 100 acre it a. That's why we've set buildings should not be about turf or do grading on and there are some things we want to the task force if the council thinks that's worth pursuing. As I noted, you know, really the goal of open hillside is you know grazing lands, open hillsides, habitat and you know it's just a question of of how much you see on the right-hand side would be appropriate or not. And then lastly, the general plan scope as I noted, we do need a fixed project description in order to face the EIR. We have been winnowing down the list of things that have been floating out there. I will note that guide the options that people have suggested that we're going to talk about tonight, we also have about eight other ones that people have suggested that are really minor. We, significant impacts, they're pretty benign. And so ultimately those questions will come to the council at a later date on but for tonight's decision what how we write the EIR so we can get something out onto the street shortly. So as a part of tonight the last piece is, the rancho Del Pueblo golf course the city-owned land staff is recommending that this be included into the EIR as an alternative or an option that would not be in the base recommendation. It is something that if the council wanted to pursue we would be able to describe the environmental impacts of it. The alternative is council could direct staff to withdraw that amendment. The Edenvale I-star property this is a request for an industrial conversion in South San José to housing. Again staff is asking for direction to include this into the EIR analysis as an alternative, option, not that it be included in as a base assumption of the plan, and that the county if he you did not want us to do that could direct is to bring it back essentially for a denial in the next month or so. The deanld transit center is listed as rejection The VTA also submitted requests for the Tamien stationary plan. We have asked to reject those but to refer them into a planning process with Tamien that -- to work with the community. Again the option would be to reject that out of hand and not doing that work. Why that is important is going into this process the council asked us to not go through and open up the specific plans because of the work involved in that. We have looked at putting some additional housing in that area through the planning process but we're not ready to go out into the community and we think it's premature without doing an engagement with the community which we did for the

high rises in the area. Lastly the dire done, we will talk about this or as that Diridon plays itself out over the next year. We really think that's the best place to deal with that rather than decide that through the overall envision process. And so lavesly the part of the schedule itself tonight we're talking about the scope and schedule for the EIR, our goal is, if we can cone the narrowness about the number of requests, have getting of the EIR circulating either in April or June time frame, depending on what gets added in. Assuming the request that staff has put forward then we would be looking at a June circulation and October council consideration, it does have obviously some budget impacts of how we work through that and we've talk about that in the memo itself. First and foremost we want to affirm that this is a jobs plan with strong fiscal emphasis on it, looking where growth happens in the city, we should be protective of our urban growth boundary, we should be thoughtful about how we go through and deal with uses outside of that. We have the large county lands that will continue to surround it so we should think about that. And as we noted include the Rancho Pueblo and I-star projects into the analysis so at least that decision is able to be considered in the future. Planning staff has not put any sort of recommendation on us, we have knot endorsed either one of those but we do think it's necessary to study this as the opportunity allows.

>> Councilmember Nguyen: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, Vice Mayor. Nice ring to it, doesn't it? Joe, thanks to your team, you and Laurel and Susan, working long and hard on these sticky issues. I also wanted to thank the many patient and very -- I admire the great endurance and fortitude of our past task force members. I know Shiloh Ballard, Councilmember Oliverio, I think I saw Harvey Darnell, Eric Shanehauer and Bryan O'Del. I'd like to move the memorandum that was prepared, co-signed by mayor Reed. Particularly thank Lou Reed for her hard work on this area.

>> Mayor Reed: We have a motion and second on the floor. Coasting I've had conversations or discussions my staff has had conversations and discussions for a lot of chamber of commerce, Barbacia family, Shanehauer group Wolf Urban, and SGS next-Gen.

>> Councilmember Liccardo: Ditto.

>> Mayor Reed: It takes a lot of time to get a project like this before the council. Congratulates members of the city council to have served on this board, years and years to get people engaged until they're angry and whole objective of this process was not to have people angry, to get them engaged well before that so there is no reason to be angry, anden staff did a good job, Councilmember Liccardo who was willing to be co-chair, Councilmember Liccardo did you have anything else ? Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed and it has been a pleasure to grow old with Councilmember Liccardo and all the general plan 2040 task force members, three years plus, who new?

>> Mayor Reed: Councilmember Oliverio, I knew. Thank you for not cross examining me on the assignment.

>> Councilmember Liccardo: If he didn't know .

>> Councilmember Oliverio: Less housing more dense but just do less, and that would allow you the availability to do more jobs. we have that bament and came to a different conclusion. But I can see that at least the plan is preserving Coit Almaden rerve, ill know we need to move forward on the EIR I have caution on it's not my district butt it is the I-star facility. I feel if it goes into the EIR it is that much easier to convert the land to housing. I'm reluctant, I don't know if there's -- too big of a parcel to see eventually a year from now get converted.

>> Councilmember Liccardo: If that's a request for amendment I can say I share your reluctance, very clearly, and I think the importance here would be able to clear the plan is a I certainly agreed to leave it in at this point.

>> Councilmember Oliverio: And to not EIR and hey look we can do it then it becomes that conversation and it's been a tommic before in ores discussions so I just -- just too big of a parcel. Thanks. Rey Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor and kudos to everyone involved in this. I think our former Vice President, Judy Chirco, is listening from hope --

>> Mayor Reed: Yes she is and she hasn't been released from her duties.

>> Councilmember Herrera: I wanted to make a few comments or maybe ask a question about the Mt. plent golf course who is in present 8. I appreciate the presentation, I prevent, Mr. Duen„s's help could not have thought about every iteration of land uses that are in our future. And I think the city should think deliberately and open minded about the areas that give the best return in meeting the City's goals. As it relates to to property on and other property citywide that are just like it, say the fairgrounds property where they aren't commercial ore residential and they are an official village site. And without suggesting I want to see when you come back in the fall, a plan that contemplates how a village could be moved forward if it meets the city's disiertd guiding principles of the village concept. When I say the guiding principles, it meets the oochtion really extraordinary, some for example a project that pleats a exceptional threshold beings of jobs, public space, open space and architectural design. I think weed can see something that comes back in the fall with a plan. If we had a grade idea for, say, Mt. pleasant, we don't two-year wait until we look at a new plan and then the horizons and all that sort of thing it looks like it could be a very extended wait and so I want that flexibility and I want to get your response to this.

>> Joe Horwedel: Councilmember Herrera, that is one of the imrairs we're working on in the plan right now. We have some draft language in the implementation section, a plan that recognized that a village might be proposed in the future. It really, I don't think, goes far enough to explain why we would go through and say yes or no to a village and that's part of why I started tonight as what are guide be prince of the plan are and really that structure. So we're going to go back to the draft plan and really mook make sure that before we gitd such a, why would we say yes, there are a number of different properties around the city whether it's two years, 20 years from now that question is going to come up and I think we should be deliberate about it now. Be clear about what our expectations are. So we have those -- you know, the chances and kind of reprioritize is how I would couch it. Just like we've done thus far with the villages and growth areas. But I also be think that is that is where the task force has been and really helpful. There are a number of goals that are in the plan. If we are going to go through and

put one area assumed growth and so you know we're going to need oto work through some mechanics about how we think about all our different goals and how we chief that. So that's one of the things that we have a better tool to do that and I think we'll get most if not all of where you want to-you're trying to go with your questions emotion?

>> Councilmember Herrera: Great thanks --

>> Mayor Reed: City Attorney had a question.

>> City Attorney Doyle: You're not asking that this property be part of the EIR namings. At that point, there was a deadline to submit, and what was the date on that?

>> Joe Horwedel: November 17th. the I think we should be able to have an opportunity knot in this -- not right now because there's nothing been submitted but in the future, upon review there's going to be some way for a village plan to come fork, and I'm asking for that, that flexibility in ways that we haven't considered right now because we haven't considered every possibility. And so I think Joe is going to come back, we'll look at staff on a citywide basis, whether it's pleasant hills or the fairgrounds or, hey, an area that doesn't have housing or job growth on it, may become available in the future. We should find out what that opportunity.

>> Mayor Reed: Vice Mayor Nguyen. Just to thank all the individuals who serve on this task where staff works. My colleagues, especially Councilmember Liccardo, for your leadership. It has definitely been a lodges process but nevertheless, for all the hard work.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. You had made some comments earlier about the great work that the 2040 envision task force has made oaf the last few years, and I echo that. I just happened to find the rest of over the next 20 years, I mean it's a monumental task so I complement you for that. You used a couple of words about one of the purposes of having such an outreach process that the task force has made to plan our

city. Is to prevent communities from being angry and enraged when something pops up. Well, the rancho Del Pueblo golf course process being added into the EIR, you are creating that. You know, I don't think any of the SNIs in district 5 or even in district 7, the K.O.N.A. SNI, I don't think they were ever noticed and if you talk about people having -- being right in the path of heavy impacts, I mean this is it. I would -- I would like to see if the maker of the motion would be amenable to withdrawing this, but if not, there's a couple of suggestions that I would -- or several suggestions that I would like to see studied further, as part of this EIR, including, you know, an outreach plan. So I'll start off first with the maker of the motion.

>> Councilmember Liccardo: Thank you, Councilmember Campos. I appreciate your sentiments because I share the concern as I did with Councilmember Oliverio, about conversion of either of these sites. I engage in pretty length 80 dialogue with Joe about whether or not we're creating a shritchary slope here. I think that's what's open all of our minds. Are we essentially giving a green light of some kind and I was assured we absolutely are not. This is about giving us the option to be able to make choices down the road and I can tell you I'm heartily sold on the notion that somehow we should convert what is currently a public asset into housing.

>> Councilmember Campos: Okay, thank you. So and bear with me. I'm just going to go a little bit just to remind some of you that might not know some of the history of the rancho Del Pueblo golf course. Originally it was a Thunderbird golf course, an 18 hole golf course, it was sold and part of it was converted to housing and the other part was converted to a nine-hole starter or beginner golf course. One of the reasons why this happened was that there were -- there was a negotiation that involved the community, as you know the major stakeholders as well as the property owner as another major stakeholder. The property owner had an interest in selling the property that they owned. They wanted to get whatever -- as much as they could from it. There was negotiation between the city, the community, and the property owner and what came out of it was a nine-hole starter golf course. A golf course that has actually become something that has been used by local schools, not just in district 5 but citywide. You find a lot of beginners, they want to go out for their high school golf team, they're learning to play golf there. You have a program that's been there since the golf course's inception, first tee. That is their golf course. That is the golf course that they use to help kids fall in love with the game, with the game of golf. I think that that's important. It's important because it's giving kids especially in district 5, 7, 3, where golf is a completely

foreign sport, that where they might want to try something different. You know they see tiger woods on television or they see a neighbor going out golfing and they don't understand it. And so this is a starter golf course, that you know allows them to learn in a safe place and what the expectation is that you're not going to be holding back another team because they might be first time golfers. My request is I would like for as this moves forward I would like one for I mean obviously an EIR is going to study traffic. And so you know with 600 maximum proposed units that's 1200 trips minimum at peak hours. I don't know if any of you have tried to get off on King road at 5:00 in the afternoon or any day of the week, I mean you know what I'm talking about. King Road cannot add any more traffic without exacerbating intersections that are already exacerbated. They are probably at intersection, the best you can do is not that bad intersections. That's not acceptable. That is not acceptable to residents of district 5 that have to live through that every day and you know we need to take that into consideration. Along with that you're going to have air quality impact. Air quality impact to a part of the district where you have children who probably have some of the highest incidences of chronic upper respiratory problems, asthma, you are potentially taking away open space to a part of the city that has children that have the highest incidences of diabetes, highest instances of asthma in the city. I would hope that the report gets into that kind of detail. And not just you know what's allowable in terms of air quality impacts. Displacement of students from first tee, east side union high school district, schools like James Lick, mount pleasant, valley Christian, all of those consumes send kids to this golf course to practice or to learn. And I would hope that there is -- that it's studied as to okay, well what happens to that group? Along with what kind of outreach will be made. My expectation is that since this is a golf course, it's a -- it is the only starter golf course in the city from what I understand, and so that means it affects the entire city. So outreach should not just be a thousand foot radius. Outreach should be to the key stakeholders. Those that use the course, the schools that I just mentioned or all school districts that are sending kids to potentially learn at this golf course. I would expect that outreach be made to those stakeholders. Especially the SNIs that are in this neighborhood and Joe being on the Planning Commission for eight years, we know the first question that we would always ask, well, did you talk to your SNI group? And I saw some SNI members out there that know, hey, nobody talked to this about this so this is going to be affecting our community. As our constituents in district 5 are the ones that are going to be impacted, I'm really concerned about intacting through acres to housing that will never ever convert back. So if the study is looking at what are the best uses of this land, you know, please study other things. Perhaps it's an even smaller golf course than a nine-hole, I don't know if that even exists or other

types of ball fields, soccer fields for example. Perhaps that you know, that's something that can be considered. Lastly, I really really hope that you look at this in the history of our city and the history of district 5 and the east side, that whatever decision that is made that goes in your direction to convert this goes back to adding more scars onto the residents of district 5 that they believe and rightly so in some cases that we're always getting stuck with having to deal with somebody else's problem. And I realize that there's a potential to sell off the land to use to pay for other expenses that the city has, you know in terms of other golf courses. And if that's the case, then what did the pro formas look like from that other golf course and from this golf course in terms of you know I mean didn't the numbers work? I mean were we that far off to where rancho Del Pueblo was doomed possibly from the moment that it got started? And if that's the case I don't believe that this community should be held to hold the burden of that. So those are my comments, so please take all of that into consideration, thank you. [applause]

>> Mayor Reed: Let me add a few things about rancho. The reason we're talking about rancho is our golfing program costs you $1 million a year. We have three golf courses and do we have to look at getting by with just two golf courses, we are down millions and millions and millions of dollars, $110 million, is the gap. We are down to making choices between communities and parks and libraries. I personally think the best outcome we end one a nice park that will serve the community and get rid of those God awful towers and screens that protect people from golf balls, that would be the plus. We don't know the answer to that, we need to do the analysis. Back in June that was part of the approved budget message, we're talking about the asset management program, these are assets we're looking at for more than a couple of years. We need to do the analysis without knowing the environmental impacts is pretty difficult to make a decision. So I understand your concerns about your community but there are probably better ways that land could be used to serve the community. We need to engage the community and part of the staff recommendation is we have a special engagement process to do that so I think we'll get through that process and do outreach to people and there are perhaps better uses there that could help us financially as well, and so that's why that one was pushed under the radar by council action. It's not staff deciding to do the this.

>> Councilmember Campos: Mayor if I may, the maker of the motion would you consider or would you -- yeah, consider adding my requested recommendation as this moves forwards in terms of outreach and potential impact?

>> Councilmember Liccardo: Outreach? I'd certainly be the first one to second the motion, if that plan, that is, the idea of converting this asset to any amount of housing, I'll be the first one to support a motion to do all the outreach we need to do. My concern is, trying to do the outreach now, when we're just doing the EIR and there's no proposal on the table, it's going to get a lot of people very upset about a proposal that may never, ever, exist and it's going to take a lot of staff resources at a time obviously when we just don't have staff resources and it's also probably going to delay the general plan itself considerably. So I will absolutely support you Councilmember Campos in making sure if there is any cent of a plan to convert this that we're going to get out in the neighborhoods and talk to everybody who wants to be heard. I also though think that we should keep an open mind about the possibility that if a developer wants to come in and do something and then create you know a soccer facility for instance there or baseball or whatever, I mean my constituents live right on the other side of the freeway so believe me I appreciate everything you're saying and I agree with every bit of it but I think we should keep our minds open to what possibilities may exist and let's engage with the community when we cross that bridge.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you. I just wanted to disclose that I met with Eric and Gary Shanehauer many, with bill bur top and Chuck butters,.

>> Mayor Reed: That was a ditto from councilmember. Councilmember Rocha.

>> Councilmember Rocha: I met with Eric Shanehauer. I want to piggyback on what Councilmember Campos talked about and being the new guy and not having the luxury of the Planning Commission experience can you

explain how we got to that decision to identify this golf course as opposed to the other ones and I'm assuming bass it is a smaller golf course.

>> Joe Horwedel: Councilmember Rocha we do have a general plan amendment that was filed by the city Real Estate division for this property as the owner of the property that was a result of the council action in June to look at the budget to look at surplus facilities and were there facilities that should be put to other use. As a result of that we did get a general plan amendment filed this fall, we did not move forward with it because we did not have environmental review of it so part of the discussion was whether or not it was something that could be incorporated into the general plan process or something that would wait years down the road as a result of the delay in getting the EIR out on the street and because we had already done some prep work on this site looking at some different options about what might be alternate uses is it commercial, is it residential, is it other parts of park use, looking at some initial traffic work already, we surmised it was one with a little bit more work could actually make it into the EIR, very much mindful of Councilmember Campos comments about community engagement. When we did the last property conversion on this site my memory was it was nearly a two-year process with the community and that's why in our memo we did highlight that even if we were -- we included I.T. in the EIR we were not committing to bringing it with the general plan this fall, that it probably would follow later just because of the amount of community engagement that would be required to work through those issues. So really, it's one that planning staff said, you know, we have a request, we've gone through whether those requests are private or public. We've gone through those and for those that are significant which clearly this is we wanted to include it in the EIR. Otherwise we weren't looking for conversions like this to do.

>> Councilmember Rocha: And in terms of a unit count, how did you of arrive at that number? Is it consistent with the community residential development?

>> Joe Horwedel: The city retained a civil engineering firm to do some different layouts on the property to try to do some highest best use and our opinion was, that that was the upper limit of what could fit on the property matching the density of what's out there.

>> Councilmember Rocha: Upper limit but not consistent with --

>> Joe Horwedel: It is really a means of what kind of a bufort buffer would you put? The larger community haws looked at this as open space, you also have residents in the KB five feet off the property line so that's one of the things that we would have to work through and would affect the unit.

>> Councilmember Rocha: If memory serves me correctly we're still looking as part of the measure P softball complex and we've got dollars I guess as trading one site with fences et cetera for another? But that might be more of a revenue generating use than the golf course is given as I understand it that it's actually a loss.

>> Joe Horwedel: I'm not familiar with where parks and rec is, with the different measure P potential open uses that are open space, park like might be appropriate out there but I don't know. If we talk softball fields versus soccer versus general open areas.

>> Councilmember Rocha: The only given that singleton didn't work out. Perhaps that would be a better use.

>> City Manager Figone: Excuse me, Mr. Mayor, can Nancy Kline answer the measure U question?

>> We are working hard with the parks department and Councilmember Herrera for two of the areas that are desired, part of that is on the Acadia. Part of the line thatee lye Rinehart foster no cost to the city for a minimum of two, possibly three of those ball fields. The major part was that it is not accepting city dollars.

>> Councilmember Rocha: Move on to some other components of the item. Given the urban growth boundary, given I haven't been earlier in the process and forgive my if it is something that is purried.

>> Joe Horwedel: Basic goals of not expanding. That is one of the general plan update. What we're bringing forward is when staff consolidated the six different open space areas into one, there were uses such as cemetery that were allowed in one but not all of them. Our goal would be not to go and cover the hillsides with conference

centers or wineries or cemeteries, that might be allowed in one area but not in others. Outside the urban growth boundary. The chawlg is when you start talking anticipates that you can go through and do certain gleds outside the urban growth boundary. We don't allow hooking up to municipal water and sewer services so that does you ask go through and build farms. It's really the question of how much intensity. So if you're going to go a golf course for example, what goes along with that? How big of a clubhouse could you do? Are there other ancillary uses come along? If you are going to build a winery can you build a tasting room which has a restaurant which has an outdoor amphitheater. Because we haven't had that conversation now is a good time to have that conversation, go back to the task. Probably want to ask if the council, you know is it taboo that we not go there, is there a basic level that you're not interested and you would like staff to see, we'd also be --

>> Issue for me a riparian corridor, that it was kinds of silent on the issue and I know we have a riparian, inseed is the UGB we can go smaller if we need to or reduce the size. Would you consider adding text at some point that would hold a 100 foot yowtle the UGB?

>> Joe Horwedel: Task force has had an extensive amount of conversation around repairing the upset staff standpoint we really would see no reason to do less than 100 feet outside the urban growth boundary. All of the exceptions built into the property today, rest thank -- existing situations that really preclude achieving the 100 feet. Orient the takings claim where the entire property was in the 10072nd corridor I would be hard pressed to justify doing less than 100 on a property. That's why the policy has some flexibility. But you know from a basic where we're heading as the task force really wants to get to much more clarity of 100 foot is 100 foot is 100 foot inside and outside of the urban growth boundary.

>>> So your answer is legally we can't do that unless we change our urban l control boundary is not, is like I say a municipal code, we would have to have some sort of outclause, to Fay for money that we might have season inverse claim.

>> Thank you very much. Ment.

>> Councilmember Rocha: Can you give me an ideas of where we are with respect to the Istar property.

>> Joe Horwedel: My understanding 400,000 feet of retail space it has no residential units on it. The planning staff has asked to allow up ward of 1900 dwelling units on the property and that the jobs for both industrial and commercial, one of the things that we would be analyzing is where to move that capacity elsewhere in the city. And where to take the residential from elsewhere in the city to put onto that property.

>> Councilmember Rocha: That was going to be my next question, whether you're going to assign it to another property or still to come? That's why we're going to treat it as a different option is, I clearly I want to see what the conclusion of that change is, it is a pretty substantial change, as one of the staff does not take it lightly. I know in talking with some councilmembers, just the whole idea, is there something that we do differently with the Hitachi facility next door. They would like to do some modifications to their property. Kind of the things you do is not mix and add housing, you kind of move it in the right places. That's not going to make everybody happy. One of the differences in this plan is we're not creating more housing but putting it where it gets the greatest gain to the city.

>> Councilmember Rocha: ishare all of us in this room as well. For me, that's a tough one. I'm also concerned about moving that -- those employment uses or jobs to another site that we're just dumping higher density on them, that dej advertise to me is a net loss but again, that is part of the work we do and we try to work forwards alternatives that don't result in that, so thank you. I want to thank the task force and the members on the council for their work. This is a true effort of public service so thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor and also join in thanking all the task force members, all of my colleagues that served for many years on this important mission, important goal. And in are regards to a couple of items I'll start with the one that's in districts 2, Istar property. Those who have interest in the property as well as planning staff, one of my goals at least, if it's achievable, would be to start right there on the Hitachi site itself, which is joining the Istar property because the reality is that we can pretend, they may be legally different lots but

the reality is that they're definitely going to have to be planned or should be planned altogether with an overall plan. So ideally maintain the same number of housing units, and the same number of strum square footage, in that amongst those two sites would be the ideal scenario, whether it's doable or not that's the question. And I think that Councilmember Rocha raises a good point that we just don't want to shift industrial to create higher density industrial when we know it's not going to happen just so we can justify swapping over some industrial. So I think those are discussions that we have to have. What this does it gives us more information and allows us the space to have those discusses. I'm certainly very interested in knowing what an EIR would say about having residential on Istar. As well as how it would interact with the adjoining property. And so I think my opinions and my private conversations with the planning staff have been clear on that. I certainly am not interested in just adding a bunch more residences, to that region, without a better understanding of how we're going to not only adjust for having residences but more importantly maintain the industrial land and the allotment for industrial land. I think the ideal scenario would be not only to keep it in the Edenvale property but on the Istar property itself, that is something that is doable, I think, but it's going to take a lot more discussions with the owners of Hitachi, have shown -- been open at least in discussing all the possible options. So that's why at this point I'd support the memo that I co-signed in regards to Istar, it's certainly something I'd given a lot of thought to and will continue to as we get a lot more information and talk more with our partners both private as well as talking to city staff more on that. And in regards to the open hillside, well first of all I'm glad to see that the Coyote valley will be maintained open space, and when we talk open hillside I share some of the concerns that Joe has expressed, and even in talking to representatives that have some interest in potentially building a cemetery that my concerns are again to minimize the number of structures that would be on the site, and that even goes to the idea of rule conference, that's the one of have the most hesitance in supporting the concept of because you know when you start talking about conference centers and you talk about building some relatively large structures. And so I'm in support of the memo but that's one area I just wanted to express and I've expressed to planning staff that I have some concern where -- and that would also go with organism courses, cemeteries, any other uses the key is that we want to maintain the openness of the land, I'm glad to see open space protections are memorialized in this memo. I think that's really when you start talking about Coyote and Almaden reserve we're talking about a lot of wildlife movement and we all should be cognizant of our impacts on that and that also goes along with some I think the appropriate comments and questions going to the riparian corridor. I'm someone who's been very protective of

riparian corridor. Any that we can reaffirm the protection of the riparian corridor frankly the easiest to abide by at least 100 feet if not more. So certainly even within the urban growth boundary I've been one that has been very cautious in how we develop around riparian corridors. And the last thing is in regards to Councilmember Campos I really appreciate his comments. And in the time I served with him on the Planning Commission it seems he still has the same passion for the community and same concern of the long term impacts of how we develop, particularly in areas that already are heavily impacted with growth and traffic and congestion and so I also will be very -- watching very closely and will be very interested to see how we go forward, how we go forward with the discussion regarding the golf course. And certainly, we'd want to make sure that the community that's already been burdened so much is not just part of the discussion but it's intricately involved with how we go forward with the property. Thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. First off I want to thank you for not putting me on the task force so I didn't have to go through multiple years of meetings like some of my colleagues. Also wanted to indicate my support from the memorandum that you and the Vice Mayor and Sam and Ash put out. I did meet with several of the people that were mentioned and a lot of people over the last couple of years that this has been evolving all of which are on my calendar and most recently met with Bill Baron and Eric Shanehauer regarding Brandenburg properties. I did have just a couple of comments on the golf courses We've had this discussion here in the context of the budget a number of times and as the mayor pointed out was clearly part of the budget process last year for us to be looking at this. And while I know that it's a great community asset we also have to be not only conscious of the fact that we have the losses that we experience, there in particular in our golf courses in general, but also, that the fact that within a five-mile radius of that site there are two other golf courses. Los Lagos is only 5.9 and Muni is only 3.9 miles away I think it's important that the one which is most central, rancho Del Pueblo, it is not park land like Los Lagos, given the incredible strain that it puts on our budget to operate that location, I think we have to really take a hard critical look at it. So I'm glad that it is part of the direction we're going and I look forward to continuing to have discussions about that particularly when we get to the budget time. Thank you.

>> Mayor Reed: I think we'll take some public testimony at this time. I'm going to have to limit public testimony to a minute so we get everybody in who has a chance to speak before midnight so please come on down when he call your name, ELI Wooters, (saying names).

>> Hi, good evening, mayor and council. My name is Eli Wooters, I'm a member of the Diridon station good neighbor committee. I'd like to comment on 4.4 E which is to amend the land use on 108 Stockton from an employment center to residential. First off as a city we need to retain our potential employment land, and especially, here right next to the future Grand Central Station of the West. We want to attract people to take BART and high speed rail to San José to work here. To our proposed innovation business district, as opposed to just have people commute out of town. And the other thing is the ink is not even drien on the Diridon station plan that staff and the community worked so hard on in fact council has not even voted on it, it is item 9.3 tonight which seems sort of strange from a procedural point of view to already amend the thing that we haven't even approved so please deny this request, thank you.

>> Mayor Reed: Helen Chapman Danny Garza Guadalupe Gonzales.

>> Good evening Mayor Reed, members of city council, Helen chapman, station area until the planning process is complete. There are still many moving pieces in terms of baseball and high speed rail to contend with. Our community wants to see the city concentrate its focus on increasing jobs. Promoting Diridon as a destination so we agree with the planning and the D.O.T.'s recommendation to keep the east side of Stockton avenue as transit employment. As an aside Councilmember Campos I do recall the rancho Del Pueblo discussion I was a park commissioner at the time I agree with you and I would like to offer question. The EIR process doesn't necessarily identify the need for additional park land. It will comply with the city's own PDO/PIO process. Thank you.

>> Mayor Reed: Danny Garza followed by Guadalupe Gonzales and Manny Diaz.

>> I'm here with the approval of the La Raza round table, alumni foundation Alum Rock I school president and many high school golf coaches. At this time we oppose a recommendation to move forward with this idea

pert. The golf course has already been cut in half, the community has suffered, and doing this this will be a take-away for all our kids. Not only our kids but our seniors. Seniors golf there for $8. Our students golf there for $11. Those kids go from two years old to San José State that use that. It's not a transit hub, it never will be it's on a major bus route an that's it. This gap will only lead to the gap between haves and have nots.

>> Mayor Reed: Sorry your time is up.

>> Thank you. (saying names).

>> Good evening my name is Guadalupe Gonzales, I am the chair of the SNI Mayfair NAC. I'm here tonight to represent the opinions of the Mayfair community in regards the proposed project of rancho Del Pueblo golf course. We know it is not a good idea to have another apartment or housing project in the may fair area, and remove one of the last and few green areas we have, rancho Del Pueblo. Everything else has been taken away from Eastside. That infrastructure and services of the community is not designed to have more housing projects. We have more high level of people living in our community. We have two to three families living in each house in order to afford the high cost of living. Before you take any decisions, I want to invite all of the board members of this council and the mayor Chuck Reed to drive around the Mayfair community especially on king roads --

>> Mayor Reed: Sorry your time is up. Manny Diaz, John urban, Terry Bellandra.

>> Councilmembers, mayor, Manny Diaz, managing yourself a task force made up of many people in the community where you develop a master land use plan an implementation plan there was a lot of give and take two year process. That's what happened at rancho Del Pueblo, the reason I know that is I chaired that task force, when I was on council back in '95 to '97, a commitment was made to make that a permanent open space for the community of San José, a permanent open space golf course. We had a lot of discussion for two years, lot of commitments made. The price of the land was discounted to the City of San José, to I believe $3 a square

foot. Tell me where you can find that cost anywhere? So the people on the east side could enjoy open space in a golf course. You should know that.

>> Mayor Reed: Sorry your time is up.

>> So thank you very much.

>> Mayor Reed: John urban, Terry Bellandra, Stan Perry.

>> Hello, my name is John urban, president of the light industrial land adjacent to rail lines. Unfortunately about five to ten years ago, this was switched when housing was approved adjacent to the rail line. Right in our neighborhoods neighborhood our new residents must endure the constant vibration in the rail lines. There have been lawsuits, lost sleep and a yearning to leave our great neighborhood. How do you build community when people want to leave? Please remove 4.4 E, leave it as employment. This land is adjacent to ace, next to capital corridor, high speed rail, and CalTrans or CalTrain. Leave it as employment land. Thank you.

>> Mayor Reed: Terry Bellandra (saying names).

>> Terry Bellandra, this is in regard to 4.4 E. Our council acknowledged our employment land must be protected from unprecedented housing conversions. If our city is truly intent upon meeting our new jobs to housing ratios, I fail to understand how this conversion helped us reach those goals. As our community continues to see more employment lands give way to housing, we question the integrity of this council's ability to plan for the long term fiscal health of our city. Short term housing construction joshes do not replace long term tax respective producing commercial employment inserts. If you as a city talk the talk, to retain your credibility to the community, you must walk the walk. Please deny 4.4 E, this conversion is request. We must retain our employment lands for the City's fiscal future. Thank you.

>> Mayor Reed: Stan Perry, Thomas Solezi Henry cordon.

>> Honorable mayor, councilmembers. I'm Stan Perry, I'm here representing the family for the former pleasant hills golf course. I'd just like to reemphasize Councilmember Herrera's comment about the need for a fair and equitable process for the former opportunity sites that were a part of the East foothills or the Evergreen east foothills vision strategy. It so happens that in fact if I could have planning put up their itinerary for approval of various projects, with the time lines. As I look at this time line it's obvious to me that at the end of 2008 when council deferred the opportunity sites for -- to the precluded from any planning process, the notification to remove the existing application didn't come until November 2010. It was at that time that we were notified that we had to either have a plan in place or we had no process. So I ask you, in bringing forth rancho Del Pueblo without any process at all and leaving out the opportunity sites until the very last minute --

>> Mayor Reed: Your time is up.

>> What equity is there? Thank you.

>> Mayor Reed: Henry cord, (saying names).

>> My name is Tom Zolezi and yes I'm part of Zolezi park I'm the real estate broker that sold the land representing my family to Barry Swensen threated a square foot it was a steal back in 1977. Right now that property will sell in the $50 a square foot raping. Next time you hear from me it will be through my legal counsel Norm Matieon, thank you very much.

>> Mayor Reed: Henry cord. (saying names).

>> Thank you mayor, applicant GP 10-7-01. This is the sun gander cps out of Alma. The amendment itself proposal was discussed in October. It's referenced on page 3 of staff's memorandum under the background session, in October, we asked that this be a separate matter before the council in June, we were hoping the first week in June. Staff is going in that direction. And staying with the intent to hear this separately in June. This is a

near term projects and an opportunity for development yielding some 280,000 square feet of retail space with good benefits to the city in terms of taxes and revenue. We're encouraged by the staff's attention to the project over the past period of time, we're discussing right now with staff a compressed schedule to make sure we're here in June on this project since it's a near term opportunity for the city, and the environmental impact report is an application -- I mean is a cost to the applicant, as well as the near $100,000 in fees that have been paid to date for the applications. So we hope to continue to work very closely with staff.

>> Mayor Reed: Sorry your time is up.

>> Thank you very much.

>> Mayor Reed: Eric Shanehauer, Bob Leninger Harry Darnell.

>> Good evening mayor Reed meshes of council, my name is Eric Shanehauer. Shanehauer group represents Brandenburg properties on this issue. We would like to acknowledge the clear mayor Reed, Vice Mayor Nguyen and Councilmember Kalra and Liccardo. The memo strikes the perfect balances the paramount objective of the general plan is to maintain the open space character of our hillsides and I think the well defined direction of very limited uses, that are open space in character, is the right direction for the city. So we thank you for that support.

>> Mayor Reed: Bob Leninger, Harry Darnell and that's the last card.

>> Bob Leninger speaking on the rancho Del peub ho, the right action is to withdraw this from consideration. The community was mate commitments to them on open space. To put more housing in there you've already done high density housing it's the wrong them to do this to put the cart before the horse, at minimum you should go out this and have an outreach of significance to the immediate neighborhood and the city on this and you shouldn't go into this process until that's been done. I can only take a look at more housing this has been going on for years, this is simply the wrong thing to do. I have to ask two questions. It's sort of like a village out there, you've got

mixed use you've got housing open space park next to it a tot lot, it supports the housing around it. You're kind of walking away from a vile vision. What other vision will you walk away from?

>> Mayor Reed: Harvey Darnell.

>> I hope over the three-plus years that I've lived up to that i'm sure Sam would say yes. I want to compliment planning on the unprecedented community outreach that has occurred for this. This is incredible. That said I supported 1.5 jobs per employed residents in San José so I'm very much a jobed growth person. I have some concerns though about changing the character of the rancho Del Pueblo land. Whether or not it is a good business case to have a golf course there, it is open space. At a time when we have less than three acres per thousand residents which is our goal to take a large chunk of land and convert it to housing would be a grand mistake. As a neighborhood leader, greater Gardner and north Willow Glen I have had the pleasure of opening two parks on land that were 50 years on the city inventory as surplus land and 70 years. And done that all for two parks for under $1 million for two and a half acres of park land and it could not be done in Willow Glen today.

>> Mayor Reed: Sorry your time is up. That completes the public testimony bring it back to council for discussion. Councilmember Kalra.

>> Councilmember Kalra: Thank you mayor just wanted to follow up on some of the comments made regarding rancho Del Pueblo, I don't know because I don't know the history, I know a little bit about the history, I wonder if planning could give us for information about how the city acquired the land and if it's dedicated in any way or given with the presumption that it would remain open space. Is that accurate or is there -- is it legally binding or something that was understood or anything else we should know to follow up the comments?

>> Joe Horwedel: Councilmember Kalra I was on the task force or supporting the task force along with councilmember Diaz at the time. I think the question about is there a legal binding agreement on the land is one that needs to be researched. I think as a part of the process that we went through, it was very important to the community about protecting that open space. The amount of time that we spent negotiating with the community

about how the golf course, was it a golf course or was it going to be some other open space, getting park land built into it was extremely important to that community because of the lack of facilities that the community expressed. I think you know, that's something we would need to look at, in terms of where we are in providing park space. That was at least implied because the city was going to be the owner of that lands that it would be available for the foreseeable future.

>> Mayor Reed: City Attorney has something.

>> City Attorney Doyle: Councilmembers, easy Moran of my staff worked on that deal and probably drafted the documents. It is something we could pretty quickly resurrect and get the answer to.

>> Councilmember Kalra: Yes certainly I think all of us should know whether it's anything legally binding. Even beyond that if it's not legally binding, it's smgd understood by the community, it's really important to know and especially if there was some alliance on the fact of the property owner that sold it to the city that that was going to be the case and then the community lust had some reliance. Whether there was anything that legally binds us and then the next layer would be how much reliance on the manner in which the discussions were had of the couple of years of task force, how many reliance was there both by the property owner who sold the land to the city as well as the community that surrounds it. We are all supportive of looking at if assess that the city has, Maui could use them effectively or efficiently. I'm not interested in doing that in such a manner that's going to be corn to what the -- to long held discussions and understandings from the community and from the original property owner. And so I think we just need more information on it. And what would happen, what would happen if this were removed from consideration at this time? The real differences that we would come forward with a separate EIR for this property if in fact there was -- you know we looked at it in two years, three years down the road. So it really is looking at the delta at this point we think it's probably about 70 to $100,000 to look at this question on this property, stand alone EIR is probably double or triple that cost. So I think it's at this point you have an opportunity to look at it in the larger context and it's a little bit cheaper to look at it. But that's the real impact.

>> Councilmember Kalra: Well I think if we look at it we should certainly address the issues raised by Councilmember Campos and some of the community members because I think that we definitely need as opposed to probably most other sites? This one looks like it has a little bit more to it that those of us that weren't involved, or weren't way of some of the history that Councilmember Campos seem to be aware of and others seem to be aware of and Joe you seem to be aware of I think those are relevant factors beyond just dollars and cents of what we could ultimately get out of the property.

>> Mayor Reed: I think that concludes the council discussion. We do have a motion on the floor made by Councilmember Liccardo. All in favor, opposed --

>> Joe Horwedel: Mayor, part of the discussion we are deferring the discussion of the Tamien amendments and we did not put a specific date to that, in talking with Councilmember Liccardo we were going to set up a meeting with VTA staff.

>> Councilmember Liccardo: Yes.

>> Joe Horwedel: But at some point I do need a conclusion to that because I do need a project description.

>> Councilmember Liccardo: We have a date set I don't know when that is, how about three weeks out?

>> Joe Horwedel: We can go and defer that item for three weeks out and at least we have a calendar. Thank you.

>> Mayor Reed: With that clarification of the motion, all in favor, opposed, Oliverio opposed, Campos opposed, two opposed, that one passes on a 9-2 vote. That completes work on the general plan for tonight. We'll now move to agenda item 9.2, good neighbor committee recommendations, presentation and then we'll follow that with the Diridon station area master plan.

>> Good afternoon, Mr. Mayor, members of the council. My name is Kip hark owner's director of strong neighborhoods and together with my lee Will cox I had the pleasure of neighbors and stakeholders to work collaboratively in solving problems that might arise in the Diridon station area. That 30 member group included Adobe, high speed rail, other business interests, many neighborhood associations and groups and the arena and Green Belt Alliance. I'm pleased to report that after 14 months of would be some small group meetings the up there-member good neighbor committee came to unanimous agreement, allow me to repeat that unanimous agreement on the framework for implementation that you see before you today. You have a chance to hear briefly those recommendations, from the committee members directly before I want -- I turn it over to them I want to emphasize three quick points. One, we took the participants through what I would consider at least a master's level course in urban development place making economics of ball parks traffic and parking management before we began to make any recommendations whatsoever. And early on we found common ground in that group among the 31 members around the idea of Diridon as a destination and Diridon as a great plates. And it is the intent of these recommendations before you to encourage and support the greatly place that this committee hopes it to be. With that I'd like to invite up for the first slide here Harvey Darnell. And we have 18 points that the committee has recommended. The first three are in the area of land use.

>> So it's appropriate that I Harvey Darnell one of the tasks members, talk on land use. We looked at this and we saw that we had a real responsibility because we now had an area that would be multimodal destination. And so we see that VTA buses BRT light rail Cal traits ace Amtrak BART high speed rail and good auto access could service this area. We saw that we wanted to create something that was an employment center. Not only employment but an entertainment center. Because we have the opportunity, we not only have the arena which we want to promote but we also have the possibility of ballpark and other supporting businesses. We also saw this was an opportunity for outdoor venues and that we could support the hotels, in downtown, integrate this area into downtown, support the convention center, create destination tourism, and just totally tie this in, and double the downtown which we, as the task force, down 2040, heard that we needed to double our downtown. Thank you.

>> Like to invite up Helen chapman from the Shasta Hanchett neighborhood.

>> Good evening again. I find it very appropriate I get to talk about neighborhood quality of life. The development of Diridon station must provide protection for and ongoing engagement with the surrounding community, the surrounding neighborhood should benefit from the development. The Diridon station should honor the past and embrace the future. the recommendations coming before you tonight, we want to fake sure the Diridon station area developments are draw residents from the surrounding neighborhoods to the Diridon area. We also want to design development to support safe neighborhoods and enhance the safety of the surrounding neighborhoods.

>> And if I could invite up Eli Wooters to speak oochtion.

>> A successful resolution of parking and traffic issues will be key to the success of the Diridon station area and therefore it was a tough nut to crack for the committee. And this is because our mission is to make the station area a destination, which is a place that invites people to stay, which means it cannot be one big parking lot. But then where all those people are going to park? So we'll have to just strife to have a better balance between all modes of travel so you can attract more people without attracting many more cars. And this will also help maintain the adequacy of the parking in the area. One way of doing that is to encourage the use of transit in order to encourage ridership to be at least 20% level envisioned in the 2040 plan and reduce significantly the number of vehicle miles traveled. Another way is to provide and expound safe attractive and connections to Los Gatos creek trail and the Guadalupe river park. And we also need to create a equitable and comprehensive transportation and parking management plan, for the entire Diridon area, building on what we already have for the arena, and coordinating it with the downtown parking plan. Of course, this would need to be periodically updated as public transportation options such as BART and the high speed rail come online and therefore, the parking needs to actually change over time. In summary, these recommendations will allow us to create a Diridon station experience that is attractive and safe for pedestrians bicyclists and transit riders and at the same time ensures us sufficient parking to support the existing businesses and protect neighborhoods for negative traffic and parking impacts. Thank you.

>> If I could ask Helen to join us again for parks and trails.

>> My other favorite subject. The mission of the Diridon good neighbor committee for parks and trails was developed an integrated approach that makes the built environment with the natural environment to promote San José as one of the great green sustainable cities for the 21st century. We want to consider the trails both as recreation and transportation access by maximizing the connectivity between the businesses the entertainment and the recreation areas. We want existing park plan space back to the community it was supposed to use and we want to use the natural habitat as a focal point for driving economic benefits by providing restoration flood control and biodiverse wildlife corridors that connect future generations of San José residents with their natural environment. You have a gorgeous opportunity here to restore the Guadalupe river creek corridor, bring up the trail system connected to the Guadalupe river park which we all consider as our central park. And to use the property currently used as the fire training station and put that back into -- keep it in the plan, not put it back into but keep it in the plan as a park which will be a green finger off the focal point of the autumn street parkway. So in terms of closing -- we want to create public-private partnerships for parks and open space within the Diridon station area. Thank you.

>> Michelle Beasley from the Green Belt Alliance.

>> Good evening, Diridon station should be designed for people and when you bustling with activities. options for how they get around. And transitions away from cars is not ignoring the needs of those that have to drive but reflects the these implementation priorities address the good neighbor committee's goals for developing safe and attractive connections for pedestrians and cyclists local businesses so first we need to ensure that we have secured bicycle parking and bike storage for commuters and visitors we need to implement all the existing plans that have already been adopted including the San José bike master plan and the Greenprint which talks about trail connections through Diridon and we need to improve all the undercrossings for Diridon so it's safe and designing for pedestrians and cyclists we have to consider the eight 80 rule, which means it should be safe for an eight-year-old and an 80-year-old to get around. Thank you.

>> Thank you, Michelle. Last section regarding public transportation systems, the mission of the committee stated that the Diridon station will be the hub of all public transportation for the South Bay. And it will concentrate on new

and existing transit modes. To achieve this the priorities are stated clearly. Ensure that public transportation statements do not reduce park land or trail potentially for more park and trail opportunities, mitigate park high speed rail design use a context sensitive shutions processed to design elements such as grade separations over crossing of waterways tunnels or elevated structures. In conclusion the good neighbor committee was established to provide a forum for neighbors and stakeholders to work collaboratively, to solve problems that might arise from development in the Diridon station area. As Kip stated 31 members of the community met 22 times over 14 months and unanimously approved the framework in front of you today. The Office of Economic Development, the Redevelopment Agency, the Department of Planning, Building, and Code Enforcement, and assist the community in the framework of the development. Accept the good neighbor framework for implementation, direct the City Manager and agency executive director to consider including the framework for implementation priorities and potential agreements, contracts and projects where appropriate and lastly director the City Manager and agency Redevelopment Agency major league ball or development begins to become a reality in the Diridon station area. With that we're happy to entertain any questions you may have.

>> Mayor Reed: Thank you, we'll have a few, I believe. I want to thank Kip and Lee and the rest of the staff that have handled this relatively complicated process and brought it in with some meaningful recommendations and the committee members for being engaged. I hate to tell you your work has just begun because we haven't built anything yet and when we build a high speed rail, transit station and good neighbor committee. I think Councilmember Liccardo and Oliverio for getting involved in it and for making this successful this is an important area of the city and it's good to have this engagement but I hope there's a lot more work to do because I'm hoping these projects will move ahead well before I hit my 80th birthday. The City Manager an I are both betting on which of us is going to be the 80-year-old to test this out but we have some eight-year-olds in mind. reengage and I guess it depends on what it is we need to reengage about but if we get lucky and Lou Wolff cuts a deal with major league baseball and we start the construction of a waybill state yum I think the entire stakeholder groups needs to be involved in the impacts around baseball, not a little group or a subcommittee but ideally all the stake theerldz have a stake in that would be there and I think from the staff recommendations that's the way they anticipate this unfolding.

>> Yes, Mr. Mayor, that is absolutely the intent. We have a deeply engaged group that has already gone through the training. The idea is when high speed rail or a major league baseball project is ready to go forward they are ready to be engaged in their entirety.

>> Mayor Reed: Good. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. I just wanted to thank you for working with Councilmember Liccardo and myself, it was frankly your idea to do the good neighbor committee. We have a history of managing neighborhood issues when it came to diridon station but at the end it's pert to be prepared and have those items talked about and I certainly want to give all the kudos both to everyone involved on the City Manager's side, redevelopment, planning, all the people that participated attended three quarters of the meetings, thanks for the snacks but other ways mayor this lends in the generation of man's that may last a decade or so. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Councilmember Oliverio do you want to make the motion here? I'm happy to second it.

>> Councilmember Oliverio: I'll be happy to make that motion per the direction from Lee Wilcox.

>> Councilmember Liccardo: Okay, I'll second it. I also wanted to thank community members who invested so many hours of their time and as we know it will be a few hours more, special thanks also to Lee and Kip. I think this is a great way to engage the community, giving them tools particularly in terms of the amount of effort that went in, in terms of bringing everybody up to speed, a lot of sophisticated leaders did not know as much about planning and transportation issues and land use. So it's hard to bring a diverse group along and from what everything I can tell it was really a masterful job so great to see. I look forward to working with this group for many years to come, hopefully not too many years.

>> Mayor Reed: I think it's going to be a lot of years with all those projects. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. Wanted to thank Lee and Kip and the city staff for their work on this and especially the community members that are part of the good neighbor committee. I think this part of the city it's important for the entire city but I think it's equally important that the neighborhoods that will have to endure the future development and projects that are so important regionally are intricately involved in how we develop the surrounding area. So I'm glad to see so many familiar faces that will become I think even more familiar as the years go forward and we finally start to see all the fruits of all this labor and hopefully a segregate result for the entire city but also for the surrounding neighborhoods as well.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you I want to also thank the committee members for their time. San José and this council is lucky to have people who dedicate their time uncompensated to help this city as a whole. Thank you very much for all that you do and thank you Kip and Lee. Having supported you on another effort the vision North San José task force I'm not surprised that you were able to get a unanimous support of this. What I am surprised is that you're able to do it with Lee helping you. But thank you very much.

>> Mayor Reed: Was its even unanimous between Lee and Kip? We don't even know for sure all we know is we got the task force over the goal line unanimous.

>> Councilmember Rocha: Let me also point out and say hello to a former boss of mine, former Councilmember Charlotte Powers. I had to say hi.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you mayor. I wanted to congratulate the community group out there. This is as you know the most significant transportation hub in the region. It is also your neighborhood. And so you being

the conscience for this particular area of the city will put out the best product available. Keep at it because the more that you put into this the better product you're going to have out of it and it's going to be the best for the region and for our city. You know you also remind me of a group of community members 14 years ago that were in district 5 that worked on a large piece of land and came out with a product that they really, really liked. Thank you.

>> Mayor Reed: I have a couple of requests from the public to speak on this item I think although it might be on the next one. I'll just check and see. Brian Darrow, Diridon plan or good neighbor, this is the good neighbor discussion. Carlos Babcock. Okay, whichever one. Well this is not the time to talk about the Diridon area plan. This is the time to talk about the good neighbor committee which is related to it. Because we are going to take up the Diridon area plan next.

>> Exactly real quick Mayor Reed Vice Mayor Nguyen, Carr Wilcox, Silicon Valley bicycle coalition The 22 times that we met Kip and the neighborhoods came together to really forge a great consensus for this framework of information and we support the continuation just like you do because we also want to see from 8 and some day 80 years old that everyone feels safe and also just in addition to that, the amazing work that's been made on Alameda the beautiful way. We thank you for all the time everybody spent, 22 times meeting but also look forward to continuing the group in the future. Thank you.

>> Mayor Reed: Brian Darrow.

>> Good evening, I'm Brian Darrow with working partnerships San José, we have a seat on the 2040 envision task force as well as the good neighbor group. Sounds like most folks are feeling positive about. In particular I urge you to ensure that the planning efforts around Diridon continue to move with significant meaningful community input. I had sort of a clarifying question, I notice the staff had specifically relating to creating smaller groups to focus and really drill down on some of the issues and I know the mayor just mentioned that maybe on the ballpark issue that's such a big one that maybe the entire community should be included. We're including the small groups which was the intent of the good neighbor committee is have folks drill down. I know -- I think the

idea is, Kip can correct me if I'm wrong, to report back to the broader good neighbor committee, who we have more detail on that plan coming down the pike or from the baseball stadium when we have approval from major league baseball. Just wanted to get that clarified, thank you.

>> Mayor Reed: That concludes the public testimony. That's it we have a motion on the floor any additional skees discussion on that or staff presentation? All in favor, opposed none opposed, that's approved. Item 9.3, Diridon station area master plan, we'll have the staff presentation on that further discussion in a minute.

>> Hans Larsen: Mr. Mayor, members of council, I'm Hans Larsen acting director of transportation. We're plefd to present to you our working report on the Diridon station plan. I think this is the third time you've heard this mentioned larger perspective from the overall general plan update. You heard the good neighbor committee report for the dire dop area now we're going to drill down a little more detail on the specific work we've done on the Diridon station area plan. Joining me is Kim Walesh acting director of economic development and chief strategist for the city. Joe Horwedel, Manuel pineda, acting director working with Planning, Building, and Code Enforcement, office of economic development, the Redevelopment Agency and exaf housing parks neighborhood and community services, many transit agencies, VTA, CalTrain high speed rail and doing outreach with a number of community stakeholders. 18 months ago we started this collaborative process to master plan a half-mile radius area around the Diridon transit station. This is an effort that's funded primarily from a grant from the Bay Area's Metropolitan Transportation Commission. I just wanted to highlight the recommendations we have in the staff report and that's to provide you with a status update on the work to date. We are recommending to gets approval with starting the EIR process, specifically focusing on a maximum development scenario, and we'll talk about those numbers. We want to confirm the long range planning direction that is gone into preparing this, that's consistent both with the goals of the envision 2040 task force work, as well as the work that you just heard from the Diridon area good neighbor committee. There's a couple of things that have come up in the course of developing the plan when we're recommending some expansion to the project scope. The first is to address in further detail issues relating to parking and traffic around the arena, particularly looking at a ten-year implementation strategy. The second item relates to additional work associated with the high speed train project specifically dealing with their special needs regarding parking and access, including a potential connection, a

shuttle connection between the airport and the Diridon station area. Both these scope expansions require some additional funding. You can see the numbers there, the majority of those costs would be funded by the high speed train project. In addition you have before you a memo from Mayor Reed, Councilmember Liccardo and Oliverio dated January 21st and that adds some additional recommendations which staff supports. The first one focuses on continuing to collaborate with arena management, particularly on the issue of parking traffic and phasing. The second is to consider some land use flexibility, particularly between the central and northern area. The third is to accounts for both the aerial and high speed train projects which is a an action that the council took last month. Then the fourth one which we wholeheartedly endorse regarding the number of issues on this plan we suggest that city council have a special study session on this topic and we're suggesting the April time frame would be an appropriate time. Going to now turn it over to Kim Walesh who will provide a little bit of context about the significance of the Diridon station area plan Kim.

>> Kim Walesh: Good evening, thank you Hans. We game changing economic development opportunity for San José. It is our city's best chance to truly make downtd San José the urban officer of Silicon Valley and to make our city the gateway to the Bay Area. We see that history demonstrates that regional transportation access can catapult a City's significance and transform it development prospects. The passenger activity is planning to increase tenfold at the station with the planned introduction of BART and high speed rail. This area is of course already an active regional destination anchored for 20 years by the HP pavilion one of the premier sports centers in the world. In 2005, the city council adopted the downtown strategy plan 2000 that expanded the downtown core into the dish Don area as a key development strategy. The Diridon station is now proposed as a major baseball stadium, would elevate San José to among the alead cities in the nation with multiple sports facilities. As we can see the Diridon station a new ballpark and proximity to the existing downtown core provide the major building blocks for a dynamic development district for great possibilities for interrelated entertainment, shopping, office hotel and residential buildings. These can be integrated into a very well designed regional destination including beautiful gathering spaces, distinctive architecture, and landmark public art, that is thoroughly connected to the surrounding neighborhoods and the downtown core. And of course last April, the mayor and council adopted the economic development strategy for our city that recognized the special opportunity to master plan Diridon station area and assigned it as a top strategic priority. Tonight we are pleased to share with the council the progress we

have all made in this regard. As one final note, the Diridon station area has been the subject of other notable planning studies that have independently identified the area as a development opportunity of national significance. This includes the Harvard university school of design and the urban land institute. These entities and others have commended San José leaders for doing this right. We have recognized that good land use planning is essential to support and benefit from a major public investment in transportation, and essential for us to take advantage of this very significant opportunity.

>> Joe Horwedel: Thank you Kim. As a part of moving forward with this grant we were fortunate it is a lanch area about 240 acres that moves all the way from the market center on the north side down to Interstate 280 the whole west side of downtown. As we set apart how do we turn this into too gracious destination? As Kim noted, we have great bone structure but how do we knit that together to make this happen? As a part of our goal of making this a vibrant 24-7 destination, looking at the area between the ballpark and the station, what are knit them together and to look at new opportunities of how we would grow our economy here in the city. It was with tremendous amount of outreach you heard a lot of that from the good neighbor committee, this was overlapping the same work with community workshops to really help the community understand the issues, the opportunities, the public agencies that have facilities in this yarr, the city of that had our monthly meetings, we brought in a focus group of developers who build large urban mixed use development, to really understand the opportunities here and what were the challenges to make hurry that the plan we were putting together had the right mix of uses to really intensity to make sure that this was going to be something with a mark place would accept, we also put together some background information that would help both with Harvard and the community in understanding this process. To put this destination on the map at a regional level local level and citywide level. It's not an opportunity we have in a lot of places it's one that as Kim has noted one of the goals that is working with the public realm, the front door of the Diridon station, also with the Los Gatos creek that moves through the property with the new buildings that come in and the streets that come through there is a tremendous amount of public realm that actually creates the energy that can help drive this district the spirit that really exists in this valley we feel is critical to how we do public art and create a sense of place bought by the end of the day that's what's going to differentiate this area from other parts of the region that we're going to need to attract an office developer hotel developers, residential developers to help invest in that area to make sure we're creating something that puts

them above the others in the marketplace. What types of issues at the end of the day, working with the community the consultant team, talking with the dorps we ended up as staff recommending as what you see as the preferred alternatives. We still want to go through and test that some more so as we go through the EIR process we'll be continuing to refine that and that is one of the purposes of the study session that we're suggesting is to go through and be able to talk about what are the implications about how this development is put into the Diridon area. There really are three districts that are very unique about Diridon and it really helps create three separate neighborhoods. In the center area we're calling destination Diridon, the transportation area of the district, the heart and soul of this we're really seeing this as the high intensity entertainment type area and you see the level of development as commensurate to that. The southern area south of Diridon this is the residential, commercial mixed in with it, it has some office but it is really an extension of the existing neighborhoods that exist in the southern end of the Diridon neighborhood and we think is a great opportunity to benefit from what's already amenities getting built in that area and lastly the innovation district. This is really the opportunity to look at buildings that are in that area today, that really have not had a lot happen with them in the past. And we think there's some exciting things that as we go through and bring the energy of the destination Diridon to life that you actually can go through and attract businesses, and this is our ability to start competing with this we look as this as a way to put ourselves on the map as the marketplace.

>> Hans Larsen: Moving over to transportation. One of the tremendous opportunities that we have is to capitalize on the transit access, in terms of the regional rail that MTC has adopted there's five major commuter lines in the Bay Area and the Diridon station is the only one in which that has all five of the transit lines coming together. The level of accessibility that we have here is quite incredible. The challenge we have is to knit all these transit systems together with BART and high speed rail, as Kim mentioned we are projecting a tenfold increase in the rider ship that would come into the Diridon area. Obviously the two big systems are the ones that are not there but are being planned with high speed rail and BART. The analysis that is done is we need a new building in the area to be able to coordinate and consolidate the transit passengers in an effective and efficient way and to provide support services, the passengers need. The orale challenge that we have is dealing with parking and there is an increased parking demand for transit patrons to access the station and consistent with the other goals that we have, there's an effort to try to put as much of that transit parking off the site and shuttle people in

particularly for the high speed rail system where you're going to have a similar characteristic as what you would have at an airport where you have a demand for long term parking where people may be parking for two or three days at a time or a week or so so there's an effort to try to locate that offsite and that is one of the additional scope elements that we want to expand for the project to take a lock at that more closely. Just a quick graphic and set of animations for the area. Here you can see we've inserted the ballpark, located on here. The area in which the transit facilities would go, is within the existing station complex. And there's a particular goal to try to keep the transit facilities in that area, in order to maximize the development opportunities between HP pavilion and the ballpark. A little closer detail, this is the alignment of the BART system as it comes in underground and the underground station box. The plan for the expanded station is to create an interconnected system of essentially two passengers terminals, one that uses the existing Diridon station and then builds a secondary one that's to the north just south of Santa Clara street and you can see the footprint of that in red. We would have a drop-off plaza located between the two and also a transit plaza that would be for the VTA transit systems. For the concept of an elevated high speed rail system that would be located here, and integrated into both the existing Diridon station and the expanded area, and as was noted in the memo from the mayor and two councilmembers, we -- this also works well with a concept for a proposed tunnel option. Most of the work we've done has been associated with the elevated alignment but we're prepared to do further work to cover both of those options. Important part of this is to get the other transit element, transportation systems working, walking biking and other transit uses. We have some very bold goals as part of the general plan update to significantly increase the A of transit walking and biking throughout the city but particularly in transit hubs like the Diridon station area. And we also have aggressive actions regarding managing parking to try to minimize the amount of land area that parking takes. So we have some bold goals but we're also recommending flexibility to be able to support whatever the market demand is for development in the area. There are plan elements related to parks and open space, to knit the area together particularly with the Lagos creek, Guadalupe river and arena green and there's a separate public art component for the area that has already been reviewed by the arts commission. That was done last October. The two items in which we're looking to expand the scope, touching on a little bit more this is to do a phase 1 implement plan primarily to address a ten year development scenario in which we would support new land development but would likely occur in advance of the major transit systems BART and high speed rail coming into the area. This is a petition for HP pavilion how we could manage that in a way that continues the

successful operations of the arena. So as part of this plan we would assume construction of the ballpark, construction of the land areas shown in yellow on this exhibit. The green indicates the expansion of the Los Gatos creek area and we would specifically take a look at traffic and parking issues associated with this. And all of this would be done in close coordination with HP pavilion arena management and the arena authority. The second area where we're proposing to expand the scope is what I mentioned with high speed rail. There is demand for 3800 parking spaces to support the high speed rail station. We are proposing to try to develop 400 spaces of short term parking within the station area and then accommodate the majority of the long term parking at a location which high speed rail desires to be within three mile radius. One of the opportunities we have is to look at synergies between the Diridon station complex and the airport and looking at opportunities in which we can share both long term parking facilities as well as rental car facilities so that would be part of the scope of the study that we would look at. In terms of next steps, what we're seeking today is a council direction on the course that we're on. We would follow that with notice of preparation for the EIR. We would publish a draft preferred plan based on council's preferences here today so that would provide a little more community exposure to the concepts that we would provide the EIR for. We would recommend before we get too far in the processing a council study session in April, and then the goal is to complete this effort in March of 2012. Again just repeating the staff recommendations here as well as the additional recommendations in the memo from the mayor and councilmembers Liccardo and Oliverio. And particularly just in conclusion, for the study session, if this is the direction we take, would like to get your input on a proposed scope of that. We're suggesting three key areas, at a minimum one would focus on issues related to the arena and managing parking, traffic and the phasing. The second area would be the central zone which we consider really the prime or premier economic development activity. We would suggest convening a panel of experts to speak with the council on urban design and implementation flexibility. And then a third focus area would relate to the expansion of Diridon station looking at high speed rail integrate issues as well as implementation opportunities. So if there are any other areas we'd be happy to get your inbuilt here on that tonight. That concludes our presence. Be happy to take any.

>> Mayor Reed: Thank you. Before we get into the discussion I do need to disclose that in preparation for this I've had meetings and discussions with downtown association and arena management and other stakeholders as well. This will not be a success if we kill the HP pavilion. This will not be a success if we kill downtown. This is to

complement what we have, HP pavilion is a huge asset, one of the busiest buildings in the country and we want to make sure that we're working with them at all times to support them and that we continue to allow them to do a great job as they have done for our community. And some of the concepts for this area sound a lot like building another downtown. And we don't need to have another downtown. This is part of downtown, not a separate one. I think we'll need to look at that as we get into the details of the land use make it easy to walk from here to the existing downtown. There are really places that people can circulate among easily. This is a complicated project with most of the complication coming from things that we don't know are going to happen yet. We're trying to plan ahead. I'd like to thank staff for all the work they've done, Councilmember Oliverio and Councilmember Liccardo have done a good job of trying to figure out how to manage these among those neighborhoods and a lot of people have been engaged in it. The good neighbor committee obviously has spent some time working on this. So it's an exciting opportunity. All we need is a few billion dollars of private sector investment, that can happen and maybe a few billion dollars of public sector investment that's going to happen, not much that's going to come from us, we are ever optimistic about state and federal funding for high speed rail and BART, we'll continue to forge ahead. The study session in April I.T. not clear at what level we're proofing be this, not we need to problem of enough to do the environmental setbacks and parks and lakes and all kinds of things that people mit want to talk about. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I'd like to move the memorandum dated January 21st.

>> Second.

>> Councilmember Liccardo: Thank you for that I just want to disclose I've met in addition to the folks that the mayor disclosed I met with Dan Hudson Eric Shanehauer Don Grelnick, half the other folks here obviously we're going to continue to meet and talk about this. I want to thanks Hans and Manuel and Joe and the others involved in this. I think the mayor certainly articulated well our generalized concern about ensuring the primacy of the arena and its land use. employment land I think most or all of us are equally concerned. But it's important to keep in mind the employment lands policy was passed with the mindset that when we got to the general plan update we would then look for strategic areas where mixed use would be appropriate and certainly I appreciate the need

or the opportunities for employment uses in and around this area. At the same time though I think bee need to recognize that you know you can at 7:00 in the evening walk through city view plaza, west along park avenue, north along Almaden and all you will ear is contradicts. And that is an exclusively of exclusively employment -- is crickets. We certainly recognize the value of that there is value but if we want a dynamic bustling center that is going to be important both for transit and all our activities I think we neat a fairly flexible approach particularly if we get a master developer involved who can come in with ideas to transformer this to a fairly bustling plan. I think with regard to high speed rail we need to keep our options open until we learn more. Thank.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you Mayor Mayor. Obviously thanking staff and all that participated. Many of this plan is years out, in many cases, ten, 20, 30 years out. Billions of dollars coming from federal and state to pay for infrastructure. It is also whether or not major league baseball allows for the opportunity. Multiple parcel owners that may choose to do something or may choose to not do something. We make our perhaps but knot a lot of times our plans match up with the vision. I think the only time plans happen in China where they say this is what I'm building 94 move. We have CEQA and the EIR and private ownership and all those other things and we'll manage things as we go. I think Kim makes me think of this beautiful place the sense of place, this center. I just want to remind everybody we somewhere a officer, we spent a lot of time, it's downtown. Something else we can create when we have it right here and it's pretty good and I know this is long time out in the Diridon area today is not going to compete and I any we just somewhere to keep reminding places if you want a cool walkable place then go down that paseo that connects from San José State to Cesar Chavez park. We have amenities you can do for me you need to enjoy life for today, waiting for tomorrow you're just going to gray. I'm not picking on you mayor.

>> Mayor Reed: I've already done that waiting.

>> Councilmember Oliverio: And oh, Joe, can you tell me some of the challenges the worps found in developing this area out, I mean your developer meeting?

>> Joe Horwedel: So one of the observations we heard, I think it's one of the developers that worked on the staples center, you really need to have enough assembly of land together that if you just think about it on a building by building basis it's really going to be hard to justify some of the urban infrastructure items that are going to happen. The deformity kind of? rks capture the value from that increase in property value and so that was one objection that, and so really need to think about how you bring a master developer in to help decide you know what to -- what are the amenities that go in, how you phase through you know how they go in and maybe, to build value for the next one they want to do.

>> Councilmember Oliverio: Thank you Joe and thank you to everyone.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: My question has been answered, thank you, may I disclose that I met with a number of folks that Liccardo listed as well, not all of them but a number.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I want to thank the members of the community and Kim Walesh, a lot of us won't get to see it is exactly the kind of planning process that's going to attract a great developer so it's very important the work we've done here and I look forward to seeing it progress.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Just wanted to disclose I did meet with a incumbent of -- the group that Councilmember Liccardo had disclosed as well.

>> Mayor Reed: I'd like to take some public testimony at this time. Please come on down when I call your name. Lynn Rep-etsky, Linda Wade and Terry Bellandra. If any of you couldn't wait and had to leave, I'm sure you're missing at home. After Terry Bellandra Peter Smith Michelle Beasley. Go ahead Terry.

>> Terry Bellandra. Now that you have unanimously approved the previous item 9.2 and adopted the framework for implement I'd like to direct you to page 4 of that, land use, where five goals are listed. The last goal number 5 states, acknowledge that provides a constraint on the height of development in the Diridon area. I encourage this council to craft a real city OEA policy regarding maximum building heights that play into airline safety measure. This OEA will it's time for city step up to the plate and take a stand on this OEI issue. Perhaps as you develop a master plan for the Diridon area you will consistently OEI issue which will determine the future of international travel at our newly renovated airport. Thank you.

>> Mayor Reed: Michelle Beasley Shiloh Ballard, Don Grelnick.

>> Good evening honorable mayor, members of the city council, Michelle Beasley with green belt loins, Diridon station, all the details come together place making is economic development and is essential to San José becoming one of the great green cities of the 21st century. Firsts I'd like to upset very responsive answering a lot of our questions and this is very much appreciated. Green Belt Alliance supports the staff memo, also supports the mayor's and Councilmember Liccardo and Oliverio's memo. This is it is critical that we do not limit the development potential as Diridon station and to that end we do have some concerns about limiting the diswrengs exoirtd ooped parking preaps more park spaces make sense in the earlier phases however, this means that all the design elements that encourage alternative modes of travel from unbundled day 1.

>> Mayor Reed: Sorry your time is up. Don Grelnick Eric Shanehauer Carlos Babcock.

>> Mr. Mayor, and councilmembers, Don Grelnick from the arena. I wanted to thank you all for the supplemental memo it was very helpful and right to the point. We have concerns, we have been in touch with many of the council with regard to these concerns. We look forward to working with the staff. And the consultants over the

forthcoming months and years, we are hopeful that the city at the end of the day will get what it wants and will do so that is protective of the major asset in this area which is the arena which everyone knows is a city building, thank you pair.

>> Mayor Reed: Eric Shanehauer Carlos Babcock Maureen winter.

>> My name is Eric Shanehauer and the Shanehauer group represents the Hudson companies. Marked woo red X on the site, the concept of the Diridon plan on paper is very exciting and we units that the pair mound goal is job growth and strengthening the City's fiscal position. However, in the real word we believe that urban neighborhoods come about better in a more organic fashion and there's more integration and mixing of uses so we have truly a 24 hour interesting neighborhood. And so we would be interested in the plan looking or the more flexible in putting housing and other uses in more different locations and you can do that without adding more housing. Just simply take the plan, 2600 units and consider putting it in different areas. We think our side is particularly suitable across the street from a future grocery store.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Carlos Babcock Colleen winter.

>> Again Los Babcock with the Silicon Valley bicycle coalition representing cyclists in San José and the Silicon Valley. We support and we also thank them for their openness and outreach to the community. Traffic engineers talk about mode share and mode shifts but what we really believe is what they're really seeing is we all want options, we all want the freedom to choose our choice. Whether it be a car train walking or cycling. We also want connectivity. We want to connect to the streets and the creeks, Will Lowe business district, and was said before, we will need to phase that in whether it be ten years or whatever because this will not happen overnight.

>> Mayor Reed: Again your time is up.

>> We thank you very much.

>> Mayor Reed: Noreen winter, Bill Bistrecki.

>> Hi, I'm Bill BiStricki. I'm a driver a pedestrian and a transit user. I know the way a city designs itself often impacts greatly what mode of transportation people tend to use. Unfortunately, use cars I say unfortunatelily just today, the president of the United States reminded us that one of the most urgent goals facing the nation right now is the need for Americans to release its need for foreign oil. Making this place more inviting to bicyclists and pedestrians, not only do we help America, we O&M we have less smog to abbreviate in our air, we'll have further accidents injuring people, you know, I never heard anybody being killed, so I just want to --

>> Mayor Reed: Sorry your time is up. Henry Cord RichardZepelli, (saying names).

>> Good evening, mayor and city council I'd like to first of all welcome Councilmember Rocha to the city council, and also congratulate our new vice mayor. And I'd also like to thank Lee Will com and Kip Harkness for all of their good work in bringing this together for the Willow Glen committee. And would like to thank the Department of Transportation for all the assistance we have getting our neighborhood together@recent pleetle at our neighborhood meeting place.

>> I thought we had 60 people next time 150 people. We always want to thank everybody, we've always been in support of this we hope in the future you take a focus on Lincoln avenue, we are concerned about the traffic that will probably have to be mitigated so thank you.

>> Mayor Reed: (saying names).

>> My name is Steve Kline I'm president of the Burbank Del Monte NAC and this is in our SNI area. I want to commend city staff for what they have done, their memo, I think this is an excellent opportunity. I also with want to thank the mash, Councilmember Oliverio and to make sure at a the underground part is as much as, I think the idea of a master developer taking forts a grand design is an interesting opportunity. I'm hopeful that as much community outreach as has been done by the good neighbor comet and also all of the other areas around this plan. Thank you.

>> Mayor Reed: Tina harder, Brian Darrow, Jean Dresden.

>> Hello mayor and council. Thank you for your time. I used Diridon station a lot, and I was listening to all the words people were saying about the changes coming and it just sounds really good. I like a bicycle and pedestrian-friendly place. To my way of thinking, what it lacks of being like truly pedestrian-friendly right now, is a lot of walking you have to do to get anywhere. And I just look at all those big parking lots, and I so wish something else was used in that space! Other than that it's a great station, thank you and I look forward to using it many times in the future.

>> Mayor Reed: Brian Darrow, Jean Dresden, Larry Aimes.

>> Brian Darrow with working partnerships U.S.A. I wanted to put on my hat as a general plan task force member, we have been looking for sustainable ways to accommodate the growth, we're expecting in the next 30 years. The real big part of that is finding ways to transition into an urban community, focused growth of course in places we have transit and the goal there is to really develop a vibrant iconic walkable and bikeable environments in those targeted areas and the Diridon station is really the center piece area, transit rks and granted, downtown certainly is one of the main places now that we've got higher density development and if you're going to wait for tomorrow you might turn gray but I'd say not planning for tomorrow is not the best alternative ever and we are expecting another 400,000 folks in San José according to ABAG, we want to do it in a way that's got connectivity and we want to do it in a way --

>> Mayor Reed: Jean Dresden is our next speaker.

>> Good evening my name is Ian Dresden and I want to congratulate staff for going ahead and grab the MTC grant. What are we going to do we've never planned there's a train coming. There's a lot of interesting tapes out there. This may be a long horizon project but tonight Obama talked on the state of the union about getting more high speed rail funding so maybe we have some hope. Thanks also to the mayor today for sending out the letter to California high speed rail authority following up on your December vote asking for underground in their EIR and that leads to the idea it's very important to direct our own staff that in this EIR we also include underground. What's good for the goose is good for the gander. I'm glad that we're going to look at this in another study session for our long horizon and I hope that we will be able to write parameters for master development so we don't have drift, where mixed use driftsd from truly mixed to fully residential with a couple of little pieces of commercial.

>> Mayor Reed: Sorry your time is up. Larry Aimes Harvey Darnell and Scott Knies.

>> I hope you'll develop San Fernando boulevard as noted the Los Gatos creek runs through the project. As the street are realigned for the project this is a chance to correct the past wrong and free the creek from the long culvert and open it up for the nature. Already salmon and would allow for grade separation of the Los Gatos creek trail to make it easier for pedestrians and bicyclists to come to the station this will be a transformational project and I think it's wonderful.

>> Mayor Reed: Harvey Darnell Scott Knies.

>> Thank you, mayor. I forgot on the last comment on the good neighbor committee to thank Kip and Lee for their great work, particularly Kip got me to stop talking and he did in a polite way. I want to support the mayor and Councilmember Oliverio and Liccardo in your memos underground option not that I support any of them over the other but make sure we have a proper study in looking in your memo the word flexibility came up and I want to give you a bright line. Make sure in looking at your flexibility you are still maintaining an employment commercial

entertainment center which has an urban character that will utilize the multimodal effects of the Diridon station. So that we actually become an urban employment center, that brings in suburban people from as far away as the Central Valley to work.

>> Mayor Reed: Sorry your time is up I'm not as polite as Kip I'm sorry. Scott Knies is our last speaker.

>> Mayor Reed, Vice Mayor Nguyen, members of council, some days are longer than others. The San José downtown association shares the staff and the good neighbor committee's enthusiasm for the Diridon station which we refer as the West side of downtown. We can't help there was a bit of a lost opportunity with the Diridon plan thus far in that it did not contemplate an underground high speed rail scenario we can't help how that might have impacted your maximum development snare goas in the plan that's being brought forward tonight. Try to think transbay terminal underground station the type of density and development that's on top of that station in Diridon. It hasn't been part of the discussion yet that's why we are so thankful for the mayor and councilman Oliverio and Liccardo's amendment to add that into the study at this stage. We also support the flexibility within alt zones you should be able to move your use is between them and we'd like to see the downtown parking board be involved also in the process with the parking. Thanks.

>> Mayor Reed: That includes the public testimony. There may be some additional council discussion on this. We do have a motion on the floor made by Councilmember Oliverio I think or Liccardo one or the other I've already forgotten. Councilmember Liccardo. Any further discussion on that, on the motion? Of, opposed, none opposed, that is proved. We have one more item of business on the agenda, it's a rezoning. 11.2. Property at the Northwest corner of north 10th street and East Taylor street. I don't know if we're having a staff report on this or not.

>> Joe Horwedel: Just a clarification Mr. Mayor. The public hearing notice for this item correctly noted the amount of housing units for this project at 403, the agenda's noted it at 384 but we have done the environmental review and public noticing in the newspaper for the correct number and I just wanted to clarify that for the record.

>> Mayor Reed: All right, the record is clarified. Just like to note that in preparation for this meeting my staff had conversations with Don Lapedis a consultant with the property owner. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor. I've also met with Don lapidus Moses Levitski, and Don the CEO of Gordon Biersch of the adjacent site. I'd likely to move this matter.

>> Councilmember Herrera: Second.

>> Mayor Reed: We do have some comments from the public, we'll start with Dan Gordon.

>> Hi, just to first and foremost thank the Planning Department for really taking some forethought in the operation of our brewery and the impact of high density residential. That would go up within 100 feet of our building that we currently operate 24 7 And we thank councilmember Sam Liccardo putting forward this development which will downstream fully aware of the impact of an ongoing brewing operation and that's really all I wanted to do is thank you all for taking into consideration our investment in San José and our ability to continue to operate and flourish. Thanks.

>> Mayor Reed: You are welcome I also have a card from the property owner to speak. I didn't have that before so I'll do that now. Don lapidus.

>> Mr. Mayor, members of council by name is Don Lapidus I also have here with me Mr. Lebitski who is one of the property owners and the architecture and the --

>> Mayor Reed: We allow the property owner to have five minutes. You can distribute that however you wish.

>> All right, we have a project we're very proud of and it's only because of their help and efforts and I want to thank Joe and his staff. The staff and the Planning Commission recommended approval of this project. And it's going to be a great project and I think they had great cause to give us their support. It will be a wonderful place for

people to live and work. The history, a little bit, of the project, the project is both consistent with the general plan and the Jackson Taylor plan and we tried to follow all of the guidelines for both of those plans, in the development of the project. Also, in the process, we spoke to many groups in the city, and in the area. We spent several meetings with the Japantown committee, we went to the 13th street NAC, we went to the Japantown Congress a couple of times. And we sent out 1500 notices to the neighbors to make sure that everybody got an opportunity to discuss the project with us. The -- this is the location of the project. To the left is the Taylor, and the lower part of the picture there, is 10th street. I didn't bring my pointer but the buildings along 10th street would be removed and the building along the railroad track to the right would be -- would remain as well as Gordon Biersch brewery would remain as-is. This is the site plan for the project. The area in blue would be the 318 condominiums. The -- there would be areas, those orange units along 10th street would be the 14 work-live units. The purple on the corner of 10th and Taylor would be the restaurant that we're proposing, the 5500 square foot restaurant with an outdoor area. The theme of this project as you see as I start to talk about it has a very European theme with a European type design and it should be have a very sustainable design which would make the neighborhood and community look nicer for many, many years to come. There's also the area in orange on the top of building D that's the historical building, and it is going to be reused, rerenovated. We hired top-notch architect to show us how to renovate it. It not only turned out to be a very handsome building, but it's very green, we've built a lot of static green features that should be very helpful when we build the building. The -- all the as I said all the guidelines for both the plans have been followed. We've worked very hard with the staff, we've worked very hard with the community and we hope for your support on the this project. Are there any questions?

>> Mayor Reed: We'll see if there are any questions. Councilmember Liccardo.

>> Councilmember Liccardo: I want to thank you Don and Moses and Anthony as well for your willingness to work with taf and us. historic use and continue to have sites for work access, for artists and stuff, and really want to thank your work with Nancy Kline. This is a very involved process.

>> Mayor Reed: All right that's it with the questions. Thank you very much. I have no additional cards from the public to speak on this. I think we have a motion already on the floor? Any further discussion on the motion? All in favor, opposed, none opposed, that is approved. We have no cards from the public so we are done, adjourned.