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>> Mayor Reed: Good morning I'd like to get the meeting started. This is the open session beginning of our day. We'll have a labor update and then we'll adjourn into closed session and we'll be back here at 1:30 to take care of the rest of the items on the agenda. So let's start with the labor update.

>> Gina Donnelly: Good morning, mayor, members of the city council. Gina Donnelly deputy director office of employee relations. Since last week's update to the city -- the city has actually not received any new proposals of any bargaining units, 0and that's the extent of our update this morning. Thank you.

>> Mayor Reed: That's a quick update. I have no requests to speak so we'll adjourn into closed session, be back here at 1:30. [ Adjourn ]

>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call the San José city council meeting to order for September 20th, 2011. Start with an invocation. Councilmember Herrera will introduce the invocators who just barely got off the stage I think.

>> Councilmember Herrera: Welcome the Evergreen singers who should come back down.

>> Mayor Reed: That was just a practice.

>> Councilmember Herrera: We need you to come back down. The invocation is right now, you're on. You're on. So as Jerry Ziri is the Zari has served as the director of the group for the past two years. Jerry's a village, I'm going to add more about Jerry as they're coming down here. Jerry is a member of the villages. This group has been in existence for about five years before that. They sing six to eight time a years and four times at the senior nutrition lunches and at day break and the regional assisted living facility. You notice they have the green shirt representing Evergreen. I'm very proud to have them in District 8. Jerry is the director, Vickie Baines the director at the community center, their performance i've heard them sing many times and sometimes even get to sing with them. Their performance provide a lot of joy to the seniors in our nutrition program. They're a wonderful example of how the seniors get more than food. They make friends for this vital program for their invocation today, I'm glad they will be singing this song. They've invited you all to sing with them if you would like to. Would I like to invite Jerry and the Evergreen singers to perform the invocation. [ Singing ]

>> Mayor Reed: Next we'll have the pledge of allegiance. Please stand for the pledge. [ pledge of allegiance ]

>> Mayor Reed: First item of business are the orders of the day. Are there any changes from the printed agenda to discuss? We have a motion to approve the orders of the day. Councilmember Campos. Were you on the consent calendar?

>> Councilmember Campos: Yes.

>> Mayor Reed: Okay. On the orders all in favor, opposed, none opposed, orders are approved. Closed session report.

>> City Attorney Doyle: Mayor, council, the city council met today in closed session, pursuant to notice, there is no report.

>> Mayor Reed: We'll now take up our ceremonial items. I'd like to start by inviting Councilmember Constant, councilmembers Pyle, Councilmember Liccardo and Rolanda Pierre Dixon to join me at the podium. Today we're presenting a commendation to Rolanda Pierre Dixon for her 30 years among other things and also, commending her for being a founding member of the City's family domestic violence advisory board. Councilmember Constant has some of the details.

>> Councilmember Constant: Thank you, mayor. First I must point out that James is here as well. And you can come up as close as you want for photos so don't feel like you have to hang out back there. There are so many things to say about Rolanda. So I'm going to read all the details, because she's done so much and then I'll opine a little at the end. Rolanda Pierre Dixon has been a key contributor to not only our City's efforts but the county's efforts and the state's efforts in fact has been a role model for our efforts to end domestic violence. Rolanda has been a resident of Silicon Valley for 30 years, she graduated from Santa Clara where she supervised the family

violence unit the victim witness advocates, criminal issuing and the victim restitution unit, and retired reefernt recently as an assistant District Attorney with 1991. And supervised that unit for over 17 years. She's also one of our founding board members of the City's family domestic violence advisory board which I co-chair with Councilmember Pyle now. Her commitment to domestic violence issues spans over 20 years and she has become nationally renowned as an expert of domestic violence. She is a senior fellow of the san José school of nursing, board member at the San José university miftion of justice barely, access and fairness. In addition formerly she was a formerrer commissioner of the social services commission chair of the Santa Clara County bar association professional committee, board member of the California District Attorney's association, chair of the women in law committee of the state bar, chair of the Santa Clara County women's lawyers committee, chair of the Santa Clara County black lawyers commission and and there's a bunch of other tuft stuff that just didn't fit on the page. So can you tell that Rolanda has been very, very busy. Now she's not so busy but I'm sure she is still pretty darn busy because I know she can't say no to anything. line dancing which I did not know, interesting. And spending time with her family which of course includes her wonderful husband James and her daughter Geneve. And I was fortunate enough to meet Rolanda quite a few years ago when I was a police officer and we worked on several things in the street crimes unit and I know Sam ash is not here but I'm sure he public defender. She is just as outstanding individual and when you think about what's right for families, for children, for women, you think of Rolanda. She really has set the standard. Her work with the death review panel and everything else we do so well in our county with domestic violence is a direct result of this woman right here. I'm thrilled that we're taking a time to commend her. And many of you might not know just a meeting or two ago we appointed her to our elections commission because we really didn't want her to go. We're going to keep her busy and I bet you we'll have her come to the domestic violence meetings as we have them. Mr. Mayor, if you would present the commendation to our great friend, Rolanda. [applause]

>> I just want to thank you. Coming to Santa Clara County from San Francisco, my poor 9ers, all those years ago, I knew I had to get involved in community. Women's and children's issues have always been at the forefront of my mind and also family. I was lucky to have those kinds of supervisors who let me have my head and my hat and go about my business. It's been a wonderful 30 years of service. I will continue to do service, I will continue

to make sure that communities and families in our community are as safe as they can be so thank you. [applause]

>> Mayor Reed: Thank you very much. Now I'd like to invite Councilmember Herrera and geek club South Bay to join me at the podium as we present a proclamation declaring September 18th to 24th, 2011 as geek week in the City of San José. Councilmember Herrera has some of the details.

>> Councilmember Herrera: Thank you, mayor. So when I heard in the economic development committee that San José had been called out nationally for the geekiest city I mean we have to do something to acknowledge that. Thanks Mayor Reed. I'm very excited to welcome the geek club South Bay, Ahlma Miller geek club co-founder and all the members of the geek club South Bay. As some of you have already heard they're calling us geeks. The City of San José is honored to be ranked as the geekiest city in the nation by the U.S. national science foundation indicators report that tracks the population of geeks in cities across America while there's no standard definition of a geek the U.S. national science foundation recently defines geeks as any worker with a bachelor's almost of knowledge in science or engineering legalities fields or workers in occupations that require some derive technical knowledge or training. We are celebrating geek week, a true celebration of the virtuosity. For its booming local technology industry it is no surprise that San José is geeky. Proudly earning the rank of geekiest in the nation science technology engineering and mathematics professions, will be the geek club of San José the geek club of South Bay welcoming place where geeks of all kinds could meet for fun activities. It was created about a year ago when Leke and her husband and they wanted to make friends who shared their geekier interest.

>> Surprisingly they didn't see any venue for geeks to meet each other socially away from work. However the focus of the geek club quickly proved to be a success as a group of 600 members organizes and hosts an average of three events per week, events called board game needs, video games game parties and more. They have something for every geek out there and with that said I'm happy to proclaim September 18, 2011 through

September 24th, 2011 as geek week in the City of San José to embrace the contributions that making San José the geekiest city in the nation and if coy please ask Mayor Reed to present the commendation to Lexie. [applause]

>> Thank you, we're honored to accept this proclamation on behalf of the geeks of San José even though we only -- we're only a small importance of the geeks out there. The geeks that I've met through this club are brilliant people, great people. And I have come to know personally that San José is not only number one in geek population, by population but also by quality. So thank you. [applause] M we're proud to be the capital of Silicon Valley innovation center of the world bit these young once are going to make sure we stay there. We're proud to have them here today. I'm going to invite Councilmember Constant to stay and proclamation declaring September 2011 as world Alzheimer's month in the City of San José.

>> Councilmember Herrera: Thank you, mayor Reed and with us today are representatives from the Alzheimer's association of Northern California and some residents whose lives have been affected by this disease. Bill fisher CEO of the Alzheimer's association of Northern California, Grace Lee, a former board member and resident of San José, Grace sadly lost her mother to the disease. Lisa Dow manager of the walk to end Alice hiemples don Hoski-n San José and Kathy Kas-etta a resident of San José, I want to thank you for being here and also Councilmember Constant of being here and supporting me in this. Today we are splaining the month of September as world Alzheimer's month in San José, last raise awareness of this devastating disease throughout the modify September. We're shining a spot light on the soaring number of people in our communities and around the world that live with Alzheimer's and that's 35 million people throughout the world and 27,658 residents of Santa Clara County. It's the sixth leading cause of death and the cost of this disease are felt physically, moition and economically. cost of dementia are \$604 billion. Dementia care costs 1% of the world's gross domestic product. ranking between turkey and Indonesia. People like Councilmember Constant, have experienced this disease personally. He lost his mother Louise constant who passed away on November 6th,2006. After a ten year struggle with it, I can attest to the fact that twice. Actually, every you little bit a day. Once to the ravaging

effects of the disease and then ultimately with their death. After I was elected, I was able to spend but she didn't know who I was and what I was doing by the time I got elected to city council I'll never forget that our clerk at the time came tout vintage where she was staying and gave me a second oath of office so she could be present for my election. Just as important to reflect on the 15 million people, it's very important to reflect on the 15 million people who dedicate their lives to helping those afflict Wednesday this disease, family, friends and others that serve as unpaid caretakers. These caretakers contribute 17 billion hours of unpaid care each year at a value of almost \$2.2 billion. This is an incredible expression of care and dedication. But these caretakers surf emotionally and health care cost in 2010. What can we do? There are some simple things that each one of us can do. And take action. Number 1 you can go to the Website, [www.alz.org](http://www.alz.org), to find out about action you can take, and learn all about what's being done to find cures for this disease and to support those who have it. You can wear purple on the 21st for Alzheimer's action day and encourage everybody to join you. alzheimer's association. You can post a comment to cheering on the everyday heros or recognizing an Alzheimer's hero you know. You can make a donation or purchase and join us a lot of us my team and I I hope and think Councilmember Constant's team is also going to be joining us on Saturday, October 15th, the walk toned Alzheimer's at arena green park in Downtown San José across from the shark tank. My name is district 8 for Kate for my mom, we hope other 300 million since 1989. More than \$200,000 in Santa Clara County last year. It's critical that we raise awareness of this deand continue to support it's desorbs Zeus on behalf of the City and County to present Grace Lee of the Alzheimer's association with the plages and William fisher will have some words. [applause]

>> Many thanks Councilmember Herrera and constant for having us here today and supporting our work. The councilmember gave you the numbers on this disease. We are the national movement to defeat this condition and we do not accept that our children and grandchildren have to either have Alzheimer's disease or care for someone who does. We're proud to be the largest nonprofit supporter of stanford UCSF U.C. Davis and berkary and worldwide. Tbrean million in research and I'm particularly proud that our chapter here in Northern California raised \$1.4 million for the national research program. We believe we can beat this thing. We don't think Alzheimer's has to be with us ever. At the same time we're trying to help families through the journey that is Alzheimer's disease. I pes we have a host of programs for families. We have a wonderful 24-seven help line. Any

time day or night you can reach a trained professional who can talk to you about what's going on in your family. We have a host of caregiver support groups, we have relatively new phenomenon of early stage groups where people with the diagnosis, some of them who are still working and lucid and insightful come together to support one another and learn what they can do about this. We have a host of educational programs as the councilmember mentioned, a wonderful Website, ALZ.org. We invite you to come out and walk to end Alzheimer's. Thank you so much, appreciation to the council for caring so much about this condition. Many thanks.

>> Mayor Reed: Next item is the consent calendar. We have a couple of items that will be pulled for discussion. Item 2.3, the minutes and 2.9 the antigraffiti litter program. I have some requests from the public to speak but it was on those two items. Anything else the council would like to speak besides those two? Councilmember Liccardo.

>> Councilmember Liccardo: 2.8 and 2.12.

>> Councilmember Constant: Mayor, did you say 2.5?

>> Mayor Reed: No, I have not said 2.5 yet.

>> Councilmember Constant: 2.5 for me, please.

>> Mayor Reed: Okay, we have a motion to problem of the balance of the consent calendar. Mr. Wall you wanted to speak on 2.14 I think so go ahead, take that now.

>> David Wall: Which one do you want me to speak on sir?

>> Mayor Reed: 2.14. We'll take up the other once separately.

>> David Wall: 2.14 is movie night. I applaud all location of this movie night, St. James park, unfortunately, for this city, not in any reference to the councilmember, but has become a vagrant and criminal element park. So I'm kind of remiss of having a movie down there unless the movie is escape San José and St. James park with your property and your lives. Thank you.

>> Mayor Reed: That concludes the balance of the consent calendar, we're not going to discuss -- councilmember Herrera did you have another one? 2.13. Any others? We have a motion on the balance, all in favor. Opposed? None opposed, that's approved. 2.3. Minutes of Public Safety, finance committee. And others.

>> Councilmember Constant: Thank you, mayor. I asked to have that one pulled. I just wanted to point out one highlight from that report. We go through a lot of stuff at each of the meetings but I think one of the significant items on this agenda item as we look at the minutes is, the Team San José performance measures. And I know that the council is aware there's been a lot of changes at Team San José in their organizational structure. A new CEO Bill Sherry who is here with us today. A new Chairman of the board, Chuck tens Carter. In this reporting period they met and exceeded seven out of nine of the performance measures, grew revenue significantly, 4.8 million over the adopted budget customer service ratings are strong with the year-to-date result of 98% customer service rating. And our transit occupancy tax, T.O.T, exceeded the goal by 8.7% which is almost a half a million dollars. I think probably most importantly is the fund balance of fund 536 which we discuss quite frequently will finish at significantly higher levels in the assumed budget due to the T.O.T. growth which will be improving the

fund 536 by \$3.3 million. And that's a significant change. So I just wanted to make sure that we highlighted that publicly and with that I'll make a motion to approve the minutes.

>> Mayor Reed: Motion 2.3, Mr. Wall you wanted to speak.

>> David Wall: This is in reference to the September 7th Rules Committee meeting. I've had some problems with the leadership of the transportation and environment committee and the Community and Economic Development committee for not holding staff accountable on any level. It's almost like thank you for your colored reports and that's it. With this municipal regional storm drain permit hanging in the balance and with the winter rain seasons coming on, it might be nice to see one out of 29,000 storm drains protected. Furthermore there's an error. I didn't commend Councilmember Liccardo for his efforts to reduce speed limits near schools although I inherently know he would like to do so. It was Councilmember Oliverio and his prudent leadership to be thanked. So there was an error. Also, Mr. Mayor, I -- the overall appointments to your committees are all of controlled by you, and I think that it is disparaging to the councilmembers that there is not more of a diverse population in the leadership versus your hand-picked folks. Now, wouldn't be bad if your hand picked folks made really good and competent and on-time decisions. I wouldn't have a problem with that but when you balance it towards one end of the spectrum and nothing's being done when we have excellent talent to the left and to the right that is a problem. Another thing I want to you focus in on is disaster preparedness. I don't think people realize that disaster can happen anywhere. Specifically in San José, and I think that we as a city are not prepared for a magnitude problem that we've seen on the East Coast or in Texas or other places. Thank you.

>> Mayor Reed: That concludes the testimony on item 2.3. We have a motion to approve. All in favor? Opposed? None opposed, that's approved. Item 2.5 travel report Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. Just wanted to report-out my travel to the Cal Lafco conference. As the council's aware I'm appointed to serve as the Lafco commission, I'm vice chair this year I will be chair next year. I attended seminars of not that I have any ideas for us but it was just one of the topics, disconsolidation and insol and prior Santa Clara County Lafco municipal service reviews have found areas for consolidations and efficiencies that lafng will be dealing with this year. Felt it was important to attend the crves because of the recent grand jury report that expressed concerns that the amount of training and preparation Lafco commissioners receive. Motion to approve.

>> Mayor Reed: I have a motion to approve trip report, all in favor opposed noafs that's approved. Item 2.8, Water District and Almaden lake agreement I believe. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Just had a quick question for Rick sorry if I didn't give you any heads up on this Rick but this joint use agreement in Almaden lakes park, which I very often enjoyed swimming in years ago and I know they have triathlons there and so forth. I know there's concern about mercury at that lake. I'm wondering is there any apportionment of liability between the Water District and the city for any claims that might arise from that?

>> City Attorney Doyle: Let me pull up the agreement. I can get back to you on that. I don't know off the top of my head. Typically we handle it but let me look at it.

>> Councilmember Liccardo: It's Water District property correct?

>> City Attorney Doyle: That's correct. You're concerned there's sufficient indemnification.

>> Mayor Reed: All in favor, that's proofng pr approved. 2.9, antigrffiti antilitter status update. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Just wanted one, there's an article in the paper this morning regarding the increase in graffiti in the city. Although in the report, there are some districts where graffiti has gone down. But when you look at it, graffiti's going up, for often and it's staying up longer. So what I would like is, like to see if we could get a mid year report on the status of the new contractor. Given that you know, graffiti often leads to other things. You know in my district, in District 1 -- in district 7, 2, 3, those are big hot spots for gang activities. And when graffiti stays up too long violence happens. And I have a huge concern about that. I mean if you look at the report, 282% increase in District 5. And I think not knowing the status of the new contractor, and what's the delay on having graffiti taken down within 24 hours to 48 hours, what we used to experience? It's not acceptable. We can do better than that. We have done better than that. So I'd like to see if we could have a status -- a mid year status report.

>> Mayor Reed: I'll take that as a motion and treeferl staff.

>> Councilmember Campos: Yes, yes.

>> Mayor Reed: We have a second. Councilmember Rocha.

>> Councilmember Rocha: Thank you, refresh my memory so this was -- this went through committee I saw but did we cross reference it for general agenda or just for the consent?

>> Julie Edmonds mares, assistant director of PRNS time of this report it was automatically cross -- referenced to the full council.

>> Councilmember Rocha: And then at that point you do consent when there's not a full quorum?

>> Correct.

>> Councilmember Rocha: Okay. In your mind did you think that maybe this would warrant a report? I know it's very early in the contract and I had some of the same concerns as my colleague does as well so I think mid year is a great approach. Do you think at that point you would have enough information to really kind of give us a good sense of how the contract's going?

>> Yes, absolutely. This particular service area, something we come to the neighborhood services and education committee with on a twice a year basis so we would be coming back in December for an update. And at that point we would be able to report the vendor's outcomes, how we're coordinating with PD, police department in terms of this spike in graffiti as well as the performance of the vendor.

>> Councilmember Rocha: So then within our committee meeting we can then when we refer that out for a report we can ask that to be cross referenced on the agenda, not on the consent but action items.

>> Yes, it is cross referenced to N sempletE and then to the full council.

>> Councilmember Rocha: At the time I didn't recognize, it looks like the increases are in the odd districts, I don't know if that's a coincidence or timed with the election, keep in mind if there are even districts what there will be going on next year.

>> Mayor Reed: I hope that is not election graffiti but one never knows but we'll find out. Councilmember Kalra.

>> Councilmember Kalra: Thank you, you know I agree that I think this is something especially in the short term needs to be reported out to the full council, especially since a lot of anti-graffiti program and now you know I think it is early to say what the results are going to be but the feedback I'm getting is not good. The feedback from communities and I have one community in particular that has done a tremendous job over the last two years a tremendous job of working with graffiti. Neighbors go out and volunteer, spend countless hours, and they are very disappointed, they were accustomed to having graffiti painted over in 48 hours or 24 hours if it's gang related and that's not happening. And we've been told our office has been told and other community members have inquired have been told that right now there's a hot spot in district 5, reporting a lot of emphasis there. When the hot spot was in district 2 and our anti-graffiti team and our city employees did a dramatic job of still went out they did their job they still had the 48 hour and 24 hour rule and even without weekends the response was faster. Now we're told there's private contractors working on the weekends, seven days a week and it's not happening and that's what I was worried about. This is the same contractor that has sued cities that have tried to break the contract. And so I just think that -- I really hope that what -- that the full report after we have a more than a couple of months with this contractor that comes back to us that we see improvements and we see an anti-graffiti program that lives up to expectations that we've less than money into it we would get less results. The results we are getting now aren't even meeting expectations that we contracted for. So I'm very concerned that we're going to end up spending a lot more money, it's going to be next to impossible to quickly get rid of this contractor if they don't meet our expectations and we've gone through another exercise of outsourcing a program that was

nationally recognized for a contractor that does not have a good track record and is problem offering to do the same here in San José.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. I just wanted to make sure we gave some perspective on this. Because I don't think it's necessarily fair to be dumping on a contractor that bid on a contract based on a level of graffiti that doubled before they took over. This report that we're referring to, the count was done in January, six months before the vendor took over. And that wasn't the information that they had when they made their bid, and granted, it is a lot, significantly more. I think it's important that we keep that in context because I know, I obviously have seen a lot in my district. Mine was one of the districts that went up considerably. But the volume of work that's completely unrelated to their activities, I think, is something we have to keep in mind. And I do know that it is already scheduled for the twice a year. I guess my question is, one, if we're doing the count in January, does it really make any sense to have a report in December, before we do the count, number one because we won't really have objective measurements that we can go by. And then secondly if we're doing the count in January I know that there's a significant amount of work to create the report. But is there a way we can get it sooner than six or seven months later?

>> City Manager Figone: And if I could while Julie's coming down, Julie I'd like you to think about whether or not we should go to committee, so the committee can have their questions answered about how the count will occur. And what the comparisons will be. And then maybe it would make more sense to hold the actual count but that's a thought as you were walking down.

>> All right, thank you. Yes it's a historical practice within the city to do a count or a snapshot on a particular week in January. It's also important for us to monitor the volume of tags and square footage that occurs each and every

day and actually the vendor is going to provide much more specific data in that regard. So by December we'll be able to tell how many tags, how many square feet were abated which is a little different than doing the snapshot that we do in January. So I think in December we'll be able to give you a good report and then report out the statistics in the future.

>> Councilmember Constant: I think that would be helpful. I think we would have a different context going into the budget discussions and level of expectation if we knew that the existing graffiti was at a significant level double of what it was before as a member of that committee I appreciate the chance that we'll good the opportunity to talk about it in December. I just wanted to be sure that the motion contemplated that the update report does go through the committee which is standard practice and then come to city council. Is that your intent?

>> Councilmember Kalra: Yes.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I'm sure like most of my colleagues you probably have the graffiti number plugged into your cell phone and as you drive across the city you call in to report graffiti. Most of my time being in district 3 I call in as the other residents do and I'm actually quite amazed at how fast the turn around has been on the call-in its I've done, I do it a lot I'm driving and and I might as well turn it in. I've seen turn around time very quick from my observation, I don't say who I am when I call in. They don't require you say who you are, they just require a location. I think it's important to keep in mind we are trying to maintain this service. The service was not in the city charter. By maintaining this service reality is if we wanted to maintain it then the council had to go fire other employees doing other work. 20 minutes here and then but the reality is, is we're paying for something we shouldn't have to pay for because we have people in society that like to damage

personal property and we're never getting to the end. I hear anecdotally all the time that we can catch them but then the judge doesn't really do much. So I guess the question for Betsy Shotwell who is in the audience, is there anything coming out of the legislature to offer anything that is actually going to offer a true deterrence short of Singapore, that will stop the cities from damage other people's property?

>> Betsy Shotwell: Thank you, councilmembers, Betsy Shotwell, Director of Intergovernmental Relations, I'm thinking hard. I really would have to get back on that answer. To do it justice because I have not looked at that issue for a few weeks, been involved in others. And so I would need to -- to address that separately.

>> Councilmember Oliverio: Just wanted to ask the question.

>> Betsy Shotwell: Because at the end the state is really crog even if we can catch one a year but we make a real example of that person to where the private life doanl doesn't exist anymore because they are paying a penalty to society by picking up litter or cleaning up walls for the next five years I don't care. But the reason when we spend money on graffiti abatement we are not spending it on the senior center or something else that we might find valuable. Thank you.

>> Betsy Shotwell: That you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you. I think Councilmember Campos concerns are well founded because I have certainly heard a lot of expressions of frustration from neighborhood leaders community leaders who have

been working hard open the graffiti problem for years and feel as though there has not been a lot of responsiveness from this contractor. I think it's important for us to take seriously some of those reports that we're getting in our own communities. At the same time though I think I'd warn us to not focus too closely on simply the number of offend tags. As I -- observed tags. Look at top of page 2 and graffiti survey results, and below it results by year, you know essentially certainly when Mario Maciel described in the press that is this really a social epidemic kind of behavior that we're seeing, I really agree strongly. You see huge fluctuations from year to year but really a very strong upward trend since 2006. We had 129 tags in 26. Then over 2500 the next year. Then over 13,000 the following year. And now we're up to over 40,000. Clearly it's been a significant long term trend. It's not simply the contractor that's responsible for the fact that we're in the middle of something that's an epidemic of graffiti. So I think we at least need to give some space for the fact that these numbers aren't going to immediately drop and certainly what the contractor's inherited is certainly gast a much Pete Constant's 2011 Gorette survey is that as of the -- is that for all the tags in twoan 2011, is that --

>> On the top of page 2 there are two graphs, one of which includes all the tags, and the second graph is a snapshot in time in January. That's where we take a one-week snapshot, and we evaluate how many tags we see within that one-week period.

>> Councilmember Liccardo: Okay, lets focus for a moment on that top chart on pager 2 relating to results by council district. You're saying that's a snapshot or that's an aggregate number?

>> That's a breakdown of the snapshot, that informs our decision as far as resource deployment. So similar we would coordinate with PD and with other hot spot issues and last year we saw an uptick in council district 2 and council district 8, so we shifted resources that way. And as a result we saw a decrease as noted here in council districts 2 by 72% and council district 8 by 58% because of our concerted easts. This last survey, this snapshot in time indicated that the peak now is in council districts 5 and 7.

>> Councilmember Liccardo: I appreciate that but I'm trying to get to a very specific question which is what exactly is a snapshot? Is this a single date in January of 2011?

>> A single week.

>> Councilmember Liccardo: A single week in January 2011.

>> Correct.

>> Councilmember Liccardo: So at the time we're looking at this data we don't even have the contractor on board.

>> That is correct.

>> Councilmember Liccardo: I just want to understand. I know Councilmember Constant made reference to that. I didn't know exactly what was meant. So I think it's really helpful if we understand that broader context, as Councilmember Constant stated. At the same time I am very concerned. I've heard a lot of complaints from neighborhood leaders saying the job just isn't getting done as quickly and there's a lot of frustration certainly in my district. So I hope, you know, I look forward to the discussion we can have and when that does come forward, I recognize that we're fighting a pretty significant tide here. But I'm hopeful that the contractor's up to the task.

>> Absolutely.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. And thank you for report. So it looks, the contractor if I'm understanding this right, is assigned to highway 101 to the West, Alum Rock to the north Tully to the South and the city residential border to the East. So that's roughly council district 5 and 7 ??

>> The piece of our larger network. We also rely extensively on our volunteers who have a great job of abating graffiti. We have the sentencing alternative program SAP we ask a portion of those resources go in the concentrated area and we abate graffiti more aggressively in that area yet continue to respond to graffiti citywide at the same time.

>> Councilmember Herrera: I understand, I'm trying to understand utilized in other areas too?

>> They would be utilized in a hot spot sense with a higher resource concentration there and they have resource for citywide.

>> Councilmember Herrera: They do citywide.

>> And we are also utilizes those other sablghts as well.

>> Councilmember Herrera: In district ache nonresponsiveness I haven't heard that but I'm concerned that if that's their focus area and we're hearing complaints, that that concerns me. So I am concerned about the feedback that Councilmember Campos is hearing although I have not heard that in my district and I'm very grateful that the numbers are going down because we were a hot spot last year. It seems like we put focus on this and it moved somewhere else, it keeps moving around which is a little bit frustrating. I had a question and I'm not sure who -- you can probably start to answer it but what kind of -- what kind of effective rules do we have in place right now to hold parents accountable if these people who are doing it are under age, if we have a 14-year-old doing graffiti?

>> On the juvenile program, Rick can augment what I'm saying here. They get referred to tag class. We ask both the juvenile and their parent to come to tag class, we ask graffiti causes in the community both in terms of blight and harm to the business or resident and we ask them to come to class and we also have a program where they can assist with abatement.

>> Councilmember Herrera: I'm just wondering, I'm not making a motion or anything I'm just wondering about the components we are looking at in the social host ordinance, are there any kind of those components that can be added to make a 12 midnight defacing property?

>> City Attorney Doyle: We can look at that. That's the kid's part. The other issue and its resource allocation I'm sure but the police used to be very aggressive on adult taggers. And I don't know, if they have the resources anymore to do this but there was a time in Councilmember Liccardo talks about 2006 where there were very, very aggressive efforts by the city and the mayor on weekly meetings staying on top of the police department and parks and rec in monitoring this stuff. I remember the police department especially being very successful in prosecuting and putting people in state prison for tagging because it was seen as very serious. So you know the problem is resources and resource allocation.

>> Councilmember Herrera: And as you pointed I think there was a greater focus back in 2006 which is some of the reason why it was held at more of a minimum but we had the resources to do it too so I think resource allocation is absolutely the issue, a big part of the issue. The other thing I wanted to point out because I am a big -- I am very concerned about graffiti. I share the concern of Councilmember Campos. I do think that having graffiti and letting it be visible and day up is sending a message, piem seize that and I think that encourages more graffiti, I think it encourages other kinds of issues in the community so it does very much concern me. But there's other aspects of graffiti that we simply probably don't have much control over at all and that's the graffiti I see on the freeway inraings, the graffiti on the railroad crossings. There's lots more graffiti than what the city has responsibility for. In fact when I was out at the Tully road project a couple of weeks ago, I was informed that they have more graffiti there than they've had on any project in the state. So that concerns me. They have more graffiti, intensified graffiti right there on their project than anywhere. So I'm not -- you know I'd like to work with them too but it is an issue and I think we need to figure out how we can apply our scarce resources which I think we're trying to do with this contractor, I'm very interested in hearing the report from them to see if that's really being -- how effective that is. But I also think we need to hold parents accountable. The people from the project CalTrans told me they were young people who were involved in it. If we have teenagers out there, let me also say on behalf of the teenagers, they don't have jobs, there is no after school jobs, that's not an excuse but there are economic realities going on in our community right now. There's less after school programs and all kinds of challenges they face. I think we need to address it, it's a serious issue and hopefully we'll be able to.

>> Mayor Reed: In a few minutes you're going to get a presentation by our staff that's going to include the data of what's happened to our employment levels over the last three years. Three years ago we had 4900 people paid for by General Fund dollars. Today we have 3800 people, that's 1100 people in three years. So we've shrunk in a lot of areas and this area is obviously a problem area and we'll obviously have to spend time and effort to try to get control over this mounting problem. But we are a lot less people to do the work than we had just a few years ago. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. Just one last comment on what Councilmember Oliverio said about this not being in the charter. I think that's lunacy. This is public safety. This is what we do. And our sound walls covered up with graffiti, it's our job to do it. I think antigraffiti does a great job. It certainly does in my district of gang graffiti I think the chief and anyone else in law public safety issue. And this is something that we are required to do. And you know, the in terms of the penalties you know when the -- when the graffiti was the numbers were at a couple thousand or lower the penalties are actually less back then. It's a felony if problem is we don't have resources in enforcement so it's very difficult to catch someone that's tagging. You have to -- unless you have an eyewitness it's near impossible unless you catch them with evidence that match those tags and even then it's very, very challenging. When you take resources away from the police department when they're still -- when they're having a tough time investigating robberies and homicides and can't even get to residential burglaries, to expect them to be able to do investigation on graffiti and expect that somehow excessive penalties are going to create a difference it's not realistic. Right now our prosecutor's office in Santa Clara County is already very aggressive in seeking penalties for those that commit graffiti on the community. It's just catching them which is difficult with less and less resources.

>> Mayor Reed: Well, let's go through the council again. I do have some people who want to speak to this. We'll take that testimony in just a minute. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Just want to point out when I say not in the charter I'm reading the charter. It says we have specific departments and specific things we do. Not that I don't think graffiti is an important issue, as you might have heard my comments I was very agitated 50 fact that we have more graffiti than we should by lawlessness. But with that said I would remind people or the audience that crossing guards, even though they've been provided since 1944, they're not in the city charter. Children's health insurance, not in the city charter. We as a council make decisions on how we circulate spend money and I think graffiti is an

important service butness, what we are to do. We have specific departments, police, Public Works, library, those things. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I don't know how many drive to work via 87, I do a lot. And what has happened is that the graffiti has grown, so has the trash. I've never seen so much trash on a highway as what's been happening lately. Now that's a county responsibility. And I think perhaps it's time to send a letter to the county, or make a phone call or something to remind them, that the roads are bad. Because that kind of a situation invites more delinquent behavior. It's been proven in all kinds of studies. So I don't know who would be the appropriate person to get through to the county. But I'll certainly stage my complaint. Do I have any answers on who we could -- who we should address?

>> Mayor Reed: Whoever it is is probably on state property, that's CalTrans. But it could be county expressway and that would be county Board of Supervisors.

>> Councilmember Pyle: Yes.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. I just -- I kind of breezed by it earlier. I just wanted to point out that the contractor has only been on the job about ten or 11 weeks. So I really don't think it's productive to keep dumping on a contractor that is dealing with a year's worth of problems, multiyears worth of problems as Councilmember

Liccardo pointed out and has been -- I don't know if -- can you clarify that? Isn't it about ten or 11 weeks Ed that they've been on the job?

>> Yes, that's correct. The vendor started on July 1st of this year.

>> Councilmember Constant: So July, August and we're not even three weeks into September. Tomorrow we will be. So I think we just again have to keep it in perspective. And I think one of the things that I definitely agree with, Nancy, I'm agreeing with you, is that have to make sure that she notices when I'm agreeing that other government partners aren't pulling their weight. We know that when we look at whether it be the bridges under the freeways or the expressways or some of the school campuses even let things go for a long time. The train tracks, CalTrain, all those areas. So a lot of times, we get the blame for stuff that's not even ours. So I think the appropriate thing I know we've talked this to death is to give it some time. Let's talk about process and methods in December at committee. Hopefully we can get at least a sense of the numbers a little bit sooner, in the beginning of next year. And I'd also like to at some point maybe have staff, not now, but address the issues we keep hearing about a contractor trying to get fired. Because I understand it was more about political motives than it necessarily was performance issues. Maybe we can address those issues at another point maybe at committee, so we can clear up those issues. Because I don't think we're being fair for a city contractor when they're not here to defend themselves and we're putting all the blame of a societal problem on a group that's been here for ten or 11 weeks. Thank you.

>> Mayor Reed: City Attorney.

>> City Attorney Doyle: I did want to comment about Councilmember Herrera's question about parental liability. There is liability under state law and our municipal code for any and all cost of cleanup and also all law

enforcement cost including attorney's fees. There is a provision it's just as Councilmember Kalra indicated you got to catch the people.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, thank you mayor. I think that this isn't in perspective. We've made an observation. We've listened to our community. They've told us it's not getting done and we dole out a 650,000 or \$700,000 contract and we only get three trucks to cover the entire city? Then it isn't a perspective. All we're doing is commenting that it isn't working right now and there needs to be an improvement. So I look forward to the staff report in December. So for good of our city I hope it improves. We all hope that it improves. But you know, ten weeks or 11 weeks into this, the contractor knows what they were getting into. Every responsible contractor that bids on a contract should know what they're getting into.

>> Mayor Reed: All right, I'm going to take some public testimony at this moment. David Wall and Aurelia Sanchez.

>> David Wall: First I'd like to thank all of you because you've done your very well best in this regard. No councilmember or mayor or anybody can show that they haven't been diligent in this matter. There is an exception though, Mr. Mayor, about all your trips to Washington and you can talk to the Feds back there. There is a military solution that needs to be brought into this city, as well as the state of California. With the losing of prisoners, the inability of police, and the jail system to maintain this, crime is only going to increase. Military police would be very helpful in running stockades for these little graffiti people that could be picked up. You have a lot of troops coming back with no jobs. That could also be of benefit. Another issue that this council is very shameful on is the fact you give some form of credence to illegal aliens. Well, if some of these taggers are illegal. I think instead of tag class it's called deportation class and that would send a very definitive message. In other words,

you have no deterrents. There are no deterrents for crime in this city, this state or this country for that matter. Councilmember Oliverio said, short of Singapore, I think if you put on the ballot measure, using the caning and other aspects of what Singapore does to combat graffiti that would probably pass in very large percentages. As far as high school kids don't have jobs, there are creative ways inventing the works project administration via the storm drain fund. Thank you.

>> Mayor Reed: Aurelia Sanchez.

>> Hello. I'm here with some concerns that I have and my concerns are not political nor are they meant to criticize the contractor. I've been a graffiti volunteer for a long time, and loose litter pickup volunteer. And here are some of my concerns. The dispatch center is in Nevada. I didn't know that. And that was kind of disappointing because we need jobs to stay in California or San José. The second concern I have is the parks. There were some confusion when I was trying to report graffiti at the parks. I was told park contractor will take care of it. But if we could have it made easier, if there is graffiti at a park, where the graffiti contractor took care of it I think that would be an improvement. Also businesses. The contractor does not paint over businesses and it's taking too long and also some of the businesses are doing poor jobs on the buildings. And I'm also confused. I guess they do AT&T boxes and PG&E boxes but aren't those considered businesses? Anyway. Another concern I have is that residents were promised the same service as we had before. I don't think this is taking place. And just hearing the conversations here, I sometimes wonder if the graffiti went way up because I know when the contractor took over, I was calling three times because things weren't being done where I was used to. I'm wondering if the graffiti contractor is how can you say it overcounting because people like myself may be calling in more than three times on the same area. So these are my concerns. And I just want this to work. It's important to me, it's important to my neighborhood and I know it's important to my city. Thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion including Councilmember Campos's addition for the report in mid year. On the motion, all in favor? Opposed, none opposed, that is approved. Item 2.12, city associations resolution on marijuana. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I wanted to thank Betsy Shotwell for her work and to just mention, a similar motion I think had been made previously by Councilmember Constant. This is an effort that we are joining with other Santa Clara County cities to try to get some movement at the state and federal level for some more uniform approach towards regulation of marijuana. We've already had six cities sign on now in the county. We're hoping now as thoiflt momentum builds folks in Washington will take notice and we'll be able to at least see FDA regulation involved with dispensary or rather distribution of marijuana through pharmacies rather than through dispensaries that are currently in a situation of less than orderly regulation. Anyway, with that I'd make a motion to approve.

>> Mayor Reed: We have a motion to approve. All in favor? Opposed? None opposed, that's approved. Item 2.13, Councilmember Herrera, this is leal league of California cities resolutions.

>> Councilmember Herrera: I'm piggybacking onto this. I just wanted to mention that at the league of cities this Thursday we are going to have the inaugural event of the women's caucus. This is the first time there's been a women's caucus at the league of cities. ill in February when it happened and motion to approve this item.

>> Mayor Reed: Motion is to approve. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I don't approval of all, agree with all the staff recommendations so I just wanted to indicate that as to why I will be voting no on the recommendations. Thanks.

>> Mayor Reed: On the motion all in favor, opposed, one opposed Kalra opposed motion passes. That's that concludes the consent calendar but before we move off of it City Attorney had I think an answer to question asked earlier.

>> City Attorney Doyle: Councilmember Liccardo, to the question about Almaden lake, the city has assumed the responsibility for recreational use and making sure that the water is fit for that type of activity. This is something that goes back almost since 1982. And it's a continuation of that same liability. The Water District does not assume that responsibility. So it's something that the city staff regularly has to make -- inspect and make sure it's safe. So I just wanted to make sure, we do not have an indemnity. In fact, we indemnify the Water District.

>> Councilmember Liccardo: Moshted?

>> Julie Edmonds mares throughout the season and if the water levels in any level, not just mercury but all other chemicals as well is at a balance then we move into a closure.

>> Councilmember Liccardo: Okay Julie I think I hear you saying that we test it several times a year. Is it periodic every month every week, do you have any sense?

>> We do it more actively outside it we only monitor it actively over the summer months.

>> Councilmember Liccardo: Great, thank you.

>> Mayor Reed: That concludes the consent calendar. Next item is 3.1, report of the City Manager. Dch thank you Mr. Mayor, members of the council two items. First of all I just returned literally from the 2011 ICMA annual crns. In fact it's still going on but I wanted to be here today. Just a couple of comments. I served on two panels one I was invited to participate in because of the tremendous diversity of our community and it was about the power of inclusion. And I was able to talk about San José from many perspectives. Including the transformation of story and king area into a vibrant retail area. The engagement that we conducted to involve our community, and to really listen, then, regarding our police chief recruitment and the great work of our city in partnering with McKinley residents in order to help them take back their neighborhood. The other was on the future of local government. And the trends and issues that we will continue to face as we manage our cities. Let me just say it was a great opportunity for me to reflect on what we are doing in our city and let me say we are not alone in the challenges that we face, they're nationwide but San José is really noted as a leader doing a lot of heavy lifting to confront our issues and I think we should be very proud of that. The second, I just wanted to take a moment to recognize the great work of our police department over this past weekend. I won't go through the details. You know them. They've been in the press. But this has to do with the report that our police department received on Friday, about a possible shooting and car jacking. We know that it ended in tragedy for the victim and that our officers were able to identify the suspect and ensure that he was tracked down, and then finally arrested. The department called back more than 40 investigators to supplement robbery and homicide investigators. And they put personnel on 12-hour shifts. Investigators were so committed to this effort that they had to be ordered to go home and rest, for a few hours while other investigators stepped in and kept things moving forward. So the results speak for themselves. This investigation epitomizes the professionalism and expertise of a dedicated personnel in the San José police department. I certainly am proud of their efforts. I know we all are. I'm very proud of them for the way that they responded to the extraordinary neefnts this past Friday. Thank you, chief and thank you to the team. [applause]

>> Mayor Reed: We'll now turn to item 3.4. Declaration of fiscal and service level emergency. We'll have a little bit of staff shifting as we get ready for nap what we're -- what we are considering today is the status report on the

2012-13 General Fund budget fiscal condition. Projected increases in pension cost and impacts on service delivery. The discussion and consideration of a declaration of scam and service level emergency has been deferred until after October 31st, 2011 when we have concluded discussions with our bargaining units. Whether we Claire a fiscal emergency, you will see that we have an emergency we have a crisis, we have a fiscal emergency and a service level emergency and the two are obviously same sides of a coin. We are facing a, again, another large gap in the General Fund for the next year for the 10th or 11th year in a row. Somewhere in the neighborhood of \$100 million plus or minus a few million depending upon how things go. A huge number, especially considering the many years that we've been reducing services, in order to cover budget deficits. The materials will make clear that if we fail to implement the fiscal reform plan which the council has approved that we will face devastating service cuts throughout our city in this next year. And that will be a disaster for our people. We'll be in service level insolvency and that is something that we very much need to avoid. And one of the reasons we're having this discussion today is so that we can get started early on next year's budget even though we technically haven't even finished this last year's budget because we haven't got in final, final form. So the staff is working diligently to make sure that we're prepared to make the decisions that we need to do, in order to protect our city, and preserve the services to our people. But there's no doubt that we have an emergency. And I think you'll see from the data that it's pretty frightening to consider where we'll be next year if we don't implement the fiscal reforms. With that I want to turn it over to our City Manager who will start this presentation.

>> City Manager Figone: Thank you, Mr. Mayor and members of council. I will open it up and turn it over to Jennifer and then close it. The purpose of today's presentation is to do a few things. First of all to provide a historical context to the City's General Fund budget problem. We've talked about this context many, many times but I think it bears repeating because we've been on a very, very long journey and as you'll see as we work through the presentation we are really out of options, actually out of any good options. We also want to present the preliminary General Fund budget shortfall figures for 2012-13, in the out years as the mayor indicated this is very early in the process but it seems like budget is year round and has been for quite some time. So given the significance of the problem and as it's looked at in context with the we need to get started because there are many, many things we need to work on in order to bring you a proposed budget in may you will see there are no

easy answers but you'll see we have a recommended path for you and then finally we want to inform you and make sure you understand and hopefully you will concur, with the city administration's intent to immediately explore all viable budget balancing strategies to minimize significant service level reductions and eliminations. I want to warn you this is a lengthy presentation. I've asked Jennifer to take her time with it. Given its importance. And so that we can be very, very clear and ensure that you understand the full picture, what we're considering, away we know, what we don't know because clearly things will continue to evolve. This is very early in the fiscal year but I think given our track record with projections and I think calling things pretty accurately, it is not too early to start laying out what we anticipate 12-13 will look like. So with that Jennifer.

>> Jennifer Maguire: Thank you good afternoon, mayor and city council, Jennifer Maguire budget director. To begin with the city has been experiencing budget shortfalls in the General Fund for ten consecutive years. The shortfalls have been driven by a combination of two deep recessions and an unsustainable cost structure. We have used a combination of strategies to address these ongoing shortfalls. But unfortunately severe service reductions in both Public Safety and nonpublic Safety have been unavoidable difficult and painful, I'll give you some additional background on our budget situation and the strategies used to resolve our General Fund deficits. This is a foundation that needs to be kept in mind as we face yet our 11th straight year of shortfalls beginning in 2012-2013. This next slide I know you're all familiar with. One I've shown you many times before. But it is important when analyzing the city's fiscal condition. This slide shows the actual history of General Fund shortfalls and the impact of citywide position changes year over year for the last ten years. In total the city has resolved \$80 million in General Fund shortfalls and eliminated over 2,000 positions citywide since 2002-2003. The elimination of 2054 positions represents a 28% decline in the workforce over a ten year period with almost 80% of this reduction occurring in the last three years alone and the remaining 20% portion occurring during the first seven years. We are now at 1988-89 staffing levels when the population was 765,000. This slide provides a snapshot of position impacts for the General Fund only. As the mayor mentioned of the 1585 positions eliminated in the last three years over 1100 have been in the General Fund. That's about 72% of the position reductions. Some other funds have been impacted as well, and I'd be remiss in saying that in our airport as you're well aware, they've lost about half of their staff during the last three years. They used to be at a statistical

level of 400, now is staff level 86 positions to 9. To dive in a little deeper, this slide shows not only how we've balanced the General Fund from a department and position perspective over the last ten years but also depicts the structural imbalance between our public safety budgets have increased by approximately 56%. But the number of positions have actually declined by 471 positions over 17%. Over the same period, all other departmental budgets have actually decreased by 10% with the number of positions to deliver services has declined by almost 34% by 1582. As a consequence of this shift in the balance of staffing the Public Safety share of General Fund departmental budgets has grown from 54% in 2001-22 to 67% of the budget in 2011-2012. As an attempt to resolve our continuing General Fund shortfall and once and for all eliminate our structural deficit, the mayor and city council directed the administration in 2007 to develop a General Fund structural deficit elimination plan. After much input and months of work and input from a wide variety of stakeholders a plan was developed and first brought forward for city council review in January 2008. The plan has served as a blueprint for the with strategies in three primary areas, that of revenue strategies, cost saving strategies and service area resort. In the revenue strategies category, since 2008 voters have approved four ballot measures that have added, increased or sustained existing revenue sources of approximately \$57 million. We've also looked at all of our cost recovery fee programs to bring revenues as close to 100% as possible. And we have transferred dollars from other funds such as the construction excise tax fund our healthy neighborhoods venture funds stores vehicles funds just to name a few examples. In the cost saving strategy category, actions have personnel cost. Beginning in 2009-2010 several employee groups received no cost of living or merit pay adjustments and over the last 10 years loifd for all employees. Several services have been outsourced at a lower cost including can youd toial graffiti abatement. The city has also consolidated operations in services such as the merger of Public Works and general services departments and the consolidation at a significantly last implemented new technology to reduce the staffing necessary to operate the branch libraries and the police department's civilianized functions that could be performed by nonsworn staff at a lower cost as a few example. Also minimize service level impacts service reductions and eliminations have been the default strategy due to limitations in our other strategy areas. Both support and front line services have been impacted in our organization as I will describe in the next few slides. Before I go into details on that I want to say that despite doing everything we could do legally on the source side to resolve our budget shortfalls this slide shows that with dwindling sources available our budget shortfalls are now being wrestled more examination reductions. In fact in 2009-2010 the shortfall was balanced

with about 66% revenues and 34% expenditure solutions. If you look at 2010-11 the shortfall has balanced almost 50-50 with revenue and expenditure solutions. But moving into 11-12 the budget we just closed the resolution was about 22% and 78%. The primary reason is we have depleted our reserves like our economic uncertainty are rev and we blant the general fund we have also increased our fees and charges as I mentioned earlier and we are pretty maxed out at the revenues that we can generate in that area. We've also not had as much surplus General Fund fund balance we once enjoyed in the early years, that would help mitigate the need for service reductions and eliminations. I see this trend continuing and likely getting worse this next year. To take a look at specifically at reference because I get a lot of questions about reserves, compared to ten years ago the General Fund earmarked reserves are down about almost 32 million or 50% lower than the 2001-2002 reserve levels. Although we currently have 30.7 million in the earmarked reserves if you exclude the development fee reserves of 12.6 million because they cannot be used to balance the General Fund our earmarked reserves are 18.1 million of which 10 million are for the workers compensation general liability catastrophic refer. Whereby city council policy the reserve should equal 3% of expenditures we are down more than 27 million from a decade ago. It should be noted that the continue two and a half weeks of payroll if we were to have a major emergency in the city. When compared to other emergency California cities our contingent ruive reserve is low. at 5% Oakland at 5% Sunnyvale at 15% which they've always had very healthy reserves. They actually just reserved from 20% just to give you a flavor of that. Okay, going into reviewing the major service level impacts that have been realized over the last ten years in four major service areas, if we turn to public safety as can you see in the graphic the police department sworn staffing levels are down 308 positions or 22% from the peak staffing level of 1395 positions in 2008-2009. As you recall we were trying to add 25 positions per year, despite our budget issues, in the mid 2000. Sworn fire department staffing of 650 position in 2011-12 are down 408 peak staffing levels in 2007-2008. Many services have been reduced or eliminated including police field patrol, special operations and vesting services our police school liaison program has been eliminated. We have eliminated the majority of our crime prevention programs. We suspended the police administration building lobby hours and staff, our police process egg center, our ability to do performance analysis research and training in our police department, we reduced Police and Fire the at the airport, we eliminated four jj companies and one truck company, we implemented fire company brownouts and we reduced fire apparatus staffing over the last ten years. For community services, branch library hours and days have been reduced 33% in the past four

years. From 47 to 51 hours per week, in 2007-2008 to 33 to 34 hours per week today. The parks and recreation and neighborhood services department has been reduced almost 50% since 22-2003 and that reduction in staffing has resulted in reduced community centers in fact we are down from 54 at the peak in 2007-2008 to 11 in 2011-12 with 43 side in the reuse program we have reduced neighborhood park maintenance, we have reduced eliminated recreational services and special events support, we have reduced services to seniors and% with disabilities and use. Reductions in code enforcement staffing from 19th inspectors in 2001-2002 to two inspectors in 11-12 to support nonfee related nonCDBG activity worldwide from almost 30 positions to 6.75 today and long range planning staffing has gone from 12 positions ten years ago to the two positions we have today. In the capital maintenance area, many service level impacts have also been realized including we've reduced our traffic maintenance program for example our traffic signal maintenance roadways striping and markings maintenance, we've reduced our pavement maintenance program our residential streets sealed are down 73% and arterial streets sealed down 63% since a decade ago. We've eliminated funding for sidewalk repairs and street tree services, we've reduced street landscape services, reduced our city maintenance and reduced transportation maintenance services such as our traffic calming naked speed compliance calls. Finally in the general government, department and appointee office area, which is a city support infrastructure to front line service delivery, significant reductions over the past ten years have been experienced leading to increased riivelg that had to have been carefully managed by staff. If you look at the graphic and just at the information technology and human resources staffing levels can you see those two departments alone somewhere been reduced 23% and 30% respectively from 2002-23, in total we reduced financing administrative staffing we've reduced employment services our safety program workers compensation claims administration and training and development, we've reduced citywide technology coordination, our I.T. infrastructure support and development services technology services, and we reduced organization wide management support and leadership staffing including the staffing in the attorney's office the auditors office the snefertion office and the city council offices as well as the clerk. If we move forward looking forward continuous budget shortfalls are projected into the future. Based on the 2012-2016 five year General Fund forecast that was issued last February, as updated for the 2011-2012 adopted budget we're predicting General Fund shortfalls totaling at least \$113 million for the next four years. This figure is very likely to grow based on several significant risk factors to the General Fund that will be discussed in the next couple of minutes. As I know you're aware without fundamental change in our cost eliminations will

continue. Therefore the fiscal reform plan that was reduced in may and amended by the city council essentially the next phase of the General Fund structural deficit elimination plan identifies potential solutions to address the industrial imbalance and help restore services to the January 2011 levels. This chart again you've seen this several times displays our five year forecast excluding the development fee program. And projects you are totaling that \$113 million by 2015-16. This forecast does assume modest growth in our revenues. Approximately 3%. But it also includes the previous estimated growth in the City's pension costs that were projected to grow to \$303 million in the General Fund by 2015-16. Again, these figures are now dated. They were from February and we just updated them for the one time solutions we put into the adopted budget to get to the 78 million for 12-13. We will be updating this formally again to remind you this forecast does not include any cost of living adjustments for any bargaining unit or employee. Any additional impacts on retirement costs associated with changes in actuarial assumptions or retirement benefit levels, any additional impacts associated with the San José Redevelopment Agency, any of our unmet deferred infrastructure needs of \$4 sphowf 74 million one time and 105 million ongoing, or any one time revenues or any expenditures that might be required in any given year. The forecast also assumes the continued prepayment of the City's annual required contribution to the retirement funds. Prepayment considerations each year include the analysis of cash flows, going ability and actual performance. Our prepayment for 12-13 we're estimate wog have a net benefit to the city of about \$9 million but we will further analyze that and make a recommendation as part of the upcoming budget process. As I mentioned there are several risk factors are significant that could increase the General Fund forecast. First is our retirement contributions. You see on the chart, the \$10 million number to a question mark. The \$10 million represents a recent update by Cheiron, the pension plan's actuary for potential estimated impacts to the 12-13 city contributions based on the 2010 valuation period. I'll give you more information on that calculation in my next slide. Further potential impacts may be realized based on the June 30th, 2011 actuarial valuations that are now being prepared by Cheiron and are expected to be completed by year end 2011. All indications are that contributions will be going up. Our second risk fargt is the San José Redevelopment Agency given the recent state budget actions and the financial condition of the Redevelopment Agency there could be a significant impact to the General Fund. The current estimated range based open the continuation or the elimination of the agency is in the 16 to \$42 million range. These figures do not include the approximately \$21 million in annual impacts that have already been realized in the General Fund. Third significant risk factor is potential police officer association

arbitration results. We have assumed the recent 10% employee total compensation reduction for POA employees as ongoing in our budget. But there is a risk that an arbitrator could rule that the reduction is only one time. If that were the case the deficit would go up by that factor alone by \$30 million. And the fourth risk factor is any impact current and future economic conditions may have on our economically sensitive revenue sources. For revenues on the slide is the value of a 1% change in the property tax and sales tax. The numbers can change our forecast rapidly depend on the growth or decline in those revenue sources. Looking more specifically at the retirement contribution risk factor I want to show you the updated trend line of projected retirement cost as I mentioned in the previous slide. As the city council knows the Department of Retirement Services 2015-16 and though projections were used in the development of the February 2011 five year forecast. They projected at that time that our retirement contributions in all funds would be \$400 million in 2015-16. Cheiron, the board's actuary recently completed the same projections and they estimate by 2015-16 the City's retirement contributions will be more in the neighborhood of 431 million in all funds. In the General Fund that would mean additional contributions in the range of 20 to 25 million over the forecast period with at least 10 million beginning next year. Again that is based on a 2010 valuation and they will be doing an updated valuation that will change this and that trend line may very well go up. This next slide is an updated version of when I first showed the city council during the 2011-2012 proposed budget discussions where we attempted to break up the General Fund into its nondiscretionary and discretionary components. Nondiscretionary expenditure includes those expenses we are required to pay such as retirement debt service and workers compensation cost as well as fee related where cutting those costs will have a net zero effect on the General Fund. On the left-hand side of the chart, based on the 2011-2012 adopted budget the pie shows that 43% or \$390 million of our adopted budget is nondiscretionary. When you pull out the portion allocated to one time expenses including reserves one time grants and carryover projects we are left with only 44% or 396 million of discretionary expenditures. Of that total 296 million is elaborated 110 million to all the rest of the General Fund departments and offices. On the right-hand side of the chart when you exclude the nondiscretionary expenses Public Safety now makes up 72% of the adopted budget with only 28% for the all the remaining services. From a budget balancing perspective unless we can reduce the cost for the nondiscretionary expenditure such as retirement we only have 396 million to work with to find budget balancing solutions. This is why given the past ten years of consecutive budget reductions and another projected shortfall next year of at least 78 million and likely higher no acceptable service

level reductions choices remain . In looking very preliminarily at the projected shortfall for next year I believe it would not be unreasonable for the mayor and city council to expect the shortfall to be more in the range of 78 to 115 million or even high from what we know at this early point of the year. This is 84 million, 118.5 million and 115 million last year. From this 78 million forecast starting point the 2012-2013 preliminary shortfall range assumes up to an additional 37 million from at least 10 million in additional retirement contributions, again, final numbers will be available later this year. And 27 million from Redevelopment Agency impacts, which represents about the midpoint of the range I showed you on an earlier slide. The 115 million shortfall to be clear does not include any arbitration decision that could make the POA total 1 or from any further downturn in the economy. From the preliminary forecast at this time is assumed that only about 15 million in revenue solutions will be able to balance the budget leaving a shortfall to be balanced on the noted on the slide. Approximately ten million in solutions are expected to be available from a 2012-2013 future deficit reserve. If approved by the city council, as part of the 2010-2011 annual report, that will be released at the end of next week, this reserve would be established from the true-up of retirement costs in 2011-12 as directed in the mayor's message and a small additional fund balance generated at the end of 2010-2011. We're putting the final touches on that analysis as we speak. It is also anticipated that some small time funding sources of about 5 million will be identified next year. As mentioned in our memo and as the mayor mentioned we developed three potential budget balancing scenarios for the city council's review today to show you the range of options and potential impacts that we may face in putting together 2012-2013 General Fund budget. Although these are just scenarios and it is very early in the year we feel that these are real choices that the mayor and city council face as we grapple with our most difficult budget yet. The first scenario I will show you will implement budget balancing strategies will mislead the budget impacts across all service areas with Public Safety being the last resort. Scenario 2 will implement general budget balancing strategies again will have no fiscal reform strategies and will only spread the budget impacts among nonpublic safety service areas with public safety not affected. And scenario 3 will be an implementation of general budget balance strategies and those fiscal reform strategies that could potentially be broad forward in 2012-2013 not without challenges but nevertheless ones we could potentially get in 12-13 and spread the budget impacts across all areas again with Public Safety being the last resort. Before I get into the detail scenario one I want to remind the city council that under all three scenarios no matter what pursue as we have in past budgets. These strategies have routinely been part of the City Manager's budget request that has been affirmed

each year as part of the city council's approval of the mayor's march budget methodical. That is we will look lower to the extent possible nonpersonal renegotiation, we will realign management and administration as programs are reduced or eliminated, we will adjust fees to achieve and maintain 100% cost recovery levels we will identify any one time funding sources as I mentioned earlier model changes of any opportunities in those areas to lower costs. And we will pursue the sale, lease and reuse of assets. As far as reviewing and analyzing potential outsourcing and service delivery model changes this slide shows you the administration's initial list of services that will be considered for potential service change. Over half the list represents recent contracting out opportunities that were identified in previous Mayor's Budget Messages as approved by the city council. Those include real estate parks maintenance accounting payroll fleet services workers compensation and school crossing guards. The administration is also looking at other services for potential outsourcing or service delivery model changes. The lists on the slide add some more services including branch library service, airport park and traffic control and revenue clegs. But other services will also likely be added for consideration as we go through review process. It's important to note that as part of our analysis and as was discussed previously in a district attorney agenda item the administration is reviewing outsourcing efforts in the areas of specifically custodial services parks maintenance and graffiti abatement. This review is including the analysis of service delivery and management effectiveness. Looking at budget balancing strategies that include the sale, lease or reuse of city assets, the office of economic development is actively managing the City's asset portfolio and the several properties shown on this slide are being pursued although info memo each property. The value of each real estate transaction will depend on the net proceeds from the sale, less debt on the property and any transitional costs. Such as relocating police parking as part of the selling or leasing of the old E lot as noted on the first bullet. Given the issues associated with selling or leasing several of these city properties it is important to note that it is very unlikely that a significant amount of revenue will be generated in 2012-2013 to help balance the budget but these assets do present long term opportunities to generate assets and reduce city costs. With that background information let's turn to scenario one as a potential budget balancing solution. In this scenario, which would spread the remaining potential General Fund shortfall of 63 to 100 million dollar across all service areas again with no fiscal reform strategies implemented in 12-13 we have allocated targets to all service areas with public safety being the last resort. The dollar targets consider past cuts across department service areas especially the ones I described earlier as that is our new base self lfs as well as discretionally eliminate. It's

important to note that these departmental reduction targets are based on initial assessment by the city Manager will recommend to the city council in the spring will contain much more in-depth analysis and ultimately look different than the scenario I'm presenting based on the city council mayor's March budget message. However we do strongly feel that the potential service impacts contain in the slides that follow are plausible and will show you many of the unthinkable coming year. As I go along after I show you the potential service impacts based on the reduction targets noted on the slide I will keep a budget balancing scorecard to show you the remaining budget shortfall gaps that will needed to be closed until we actually close the budget gap completely. Starting off in community services, a cut in the range of 25 to 42 million could be realized for 12-13. To achieve this target the closure of all branch libraries with the exception of Martin Luther King would be required with the potential possibility of using some remaining library parcel tax phase out services for a year. We would likely need to close our convert all hubs, community centers, to reuse sites with no city subsidy and close the grace community center. We would eliminate, potentially eliminate the senior nutrition program, reduce parks maintenance program and outsourcing the remaining parks maintenance, eliminate the remaining park rangers and reduce code enforcement staffing evening more. After you do that, and those are devastating service reductions we still have, as can you see on this budget balancing scorecard 38 to 58 million dollars to go. And then we're going to move into capital maintenance area. In the capital maintenance service area, and the transportation department, we are limited in our reductions due to a maintenance of effort requirements associated with gas tax reimbursements that we receive annually into the General Fund. In the Public Works department in general we would downsize that department in accordance with the other departments they serve. In total four to six million in reductions in this service area would mean reduction to the traffic maintenance program more on the street lights and traffic sign maintenance area, another reduction to the pavement maintenance program which as you saw has been severely reduced. We'd have to reduce our street land scape service system more which is at bare bone levels. We would and fleet maintenance and reduce our transportation operation maintenance likely in the persons with disability services. After the reductions to the capital maintenance departments our scorecard indicates that we still have remaining General Fund shortfall in the range of 34 to \$52 million still to resolve. So we're going to move on to general government. The departments and offices provide a backbone to the front line service delivery as you all know. Of 15 to 25% further cut to those departments would mean further decreases in human resources, information technology, and finance functions with significant increased risk, further reduction

in organization wide leadership and further reduction to mayor, city council and council appointee offices. The impacts would be felt organization wide and be very painful in all areas because these are the organizations that took the deepest cuts in early years. At this level of he impacted as remaining departments attempt to pick up some of the basic functions while balancing the need to provide direct services to the community. Going back to the scorecard after our significant service reduction eliminations to the community service capital maintenance and general government service areas we have still not resolved our budget shortfall and now we have 23 to 33 million to go. So here return to our nondepartmental service area of citywide. There's not much left to cut there. That's been really -- it used to be a much more robust area to cut in many years ago, but there still are certain areas that can be reduced and believe it or not, they would only generate \$7 million towards our solutions. This would include eliminating the children's health initiative, reducing or eliminating completely facility operating subsidies for museum of art and the San José rep theater, reducing the San José B.E.S.T. program even further, eliminating all nonpublic safety vehicle replacement, eliminating the Convention and Visitors Bureau General Fund subsidy, eliminating a very very small technology fund we have and eliminating the \$400,000 senior wellness program. Okay back to the budget balancing scorecard. We still do not have a balanced budget as I know can you do the math as well as I can. We now have a balance of 16 to 26 million to resolve so the only place we have to go now is public safety. Which again last resort. The placed service area, a budget reduction in the range of 16 to 26 million would be necessary to close this remaining gap. This level of cuts would likely result in further reduced police patrol, resulting in increased response timeseth vied, reduced police communications staffing, resulting in increased call response times. Elimination of the police school crossing guard program. Another deferral of the option of the police substation, a reduction in the number of fire engines or an increase in the brownouts increasing subject to our safer grant limitation. 70 to 150 positions in police. That would need to be cut in 12, 2012-2013, as well as 35 more positions in again limited due to our Safr grant. In total about 105 to 180 sworn positions could be impacted in this scenario. With all the cuts however as we described we would now have a balanced 2012-2013 General Fund budget as painful as that would be. Okay. Thank you for bearing with me on scenario 1. Scenario 2. As can you see in this chart this 98 yow would spread the service reductions and elimination across all the nonpublic Safety service areas leaving Public Safety services untouched for this year why there's a zero there with no fiscal reform strategies implemented. If you remember that slide on page 17 which had the two pie charts that where I showed you the nondiscretionary and discretionary split for the

11-12 adopted budget, if public safety was held harmless then the budget balancing strategies for 12-13 would have to come from the other departments and office discretionary part of the pie which totaled only \$110 million. If we have to balance in the range of 63 to 100 million after our small amount of revenues are assumed then that scenario would only leave 10 million to 47 million in nonpublic safety discretionary services citywide. That remaining funding would not maintain a minimum basic level of nonpublic safety services to our residents businesses and visitors for example we would really not have a traffic signal maintenance program, we wouldn't have any antigang no code enforcement probably no graffiti abatement, so and because there are basic functions that are needed to deliver and support public safety services such as payroll human resources vehicle maintenance and information technology, we believe that scenario 2 is not -- is not a viable option. It just we would not have any form of any basic government left in this organization. Moving on to scenario 3 this scenario would spread the budget reductions and eliminations across all service areas with Public Safety as the highest priority. But would complement as many cost reductions and fiscal reforms as could possibly be implemented in 2012-13. Combined with that 15 million of potential funding sources as I discussed earlier cost savings strategies outlined on the next slide could result in us having a surplus of \$4 million if our shortfall total was 78 million which I do think is unlikely but to a revised shortfall or we could have a revised shortfall of 33 million to resolve if our 115 million range. If voter approved revenues were combined with the cost reduction strategies, in a full year of revenues were able to be collected it would be possible to plement eliminate our shortfall altogether next year with no service reductions required. This scorecard as you've seen many times before represents current council reduction on council reforms and where karl. The castles are only estimates and will vary based on the full review 50 retirement board's actuary. In total however it is estimated that 67 million could potentially be saved in 2012-2013 through changes in our workers compensation offset, ladies and gentlemen our sick leave payment upon retirement, threamg SRBR, going with the ballot draft direction of either having additional retirement contributions or going into a full opt in program and reducing the 3% guaranteed cola to 1% on retiree pensions. In addition, if sales tax and another small revenue measure was approved by the verste additional revenue at a 12 month value could generate 36.5 million bringing the toaght fiscal reform potential to 103.5 million next year. As everyone is aware the fiscal reform meet and confer, slash arbitration and some may face legal challenges. The revenue strategies are subject to voter proorvel and the timing impact 2012-2013. Given then those barriers to implementation the fiscal reform plan savings cannot be assumed for budgets balancing

purposes until the strategies are approved. However if achieved the fiscal reform plan would dramatically change the 12-13 service delivery impacts. Again the shortfall range with just the cost reduction size only would be a surplus of 4 million to a deficit of 33 million and if we got our cost reductions and our revenues approved, we would be looking at a potentially a surplus of 41 million to -- on the best scenario to a best scenario of 4 million. My last slide before I turn it back to the City Managerful scenarios I discussed previously. Scenarios 1 and 2 would be result another loss of 520 to 920 positions which is up to an additional 18% reduction bringing staffing levels to the neighbor 84-1985 levels where there were 4700 employees and the population was approximately 700,000 in the city. Scenario 3 however has a potential of keeping the staffing levels as they are today maybe perhaps adding back some key positions or reducing about 250 positions which is half the amount of positions that would be required in the best version of scenario 1 or 2. With that I'd like to turn it over to our City Manager Debra Figone.

>> City Manager Figone: Thank you, Jennifer. So to maybe reiterate what the mayor started with, whether or not the council declares a fiscal emergency, certainly from staff's perspective and I think it's evident in the material that you've just been through, the city is in a fiscal and service level emergency. And as I was flying home this morning thinking what more I could say, Jennifer certainly covered the impacts very, very well but I want to give you a few examples of the boots on the ground kind of things I hear day in and day out from our department heads, I believe you hear the same from your community. The redundancy that we need to cover vacancies due to illness or sick leave, some of the very basic things a workforce encounters day-to-day are thoroughly stretched. Let's just go back to the homicide investigators who had to be ordered to go home, who didn't want to give up. Or I hear similar issues from our fire chief about multiple events happening at the same time. And the risk that the city could be at. Maybe less obvious areas would be the department for example Planning Department who has to put down one application to process another because of competing demands. And in a less visible area but very critical, making payroll week to week error-free, getting the CAFR out in time because you've had turnover in staff or again staff are focused on other things and can't respond to the auditor's request for information. In the area of cutting programs, reluctantly, having to tell a neighborhood that we can't respond to our traffic calming requests or the community that has forgotten that we cut tree trimming

two years ago. Setting aside one important thing to get to another is really becoming the mode of operation for the city. For the city staff. And these are the conditions that we're operating under. And this is really no way to run a city of a million people. I think you'll agree it's unacceptable. We are out of capacity it is my belief given that pie chart Jennifer referred to on page 17 we are out of capacity. This is a pivotal year. The solutions as you know are not popular. You've been doing a lot of heavy lifting from the elected perspective, the staff and the organization has been doing a lot of heavy lifting and continues to navigate through very you the multious times. Unless we are directed mayor and council our action steps that are before you for 12-13 are as follows. We would like to pursue scenario 3 the fiscal reform plan strategies optioned. Yesterday I do wreef we need to plan for scenario 1. Which is the general budget strategies, assuming no fiscal reform plan elements are successful spreading the cuts across all service areas. We will explore all viable budget balancing strategies to reductions in online nation. We'll look to modify policies and where barriers am or whatever it might be, we we do need to keep looking at those legacy policies and processes that get in the way of our applying our very limited resources. So with that we will be happy to answer any questions you might have.

>> Mayor Reed: Thank you, City Manager. City Attorney want to know I think that we're not taking action today.

>> City Attorney Doyle: Just note for the council this is a status report.

>> Mayor Reed: This is a status report. There is really no action to take.

>> Councilmember Liccardo: I withdraw my motion.

>> Councilmember Herrera: I withdraw my second.

>> Mayor Reed: That this is for discussion to bring the council up to speed on bringing everybody current and that we will be considering a declaration of fiscal emergency after October 31st. I had just a couple of things to add, because it doesn't show on the chart so I just want to make sure that the public hasn't forgotten which I know our employees haven't forgotten that everybody took a 10% cut this year, 10% cut in total exception. Every employee had characterization, some of the sitting in the annals. That was very important, at saving hundreds of jobs so we have hundreds of people today who are delivering services to the people of San José as a result of the sacrifices that our existing employees have made and I think that's important not to forget, that was part of our fiscal reform plan. It was something that we could implement immediately and we have done that not without difficulty and I want to acknowledge and thank our employees for those sacrifices. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I wanted to especially thank Jennifer because I know you worked long and hard on bringing us the bad news all the time. And we appreciate you nonetheless. We know it's not the messenger. We've seen this train coming at us for quite a while. And I think if this presentation really doesn't convince people that we have a very, very serious problem in the City of San José, I don't know whatever will. Our city workforce and our ability to deliver services looks nothing like what it looked like just a few short years ago. And it's costing us the same to deliver those -- what is arguably a very small fraction of the same services. We are going to have to continue to fight the beast, as we go along. But I really, I've said this a few years in a row, is I really think the whole budget process, it's almost like we need to just clear the deck completely, and start funding those things that are most important. We may not have any option because it may just end up we have a police department, a fire department and a payroll and HR department and nothing really beyond that. But the decisions that are going to have to be made over the next number of months are just going to be horrendous. I know we may argue and bicker over little policy issues here and there but when it comes down to it we got to figure out how we are going to allow our city to even survive. Because we are on track to become the next Detroit, a barren city, where you can buy, you know, entire community's worth of houses and bulldoze them because they're worth no different with nothing on them than they are with houses on them. And I'm just really, really worried about the future of our city. We have to continue to push forward. I think we're --

we're going in the right direction. We don't have all the answers yet but we have to persevere through this and I think that the average resident who's not paying attention needs to start paying attention. They'd be mortified if they saw this presentation that we just had. So I think we'll save the rest for the budget fights. I don't know how much we're going to have left to fight about, quite frankly. But I think that we -- we do have a dire emergency in front of us and we're going to be basically asking ourselves the question, can we even save this city if something doesn't give? So I just encourage the fortitude to keep going on the reforms that we're doing because if those major reforms fail this city will fail. And we just can't allow that to happen. Thank you.

>> Mayor Reed: Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you, and thank you Jennifer and your staff for the wonderful work. Obviously, very depressing but it is what it is. It is very realistic and it portrays a very realistic picture of what we're going to be facing this coming year. Just a quick question and then some comments. Earlier this year the council set a goal of not going beyond the 2011 service delivery levels. Does this budget projection or deficit projection take into -- I guess take into consideration the council goal?

>> Jennifer Maguire: Thank you for the question. No, this is not. I think the last time I looked at the number it was somewhere in the \$45 million range to restore some of our key services back to the January 11 levels. That would just add to the deficit. So that does not consider adding back any of those services.

>> Councilmember Nguyen: Okay. So it's really up to this council to decide whether or not that is a goal that we should maintain or something that we should shift dramatically as we move forward, in learning potential deficit numbers that's going to be coming out of the next couple of months.

>> Jennifer Maguire: The scenario I'm showing you evolves our base shortfall without adding services back.

>> Councilmember Nguyen: In terms of the shortfall of 63 million to 100 million, do you have any -- any sense of when we're going to see that factor into occurring deficits?

>> Jennifer Maguire: Factoring in the add-back of the services?

>> RDA.

>> We are actually as soon as we finish the annual report which we finish next Friday and end up the adopting least a quarter's worth of revenue data in the current fiscal year, we'll issue an info memo I suspect very early November and give you a breakdown of the contributing factors to the shortfall. I hope to have a preliminary estimate of where the retirement numbers are at a little better than I do today and a little bit more known impacts on Redevelopment Agency. So we'll definitely give you the breakdown for the shortfall components at that time.

>> Councilmember Nguyen: Thank you. And just finally in regards to the action steps that we're going to be taking, obviously, I think that scenario 3 is probably the most feasible way for us to go. I'm not really sure why we even want to plan for scenario 1 because if we go with scenario 1 we can't afford to lose any more employees in the next couple of years. Whether it's in the public safety departments or the nonpublic safety department, it's just very hard for me to imagine living in a city of a million people, San José as a capitol of Silicon Valley and to have such an imbalanced city and such a hollow city without adequate services for the residents. I don't think they deserve to live in this kind of conditions. I just encourage the City Manager to continue to pursue scenario 3. I think that's probably the only way that we -- the only option really realistically that we have before us in order to continue to provide somewhat adequate services for our residents. So thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Jennifer usually when I'm speaking to groups I like to end on a bright side, you don't have any bright side to offer us.

>> Jennifer Maguire: I hope to.

>> Councilmember Liccardo: I'm looking forward to it. Page 36 describes the fiscal reform and the typing of General Fund anticipated assuming all goes sort of to plan if these savings were really able to be implemented and I know there are many challenges and many obstacles in each case. The first ton revenues. I see in parentheses you see full year values for the 36.5 million that's assuming we get a quarter-cent for a full year or a half-cent for a half-year is that right?

>> Jennifer Maguire: Yes for 12 years. In order to get hit that target you'd have to have, you'd have to go to a ballot measure when you'd start collecting the money beginning July 1.

>> Councilmember Liccardo: Right that would require presumably a June ballot measure which I presume we would almost never go given the challenges of getting that two-thirds support in the June election. So I mean pragmatically, there's not a chance we would go before November of 2012. Who is it to this point start recognizing this as really being a half year of revenue. On a quarter cent measure.

>> Jennifer Maguire: Probably at best it won a half year measure we're still looking at this from the attorney's office fit were approved in November there would be some implementation time to make sure all the businesses were notified to collect so hopefully we would be able to collect in January but we can certainly start if that's the council's direction, start showing a half year as a potential but that -- we just put the full year for this display at this point.

>> Councilmember Liccardo: I certainly look forward to hearing from my colleagues on this. I think given what we know that would be the most realistic way to portray what we've got ahead unless somebody is seeing something in the polling data and I'm not going for sometime other than November . The other item that stuck out for me was the timing of the retiree health care savings out in 2013, 2013-14. I recall there are discussions about reducing to lower cost plans. And I'm trying to recall why it is that that could not be implemented by fiscal year 12-13.

>> Jennifer Maguire: Thank you again for that question, it's a good question. The -- because we were having a lot of discussion about that. The reason that the retiree health care is shown beginning in 13-14 is because the health plans are on a calendar year basis. And we wouldn't have -- given the meet and confer going on now we wouldn't have the sufficient chance to make that enrollment effective this January so it would be likely next January.

>> Councilmember Liccardo: I see, that's helpful. And then turning to the numbers that were presented regarding the potential range of shortfalls that we face, and the additional, I'm going to find the slide in just a moment. I think it's page slide 15, describes the General Fund forecast and the risk factors.

>> Jennifer Maguire: Yes so it's slide 15. Margaret can get to that.

>> Councilmember Liccardo: Page 15.

>> Jennifer Maguire: Showing the significant risk factors, is that the one?

>> Councilmember Liccardo: Yeah, that's it. Throughout the presentation you use a range of 78 to \$115 million to estimate this deficit.

>> Jennifer Maguire: Uh-huh.

>> Councilmember Liccardo: As I'm doing the back of the envelope calculations it could be quite a bit more than 115 million.

>> Jennifer Maguire: It could be quite a bit more. I think it could go worst case scenario 160 million, 1-6-0 range, if all these start aligned in a bad way, it could be.

>> Councilmember Liccardo: Stars have had a habit of aligning in that way it seems. I think it would also be helpful, and I only make this as a suggestion of one councilmember out of 11, for us to see the worst case scenario, when we're having these conversations. Recognizing I know, the news is so he being enough I would hate for anyone to be surprised down the road if the number ends up being 1 if I or 160.

>> Jennifer Maguire: We could put that in our next forecast.

>> Councilmember Liccardo: Thank you. Looking at page 5 there is a imhelg picture, obviously the very severe reductions public Safety and other departments. But I think it's telling that if you look at the actual spending on public safety, our spending on public safety has increased over 50%, in the last decade, by 164 million, we're paying 164 million more now than we were in 2001 or 2. And we've got almost 500 fewer officers and firefighters despite that. And I think that is more than any other statistic, paints the picture of what we really face. Obviously, we know these have been horribly tough times and the employees that we've had to let go are clearly facing the brunt of it. But the reality is, our per employee cost have just completely dome natured this budgetary picture. And as bad as we know it is, in terms of our public safety needs, I don't think anyone can say, that we're not trying to do everything we can to spend money on public safety. Because through ten consecutive years of deficits we've increased our public safety budget by 56% or \$164 million and I know it's not nearly enough. We need a lot more to keep more first on the street. But I just -- I really think the public needs to understand that, clearly. The public safety needs are really severe in this city. And we could double the amount we're spending from ten years ago and we still wouldn't have enough. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. As a tag on to that, it's true that the public safety has increased but so has our population by a substantial amount and therein lies the problem. As the that's the biggest bucket of cold water that I've experienced in quite a long long time. This is a very, very sobering report. And I would like to say that as I look these over, what would I do? I mean we can pretend we're CEOs of a company and look at that because we are representing more people very often around a CEO's list of responsibilities. But I think our overall, number one responsibility is to educate the public. There is no way we can keep this under our hat and not let the public know what it is that we're up against. So I'm hoping that there will be outreach to the public, this is a beginning of it right here. Everybody is fully aware of what this will look like. One thing that is prom ineptly missing in all of this is the fact that there is nothing that is mentioned in reference to increasing revenue. And if

we look at the property taxes, which have been exceedingly low for the last three years, I would have to ask: What are the predictions from the county assessor's office? Are they going to stay that way for another year? If so then we've got a bigger problem than one would think but then all cities would have the same problem. Sales tax is now 1% less than it was before the state said, we are not going to extend sales tax. This is a great time to educate the public and to introduce the thought that if we go for at least a half-cent sales tax, increase of sales tax, that would stay with us. If the state does it, they get 6%, right off the get-go with sales tax but that all would stay with us. Third, and I would hope this: I would not cut any project that are producing income. And by the way, we should be looking for income under every rock. This is an enormously beautiful city. Do we have movie companies asking to come and make movies here? They have in the past. I don't know why that isn't happening now. We need to look at anything that will produce income. We need to market the city. This is an incredible revenue stream for other cities. We haven't done anything to market the city. And people are still saying, where is San José? Is that in Costa Rica? I think these are things that we really need to take a look at. We also need to get expert advice on whatever choices that we make. And I don't know why, maybe there's a legal reason, why we cannot check out at least the parameters of what it would cost of to work with PERS. It's working for the rest of the state. Why can't it work for us? It is five times more expensive to stick with what we have than to go with PERS. And with that I'd like a legal opinion, Rick, if you don't mind, regarding PERS. What restrictions would we have?

>> City Attorney Doyle: I don't think -- I think in June, I believe it was June 24th meeting, the staff gave a presentation on joining PERS. And I don't believe they've costed that out but they did give a summary that we would -- if we were to take our plans, and try to get into PERS it would require state legislation. And we'd have to get PERS to cost-out what it would cost to join the PERS program. So I mean that's really something the council will have to get more information and give direction. I think the cost differential at least that we know about is really based on the City Auditor's report where it was administrative cost. I think the administrative cost for the City's existing plans is roughly \$4 million more than what would be estimate for PERS. So those are really the -- you know trying to get the numbers is something you'd have to go to PERS and really get the bill from them by saying, this is what it would cost by joining.

>> Councilmember Pyle: I would like to close by saying, if we do jump into the fox hole and say okay this is it I'm just going to cover up and hope for the best we're going to lost even more people than we've already lost. We have lost some of the most talented people one could imagine. I don't want for one to lose any more people. One person gone is really a sad sad thing for me I would hope that after a while there would be some legal restriction on how many people can you let go if you're a city. I mean don't we jeopardize the city status after a while if we go below expectations of a city? That's kind of a rhetorical question but it is one that I would like to pose. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I enjoyed the first part of the meeting better. This is -- these numbers are always sobering, but again, we are really faced with some very significant issues that we have to deal with. And I just want to thank Jennifer Maguire for the Herculean effort that you and your staff put in to put this together. You look at it day in and day out. The management of this city I give them great credit for them continually facing this every minute of every day looking at how to get through this. I had a question on page 36. On the 6.75 earnings assumption. Is that -- is that the actuarial investment assumption from Federated or what is that exactly, what are we looking at there, investment earnings?

>> Jennifer Schembri, assistant to the City Manager. The 6.75 earnings assumption is the department retirement systems gives us a 50% probability. Currently the earnings assumptions used by the boards are around the 7.75 earnings assumption.

>> Councilmember Herrera: So this assumes that they're going to be lowered than they are than what they are right now?

>> That's correct. And this is really involving the question that we posted at the counsel about how much risk do we want to take when we are talking about new plans.

>> Councilmember Herrera: No matter what they are this is the sort of risk level we should adopt in terms of budgetary planning, is that right? But just to refresh my memory, Federated is at what earthquake, what is Federated versus Police and Fire? I know Police and Fire are going to have an experience study so theirs is likely to change going downward too.

>> For the Federated employees retirement system adopted 50 board in conjunction with the June 30, twefn actuarial 7.75 for Police and Fire they have approved reducing it to 7.5% effective with the June 30th, 2011 valuation.

>> Councilmember Herrera: Those will hold for the next year? Are we expecting any changes, any other additional modification necessary that?

>> I don't know if they are planning on it. I think there's still some discussions regarding the earnings assumptions.

>> Councilmember Herrera: Because yeah as we know when that comes down and that significantly impacts what the City's going to have to pay, so we're setting ourselves at a higher rate here and I can understand

why. I'm also -- on page 15, like Councilmember Liccardo, I'm concerned with what the upper end of the range might be. Looking for every one of these things, I think we're at substantial risk for the number going higher and that's not a pleasant thought. I'm an optimist. Very much of an optimist, I think we have to be realistic about what we are facing. I think the bottom line, certain parts of this budget keep going up, dramatically up ward and we can see that on page 16 when we look at our updated retirement contribution projections. And this is -- this is something we've been talking about we keep hearing about how this is increasing, and we even have heard numbers estimated as high as \$650 million for 15-16. At one point. So when we only have an 800 to 900 million budget and we're seeing half of it almost towards the end of this going towards retirement contributions we have to ask the question of, you know, what does that leave us with to fund everything? This is the biggest chunk, the reason why we're looking at this is because this is the biggest chunk of money and has this increasing rate. It's certainly not because we want to focus on it. It just is the glaring numbers, and they're increasing, that's causing us to look at not being able to meet our service levels. So I think the first scenario is absolutely unacceptable. I agree with Vice Mayor. I understand why you have to have it because even though we're looking at scenario 3 as the most optimistic as far as being able to meet service levels we have a lot of challenges to get through to even have that come into being. I think though that we should be aiming at a goal that can solve this problem. That said I think we should be aiming at a goal to solve the problem. Not to set us up for continuing cuts every year. I think that's the worse thing we can do. It's not fair to the employees, it's not fair to our city. It's not fair to anybody up here. It's just that we have to at least come one a scenario. No matter the obstacles. There are going to be a few obstacles too. I think there would be obstacles if we cut away our services. I don't think people are going to go along with not having any library services traffic signal protection, police I think there would be a few upset folks about that too. But scenario 3 is the only practical way to move forward with this so I heartily support staff moving forward on that. I do understand why you need to back up on scenario 1 unfortunately, it's going to take some time to get through scenario 3. As always I'm open if somebody is some brilliant person out there that has some idea that you've not uncovered this seems to be the oant path that makes any sense.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. I think one of the points that Councilmember Herrera made, I think if they're smoothed out over five years, at least for Federated I believe that was the case, and I'm not sure it is Police and Fire, as far as the presentation, you know, some of the numbers and this has I think something that we is very helpful for me since we have these choices no matter what scenario or others that are presented going forward are there, there's going to be difficult choices to make. And so you know what would be helpful is to know particularly when it comes to some of the pension cost is what -- a scale from what legally, we've absolutely 100% have to pay all the way to what is the most actuarial sound and fiscally responsible and everything in between, and every point in between but points in between so we have -- as opposed to right now we have hard choices, we either do this or do nothing or we either you know take this scenario or we take that scenario. I think it would be helpful for us to actually have options as a council, that give us at least a sense of understanding where it is the most reliability sits, where most of the illegally mandated liability sits, where some of the discretionary liability that we are -- and how we choose to pay that off as quickly as we can. And I think that that you know is kind of similar to some of the services that were indicated as discretionary, nondiscretionary. I think some of the choices we have of really debilitating some of our ability to serve, what short term sacrifices can be made in order to continue to serve and protect our city. Additionally, so I think that certainly in terms of the retirement and that includes, you know, some of the projections that show the retirement cost going up, I think we have to be aware of all the projects that are being given but also of the retirement cost going up and I think we all need to be most aware and cognizant of the normal costs, even of those costs that go up again which ones we're legally required to pay and which we can pay over a period of time and so we can maintain some of the services that others have acknowledged that it is not acceptable to cut so far into. In terms of the revenues I think Councilmember Pyle raised a good point, that the public may not be aware that you know, the dollar of tax revenue from a 1% tax, and we again 10 tenths, half% of sales tax. My understanding if it's a general sales tax we just need 50% plus 1 not a two-thirds vote as Councilmember Liccardo indicated so I think some of the polling shoddy think more support than we would expect considering the polling was done concerning an off on cycle presidential election with a June primary those numbers would probably be improved. So I think it would be part of the overall equation as we decide I never think would I never suggest considering tax increase as something any of us would want do but I think we should have all of the information as part of the equation. In terms of the scenario 3, and the not suggestion but estimated 67 million of savings, I think over 50 million of, that I think on

slide 36 is where it has all -- yeah, there was mention of legal concerns, the potential legal risk. I think we should be cautious in underestimating that, the only reason I bring that up, is if close to the 50 million or 57 million is subject to legal challenge, very legitimate legal challenge as we've been instructed again, therefore a legitimate injunction that would not allow us to get any of the projected savings I think that again in terms of knowing what our options are we should understand that not just that okay well we have a plan that gets us to 67 million or we get nothing but rather we have a plan that gets us to 67 million with great legal risk and here are some plans with reduced legal risk and how much do we get out of that? If we work on bargaining units on changes, whether there be other retirement issues that they can come to agree with and we save 20 million that we can get right away or we can save ten million right away it's good to know if we can get ten or 20 million in the bank right away with long term savings as opposed to a tenuous 67 million caught up and okay there's legal risk here we have to risk but to do it, what are our other choices on a scale of diminishing little illegal risk, we can have all the information and we can collectively as a council what risks we're willing to take and what savings we're willing to go after understanding the revenue generation if we don't get them through a fiscal plan. Those are some of the general questions I have in terms of informing us more on some of these numbers. And so Jennifer thank you very much for the presentation and for getting us the data as for today, I know it will change and I know, you know I look forward to seeing what the updated pension numbers are. Based upon although the market was really horrible this past month or two but it seemed to improve again overall this year, in terms of the unfunded liability but more importantly, the sales and property tax revenue that Councilmember Pyle alluded to, just so we're more informed, I appreciate the fact we're doing this earlier depending how the numbers adjust, thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. To Councilmember Pyle's point to get the information out there I can't agree more it's really good because I think we cannot provide any specter that this isn't an issue. And I think that there's some out there fewer and fewer but some that feel strongly that this isn't the case, that recovery is tomorrow. And this is just a bad dream, in reality it's not. And I think that's important so I've sort of looked forward

today not for the news. I knew it was going to be grim but the reality is the media will pick it up and let the public know that the consequence going into the next budget year are serious. The quote, it is what it is, I can't tell you how much I've been hearing that lately. Whether it's from a police officer at a neighborhood meeting to other people at the city we've kind of realized that this is what we can do, we can sit and you know be very upset or we can move forward. And it's not like anyone wants to create the situation. We're just the folks that are in the position to preside at this point. And but I think that's a thing that we have to look forward to, is to try to see through it as bad as it can be. And now Jennifer, some people, they may even reside in San José. Some people say that what you show us on this screen here is just simply not true. It's just not true. It's just a bunch of lies. It's a bunch of smoke and mirrors. Bunch of shuffling moneys around. What do you say to that?

>> Jennifer Maguire: I say, look at all the people we had to lay off last year and look at all the service cuts we do not -- and the services we do not have in the city anymore compared to what we had ten years ago. And it absolutely is the truth and you know again, you can't have your head in the sand about this. We need to face this head-on. And we have been carefully managing through this, through this problem and the council has made very difficult choices but we do face our challenges as a city. And we don't walk away from them. So you know, the proof is in the pudding from what you look year to year, if you look at our CAFR, how much we don't have additional balance year to year than what we once had. It's audited by outside people. It is authored change the nonbelievers but do I feel compared to, I've been doing this work a long time. Compared to the early years in the 2000s, compared to the meetings and talk to people I feel like more people are getting it now than they ever used to. And one bright side is I do not like to be always telling bad news but one bright side Councilmember Liccardo that I thought about, what could I say that was positive? Because of the city council's very good management of the City's budget this past year I will be reporting that we are going to end in the black in the General Fund very small but we are not going to be ending in the red, as many cities do. Yet again that is going to be a good news for the city to hear, when we do our annual report.

>> Councilmember Liccardo: Jennifer, thank you for bright nij my day.

>> Councilmember Oliverio: Because your job is difficult and when I think deficits ebb and flow and that is the reality because you cannot Jennifer control whether or not the car was bought in Sunnyvale or capitol compress way or any of the other factors that may map hypothesis Rick, people who may or may not live in San José will look at our budget and go again, don't tell me that money is restricted, just spend it. Don't give me this state law stuff. So your answer?

>> City Attorney Doyle: Well, there are legal restrictions on many of the funds, to the extent they are developer fees or sewer fees or other types of restricted fees, they are for that specific purpose. To the extent they're what's called special taxes, and I think of T.O.T, or a portion of the T.O.T, and construction and conveyance tax, without going back to the voters and get them to change it, they are restricted.

>> Councilmember Oliverio: And I suppose that on the outside audits that we do, if the council decided to have a meeting to the side that say, let's just spend those capital funds or those sewer funds, there would be and audit?

>> City Attorney Doyle: There would be legal questions too, you'd have consequences.

>> Councilmember Oliverio: Okay, on the topics of pursuing outsourcing, I don't think we have any alternative, as we tried to provide services to residents we have to look at the options for maintaining them versus eliminating them and we 98 very well eliminate some of the these services but I can tell you from residents that have lived across the street for example from a park that was outsource for 25 and 30 years they say they've never seen the park look better. So that's some of the feedback I'm getting in my direct. I think Rick you answered the PERS question on how that's going to work out so I won't go there. I'm actually okay with the tax increase. I'm okay with

the tax increase if we can sort of get things organized here and residents feel it will be spent appropriately. Right now a general purpose tax will frankly do G.O. to pay the current cost we have to pay for the retirement board. Personally I'm more in favor of utility taxes because that treats everyone equally property owner versus renter and that treats people in preserving not consuming as much electricity water and gas and my preference it's for police. That's referenced what happened this weekend, in the end there are other people that provide valuable services, and there are acknowledge it not that it has to be you know 100% but it still needs to be maintained the point. And I want to bring that up, as we look to the scenario, whatever scenario we're dealt with, when it comes to public safety, the cuts in public safety cannot just be the police department. The cuts have to be in proportion to other things. So I know that we've taken federal money, I know there's some strings attached but at the end of the day, if we're going to look at laying off an innumerable amount of police officers, I'm not going to touch the other portion of public safety I think that's problematic. It's not the position that anybody is going to want to be in but if we can, there is a process for that I believe with FEMA, Jennifer Maguire.

>> Jennifer Maguire: Yes, you're referring to the SAFR grant with the police department. With the 49 firefighters that are being rehired, there is a two year no layoff requirement economic phase of the grant that staff worked corrective hard with FEMA to work on it, they will look on a case-by-case basis that could reduce the risk if we could no longer accept the grant so we may not have to pay back some that we received. There are some outs that come with consequences vis-a-vis the entire budget package before we recommend a package to you.

>> Councilmember Oliverio: But I suppose that would be less than expending the capital funds, Rick?

>> City Attorney Doyle: Yeah, I mean we'd have to look at the terms of the grant. So it really depends on what specifics were there. I mean that's -- wherever there are restrictions whether under contract or by law you know you have those restrictions and there are consequences.

>> Councilmember Oliverio: And then Jennifer on slide anything we put \$2.8 million for workers compensation and 9.5 million for sick leave. Can you guarantee that? It seems like that's something that's moving.

>> Jennifer Maguire: It is constantly moving. So no, I cannot guarantee it. Sick leave payout we try to do our best in that -- in estimating that. That was a number that we had trying to take an in-depth look at all the hours are has on the books and who is eligible to retire last year we had another \$14 million in looking back this last year so we did council approved the adjustment I recommended to them last annual report to get that amount up. But you know it could be more, it could be more, it could be less it just depends on when it falls. As far as the workers compensation offset, again that is moving around, depending how many people are on workers comp on or on the system our best professional estimate at this point is the information we have today.

>> Councilmember Oliverio: Okay, thank you and look -- well we'll talk again in November as you said. Thanks.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Thank you, staff for putting together this information. And I'm sure it took a lot of work which then I started thinking about kind of leads me to the question of why we're putting in on this kind of work on this kind of document and how much is new you maybe share with me out of the 30 or 40 slides how much of this is new information that we haven't seen already?

>> Jennifer Maguire: I don't believe that -- some of the slides we've updated so they're new from it being an updated perspective.

>> Councilmember Rocha: Which ones would those be?

>> Jennifer Maguire: Which ones have been updated?

>> Councilmember Rocha: I know there are a lot but certain funds that we have projection on?

>> Jennifer Maguire: The update are all new and risk parts are all recent things we've put together. The information on the discretionary versus nondiscretionary are reworked for the adopted budget. We've never shown you in this way how we've -- that how the proportion of the budge that's been solved with revenues and expenditures we've not shown you clearly in one document. We've showed it to you in pieces but not longer term viewpoint of how our -- what our reserves stand compared to two years ago. And certainly the scenarios are new. It is something all new work that we put together for the council today based on the direction that came out of the Rules Committee.

>> Councilmember Rocha: On that point, the scenario that's new if there's no request for action from the council, then how are we proceeding any differently tomorrow than we were today?

>> Mayor Reed: Well, there will be a request for action from the county but we've postponed that decision until we've concluded negotiation. This is all preparation for emergency action before the council make that decision.

>> Councilmember Rocha: So within that fiscal emergency declaration there will be policy action as well?

>> Mayor Reed: Yes, and things we've done in past years that this becomes part of the those directions so at the beginning of the negotiations process every year one of our sunshine reforms was to give direction, negotiating with our bargaining units, so this data becomes part of what we need in order to give directions to the staff on negotiations for those contracts that are open. And then there is someplace else in here I've already forgotten where it fits in, you've talked about the November update. So next week you'll see the end of last year's budget, with the annual report. And then it feeds right into what Jennifer said which is beginning to put together the official forecast for the five year forecast and this is preliminary work for that.

>> Jennifer Maguire: And I think that when you reviewed the annual report for last year having this presentation will help inform your decision making related to the actions that we'll recommend as part of that report.

>> Councilmember Rocha: So the November date we're talking about is the mid year budget action? December is the mid year, right?

>> Jennifer Maguire: Actually, we release this report the end of January and it's heard about the second or third week in February october and then we will also send out an information memo on the preliminary forecast somewhere around the first week of November that will go into early decision making by the council on those areas that the mayor said.

>> Councilmember Rocha: So the mid year budget actions we take?

>> Jennifer Maguire: You'll actually make those mid year budget actions for the current fiscal year council will make decisions in February.

>> Councilmember Rocha: Okay this presentation, the description you've begin me mayor thank you very much was.

>> Jennifer Maguire: This early.

>> Councilmember Rocha: The slide number 19, that shows three different scenarios, how is that third scenario different again than what we're doing right now? I know there's -- at the last sentence at the end, slide 19, I think, the last sentence at the end which is spread budget impacts across all service areas but otherwise that scenario is currently what we're doing right now as a city?

>> Jennifer Maguire: Yes. And the point of showing the scenario 3 was to lay that scenario and this fiscal reform strategies on top of what our current fiscal situation slobbering like very preliminarily for 12-13. Which has now gotten to a larger range. Because the last reported shortfall as we said was 78 million. We wanted you to realize that it is looking significantly higher at this point. Very early on but want to give you the best information we have.

>> Councilmember Rocha: Okay I'm going to shift gears here. The investments that we spoke about, generally most of the investments are on the retirement side and the pension fund. Does the city have any investments, and I don't mean any land investments but --

>> Jennifer Maguire: Yes, Julia Cooper from the finance department can describe that in more detail for you.

>> Councilmember Rocha: Not to want to put you on the spot, what are we looking at, are they bonds what forp?

>> I mean the city has an investment portfolio that's usually about \$1 billion and we have a council adopted policy that limits the types of investment we can put on the investment portfolio and thriments maturity to a maxima churt of five years and mostly the investment consists of U.S. agencies and the government Laif account and some commercial paper. It is relative short term, portfolio today is under 1% and that's just based on what you see in the market today.

>> Councilmember Rocha: And could we cash out for lack of a better term not being an analyst do we cash out any of that or are those all long term stleassments we have to hold for a certain amount?

>> The city's overall policy is to hold to maturity. We do occasionally invest to meet cash flow needs as they come.

>> Councilmember Rocha: But it's our discretion?

>> Yes, it's a discretion.

>> Councilmember Rocha: Okay for me thinking, \$1 billion right?

>> Roughly about a billion. But it's in all funds.

>> Councilmember Rocha: Understand. Are you including the pension funds as well?

>> No.

>> Councilmember Rocha: Just the city side. Good 10% is the peak, the city's, all the other regulated funds that we can't spend on general funds.

>> City Manager Figone: Councilmember, Julia can you just clarify? The reason we have those funds is those are tax reference coming through that eventually are being used and so really the new revenue piece is the interest that we're earning on those funds that are apportioned back to the funds that generate them.

>> (inaudible).

>> Jennifer Maguire: That in the General Fund we because the interest earnings are so low right now we're getting about \$375,000 annually as interest earnings which is a source into the General Fund, we do count it but we monitor that based on what the portfolio's producing.

>> Councilmember Rocha: And how much, do you have a number, thank you for having that so handily, do you have a number in terms of our land assets?

>> No, I don't.

>> Councilmember Rocha: Okay, that's going to take me I guess to my next point. Thank you.

>> Okay.

>> Councilmember Rocha: The slide number 22 that shows the properties. I guess I'll speak to the mayor, or pose a question to the mayor first and then to staff. Is this what you had envisioned on the memo that I had submitted? Because I could read the memo and the request, because I don't want, given the time, I'm sure miscolleagues don't want me to read that unless there's a shoes of hands that they want me to.

>> Mayor Reed: I'm request for information about the Real Estate sales it may not be all the information that you mead nude, I'm the only one who doesn't remember it exactly but what this does not have on it on slide 22 are dollar values to some of these. So for example the E lot four acres, we were in the ballpark of \$10 million or so when we're talking to the federal government. So there's value there. Rancho, if you were to pay down debt service, could be translated ultimately into saving \$2 million per year. Hayes mansion if we could unload the white elephant, I think we're spending about \$6 million a year to feed it currently. And so that's a \$6 million savings on an annual basis for the General Fund. And I don't know what the value of the corporation yard is. And what we're paying on the debt service that we're trying to offset, for the corporation yard but Ed Shikada probably does.

>> Ed Shikada: Let's see our latest estimate was on the order of about the debt expected to go to the service yard C&C. And right now we are paying interest-only on that C&C debt which Jennifer do you have that figure? Is it about -- a few hundred thousand annually?

>> Jennifer Maguire: It's about \$750,000 we believe annually. Out of C&C.

>> Mayor Reed: This was a more complicated transaction that stretched out over years. So there's debt to be paid off that would generate some savings. And once it's paid off but it has to be paid off one way or the other. And the telecom cell sites, I don't have any idea what kind of revenues we'd get out of those and the sale of we've already sold everything that's easy and these are pretty small and don't amount to a whole lot.

>> Ed Shikada: Staff is working our way down the list of the thousand properties to identify which ones have the greatest potential for sale. There are a number of sale properties that are in the works for sale related to the bond program, especially former surplus fire stations that are in the works. Okay.

>> Councilmember Rocha: Okay I guess to your point, you mentioned over a thousand properties.

>> Ed Shikada: Many of them sliver properties. Five feet wide and the like.

>> Councilmember Rocha: I'm sure, 60% off the top of my head, clearly at least that much if not more --

>> Ed Shikada: I'm sorry 60% --

>> Councilmember Rocha: Those are open space easements that we can't do anything with not developable have no value?

>> Ed Shikada: I'm sure to your point relating to the referral potential for sale staff is working on an info memo that would take a closer look at the properties that are potential and in place basically.

>> Councilmember Rocha: What's the time line on that?

>> Ed Shikada: I believe the referral was to bring it back before the rancho Del pueblo decision which would put it at the earliest in October.

>> Councilmember Rocha: Thank you. I'm sorry.

>> Jennifer Maguire: If I could just add to, as part of our revenue sources in the General Fund, we need at least \$1.8 million of property sales to meet our revenue estimates, to meet our revenue estimate. I know the Office of Economic Development is make sure that we make that and then some.

>> Councilmember Rocha: So just thinking about this and there is clearly a sense of urgency, and I know some of my colleagues remind me that there's a sense of urgency, because I must not show that I understand it's a sense of urgency. The agency moved some quickly on some properties and I know those had much more potential. But I'm concerned we're not moving with a sense of urgency with some of the assets on the city side, outside of the one we've kind of addressed which is the rancho Del pueblo. But if there are many opportunities and hundreds, we'll not get into the thousands, hundreds of opportunities I really don't understand why we are not moving much quicker than we are.

>> Kim Walesh: If I could address that, Kim Walesh director of economic development, supes we have really accelerated sales and I want to you know that so far we have sold properties totaling \$2.3 million and are on track to sell \$3.3 million by the end of the calendar year. These are eight or nine properties and of course these properties don't all generate revenue for the General Fund, these need to go back to restricted funds for example fire stations. I think if we look at what's coming up next year realistically for fiscal year 12-13, the one property which, with perhaps the highest impact would be finding a buyer for the E lot. But of course that's not a clean sale because of the issue of the 700 parking spaces which are there used by the police department. So we're going to be doing an RFP on that property and looking for a potential buyer, potentially for a smaller part of that sale, to buy it and lease it back to us for parking for the next probably three to five years.

>> Councilmember Rocha: Why did we move on sale of properties that went to specific funds? I understand that's general Fund, and again, I accept that there's a need for that.

>> Jennifer Maguire: You're exactly right. There's a need in several of the funds. For example in our fire construction and conveyance tax fund, we've been assuming those sales and they've got many equipment needs over in had that fund and we've had to continually rebalance that fund to meet the needs for just basic turnouts and other things. Also to the extent that we can make sure those funds stay healthy because they've also been having their revenue challenges over the last several years, we could take perhaps some General Fund expenses out of the General Fund like fire apparatus replacement and place them into those funds thus relieving the General Fund. So there is some indirect impact that ultimately comes to help save services. So we're looking at the entire network of the funds and using it to get the sales to produce the best use ultimately for the city service delivery system and the health of our funds.

>> Councilmember Rocha: So when you mentioned it's only been in your department for nine months, so previously they weren't working on this issue?

>> Kim Walesh: Well I think they were. I think we have a clear mandate to move as quickly as possible so with the few staff we have we're very, very focused on moving properties under OED's leadership.

>> Councilmember Rocha: You have a clear view of every property we're doing ?

>> Kim Walesh: Not in all cases. Some of these rights of way commitment ?

>> Ed Shikada: I believe the intent is to list any property that have the potential for sale. So I'm not thinking of any particulars that do have a lease attached to them but certainly, there could be some components or some properties that would and to the extent that that could be terminated.

>> Nancy Kline economic development. There are properties that have lease obligations that the attorney would have to tell us could we break those obligations or not. I'll give you one. Muni golf course has a lease until 2020. It appears initially although more work is being done that we can't break that lease. If that property could be sold it's effectively 90 acres and if you are going to sell that a million five or 2 million per acre for housing that could be a substantial help. But in the short term, which looks pretty long, until 2020, doesn't look like we can sell that property.

>> Councilmember Rocha: Okay, thank you, that's very helpful. I guess really would we be including some properties just like that just for the inventory for the council to at least understand the properties we have, could I ask that you include those as well even though they may have a lease obligation on them?

>> Yes.

>> Councilmember Rocha: Thank you very much. Let's see here. And as for revenue enhancements, this might be a question for Kim. What are we working on in trying to look at those options? I'm looking at a private company suggested looking at billboards located on properties that we have that aren't residential, and that there are opportunities throughout San José. I know we're going the opposite direction of looking at billboards, we're going the opposite direction at least those old school billboards which are pretty large and you can call blight. But when we're talking about fiscal emergency in this presentation today I think really we need to look at all options and I guess I'm really posing to you are we looking at all the options and if we are, can you give me an example?

>> Ed Shikada: Looking at the City Attorney, I'll walk softly and along the lines of I think it is ripe for council policy discussion, we would be happy to frame that out for the council. That said I do understand that there's some limitation on the city's discretion that could come into play were we to decide of being very aggressive at placing billboards on city property.

>> City Attorney Doyle: Just one example --

>> Councilmember Rocha: I'm sorry?

>> City Attorney Doyle: I think times have changed and there are other demands and definitely serious policy part of that sign ordinance will deal with billboards. But to the extent that we open up more billboards, on our properties, it limits our ability related to restrict billboards on any properties. Sort of as a generalization. So that again is a policy call. But the policy at prior city councils for the last 30 years has been to move towards

elimination or great reduction of billboards. And again that is something you can always revisit and much of that will come back with the sign ordinance.

>> Councilmember Rocha: Thank you. Then as far as staff time looking at things that can generate revenue, I guess we're doing that but I'm hoping to some of that to Councilmember Liccardo's point of some good news, I hope staff is spending some time on that exercise as well.

>> Kim Walesh: Absolutely. Our core business right now is focused on outreach, why Netflix was such a great example of that, working to retain car dealers, working to ensure that car dealers are moving into vacant space and of course getting companies to sign leases and mover into our vacant space. The announcement of polycome relocating for the business to get them into space as quickly as possible. Working with planning and all of our CSA departments. Of course the frustrating thing is there isn't necessarily a quick uptick of tenants so especially when we can be opportunityistic on sales tax that's the short term strategy including continuing to move forward the few retaining development sites that we have and get them developed in line with the community aspirations bring on a mill dollars in sales tax per year, refer to the Arcadia almond development there.

>> Councilmember Rocha: Thank you I submitted a memo and I don't remember what context it was, it was about span of control. I think within that memo I talked about looking at addressing that issue similar to the issue the way it was addressed or developed or handled on the police side. And as I'm looking at the service reductions, I keep thinking of course eliminating more of the management positions as supposed to the service not even look at that, and I know the dollars we're talking about are much more significant than \$80,000 salary or \$100,000 salary but I would at least like to see some recognition that that might be some way to save some services because, again, I'd much rather have the front line employee doing their work that job retained than the management person who is managing ought those folks doing the work. It's not to minimize the role of management, it is just to say faced with these decisions, the service is more important to me. Thank you.

>> Jennifer Maguire: May I add to this Councilmember Rocha, on page 20 some third bullet that is looking at span of control, in some level realigning management administration as programs are reduced or eliminated. constantly look at that and when we in the budget office push that, that concept, and but we are trying to do a -- you know it's a very complicated blanks act in that area. But that is something that is a budget-ambulancing principle that we do abide by, and look at very rigorously every year. I did want to show you woo did have this up there, I didn't make it very clear.

>> Councilmember Rocha: You did in fact touch on that, but this is my first time cps over and over and over again, if you are really going to consider feedback from the council, I can make notes here but it would be really helpful that on occasion to get these things a day ahead of time I could at least read it ahead of time. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I wanted to commend by the way, Office of Economic Development. I think with an incredibly small team, they had an yeoman's task.

>> Mayor Reed: I'm not sure anybody knows what yeoman is.

>> Councilmember Liccardo: I don't know if I do either.

>> Mayor Reed: They did a great job right?

>> Councilmember Liccardo: Yeah. Given the lack of resources, are it's extraordinary that we had some great wins and I think we need to recognize that. I saw Russell Crosby sitting quietly in the back. I get this question all the time from residents, which is similar to the question raised by Councilmember Pyle. Why don't we just go to PERS? I think it was Northwest earn looking at PERS, their unfunded liability is probably half a trillion as well, workers are not recognizing that and that's all coming down anyway. I know we've spent some time talking about the transition costs, could you articulate the bifsz response to.

>> Russell Crosby: The answer is we don't know. Until you price it out with PERS you're not going to know. But there's no reason to expect that you're going to see any great savings. Yeah, they do some things slightly differently and rate you and their actuaries are going to look at you just the way Cheiron or any other outside actuary does. I don't know that's going to bayou whole lot. And more importantly, over the longer term, yes, PERS is less costly from an administrative standpoint. Administrative costs are irrelevant. I know look up here a few million here or there is a big deal. But on the other side, you've gotten several hundred million of additional return by having your own staff working on this that you wouldn't have gotten by being in PERS, that's a basic fact. Ignore the administrative cost because they aren't relevant. Focus on the additional return because it is relevant.

>> Councilmember Liccardo: Thanks Russell, I guess just to follow up on that point, obviously recognizing that investment returns are hugely important as we are talking about, the ultimate ability for city taxpayers and employees to be contributing to this, is there a day of reckoning fully recognizing the losses that are inherent in that fund?

>> Russell Crosby: Of course. PERS has notified that it's contributing employees. Over the next foreseeable future and they also modified their withdrawal liability. Meaning if you are an employer who wants to leave the

PERS system, if you stay in you get to assume their 7.75, 7.50, the actuaries would like to 3.8%, meaning they just doubled. So they understand nah they're trying to lock in employers, so that they really can't leave. What does that say about a system?

>> Councilmember Liccardo: Doesn't seem to bode very well. Anyway, thank you very much, Russell, I appreciate the explanation.

>> Mayor Reed: Just to add one more thing about the PERS. There were a couple of cities who did see their liability double in real dollars based on what they thought they wanted to git out of PERS. PERS said well, we're going to have some charge on that, they are not going to be here so we can rates the amount later. PERS agencies they've been advised large increases are coming to the PERS agencies just like we've experienced. So there's no doubt that everybody else has some problems. Question of some on the PERS side, Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Very sobering. Most of the points have been brought up, and vetted out, so I'll repeat some of them. You know, none of these options are anything that any of us like. One of the things that Councilmember Kalra brought up, brings me back to thinking, are there only three options? You know, he made some good points and he's been making these points the past year as we've been discussing these. You know, in terms of, is there a legal minimum that we have to-or what is the legal minimum on these obligations? And have we gotten back an opinion from you, and we haven't, on okay, well, if you go this route, or if you smooth it out even longer, and you pay down the unfunded liability over several more years, then that is how much you're going to save. This is how many jobs you're going to save out of that, as well, and we're stilling going to get to the goal that we all want. Because I think, as Councilmember Rocha had responded to, you know, not everybody up here is -- has their head in the sand. Nobody up here has their head in the sand. We all know that we have a tremendous task in front of us, and there's a major issue regarding our City's finances. It's how to get there, is where all of our opinions ired agree or don't agree. And I'm of the opinion that you know, there has to

be more than three options. You know, there can't be the options where we're stuck with, you know, this tastes awful and even putting sugar on it is not going to taste any better. So that's what I would like to see. You know I mean, Ash had you know brought up a very, very good point, and asked a very good question. And I'd like to be able to see, are there any options, if just paying down the legal minimums, or changing our goal, what does that look like? And we haven't seen that. And as Vice Mayor Nguyen quoted, it is what it is, yeah. The report is what it is. I mean this is all we got. Three options. That's not to discount the tremendous work you all did, because you all put a lot of work into this. And I appreciate that. But really, you know, I mean, it's -- it's three options. And there has to be other ways of getting to the end, without having to make the types of sacrifices that nobody in our neighborhoods want. And to that end, as Nancy was suggesting, you know, we haven't, I don't think we've really taken seriously putting out the message to the -- to our neighborhoods, to our communities, the importance of raising revenue. Alternative ways of raising revenue. And, you know, if we don't agree on how to get to the end of the solution, but at least we should agree that there are ways to raise revenue that I'm sure each and every one of us would -- would agree with. And I think we need to also look at those options. We've been sitting here for a long time. I don't want to repeat anything that's already been said. So those are my comments. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I just wanted to add I would be willing to support not paying the annual retirement contribution, lower it or not paying it all, if hi no intention of living in this city. But to not make that retirement contribution just pushes the problem on our children. Thank you.

>> Mayor Reed: I have some requests from the public to speak. I'd like to take that testimony now, dwal David Wall and Roland LeBrun.

>> David Wall: Out of capacity. You heard that mentioned earlier. You are the well dressed city car allowance people driving to the poorhouse I've ever seen. The problem that you haven't come forward to is first progressiveness. Is first admitting to the public that you have made the past ten years some of the most ongoing incompetent financial decisions on the planet. This is in regards to how much money that you've given away, to community based organizations, failed programs, and other areas which you failed to own up to. Now, coming to the taxpayers to say, well, we have this fiscal emergency, and we do, can you trust us, the people that drove the titanic into the iceberg, to back the ship up just to hit it again? No! What we need to have is an expedited way to get rid of you. You should be at-will but that has to be discussed 50 voters. Because we can't tolerate any other decisions by the likes of you as your proven track record. You can go on and on about this fiscal emergency but Mr. Mayor I haven't heard anything out the corner of your mouth saying well we have a communication director in the managers office one of my staff statistical manipulating ballot languages to persuade voters that don't understand anything going around here in the first place, don't say that. I think that's enough for today on this matter. You people are failures. That's all you are.

>> Mayor Reed: Roland LeBrun.

>> Mayor Reed, members of the council, there are usually more, more than one way to solve a problem. In this case we could either cut costs or raise revenue or do a little bit of both. I'll give you a couple of examples. On the public safety we cannot afford any more public cuts. But we should look at technology to both reduce cost and to improve the quality of service. And I'll give you an example. In London the police use automatic license plate recognition. In patrol cars. To identify vehicles of interest on the officer's laptop. And second, talking about community service and new services to remodel. I give you a good example. Doggie poop bags. City used to pay \$ the community has now started providing the same service for \$4 a box. And the supplies are paid for through donations through box foundation. We could do the same thing with the senior food distribution program. Community centers. Whoops hang on a minute, technology challenged, just a minute. Sidewalk maintenance, and so on, so forth. Thank you.

>> Mayor Reed: Thank you. That concludes the public testimony on this item. I'd like to close by asking everybody to take a look at page 16, slide 16. Which is the Cheiron estimates for pension contributions. And think about what's on the left-hand of this slide and what's on the right-hand of this slide that aren't shown. So on the left-hand side ten years ago we were paying \$73 million. Now we're talking about 200 million, 300 million, 400 million and off the right-hand side of that chart it keeps going up. So I use that chart to demonstrate that we're trying to do two things here, trying to solve two problems. We're trying to maintain services to our people, because that is the purpose of being a city. Trying to avoid service level insolvency. In which we have money to pay things, we just don't have money to provide services. But at the same time, we're also trying to make sure that we can pay what people have earned. That retirement benefits that people have earned should be paid. And there's no shortage of ways to underpay the retirement systems. And whether you think PERS is underpaying or not, if we underpay our retirement system, it just accelerates the data which we don't have enough money to pay our retirees. In San Diego, they tried underpaying a few years ago. And it was the retirees who started the litigation because the unions and the management had gotten together and decided they would figure out a way to underpay the system. And so San Diego's had some terrible problems dealing with their pensions but ultimately, we have to do both. We have to provide services to our people and we have to pay what people have earned. And part of what we're doing here today is setting the factual background for actions that we need to take in order to affect what are considered vested rights. Because we have the power, under the constitution, according to the United States Supreme Court, and the Supreme Court of California, in the event of an emergency to exercise the powers that we have and the obligations that we have as a city to protect the vital interests of our community. And we can affect vested rights. Under proper circumstances. So the question is, does our emergency meet those circumstances? If it does, then we have the capacity, we have the power, we have the obligation to do things that we proposed in the ballot measure and some of the other fiscal reforms. So this is part of the factual background for that. Ultimately the council has to decide whether or not we're in a bad enough emergency to make the declaration of fiscal emergency, service level emergency it will that declaration will come later. Everybody needs to understand we are trying to protect what people have earned and that means you can't underpay it also means you can't put all your money just in paying. That we need to bring the costs of the benefits down and that's what the fiscal reform plan is attempting to do. It is an alternative that's available to

us. We've given direction, we've started down the path, we've implemented some of the fiscal reforms and we have some of the decision making as we go forward but we are not taking action today. I want to thank the staff for all of the work that it took to get all of this together to present to us to get us all informed as we go through some very difficult budget decisions over the next few months. And with that we are done with this item. Although not done with the agenda. There's a few more things to do. We will move off of 3.4, will staff change because we're going to move to item 4.1. An ordinance to codify the city's development agreement regulations, which have been in place for a long time but not yet codified. And we have an ordinance in front of us that's based on the previous council action from some long time ago. I'm not sure when. This is the codification of previous council action.

>> City Attorney Doyle: Mayor, if I could just briefly state. This is a council referral, one of the list, one of the items on list to come back. We have sought to bring it back, as just as-is . The current development agreement ordinance is one that's based on state law but one that's been used fairly on a limited base and essentially allows development agreements where developers incur public improvement cost of facilities or provide additional services, and there's a determination that there's public benefit or you get a corporate campus, a Cisco, for example, and that's where we've used it. It is the one that's been -- it's been not on the books, that's the problem. It's been out there since 1993 but one of the concerns is that we wanted to get it into the municipal code because the world knows bit. I know the economic development folks are looking at making changes to try to make it a little easier, maybe with the idea that you'd use it more. I think the Planning Department has had some concerns about opening it up too much. So I think those discussions are being looked at but we wanted to bring it to the council. Because it's something that you really haven't seen too much of and I think that's good to get that before you. And what you want to do with it today is your call.

>> Mayor Reed: First I want to thank City Attorney and Reneë Gurza for getting this before the we could today just take the language in front of us and cut out a couple of sections and I think it would be fine. Because ultimately it's a discretionary decision as to when we might want to use a development ordinance. But understand

the staff would like to think about some different criteria to put into it as to when we might use it. And I understand that staff thinks they could have that criteria out in time for an October 18th council meeting. Am I getting a yes from OED taf, Office of Economic Development staff? And Joe Horwedel is going to go along with it. Because we're going to need to jeanlz it for the 18th. And I'm happy to just take out the language today because I think it would be sufficient. But what would I recommend we do is to just defer this action until October 18th. That will give staff the chance to see if OED can red line and take some things out which would solve the problem. I would recommend we defer this to October 18th. Can I get a motion? Notion is to defer this matter to the 18th of October. All in favor? Opposed? None opposed, that's approved. All right, item fop 2, hearing and approval of consolidated annual performance evaluation report.

>> City Manager Figone: Staff is here for questions.

>> Mayor Reed: We have a motion to approve. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just wanted to make one comment. I support the motion, and grateful for all the extraordinary work that our housing department does particularly in this time of scarce resources. I find myself often agreeing with the Silicon Valley offs issue 3 regarding the failure to recognize the San José's process, quote for obtaining reasonable accommodation of zoning ordinances as a possible fair housing issue. And specifically it's the notion that because we have a reasonable accommodation policy that requires neighborhood notification, and allows for a hearing and outreach, that that is potentially violative of the fair housing act. And I really wish that folks could have an opportunity to see what I saw yesterday where we had a sober living environment that was moving into a neighborhood, many of the downtown neighborhoods that have many sober living environments and group homes and we recognize that those are overwhelmingly going to be in lower income and working class communities like the ones I represent around the downtown. And because we have many, many SLEs and group homes in many neighborhoods around Hensley and 10th and 11th street. But we had a community gathering over this SLE where there were 23 adults that were going to live in this single

house and rather than having this big protest you know of NIMBYs against any kind of use of this home, to be able to provide sober living environment for recovering alcoholics and folks who had drug addiction, how we going to deal with traffic who do we call if there's a noise complaint how do we ensure that there's basically an agreement that the operation of this sober living environment is going to be one that's compatible with the neighborhood. And I wish that people could understand that this outreach and this process is really critical to being able to build community support for sober living environments and other group homes. Because without it I guarantee you we get the calls and then code enforcement gets the calls and then there are lawsuits and a lot of mess over what really could be a much more collaborative process. And so I'm hopeful that you know we can work with law foundation and other advocates who are very well meaning in their position, but we need to recognize that community input and some amount of engagement is really important in order to make this work for communities particularly in those communities that are bearing the burdens of recognizing that they are having a very disproportionate number of the group homes within their communities.

>> Mayor Reed: I have one question about some changes for the record. I've got a note here that I think I need to read some stuff into the record to make sure that it's clear so let me just do that at this point before we get too far into the discussion. There was a change that was not noted in the supplemental memo that has to do with leveraging for the projects was miscalculated on a custom charts on pages 13 and 18 in the new draft and pages 12 and 17 in the old draft so the revisions are reflected in the red line Capr document in the city council agenda. So having done that just make sure they made some minor changes and we're just letting you track them. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. If I may, pose a question to someone from the housing department.

>> City Manager Figone: Our assistant director, Jackie Morales Ferrand will respond to your question.

>> Councilmember Rocha: Thank you.

>> Hi.

>> Councilmember Rocha: Understanding that this is the purpose of this is to I think has this written compliance with the HUD requirements, reporting requirements there's also the con plan and the planning for that when does that come?

>> This is the annual report on our performance, tells you what we did with the money. Then we'll be coming back to you, we'll start the process in November-December and you'll see it probably in April which is the new action plan.

>> Councilmember Rocha: Okay so we have April -- every six months we're looking at something from you folks on the work plan really of the housing department?

>> Correct, as it relates to our federal funds.

>> Councilmember Rocha: Now historically speaking have you presenting the work plan that you do and the work that you do and the funds where they're spent? Because these documents are very significant, and it's great work, and I'm really impressed with all the work. But more than a ten or a 15-minute meeting allowing the council a full opportunity to ask questions about all the work you're doing, is that been something you've worked on before or --

>> Actually based on the Mayor's Budget Message memo, he asked us to come to a couple of committees about how we're prioritizing presentations to some city council committees.

>> Councilmember Rocha: The one I was in.

>> Specifically on CDBG funds which make up the majority of the funding to say here's how they can be spent, here are the issues, and got some council feedback. We'll be coming back in October to provide you back with some issues that you brought up in your memo, to discuss where are those fundings should go.

>> Councilmember Rocha: But there's also other funding you get outside the CDBG stuff, there's state --

>> Correct. Those are HOPWA, much less dollars that we dedicate to those sources that we're getting but the majority are CDBG.

>> Councilmember Rocha: And the work to me is very important, extremely important, I don't want to minimize it, extremely important, and significant and I believe it really warrants our attention on a much higher level because maybe it's just me would I like to be much more well versed in the work program at a you're doing and I'd like to vote on the opportunity for a study session or full council meeting where we try to push the items which we have previous and before so we can devote some significant time for this because I'd like to become better versed on what you do because I'm very impressed with it, thank you.

>> Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Experienced on the Planning Commission situations where we were sometimes restricted what we could do but there was legitimate concerns from neighborhoods and I think the downtown and a lot of the neighborhoods that are saturated at least compared to other neighborhoods tend to have I think Sam you're right people would come out and have very thoughtful questions and be much more tolerant. That says a lot about our community including the communities that do already have and it's not just sober living environments, they already have disabled or developmentally disabled and goes on and on and on and I think that speaks well to our community and to the residents. I would agree that what I got from it definitely was that those that had more exposure to it did ask the better question so that they could at least respond if there were situations that arose or at least have an understanding of the confident who was going to be their new neighbors. But I think that the points are well taken Sam.

>> Mayor Reed: I have one request to speak on this item, I'll take that now, James Zaretka.

>> Thank you, Mr. Mayor and members of the council, Councilmember Liccardo and Kalra, I see myself disagreeing with you often, really as a disagreement if you look at what we put in the letter what we're calling for is really just an analysis of the ordinance as a potential creating potential fair housing issue. We're not sort of weighing in that this is something we're going to go with an injunction next week and trying to get overturned by the fair housing ordinance. there are two examples in the CAPR appealed to the commission after the planning staff had recommended a particular outcome and 18 beds were taken out of those two beds by the Planning Commission. Now those are 18 opportunities for people with severe disabilities homelessness in this economy in particular we're concerned we're not preordaining the analysis that the city would do with this but the analysis needs to happen. It's not just us saying this, it's HUD saying that. It's right in their guidance for jurisdiction. I

guess that's really what we want to say. We have a letter in with you raising a few other issues with the CAPR so I hope you engage in that and the housing department does as well before this goes to HUD but I appreciate your attention to this and thanks for the time today.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: I just want to say I do think the concern is legitimate. I just think that there's certainly, there's anecdotal evidence and there's what happens on a large scale. You're right I think more analysis would probably help us get to exactly where we are in terms of how we accommodate and you know I don't know about the Planning Commission. I know it's very difficult. Those are some of the most difficult decisions as a Planning Commission we had to make and we knew we were going to have an impact on the neighborhood so on we were respectful of the need to provide housing for those who need, whether it be SLEs or developmentally disabled or what you have. I think that I don't want my comments to indicate that I in any way did not feel that some of the analysis was necessary.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Yeah and I also recognize there are fair housing issues. If the procedure is used improperly, I think in defense of the Planning Commission decision they granted reasonable accommodation for 20 adults to live in an SLE in addition to eight staff. I think if you didn't have a reasonable accommodation policy and you had 20 random adults living in any given house any neighborhood would probably raise an outcry. And I think it's reasonable for a Planning Commission or a council to be able to say there are realistic traffic parking and other impacts that come with just having that many adults in a house. And I think those are the kinds of issues that a city should be able to reasonably regulate, obviously without overreacting.

>> Mayor Reed: City Attorney.

>> City Attorney Doyle: I just want to note that this ordinance has been on the books for some time and I think we have a very good record. And I compare it to any city in the country in terms of being very accommodating. The issue of you you know we don't have any required hearing as part of the process. Our noticing requirements are extremely minimal. The only noticing requirement is the immediately adjacent property owners. In a minimum of 300 feet and in some cases 1,000 feet. The letter acknowledges that we strike a balance and it is something that it doesn't hurt from time to time especially given current case law to take a look at. I'm reasonably confident the ordinance works, it's fair and it really does apply a very balanced approach.

>> Mayor Reed: Think we're done. Can't remember if there's a motion or not. We have a motion. On the motion all in favor, opposed, none opposed, motion is approved. Our next item is 4.4, hearing and special election on community facilities district number 14, Raleigh Charlotte, not to be confused with Raleigh Durham. We are not annexing anybody today, sticking to our own business here. This is a special election on levy of special taxes within community facilities district number 14. The Raleigh Charlotte district. I got some stuff to read. Right, I got my script here man this goes on for pages.

>> I have mine.

>> Mayor Reed: All right so I'm going to read through this. This is an election so we have nobody wants to speak on this correct? Any protests? No protests. Anybody here want to speak? No cards, no speakers, all right. We've had our hearing. Correct? This is it. This is the hearing. So we're going to conclude this special election, is there any property owners who want to submit a ballot to the clerk? Got nobody here to do that so

we're going to get the City Clerk to tabulate the ballots received in the special election. Not taking any more ballots, we're done, all right. Need more time?

>> Dennis Hawkins: No, we have the ballot.

>> Mayor Reed: Okay. Is that a yes or no on this special election?

>> Dennis Hawkins: Mr. Mayor, I have the results of the tabulation of the property owner ballots for community facilities district number 14, results of the tabulation are, one property owner, property owners with a total of one vote have returned ballots in support of the levy of taxes. Ballots submitted by the property owners in community facility district number 14 in support of the levy of special tax constitute two-thirds or more of the total votes, the city council may proceed to vote on composition of the special tax.

>> Mayor Reed: It was a really close election, decided by one vote, kind of a cliff hanger I guess. All right so now, we're get an election behind us. We have the ability to adopt two resolutions. Two resolutions two actions to take. We have to resolution notice of special tack lien and adoption of an ordinance to take effect immediately levying special taxes within the community facilities district, correct? Can I get a motion?

>> So moved.

>> Mayor Reed: We have a motion on both resolutions and the ordinance. On the motion, all in favor opposed none opposed, that's approved. End of my script. I think we're done. With that one.

>> Dennis Hawkins: That's the end of my script also.

>> Mayor Reed: All right, this tax stuff is kind of tricky sometimes. 4.3 habitat conservation plan. This is a revisit from a previous discussion. Joe Horwedel is here. We asked staff to come back and so this is the back. But we're not done today. Today is a chance to have some discussion and you're still recommending that we finish the discussion on the 27th. Which would be a week from now and then make a decision October 18th, is that still your plan?

>> Joe Horwedel: That's my plan going into tonight and going to have some discussion whether we need the 27th or not. So I do want to start with the direction in the budget message, which directed staff to certify the EIR and not work further on the habitat plan until we had worked on the cost and benefit assessment as well as working on a regional solution. So we have completed the environmental impact report and the draft habitat plan. Been through the public process. But one thing do I have to note is from staff kind of we're a little bit hanging out there a bit in that we did have to work on the plan in order to finish the EIR. Asking permission after the fact around that work. But we have been working very hard to refine the plan to address the concerns not only that you the city council of San José had but also each of the local partners has had issue that we took back to work on the plan outside groups, the chambers, development community, environmental groups. All had a number of concerns with the draft plan so we spent a significant amount of time working on it. These were grouped into six and there's a document that was attached to the staff report called a framework for the plan. And we put that together to help each of the councils work through the issues and I'm going to walk through these really quickly. One the scale of the plan ask too high. We have made substantial changes and refinements to the plan in order to reduce the cost and the scale of the plan and I'll go through these real quick and if you've got questions I'll back up on it. That the fees for mitigation or implementing the plan on individual projects or properties were too high. So we did some major changes, ones related to the nitrogen feed, that's the one that the council's had the most concern with, used to be known as zone D. That fee has been reduced from \$7 a trip to \$3 a trip. You notice a bunch of changes have been occurred. Statute requirements of a plan but make sure it's

feasible. The next issue we looked at was economics. There's also an economics analysis that has looked at the plan at a qualitative level and the basic conclusions were with or without the plan we are going to have to deal with endangered species here in the county and here in the city. And there are costs that go along with that. That the habitat fees themselves were not seemed to be a determining factor in the feasibility of most projects. There were a projects that will be a factor. Those are projects that generally in building areas that are extremely environmentally sensitive. This is the one that I think has been a major amount of work on. And it's -- our goal with that was to work influence the permitting with the U.S. fish and wildlife service and the California fish and game to deal with endangered species. We need permits from those agencies. What we have been expressing with those agencies is they are not the only ones that we need permits on and it is really frustrating with public agencies building a bridge across a creek and then they also get to take a wing swing at you the U.S. fish and wildlife service the manager Kay goody has been working woven into this process. We have a meeting with the army corps management in about two weeks. We just received an e-mail today at 2:00 with Kay goody that she has water quality control board that is one from a staff standpoint we think is most important after the corps. It is the same way Kay worked with the army corps of engineers she is working with the regional water quality control board. The national says they are willing to work with this HCP and use it as the basis. So based on kind of those playing forward with the plan we would be able to have the regulatory approvals of five agencies both state and federal that would give coverage for the life of the plan, 50 years, which we're looking at how does it implement the City's capital and general plans, so that's really the upside to doing this. And so our goal as you see is that projects that follow the HCP should have certainty about mitigation and schedule. We should not have to renegotiate that each time. There's been some discussions about local governance. This prime thing to remember is because we are charging fees we do need to have an entity that is setting that fee across all the agencies so they're the same. We've been working a lot with reducing the cost of how that would run and to make sure it's not overlapping with the work that we do or the county does the open space authority so there's still some more work to do there but we've really worked sharpening the pencil to make that work better. And then the question that you were really concerned about is, should we have a county wide plan? How does this work, in competition with the other cities around us? So today we have six agencies that are working on this. If we brought in all the cities, and some of the other agencies, that number would more than double. There is work that is going on with that. It is one that I think to accomplish that will be a multiyear effort. There is a lot of work of

bringing agencies that have not been involved into the fold. As I noted there, there are major projects though that I think are going to start bringing some of those agencies into the fold. One of what we are working on with the water pollution control plant affects some of the other agencies that are not today participating. We will have to deal through the environmental process some of these same issues about burrowing owls and the nitrogen issue. VTA don't do throughout the county. The discussions we started with VTA about how those projects in other cities require those studies to participate because that is why we are in this today is because of those types of projects here in San José. And then lastly CalTrans continues to do projects and they're not in the plan today but we want to go through and see are there leverage points that fit around that. We will be meeting with VTA's capital projects team, environmental team in about two weeks to go through and look at are there some tools that we can be using to essentially bring some of the other cities into this process on a longer term. But it is one that we do think going county wide ultimately makes sense. This map shows the pink in the middle is the urban area in San José that has coverage by the plan. We have the able to go through and build out our general plan with the habitat plan but as you can see the area to the West, the white, those are the cities that are not participating in the plan. Campbell, Santa Clara, sufni. Our hillside areas the brown and the blue we do treat those differently and if there's questions I'll come back to that. The point is we urban service area for development into the future essentially building out our general plan through the habitat plan. Through the questions over the next couple of meetings ultimately what we're looking for is a decision from the council. Should we continue with the habitat plan or suspend it. I want to talk about the consequences both ways. There is a cost for us to continue forward. I would consider like this anteing up the next wager. In completing the plan it's about \$100,000. 50,000 or so, 55,000 of that is attributable to just finishing the habitat plan. That is the get it to a final stage. There is about a 40,000, 45,000 amount that is related to getting the Army corps of engineers permits. Anybody who has ever worked to get an army corps permit I think that's the total value proposition on that side of it. So there are dollars and it's coming out of the last three-hour discussion on the General Fund and where we're heading is no small matter about this. But it is one that, you know, there is that consequence. It does, moving forward with the plan does get you the fish and wildlife fish and game permit and as noted the other three regional state and federal agencies army corps of engineers regional water quality control board and national marine and fisheries are now also in the mix of being able to obtain and if we went forward with this about a year from now is when the plan would be final is the schedule. So for the down side and I apologize for this small print but I pulled this out from

some words that we've been between all the different cities local agencies, what happens if the plan doesn't move forward? We suspend working on it or we just say we're not going to do it? The bottom line is, is that we have received approvals from the resource agencies, if first bullet going to back to 2001 will bailie celebration coyote valley research park where the city agreed to prepare a plan. We did not agree through that document to implement the plan but we did agree to prepare it. So that one we can probably argue whether that has any consequence or not. The next ones I think are more relevant for us to think about, that the project by project type environmental permitting that happens as we do bridges as we do water projects as we get water supply from state and federal waters, you negotiate on a project by project basis. We've done that over the years. It is possible to do it, it is time consuming and expensive. The resources we anticipate we'll use the habitat plan and everything that's in it to say this is what you got to do. So if you're expecting a different answer of what the mitigation would be, I think that will not be a correct assumption. And at some point we will have a project that's going to be big enough that fish and wildlife service will say that they will not approve a permit. And that will hold up either army corps permit, national marine and fisheries some kind of permit that we will stop and unlike this time where we had eight years to do a habitat plan they will not grant a permit until the habitat plan is done. They've done that with other agencies. There is the time card that plays into it. It is a little bit of high stakes poker that's playing itself out, going to be aware of. The other piece of the second bullet on here is getting the regional general permit from the army corps of engineers is something that they the army corps just normally does not do that. So it is something that we see as a substantial benefit and we don't see that there's going to be a whole lot, if we don't do the HCP of doing that so that means do you your army corps permits one by one. So as part of some questions for the council I thought we'd frame up for today and then if we need to into next week and ultimately on October 18th is would be my hope for the council to have a final decision of how to proceed and staff would take questions from today. And put forward a recommendation for the council for the 18th. But as you see, some basic I think questions about is the value proposition there, so staff is prepared to help answer those questions or guide the conversation.

>> Mayor Reed: Thank you. I have a couple of requests from the public to speak, I would like to take that now. David Wall and Roland LeBrun.

>> David Wall: It is no discussion as far as my position on this. The habitat plan is flawed. It's not anything due to director Horwedel at all. It's just a flawed idea. It's a flawed plan. This nitrogen deposition business, speak out of one corner of your mouth, nitrogen deposition, lest lower the fees. This is really a pro-development plan not a habitat plan, or a habitat for developers plan. Look as what you have done at water pollution control, no yet you destroyed habitat in deference to the habitat plan. Bulldozers, clear-cut. Probably decapitated some of the heads off of burrowing owls. The clapper rail meshed into the treads of a D-9. The harvest field mouse, their habitat squashed and buried through site preparation. Let's not mention the other vegetation destroyed for this ridiculously asinine project called zero waste and anaerobic digestion. How many times has a citizen asked you how many garbage trucks intug nitrogenous depositions coming into nine par they look the other way and say hey, I don't know responsibility right, that's what I would say. Very simple process in my book. Let's look at the very simple progression here. 941,878,882. Now, as of August 2011, the cost is 660,126,693. 660 million rather. You have no money, you have no services, you want to entice people to live here and develop? This borders on criminal fraud. Thank you.

>> Mayor Reed: I don't think Mr. LeBrun is here so that concludes the public testimony on this. I had a lot of questions at the last meeting. I guess my questions are the same although Joe has just updated us on some of the responses on some of the issues and fundamentally it resolves around what is in it for us considering pos reply maybe working with the habitat conservation plan, I think that is a very significant thing if we could get the regional water quality control board engaged that would be a great piece of work. But those are all just expressions of interest. When would we know and when would we have to decide? I think we're not going to make the final decision until about a year from now. By then we'll know if those agencies are going to be participating.

>> Joe Horwedel: That's correct, Mr. Mayor. On October 18th, assuming moving forward, that would be the date that the council would decide, should we go into the final phase? But the decision that the council would say yes, we want to do the plan, and implement, would be about a year from now.

>> Mayor Reed: Well, there are a lot of things that are moving in the right direction, getting the other agencies involved and getting the other cities in the county to participate in HCP so that we're not at a competitive disadvantage just within the county and that seems to be moving ahead perhaps through the VTA and there may be things that the VTA board needs do. I think those are all positive but we're a long ways from having the answer on that and you're not going to be able to answer it next week either because they're just getting started. Those would be my primary concerns is, because there is a competitive disadvantage we probably have the highest ease in some respects to some of our neighboring counties because we're -- neighboring cities because we're cost recovery and they're rich enough they don't have to be cost recovery. You add this one on top of it, on top of the traffic mitigation fees in North San José and we may be at a competitive disadvantage. I think that's an important issue and if they're having to participate in some way or another that at least makes it a level playing field. But you're not going to have the answer to that by the 18th. I'm thinking we're just going to have to hope that we make some progress on that. And move ahead little by little without making a final commitment.

>> Joe Horwedel: Yes so by the 18th we will have met with the army corps of engineers management with fish and wildlife management so we'll have a better sense of how army corps of engineers are seeing it. at the same time at the HCP is being done so it would sequence right behind it. I don't have a schedule about the regional water quality control board. The e-mail came in today that they're setting up that conversation. So my sense is before the 18th there would be more known around it. One of the things that I think would be helpful is, to have Kay goody come talk to the council and right now, we're working schedule with the county for the next week on the 27th, and so if possible, to try and schedule a time certain with the council next week, so that Kay could come

here and maybe for 20 minutes to talk about how she's orchestrating all that and her level of confidence might be helpful with the council before she goes over to the board later in the afternoon would be my recommendation.

>> Mayor Reed: Sounds like a good idea. A couple more things that are still not tied down and that is the cost element of this and how the money gets spent. We know that we've got terrible budget times ahead of us and if there's work that our staff is capable of doing, I'd rather see our city staff or our county staff doing that work instead of staffing up yet another agency. And having the opportunity for our people to stay busy, lost to us. And I don't know how we build that into the governance model but I think that's important to use the expertise that we have and not have another new agency have to create the expertise.

>> Joe Horwedel: Yes, it is something that we have spent a lot of time in the last couple of months, the local partners, about services we can provide. We do want to make sure it's cost effective that if an outside agency can do it better cheaper faster we don't want to stand in the way of that. But it was a plan that wasn't there before.

>> Mayor Reed: Another question I had had to do with our general plan 2040. I don't know how it relates to GP 2040. But I think Sam Liccardo and other councilmembers have finally gotten done with that plan. It's going to come to the council some day. And how does this HCP work relate to the environmental clearance for our GP 2040?

>> Joe Horwedel: So we just finished responding to all the environmental clearance or comments we've received on the 2040, last Friday, and we do not assume that the HCP is in place because we didn't want to be kind of held hostage if the HCP didn't happen. But we have acknowledged a lot of the work that's in the HCP as a part of responding to issues around burrowing owl impacts and the nitrogen issue. As we received comments on both of those from a number of parties.

>> Mayor Reed: So we can move ahead with the environmental clearance for our general plan independent of this HCP?

>> Joe Horwedel: That's correct and how I've put the challenge back to the resource agencies is what our council's looking for is that our general plan has assurances, assuming it's adopted by us we do all the mitigation, we follow our general plan for land use, that the regulatory agencies will deliver the permits we need to build bridges, recycle water system, get you know federal grants that we would otherwise qualify that they would not become a barrier to us implementing the general plan. That's really what that assurance, when I talk about regulatory assurance, that's what I would like to have presented in front of the council.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you. Thank you Joe for your presentation. I've had concerns about the HCP mainly because I was worried that it put San José at a competitive disadvantage other cities not being part of it. I really like the idea if we are going to move forward that it be a regional effort to have other cities work with us. I had a question though I want to pick out an example and tell me how this would work if we had not had these -- beginning to work on the HCP how this project would have fared. Highway 101 corridor project that we're just now under construction, it's my understanding that prior to starting that, we did have -- we had made assurances that we were under beginning to put together this HCP. Had we not done that what would have happened in that project?

>> Joe Horwedel: What typically happened in projects like that was we would spend an extensive amount of time, years with the U.S. fish and wildlife service talking about growth impacts by that freeway. While that freeway

did not trigger growth it accommodated our general plan growth. And so the -- typically the army or the fish and wildlife service would try to find what they called a nexus or a hook in us to get mitigation. When we did the 101 wide nirchg in Coyote valley VTA bought over 300 acres of serpentine grass land as mitigation plus agreed to do the habitat plan. So that's the kind of negotiations that went on with each project.

>> Councilmember Herrera: So would we be under construction right now if we didn't have that kind of free planning working on HCP?

>> Joe Horwedel: I don't think you would be under construction as fast. Depending on when your start date was it would have been a much longer process to get permits from the federal agencies.

>> Councilmember Herrera: So that's definitely one of the benefits?

>> Joe Horwedel: That's the benefit.

>> Councilmember Herrera: I hope other cities are going to need to do recycled water projects and bridges I think this is in the City's best interest that we move forward together and leverage this and obviously VTA needs to be part of that too. So I'm certainly not -- I don't know when you have to cut a economic. When would we have to cut a check on this to put money into it?

>> Joe Horwedel: The county would -- in October is looking for a time frame, assurance or interest that we're going to be moving forward and then at the mid year budget process of funding it at that point. So it would be in February.

>> Councilmember Herrera: So I think that we should move cautiously and slowly forward but looking at trying to bring in the regional effort.

>> Mayor Reed: One more thing. Next week when this comes back, can you bring us a real project example? What happens with and what happens without the fees and cost, just an example of a cost benefit with a project we care about, maybe convention center, I don't know.

>> Joe Horwedel: We did some work for the study session in April, I can go ahead and pull those out. We have been trying to pull out what a bridge project would look like. I don't know if I could have it for next week but we'll bring back some examples of real life.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thanks mayor, I agree with the mayor that there's some questions we won't be able to answer in advance, we won't know until we advance. Joe thanks for the work that you and your department have done on this. I do think that we have shown a great A flexibility and give when it comes concerns of the building community. And the developers. The realities we have dramatically reduce cost and the scale of this project. Do I think as Councilmember Herrera indicated as far as one example the reality is that I don't think this puts us at a disadvantage. The conception is that it puts us at a disadvantage. The reality of the work that developers have to do on their own in terms of what the federal and state requirements are. Certainly the federal requirements can be quite onerous especially in the undeveloped areas of the habitat. And you made an indication that in some of the areas where the habitat is a little bit -- where it's a little bit more open space and so on, and those situations it may cost some of the developers more, or at least may cause some issue, whether they will be

able to afford or not, those are the areas that we should have concern about whether we want to be developed or not already. So I think that this has been a very complicated long process. But I think it's getting to a place that ultimately will be beneficial to the city, and I think even to the development community, when we have more certainty in terms of what they can expect in terms of a time line. That costs a lot of money when they have uncertainty. Up front the habitat and environmental impact and some of the impacts on the habitat that they're going to have to study or at least mitigate anyway, I think it will allow for some up front, some certainty to up front costs as well as a time line which will make it beneficial for those that want to do development in San José and that will frankly limit those that want to develop in places we don't want developed or at least want to pickup up some roadblocks to, considering once development occurs in some of those areas we can never take it back. And Joe in terms of you mentioned \$100,000 but then you indicated there's some benefits for example the federal nearmts would come along with that. What kind of city costs even if you can estimate are offset by having those as opposed to the amount of I guess staff work or otherwise would have to be done if we didn't have those permits on a project by project basis?

>> Joe Horwedel: Well I think even if there was zero benefit to the privately sector, the cost that the city faces as we've done bridge projects, and to find mitigation lands to acquire those lands, to get the land reestablished, and then to monitor it, is substantial, that Public Works staff spend a lot of time trying to find those location and then piece them together and typically they happen at each bridge site so they're really expensive to maintain. I think the value that comes with this is that it puts it on a more holistic manner, it allows us to do those in different locations, can put them together so it actually works better, you get a better outcome. It's really hard to do that when you negotiate your permits, permit by permit by permit. It's hard to quantify what the essentially you write a check and let a third party take care of that. And it separates that off from the city organization.

>> Councilmember Kalra: That's important to note. It's tough for you to ask even for a penny, evenly \$100,000 would seem like a lot, we're all concerned about the budget deficit but when you explain kind of what that gets us I think that's a bargain and I think certainly given the amount of work that's been done already and the amount of

money you've already spent, considering the amount that's one of them, certainly I think it's something we can try to encourage others in the region to go along with us on. But just look at ourselves and what's in our best interests I think we benefit from there and I think we benefit particularly for the changes that were made over the course of the last couple of years that make it a little bit less onerous for most of the land that we intend on developing, anyway. Thank you.

>> Councilmember Nguyen: Councilmember Pyle.

>> Councilmember Pyle: I'm sorry.

>> Councilmember Nguyen: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, Vice Mayor. Joe, a couple questions about the cost. I notice in the discussion, page 9 of the attachment, there's a -- the cost model with the proposed plan, and there's about 3.8 million in plan preparation that is included in those costs. Approximates is there any way we can boot strap the costs for individual cities and jurisdictions to participate to go into that pot so that essentially the plan would pay for itself going retro actively, and obviously would increase that \$3.8 million number?

>> Joe Horwedel: The plan preparation number, that is what the loan agencies are rirmingts in so as developers go and take advantage of using the plan they would be paying us back. Unfortunately in part it's a 50-year plan it gets paid every 50 year. I think \$15,000 is the number we would see.

>> Councilmember Liccardo: They've got almost \$200,000 in uncommitted funds. The question is there any reason why some of these cities bearing the cost ?

>> Joe Horwedel: That's part of looking at the cost to finish out the plan. That's why it's only -- 54,000 I think is the number for City of San José's share to finish out the plan. While the total cost to do it is hundreds of thousands of dollars. We went back and looked at that time budget and said what were the contracts that hadn't been -- we didn't need to do more work and so we liquidated things out, crossed things off the list that we felt were lower priority so that we could free up money here so that coming back to each of our elected officials if we were going to proceed we wanted to not be coming back with a big ask.

>> Councilmember Liccardo: Right.

>> Joe Horwedel: There is a little bit of contingency because we don't want to come back in three months or eight admonition either. Our goal is this is it to get it done.

>> Councilmember Liccardo: In Jennifer's presentation earlier today, there's reference to the development fee reserves that you have in your department. Can those be tapped? I understand there is over \$12 million there.

>> Joe Horwedel: Those are paying for like staff delivering inspections and those kind of things. We had been using some funds we had collected on burrowing owl mitigation that we had collected from developers as a way to share this or prepare the plan. So we really tried to minimize the General Fund along and we're going to see if there's some other sources. I haven't talked to the capital funds because like the army corps permits really will benefit them. So it's one that they had a little bit before John Stufflebean left I talk with him about how the plan

might benefit from doing the plan and therefore there might be some things that the plan EIR process might benefit. Therefore pay for. We'll take a look at that before we come back and ask for General Fund money here.

>> Councilmember Liccardo: That makes sense considering all the development money we have up there. I appreciate you don't want to touch the General Fund. Be question about what happens at the federal fish and wildlife service decides there's a new endangered species and we need to take permits for that as well? Does that mean automatically we go back and amend the plan or is now there a whole separate mitigation process that's required for a new species that's identified in year 23?

>> Joe Horwedel: That's what we spent a lot of time thinking about, we wanted to not have a surprise 30 40 years from now. So we have spent a lot of time thinking about what plant and animal might be listed either by the state or federal. Because they have different lists.

>> Councilmember Liccardo: Right.

>> Joe Horwedel: In the time frame of the permit. If one comes up we have a choice at that point to whether we want to amend the planned plan to add it or we may choose to deal with it on a one-off basis and one of the things is how we made the plan cheaper. We took two more species out of the plan. Golden eagle and I think another one because there are so few places in the county that that was going to be an obstacle that we figured that the cost-benefit said it didn't make sense, the resource agencies actually suggested we take it out because it really was not going to be beneficial.

>> Councilmember Liccardo: Okay so what about those species you don't anticipate? Is that --

>> Joe Horwedel: Yeah so if there's one that Fred's puppy becomes the new endangered species and we had a project that had Fred April puppies all over it, we could then make a decision that we wanted to add that as a covered species, it would take some time to go do that. Or we would negotiate an individual permit for that one.

>> Councilmember Liccardo: Let's hope there are no more species to be worried about, thank you for that. The concern I had at the get go actually wasn't any of the six concerns that were identified. The concern I had was the extent to which we might be discouraging the kind of infill development and transit construction and other things that we really want to see that are environmentally beneficial given the fact that we're going to be growing. And I -- you know I'm heartened by the fact that we reduced by half the fees on nitrogen deposition. I think that's very helpful. I'm little less concerned about you know, the competitive disadvantage as to some of these zones that we're talking about, in ranch lands and natural lands where I think simply development shouldn't be happening. So I was concerned as to why you know in the revised plan you've got a proportionate change, not you but the plan has a proportionate reduction in change in 16% for each of the three zones. Is that required under 218 or is there any reason why we couldn't, say, reduce the zone C fee more than the zone A fee since zone C involves vacant sites, surrounded by urban development that are obviously less offensive environmentally than the development of ranch lands in natural open space?

>> Joe Horwedel: It is some of the 218 issue and then part of it is the construct of how the plan put together allocating cost. So the plan started with zone A, essentially the often hillside most environmentally sensitive areas and said that had a cost that would come from the plan. And then zone B was 50% of that and then zone C was 50% of zone B. So it essentially tiered down. Arguably we could have been 60% and 80% or 20%. As a part of those ratios and then allocating to make sure that the dollars covered at the end of the day what needed to be you know paid for. I think inside the urban areas, you know, well, we're experiencing and I think the mayor's question is a good one, of how does this affect a given site, is a good exercise and so we'll go bring back out the stuff we did with April and kind of freshen it up. But I think the -- for most of San José what we were experiencing

was the zone D or the nitrogen fee and so we spent a lot of time seeing if we could make it go away, we spent a lot of time with the home builders trying to create a mechanism to encourage smart growth and punish dumb growth within the 218 realm but in the end couldn't get there. So we said well let's focus on really getting that down as much as possible and really complifit in a plan through another means we not have to assess it against development so essentially the city could choose to exempt collecting that fee against someone and then we would make it up through some other source that you might have as an environmental mitigation fund for somebody that was building you know too many parking spaces or something.

>> Councilmember Liccardo: Okay, I guess the last question, sorry for taking so much time, has been asked at other times and I know we're a little unclear. I understand that public projects are going to be hit with the same fee as private projects. Take BART, is BART going to get hit with a fee even though it's a transit project?

>> Joe Horwedel: That's one of the discussions we want to talk with VTA about, because it really is not a normal type project just like the 101 floongt Councilmember Herrera mentioned. It's really not a trip in starter end it is kind of a conduit of moving trips and so the plan really doesn't cleanly talk about that so that's why we wanted to talk that one through some more.

>> Councilmember Liccardo: It would be helpful if that was made explicit. I hate we would do anything to tack on the cost of building transit but anyway, thank you Joe. And I'm likely to support this. I'd like to make a motion to continue the discussion to September 27th for action.

>> Councilmember Herrera: Second.

>> Mayor Reed: All right, we have a motion to continue this next week to the 27th. We'll just continue the hearing we won't take additional public testimony we'll just finish it up then. On the motion? All in favor? Opposed? None opposed, that's what we will do. Take the up the 27th. I think the last item on our agenda is the open forum I have two people that wish to speak. David Wall and mark granda.

>> David Wall: I would like to thank Councilmember Pyle for adding the very most salient portion of today's discussion. Revenue enhancement, image change. Let's talk about that for a second. Image change. Let's get rid of this capital of Silicon Valley. Go back to the valley of the heart's dpliet because it's more encompassing. Revenue generation. Take what revenues you stash away for this ridiculous baseball idea, and fund a city sponsored recording studio at the Mexican heritage plaza. Also start reinventing the school systems, as far as providing meals for kids at schools to remove the pressure of their family members. Also growing food at schools would also enhance that. I want as a taxpayer I want to say one thing about the Office of Economic Development. As an entity, on a rainy day, these people would charter a limousine to the airport just to charter an airplane to fly before the clouds. Upon seeing the sun, they'd return back, to the airport, and come back and in a public setting, take credit that the sun is still shining. In other words, most of the things they do would have happened regardless of them being anywhere on the planet. Our City Attorney could easily handle any of these real estate transactions. When I hear leadership come coming from OED, I'm offended. They don't have the Midas touch, they have the manure touch. Good afternoon and God bless all of you.

>> Mayor Reed: Mark granda.

>> I just wanted to say a couple of things about the Lake Cunningham skate park as far as keeping it staffed. I'm a regular there with quite a few different people Friday night, Wednesday night sessions and whatnot. As far as keeping it staffed, would be a very positive thing. I see nothing about fathers and sons there, and mothers and daughters. It's -- it's a great family spot. I do frequent the Roosevelt park down the street, as well. Every time I go there, it's more or less bring a broom bring a dust pan clean out the bowl before you skate, broken glass rocks

and the thing nothing like spilled drinks everywhere so as far as whatever we can do to keep at least one person staffed, a couple people staffed, maybe create a volunteer program, would I definitely, and I know a couple other people that would definitely volunteer their time once a week, twice a week, to go down, as far as keeping an order around, to keep the vandals out, the broken glass. It's a good spot to go to. I know people that come from San Francisco weekly, there's a big event coming up, it brings people to this area. So I don't see how it can't hurt, as long as we can possibly do whatever we can to keep it, minimally staffed would be great. That's all. Thank you.

>> Mayor Reed: That concludes the open forum just to let everybody know that the item on the financing authority agenda regarding solar projects was deferred until September 27th. So we are done with our meeting. We are adjourned.