

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

>> Mayor Reed: Good morning we have a quorum. So we have no labor update. I have no request from the public to speak. So we're adjourning into closed session. Just to note that we'll not complete the closed session this morning. We'll come -- we'll be back here at 1:30 for the open session but we'll be going back into closed session at 6:30. So with that we're going into closed session.

>> Mayor Reed: (gavel strike) Good afternoon, I'd like to call the San José city council meeting to order for September 18th, 2012. We'll start this portion of the meeting with an invocation. Councilmember Herrera will introduce the invocator.

>> Councilmember Herrera: Thank you, Mayor Reed. Today I've invited Pastor Jessi Kaur to perform the invocation today. Jessi Kaur moved to San José 20 years ago and has become a leader in the Sikh community here in Evergreen and in San José. First as an accomplished author of two children's books, Taikuya and the Royal Falcon, which was selected to be one of the eight books to be showcased in Melbourne at the parliament of world's religions in 2009, and recently adapted to the stage and produced as a children's musical. Dear Taikuya, Letters of a Sikh Boy, which has now been included in 200 elementary school libraries across the country. And Jessi also serves our community in her role as a founder of her current nonprofit in global synergy now, dedicated to teaching important values such as integrity, equality, and sharing. To youth ages seven years old through high school by hosting retreats and events such as children's art exhibits. Jessi has conducted these nonprofit efforts for over 30 years because she deeply believes that peace is possible when the barriers of ignorance are brought down and we open our hearts to those who seem different from us. In light of the recent violence at the Sikh temple in Wisconsin and across the globe, I'm honored to have a strong female leader of the Sikh community here today, I invite Jessi Kaur to perform the invocation today.

>> I would request everyone to stand, if they don't mind, and fold their hands, thank you. [ Foreign language ]

>> O almighty creator. The infinite one, the light that shines in every being and everywhere, we pray today before we begin. The city council of San José meeting, we seek your grace as the council meets to work together in goodness and in grace. O almighty one. We thank you for bringing to us the message of Ek Un Kar, one creator, one light, manifested in one being. We pray that this message of oneness peace and harmony be truly manifested in the world that we live in. We pray that the recent state of violence and hatred be subsided. We pray that we understand each other, and respect each other and accord dignity to all beings around us. Whether they be of hues or climbs or races or creeds different from us. May we have empathy and compassion and love in our hearts as we deal with people around us. We pray that those sons of America that died in the horrible violence in Libya,

find peace in the lap of the lord. We pray that the beautiful City of San José with its multicultural population and its multi-ethnicity, thrive and flourish and the city council as it works for goodness and noble deeds, working towards the benefit of all, be blessed as they carry on their tasks. Thank you, for the space to pray and to seek your grace and your guidance, in everything we do. May our work become worship. Our hatred turn to compassion. Our apathy to empathy. May we make our planet a beautiful place. May we nurture mother earth as it nurtures all of us. Mother and father of all, thank you.

>> Mayor Reed: Thank you. Please remain standing for the pledge of allegiance. [ pledge of allegiance ]

>> Mayor Reed: The first item of business are the orders of the day. Are there any changes from the printed agenda order? I have a motion to approve orders of the day. On the motion, all in favor? Opposed none opposed, orders are approved. Closed session report. City Attorney.

>> City Attorney Doyle: There is no report today.

>> Mayor Reed: We'll now take up the ceremonial items. I'd like to invite Randy Okomura to join me at the podium. Randy Okomura is here representing AT&T, because today we're declaring September 19th as: It can wait, no texting while driving pledge day in the City of San José. As probably everybody knows, text messaging has become a very common and popular form of communication for most Americans. Unfortunately, texting while driving is a dangerous proposition. Texting usually takes your eyes off the road for an average of five seconds. And your car can move quite a distance, and many things can happen in that five seconds, and increases the chances of crash by about 23 times. In an AT&T survey, 43% of American teenaged drivers admitted to texting while driving, even though nearly all of them know that it's dangerous. San José is one of the safest big cities in the country. Our roads have crash rates at less than half the national average. We want to keep it that way and improve on our safety goal. Great work of our Department of Transportation and police departments keep our roads safe. Our goal is to be safer. We appreciate AT&T's effort to help in this regard. To educate the community, and especially our teenagers about the dangers of texting while driving. AT&T launched a campaign asking students as they go back to school to take the texting -- or no texting and driving pledge

nationwide. They'll be here with a simulator demonstrating the dangers of texting and driving and I'd like to invite Randy Okomura to say a little bit more.

>> Thank you, Mayor Reed. I'm thrilled to work for a company like AT&T. I want to take the time right now to thank Hans Larsen and his transportation staff. They have been great partners in trying to make this effort known. And just a plug for tomorrow. The simulator will be here between 10:00 and 6:00 p.m. 11:00 a.m. we're hoping that our home town hot dog hero, Joey Chestnut, will show up. And that's coinciding with the Good Morning show with KNTV. I can't stress enough how it's a thrill to work with the city staff here at San José to help, you know, make sure that you shouldn't be texting while driving.

>> Mayor Reed: Randy let me give you this.

>> Oh thanks. [applause]

>> Mayor Reed: I'd like to invite Councilmember Pyle, Adrienne O'Dell and Michelle Martinez to join me at the podium. Today we're commending the San José Police Officers Association and San José fire department bureau of field operations personnel, Adrienne O'Dell and Michelle Martinez for establishing a victim's fund for the three Jimenez children who were orphaned on July 23rd in a tragic and senseless act of domestic violence. Councilmember Pyle has some of the details.

>> Thank you, Mayor. It is such a pleasure to bring to your attention some interesting information about this wonderful trio behind me. On July 23, 2012, three children of Maribel and Pedro Jimenez were orphaned as a result of a brutal and senseless act of domestic violence. Upon hearing the news of the tragic events, bureau of field operation administrator staffers Adrienne O'Dell and Michelle Martinez, coordinated with the San José Police Officers Association to establish a victims assistance fund for these three children. As a result of their act of kindness and compassion, the Jimenez children received over \$6200 in gift cards to help pay for groceries, clothing, and school supplies. Although this donation does not minimize the impact of the children's profound loss, having received this symbol of love and support, we hope the children will be comforted in the months and years

ahead. And so we do hereby recognize and deeply commend the San José Police Officers Association, Adrienne O'Dell and Michelle Martinez, for this selfless act of compassion and caring in taking it upon themselves, going way above and beyond to initiate an assistance fund to aid the Jimenez children through this difficult situation. And with that, Adrienne do you have some words for us? Or who's going to speak?

>> Hi, I'm Sergeant Jason Dwyer, the public information officer for the San José police department. I'll be speaking on behalf of Chief Moore and the San José police department, and we would like to join the Mayor and the council in recognizing Adrienne and Michelle for what was an outstanding act of humanity. In this case, which happened earlier this year, without getting into the details, it was a very gruesome case. It really struck our entire department, from civilian staff on down to the sworn staff to its core. Two parents were murdered, they left three children behind. And really, in law enforcement, we see our civilian staff as an extension of what we do in the field every day. And I've spoken personally with Adrienne and Michelle, and both of them were very passionate about doing whatever we could do in this case to help these children. The raising of this money wasn't just by handshakes and asking people for donation. There were many hours of slaving over hot cooking stoves. They actually put on breakfast burrito drives. There were lots of things that weren't said earlier that I don't have enough time to get into, but asking cops for money is not always an easy thing, and they have been doing that for weeks now, and they have succeeded in raising money that will help pay for school supplies, clothing, the gift cards, as we said earlier, are going to be extremely helpful in these children as they try to rebuild their lives and move on with the family that they have left. So I would like to join everybody in a round of applause for Adrienne and Michelle. [applause]

>> Thank you.

>> Mayor Reed: Now I'd like to invite Councilmember Herrera and representatives of San José action sports to join me at the podium. Today we're commending the San José action sports for their community support and fundraising efforts for the lake Cunningham regional skate park, which we nearly lost due to budget cuts. Councilmember Herrera has some of the details.

>> Councilmember Herrera: Thank you, mayor. I think everyone's coming up. We have some young folks that utilize the skate park, too. Thank you, mayor Reed. Our City's greatest strength is the community spirit to carry on despite challenges and to innovate when needed. When the lake Cunningham regional skate park was faced with budget cuts last year and programming cuts appeared imminent, a very dedicated and committed group of parents and skate park users rose to the challenge. To raise awareness and funds to keep the skate park open and safe for its users. Originally naming themselves the save our skate park, SOS group they are now known as San José action sports. And leading the charge for SOS was Paul Murphy, raise your hand Paul, and Carol Krueger. Both are parents of skaters who are avid users of the park's program and facilities. Paul and Carol recruited other parents and skaters and formed a committee to work on creative solutions to address the funding shortages for the park. Paul was instrumental in connecting the city with potential donors including First Five, the Health Trust, and Valley Medical Foundation. All three have donated significant ongoing funding to help keep the skate park open, staffed, and safe for families. This group also connected with one of its users and District 8 resident Greg Fox, vice president of sales for Fox racing U.S.A. And worked with Mr. Fox to donate the funding for the creation of an installation of way-finding signs to the skate park along major streets leading to the park, which you'll see out there today. With us today are some members of San José action sports. Paul Murphy, Carol Krueger, Michelle Stoller, Victor Solano, Don Mello, Jamie and Wesley Krueger, Gavin and Jaden Mello, and Miles Gemm. And also our extremely dedicated staff members from the skate park. Parks manager Cindy Raybod and skate park staff member Andrew Helms and also another member of the team, Nick Valencia. I just want to say we could never do this without the folks that work at the skate park. And Andrew and Nick, in particular Andrew, they have really been stellar in their work out there in really keeping everything going. One of their activities that really got my attention is, they have these overnights. They actually spend the night with the kids and the parents out at the skate park. They do these every summer. And I asked them well so where do they sleep? They said sleep? They don't sleep. They literally skate all night. And some of the parents, some of the mothers I've heard regretted signing up for the activity but what a wonderful event for the kids. I have to mention that one. I'm sure they'll talk about other things when they get up here to say what they are going to say. The San José action sports group has set a great example for other community support groups in the city of San José on how to get involved, how to get things done, and get results that help our members of our community realize healthy habits. They recognize the importance of the skate park as a community asset worth saving, and as one

aspect of Public Safety: Giving our kids and adults a positive place to learn new skills and to get to know one another in a safe environment. With that said, I want to commend the work of all our volunteers of San José action sports on their efforts to save lake Cunningham regional skate park. And I want to invite Paul Murphy on behalf of the group, to say a word about their efforts. And mayor would you please hand them their commendation. [applause]

>> Thank you very much. My name is Paul Murphy and my son Harrison is passionate about skateboarding and spends an inordinate amount of time at Lake Cunningham, he loves it there, has improved as a skater, and we feel safe about the supervision that's provided to him by Andrew and the other staff. To the city council, thank you for recognizing our efforts, and thank you for your support. What a difference a year makes. At this time last year, we were scrambling to get organized so we could spread the word about the needing to save the skate park. And I think it's really important that we recognize these young guys back here, come on up here. They were here a year ago in their helmets and their skateboards testifying before the city council asking for the park to be saved. And I think for them and for every kid that uses that park, it's really a lesson in democracy that if you get involved, and you advocate for your passions are and what's important to you, you can have some tremendous results. So really, they're the ones that deserve the recognition. [applause]

>> You know, the skate park does more than just create and provide a place for kids to skate. It really reinforces San José as a really important part of skateboard culture and the skateboard industry. On Thursday at our very own circle A skate shop, Bob is hosting the bones brigade, and a barbecue in the evening there. And the bones brigade is kind of Steve Cavallerro, who is one of San José's most famous skateboarders, and others, there's an award-winning documentary that's just come out about them. Also on Saturday we'll be hosting the 14th annual Tim Brousch contest, which is one of the biggest pool skateboarding contests in the world at Lake Cunningham skate park. It runs all day. There's kids division, women's division, pro division, master division, and all the money that's raised goes to skateboard scholarships and back to the community through an organization that was founded after Tim Brousch, a famous skateboarder, died in our area. And we're not done yet at Lake Cunningham. We're -- the save our skatepark group, we're always working towards the next thing so there's umbrellas out there for shade now, and some of you may have heard about the amazing plans for a bike park,



which will again make Lake Cunningham an even bigger regional destination. So on behalf of our group, thank you to the city council. Thank you to the community based organizations that donated to save the park. And please, come out and see Lake Cunningham skate park. It's a pretty amazing place. Thank you. [applause]

>> Hi, my name is Carol, and Jimmy and Wesley are my sons, and I'm so thankful for the city council, especially Councilmember Herrera for stepping up and helping us with the skate park and giving us the support that we needed to keep it open. So she's been vital. And I really hope she gets reelected because she's a great lady so thank you so much!

>> Mayor Reed: Now I'd like to invite the representatives of the daughters of the American revolution to join me at the podium as we recognize the week of September 17th through 23 as constitution week in the City of San José. The daughters of the American revolution was founded in 1890. It's a nonprofit, nonpolitical volunteer women's service organization dedicated to promoting patriotism, preserving American history, and securing America's future through better education of children. In 1955, the daughters of the American revolution petitioned Congress to set aside a special week annually to be dedicated for the observance of constitution week. That law was passed then and signed by president Eisenhower. And September 17th the Daughters of the American Revolution are commemorating the 225th anniversary of the constitution of the United States of America. I want to thank the daughters of the American revolution for its efforts to celebrate and honor the constitution one of our most important documents. I have a commendation to present. And one of you would like to speak?

>> Actually, you said our speech. Thank you very much. And thank you, council, for allowing us to (inaudible).

>> Mayor Reed: Let's get a picture. [applause]

>> Mayor Reed: Next item is the consent calendar. Do we have any requests from the public to speak on the consent calendar? Are there any matters councilmembers would like to pull for discussion? Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. (inaudible) until the 25th. Part of orders of the day, is that correct?

>> Mayor Reed: I'm not sure which one it was.

>> Councilmember Rocha: Item 2--

>> 2.13.

>> Councilmember Rocha: Thank you.

>> Mayor Reed: Which was? I don't have my agenda here. (inaudible).

>> Mayor Reed: Okay, you guys are using numbers and I don't think the public follows the numbers very well.

>> Councilmember Rocha: 2.13.

>> Mayor Reed: It was the resolution of, that's not on the consent calendar. Any other items on the consent calendar?

>> Motion to approve.

>> Mayor Reed: Motion is to approve, all in favor, opposed, none opposed, consent calendar's approved. Taking us to item 3.1, report of the City Manager.

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

>> Mayor Reed: Item 3.3, ordinance to streamline and enhance the collection of the City's transient occupancy tax and other taxes.

>> Motion to approve.

>> Second.

>> Mayor Reed: We have a motion to approve. No request from the public to speak. On the motion, all in favor, opposed, none opposed, motion is approved. Item 3.4, approval of terms and agreement of sick leave payout with the association of engineers and architects, international federation of professional and technical engineers, local 21 AEA. I would suggest that we consider item 3.4, 3.5, 3.6, 3 -- those three together because they are all about sick leave payout with three unions, and then 3.7 is unit 99. So let's see if there's any testimony, any four of those items at this time? Those three contracts and unit 99 work. I have no request to speak from the public. Councilmember Liccardo.

>> Councilmember Liccardo: I just wanted to thank the leadership and the members of the AEA, CAMP, AMSP and of course Unit 99 for their willingness to negotiate and come to agreement on this important reform. I think this is going to enable us to hopefully recover, hire more employees and provide more services for our city. Thanks.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I just wanted to make a couple quick comments, I appreciate the progress that's been made. But my concern is that this only affects new employees and my hope was that we were going to get to a place sooner rather than later that froze sick leave and -- sick leave payout. Because we will continue to accrue liabilities to be paid out in the future. I feel that it's unfortunate that something like sick leave that is really intended to be somewhat of an insurance policy for employees that they can be compensated if they're ill and it's turned into a deferred compensation program where people can carry them all the way to the end of their

employment. So while I'm happy we've made some progress I think we've got a lot more to go. And because it doesn't include a free use or a roll-back I'll be voting no just on that portion. Because of that reason.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I want to echo Councilmember Liccardo's comments and thank the unions for coming and negotiating. I want to commend our staff, Alex Gurza and his small but mighty staff in the excellent work they've done in moving these items forward. I want to clarify, the issue that Councilmember Constant is can negotiating, that's still in negotiation, there's still some possible movement on that issue?

>> Alex Gurza: Good afternoon, Alex Gurza deputy City Manager. Councilmember Herrera, yes. Part of the agreement is that we are going to continue negotiating when the contracts expire for these groups that are before you today, they have contracts that expire in June of 2013. And so what the agreement says, is that when those negotiations commence, we will discuss the sick leave payout for current employees at that time.

>> Councilmember Herrera: So this is for new employees but we'll take up that issue with current employees that's still on the table.

>> Alex Gurza: Yes, absolutely. What these agreements do for anybody hired on or after September 30th they will be hired without any promise of any sick leave payout whatsoever and it's then what's left then with what Councilmember Constant indicated is current employees and that is something we will continue to negotiate in the successor negotiations.

>> Councilmember Herrera: I applaud getting a ground floor under new employees was very important. Thank you for your efforts and thank all the unions that were involved, too.

>> Mayor Reed: Well, I think I agree with both Councilmember Liccardo and Councilmember Constant, although I'm going to support this action. It is a step in the right direction. It is another element of the fiscal reform plan that

the council approved in 2011, controlling the costs of sick leave payout is not an insignificant number, approximately \$10 million a year, sometimes higher sometimes less but nevertheless a very important step, even though it's only for new employees, it's a step in the right direction. We'll continue to negotiate over the current employees. So I am going to support the action. It is something that we called for, with our fiscal reform plan. I'm glad to see we're making progress. It's a small element of the fiscal reform plan but it's still millions of dollars. All in favor, opposed, I'm sorry, I'm not sure I got the motion. Let me just clarify. In was a motion I think for Councilmember Liccardo, that was for all four items.

>> Councilmember Liccardo: All four items.

>> Mayor Reed: Seconded by Councilmember Herrera, all four items. And I still have no request from the public to speak. All in favor, opposed, none opposed, one opposed that would be Councilmember Constant, I'm sorry.right, those are approved on a 10-1 vote. Our next item is 4.1, hearing on the 11-12 consolidated annual performance evaluation report. We have a motion to approve. Just make sure we're following all the steps that we have here. Since this is requirement of getting a lot of money from the federal government. This is the end of the public comment period we had previously opened. Are there any further public comments? I see no requests to speak, nobody is headed to the podium. So we have a motion to approve. On that motion all in favor, opposed, none opposed, motion is approved. Item 4.2 is a hearing on an amendment to the citizen participation plan which is required by the Department of Housing and urban development for local government recipients of entitlement funds. We have a motion to approve. Are there any requests from the public to speak at this hearing? We have none. On the motion, all in favor? Opposed? None opposed, motion is approved. 4.3, is a rezoning of property on south side of summerside between McLaughlin and Lucretia avenues. Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you, mayor. I just have a couple of questions about the issue of parking. We received a couple of letters from constituents that live around the property and they were concerned about the saturations of the parking. I was wondering if Laurel could answer the question.

>> Laurel Prevetti: Thank you, Vice Mayor. The proposal does involve the demolition of some buildings and reconfiguring parking, as well as building replacement, recreation areas. So there will be sufficient onsite parking so that way there wanting parking affecting the surrounding neighborhood.

>> Vice Mayor Nguyen: Thank you, Laurel. I move to approve.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion to approve. Councilmember Liccardo.

>> Councilmember Liccardo: Just a question about procedure. I recognize there's some community opposition and I'm wondering why this was calendared for a daytime hearing.

>> Laurel Prevetti: Yes, thank you very much. This was noticed with the Planning Commission meeting. And prior to that, when we had the public community meeting we did not get a sense of community interest. It wasn't until we had already gotten to the Planning Commission that we started seeing the concerns from the neighborhood. So we decided to just hold with the hearing for the afternoon. But as we will be discussing next week, I think we will be clarifying our procedures for when items come before you in the afternoon versus the evening. It's unusual for a land use especially a residential program like this, to come in the afternoon, I think this is the first that I've ever really seen this. So I think it was just that up until the point that we had gotten to the first hearing we had really no public interest.

>> Councilmember Liccardo: Okay, fair point. I appreciate you explaining that Laurel. I know that we'll probably return this conversation next week but it seems to me we often as we so often know, encounter developments that engage no public interest or concern, and then as the day gets nearer, there may be some media report and suddenly we've got 100 folks at our doorstep wanting to burn down City Hall. So I think it's important that we think carefully about keeping these items on the calendar at a time when members of the public can really show up when they're working mostly in the daytime. The other question I had was about the PD permit in this case. My

understanding was, we were hoping to move into a post-PD permit world with the new general plan. Is this because this is a pipeline project that this is supported by staff?

>> Laurel Prevetti: Well, this is an old planned development zoning that's been around for a long time. And so because now the applicant wanted to make changes to a preexisting plan developed zoning it was just easier to go back through the zoning process to make the changes. So as we do new development, we will -- we are hoping to use more conventional zoning but we have a lot of PD zonings and as changes happen we may be making amendments to though. So I think we're going to consider them on a case-by-case. But to create a whole new zoning district just for this apartment complex would have been a little bit more than the applicant needed.

>> Councilmember Liccardo: Agreed, okay thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Just point of clarification, since this is a public document. Is this council district 7 or 6?

>> Laurel Prevetti: It's actually council district 7, I apologize.

>> Councilmember Campos: Okay.

>> Laurel Prevetti: That's our mistake.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you for Councilmember Campos for noting that, I was just going to note that for the record, the correct council district. Laurel in general though is this something the city would like to see

more often is when you have for lack of a better words, an older apartment having to be able to sort of up zone it and allow for more development like we're looking in the general plan?

>> Laurel Prevetti: Again I think we need to look at them on a case-by-case basis because just putting more units in and of itself may not make for a more livable environment for our residents. So I think so long as we can still provide onsite parking adequate open space and recreational facilities then additional units can work. Some of our other apartment complexes they are already over-parked and they don't have sufficient open space. So I don't want there to be a blanket message out there that we can actually accommodate a lot of new units in some of our older apartment complexes.

>> Councilmember Oliverio: But in areas I can think of around the city where we congregated too many apartments next to each other and if you sort of knocked them all down and got the property owners to agree, I could get a development that was taller providing more open space and more parking than exists today.

>> Laurel Prevetti: That's correct. And we have to do that in a way that's sensitive to the context of the surrounding development and surrounding neighbors. It is theoretically possible to do that but we would have to work with that builder to make sure that they are able to do so in a manner that makes for a good livable space for everyone.

>> Councilmember Oliverio: I could say for my council district my residents would be ecstatic to take some of that old archaic improperly planned apartment areas and to have something better so I'm looking forward to this, thank you.

>> Laurel Prevetti: Uh-huh.

>> Mayor Reed: Last comment about the district it is in district 7 and that is correct in the agenda notice so it was just on the staff report.



>> Laurel Prevetti: That's right.

>> Mayor Reed: It was noticed as a district 7 item. Anything else on this item? Vice Mayor. Did -- do you have the motion? Anything else? On the motion, all in favor? Opposed? None opposed, that's approved. Item 4.4, actions related to construction taxes. We have a motion to approve. Councilmember Kalra.

>> Councilmember Kalra: Thanks mayor. Only because the updated memo doesn't have as much specificity, I just wanted to make clear, this is the one that came in May that had up to the -- \$1.5 million in incentives for residential development.

>> Laurel Prevetti: This is for the high rise, downtown high rise policies just for the construction taxes and it is linked to the May 15th action.

>> Councilmember Kalra: Okay, just wanted to make clear, thank you.

>> Mayor Reed: No requests to speak on this we have a motion to approve on the motion all in favor, opposed, I've got one opposed, Councilmember Kalra. Motion is approved. Item 4.5 it is an amendment to the design-build contract with Hunt Construction for the convention center expansion project. We have a motion to approve. On the motion, all in favor, opposed, none opposed, that's approved. 4.6 is the proposed annexation to maintenance district 15 Silver Creek valley. We have a motion to approve. On the motion, all in favor? Opposed, none opposed, that's approved. 4.7 is a proposed annexation to maintenance district 19 in the River Oaks area landscaping. We have a motion to approve. On the motion, all in favor, opposed, none opposed, that's approved. Item 6.1, amendment to airport rate resolution 75809, I'm sure you all know that very well. And the ordinance regarding airport rate procedures, methodologies and applications. We have a motion to approve. On the motion, Bill Sherry had a comment before we take the vote. Give him a minute to get down to the podium. Bill, we're anxious to get to the taxi thing so don't hold us up too long here.

>> Bill Sherry: I'll try not to, Mr. Mayor. Just a technical correction on the fuel flowage fees. The memo states effective date of October 1st, we would like to make that November 1st.

>> Mayor Reed: Okay. I think Councilmember Pyle, you're going to amend the motion so the motion is amended to reflect that change in date. On the motion, all in favor? Opposed, none opposed, that's approved. Now the taxi thing. 6.2. Agreement with San José -- with taxi San José for airport on demand ground transportation dispatch service and ordinance regarding on demand permits. I think we'll have a staff presentation, I have some requests from the public to speak. We'll get to those in a moment. But I'm going to first turn it over to Bill Sherry, I think our airport director.

>> Bill Sherry: Thank you, mayor. Bill Sherry, aviation director for the City of San José. To my left is Kim Aguirre, assistant aviation director. To her left is Bob Lockhart, our land side manager, and then I believe we also have Jim Ortbal in the audience ready to answer any questions on the model. We do not have any presentation. I just want to say a few opening remarks. You know our recommendation is to extend this contract for three years with one two-year option. The reason that staff is making that recommendation is, the model in our opinion is working as designed. The contractor, taxi San José, is delivering a satisfactory level of service. And finally, concerns that I have regarding staff and resources, I felt that this was the most prudent measure given all the demands that airport staff have on it. If we get into a conversation about doing additional work such as audits, and possible RFPs, I would like to have an opportunity to talk about some of the challenges and resources that we have at the airport. Other than that Mr. Mayor, we stand to answer any questions you have.

>> Mayor Reed: Thank you. I think we will get into a discussion about audits and RFPs so we'll come back to the director when we get to the point of having that discussion. I do have some requests from the public to speak. I'd like to take that testimony at this time. I'm going to call your name. Please come on down to the front, there's plenty of room down here so you're close to the microphone. We'll allow each speaker two minutes to speak to the council. And then we'll come back for council discussion. John hallway, Erdland coal and Percy Richards. Are the first three speakers. Anyone else who wishes to speak please fill out a yellow card. Well hopefully some of the

people on the train coming down the stairs are John hallway, Erdman Cole and Percy Richards. Appears that it is, okay.

>> Good afternoon, council. My name is John hallway, thank you for your time. I would like to congratulate the mayor on the All Nippon Airlines, that was excellent. And this is one of the realities that we face at the airport is lack of flights. And there is a three year request on the table right now, and I support the three-year request. And I believe taxi San José is doing the best possible job that it could under the circumstances. With the economic conditions that exist at the airport right now. A further RFP, I don't believe is necessary. No one can create magical money out of the sky at this time. I think it's an airport issue. I don't believe it's a dispatching issue. And we would like or I would like to see the bait and switch program stop here at the airport. The economy's down, the flights are down, and no dispatching service can create that. I've worked with many dispatching services over the time and as a dispatcher myself for ten years, I believe taxi San José is doing the best it can. They are paying a living wage. I'm not interested myself as a taxi driver in obtaining the lowest bidder, because that causes an underground economy to exist. I think the moneys that we're spending right now are consistent with people being able to make a living as a dispatcher, as well as providing honest, direct service for the drivers. And until Mayor Reed can get back on a flight to go to more cities I think I'm done. Thank you sir.

>> Mayor Reed: Thank you. Erdland Cole, Percy Richard, Katherine Barnett.

>> Good afternoon, thank you for taking the time. My name is Erdland Cole. I'm operations officer for Taxi San José. Quick background. Seven years ago when this model was originally created, an RFP went out to find the lowest bidders to manage the system. The lowest bid came in at that time at \$340. Taxi San José is a nonprofit came in and managed the system at \$242. Over \$100 less than what the lowest bid was. In seven years taxi San José has had seven opportunities to raise the fees of the drivers but has only raised the fees three times for a grand total of \$21. In 2009, when the -- the city had surplus funds, those moneys were actually refunded back to the drives. Taxi San José's history shows that they have always been extremely reluctant to raise the fees of drivers. It's hard to make a living. It's an expensive proposition to be a cab driver. Now, seven years later, we look back, even with the proposed increase for the cost recovery of the new building, which is a beautiful building the

airport is providing us with, our fees will go to \$286 a month. That is still lower than the lowest bid, seven years ago. Now, I don't know about you. But I haven't seen anything get less expensive in seven years. I ask that the council follow the recommendation of the airport commission which voted unanimously to extend our contract for three years, and with a possible two-year extension. That is also the recommendation of the airport management. They deal with this day in, day out. And they're the experts on the field. They know what works and what does not. Thank you very much for your time and have a good day.

>> Mayor Reed: Percy Richard, Katherine Burnett. Mark resurrection.

>> Good afternoon, my name is Percy Richard, I've been working with taxi San José for seven years now, every year we meet the management needs my stars myself lack of more flights flying in and I feel like the drivers really don't have no problem with this, how we operate. It's just the lack of flights that's arriving. And I really like that's all the problem that it is. And I hope that we get a contract extension for three years, two years option, whatever it is. I enjoy my time working at the airport operation management. I just hope that you all bless this and extend our contract. Thank you.

>> Mayor Reed: Katherine Burnett, Mark resurrectione Dave Logan.

>> Good afternoon. I'm Mark resurrectione. The Katherine is late I believe. I'm Mark resurrectione. nonprofit organization that's started seven years ago. To a veteran crew that half its staff working three years or more. We've worked hard and diligently with drivers and ground transportation staff to reach our two goals, excellent customer service and maximizing driver income. no passengers waiting more than five minutes. We reached that goal of 99% in the last two years, it's unbelievable as it may seem. 70 to 80% of that time there's no wait at all. To ensure greater customer service we also have a secret shopper program. Since I've been working there in January 2007 we've served 2.7 million passengers at SJC. In helping to increase driver income, seven years ago \$340. We started at \$2 formulate. In a span of seven years the monthly airport fee has increased only \$23. In that time taxi San José in conjunction with San José taxi drivers association helped establish a minimum \$15 minimum fare trip at the airport. In the seven years taxi San José only increased a cut staff and reduced our

own budget to keep the drivers monthly fee down. Today the monthly airport perm fee is at \$263. So nearly \$80 lower than the private bidding seven years ago. I ask you to please support Ash Kalra's memo and please allow us to continue to serve at SJC.

>> Mayor Reed: Dave Logan, Ray Silva, Ray Duke .

>> Good afternoon. My name is Dave Logan. I'm the operations manager for yellow checker cab. Yellow cab supports the memo from Mayor Reed and councilmembers Liccardo and Rocha, while yellow cab completely supports the model, we three years plus another option period of two years. There are 300 permit holders and the majority as you will hear today are dissatisfied with the management and treatment they receive. After seven years, four operation managers, there are glaring issues about consistency. The drivers fully fund taxi San José. They are taxi San José's customers and the majority of the customers are not happy and want the opportunity to have an option to change through a competitive process, but we must take a look. Taxi San José will be able to bid on the RFP and may prove to be the best selection but we must take a look. The staff report states there is a lack of manpower to put an RFP together but two years certainly gives staff adequate time to conduct a competitive RFP. In closing I will ask all councilmembers to support the majority of the drivers desire to support this mayor's memo and go fort with a two-year extension with a competitive RFP as developed. Thank you.

>> Mayor Reed: Ray Duque or Duque please come down when I call your name.

>> My name is Ray Duque and ride for green cab. charge more money in the whole City of San José all the drivers. All the drivers driving in yellow cab they are slaves in yellow cab and the big proposal to get airport back, is amazing. The system right now is working well. Working fine. It's very good for the whole drivers. Thank you so much.

>> Mayor Reed: Sam Atar, Gurpal Bajwa, Pahul Malik.

>> Mr. Mayor, councilmembers, ladies and gentlemen thank you for giving me this opportunity to speak in front of you. I am the -- my name is Sam Atar, I am the president of San José taxi association which is legally elected by the drivers, by San José drivers, taxi drivers. I'm here today to clarify in front of you, being served working, given organization, nonprofit organization, I am in support of taxi San José, for the organization for three more years, because for two reasons. One, the financial report is transparent. You can see it any time you want. Secondly, we have a board, in the board we have seats, driver seats, we have which we couldn't have yet if somebody else takes over. So the gate fee is normal, if there's anything wrong with them, here at the management they could have, they are they know exactly what is going there. They will have told you if something is going wrong. I think taxi San José is doing good service. We appreciate, we're happy with them. I my drivers here, stand up all my support that's here. Over there. [applause] So we would like to give this more chance and I don't object if there's an audit who is going to supervise themselves. It's okay with them. But with the model please keep the model as it is. Because all the share this model. We don't want to go to that one station back. Several years ago. Thank you very much.

>> Mayor Reed: .

>> Mayor, councilmembers and city staff, good afternoon. I'm Kapal Bajwa, elected member and secretary of San José taxi drivers association. Thank you for giving me time. We have given explanation in our letters but I want to put down my concerns in brief in the following few points. Number 1, there's no other association elected by the drivers of San José, except ours. Number 2. My letter submitted by drivers against taxi San José have one and same baseless subject matter which is senior to yellow cab's letter, does not have opinions in general sense they are to be taken as one letter, or declared as null and void. This happened because yellow cab has a monopoly had too many airport company permits unjustifiable and that's why they played in different ways, they give second permit to the driver who had already won his own airport permit so he can speak on their behalf. And other permits given to the drivers, and they have been manipulated as a result of this campaign. There is nothing going with taxi San José which is a nonprofit organization comprised of drivers and companies. It is giving wonderful customer service. For last seven years with no wait-time. Contractually extended at least for three years or beyond. So that you can have end of time for already we support already there's nothing wrong with that one but

there is a transparency, there is nothing hidden there. There's nothing wrong with the present service model either. In last seven years there was no unrest among drivers and there was no strike like before we used to do. We should not waste time and money on the RFP.

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

>> Okay. Thank you very much.

>> Mayor Reed: Rahul Malik, Larry Silva, Saran Paul Baines.

>> Good afternoon, mayor and councilmembers. My name is Raul Malik and I'm a cab driver. I've been driving cab in this city since last 12 years. For me, taxi San José is doing wonderful job. I support the staff recommendation for extending their contract for three years. And I also support taxi San José. Thank you.

>> Mayor Reed: Larry Silva. Roren Paul Baines, Sayum Asrat.

>> Mayor, Vice Mayor and council, the cliff notes version of what we have to say today, we do support granting the extension of taxi San José, for 12 months during which an RFP can be conducted taxi San José has had the contract for seven years and our concerns about the performance the extension of three years with two-year options means 12 years without a competitive process. We've been asked why airport staff had not heard about complaints earlier. The reason is that the expectation of the industry has been that an RFP was going to be issued before the contract expired, so there was no need -- no need to raise concerns to staff. However, concerns were raised to taxi San José itself and we heard repeated complaints from our drivers. The major complaints we hear are drivers treated unfairly, there's favoritism. Drivers treated disrespectfully, they're yelled out and sworn at. The facilities are not kept clean. They're concerned about the fees in which you're adopting today which they believe to be excessive. The lack of transparency and a lack of management supervision. Seven years is a long time to go without a competitive process. An additional 24 months gives staff more than enough time to conduct a proper RFP. Thank you.

>> Mayor Reed: Sharon Paul Baines. Sayum asrat, Biknat.

>> I'm Sam Barbanes and I speak on behalf of the drivers. I go with the recommendations of the staff. Because the taxi San José has done an excellent job for the last seven years. And there is no complaint and there is no unrest among the drivers. Of course, the people living in glass houses don't throw stones on others. If people speaking against taxi San José they should look into their own dispatch system how that works how bad it is or how good it is. So all those people are recommending all the drivers standing by the taxi San José and we expect the city council members and the mayor to pass the resolution. Thank you so much.

>> Mayor Reed: Liam asrat, Ikval and.

>> Many, many, ourselves like this year it is a very terrible year. I thought our trouble is over, whatever we are going to do up to now was just improving the taxi service in San José. Today's question is not about taxi San José. It is about yellow gaining what they lost seven years ago. In the last weeks, we have seen the circus that took place at the 18th floor. None of the so-called airport drivers association people came over there. It was yellow. How is yellow so concerned about drivers? About concern over drivers? When yellow has 300 taxis at the airport, they have one restroom cleaned once a week. It took a strike to make it two portable restrooms to be cleaned three times a week. So whatever they say, today is not about taxi San José. Now, yellow will come, with some of its shenanigans. Disguise the surface, and down the road you and I are getting eggs in this business like a cheese. So you know, everything what is going on behind it. Is it going to taxi San José, we can correct it. Go ahead do the audit. But stick to the airport's recommendation. Whatever happens, remember, Mr. Mayor, what terrible times we went through 13 years. Now you and me are like I said, you're going to retire pretty soon. I'm going to fighting still for the no retirement for me. So don't --

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

>> -- leave this open. Okay.



>> Mayor Reed: Igval, Sadigni, Karan deep.

>> Thank you, my name is Ikbal Durani. I have some questions actually as to this stuff. This something's coming up for me that is page 4 . City council members you have some petition going on against they're saying they're going to charge taxi San José is going to charge 400. Tell me this question why \$400 is included or not included? My understanding is the money you're going to pay today is going to increase because of \$25 each month each dollar is going to pay \$ten years it will be \$900,000. That's questionable, I think some of you guys need to look into it. Supposed to be given the job to write the numbers off how many people are going to speak against and for it. I failed to do that, I'm going to try to give the numbers out to two. To my understanding is taxi San José is doing an excellent job, we brought it up. One of you guys were there you supported it. You abstained at that time but you supported it . Let me go back to the some people that's living in the glass room and passing rocks to others. I was fired three times by Mr. Le Selwa in his company. Unrest, how dare he come up and tell you we have a problem with taxi San José. Would you ask this question to the amount that's been charged from ten years, 15, 20 years, 200 -- I'm sorry the numbers he have he did not increase, I mean he did not decrease. \$25. Please listen to it. Why, because that money is going to come from our pocket. The petition coming out 200 plus numbers because they are big fear about drivers, the money is going to go up. Understanding is --

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

>> That was quick. Thank you.

>> Mayor Reed: It goes by very quick. Kendy satigne, I cannot read the last name.

>> My name is Kendy satigne. Dear mayor city council members. We support the memo, no increase, you know what is better for the cab drivers. I remember two years ago, mayor said, you sick and tired wasting your time and wasting the money, regarding with the cab drivers agenda. The drivers are happy and the customers are

happy. So taxi San José is a nonprofit organization. We cab drivers are like water hose. We make money, the money is going the other way. What is the improvement that they need more money to add on the cab drivers? I remember two years ago, by the increase of taxi drivers and the maintenance people in the airport facility recommending by the airport aviation director. And it's just been too much. It's above our limit and the business is going down. We don't know -- we don't need -- we don't make any extra money. And how many flights coming to San José? You know how much you heard you did, you go away, I hope this is going to be implemented. So we don't need no increase for the taxi San José and if there is any need of improvement, let them work on it. Thank you very much.

>> Mayor Reed: Karan Deep, Mikonan and Shavir Vuni.

>> Good afternoon, mayor and councilmembers, my name is Karan deep this is my personal issue. I have my own permit. I want to save it and I want to protect my airport from it. It has nothing to do with green cab or yellow cab. And there were too many drivers that wanted to come and speak here. But they are serving at airport and also they are serving in the city. And 200 people, drivers, this time and no try the the letter that I gave to all of you guys for RFP, how did I know taxi San José is reasonable they are giving us a good price unless there is an RFP so I support Mr. Mayor's memo and that's all we want.

>> Nikonin, Smakil B uni and Kabedi Kaba.

>> My name is airport driver association. As far as I guess I want to say one point that all the speakers they didn't mention to the council. First of all, the model of the airport on demand is working perfect. It is good, we have, Mr. Mayor and the council, when you guys use that model, it is excellent. The drivers are happy with that. The companies are happy with that. What we here have a problem is, a company who is service provider. That's like somebody you hire for service. Nothing to do with that model. So those service providers they not doing their job. We write complaint to the airport ground transportation. We write their president and nobody is doing anything on them. They are kings in the house. Here Mr. Mayor and if rest of the council, this is 200 drivers petition, all of them went to the city and notarized their petition. We submitted each of you guys office yesterday. Everybody put

his driver license his against taxi San José. We are not just making up story like folks are right now are picking and saying. Those are people supporting yellow cab. No, it is all the cab companies. Numbers are right in this petition, we deliver yesterday to all the council and the mayor's office. There are 200, 80% of the drivers signed this petition and they just fine with the taxi San José. We want mayor to support the memo and we issued as soon as possible even though we like to get less than would years if we can get a year or a year and a half but I'm here to support mayor Chuck's memo.

>> Mayor Reed: Sorry, your time is up. I just want to make sure the clerk got a copy of that petition, sir, that actually gets into the record.

>> My name is Macoman from national cab. When we start 2004, four companies start taxi San José. National, golden star now it's called green car. When we started we invite all the cab companies, they refused. Four companies, the one I mentioned we collected \$3,000 each to start the business. San José taxi. We paid from our pocket to get the license from nonprofit organization, from Sacramento. Now, San José taxi is giving a good service. But the problem is, the cab companies who established who are serving the city are not treated equally. The permit 105 permits are not equally distributed. It is unfair treatment. Now, I am asking to the city to be treat as equally, to distribute the 105 permits to all cab companies, and San José taxi has to -- still has to stay as it is. The service is, when we start the service, we were given are free service before powers took the place, when we hired Bowers, you know everybody knows that what happened. But we were serving free service four cab companies. National, alpha, golden star, municipal. Now everybody knows what is happening now. So please, you should be fair. The city has to be fair. To all cab companies and to all drivers.

>> Mayor Reed: Kabita Kava, Kavir Singh Jesse Singh.

>> Thank you, I am here to support the memo which is prepared by the mayor and Sam Liccardo and the other councilmember. The four points on the memo are very essential for the future improvement of our industry. The second point is, I oppose any increase of our airport management fees. Let me be clear also: No one is opposing taxi San José service. We have been supporting for the last seven years. We will be supporting taxi San José

inasmuch as they do not impose any increase on us. They are due to this money is not enough to manage this small business. If this money is paid by the city, today really, today you pay this money to this organization or this industry, you are cutting the police, essential for the society, you are asking the employees of the city to give them, to give up 10%, 15% of their salaries. Why you put on us to increase money on us? Because you don't pay it? We have families. We have children to school. So we have to, the city council have to look for us, also. The place some drivers are pointing, for example I'm from green cab. I have never served for yellow. I don't know why we are bringing this kind of issue in front of city council. The point of the agenda is not about yellow and its drivers. It's about our pocket. So, please, look into it, seriously. The money that they are collecting is more than enough. Let us provide service by that amount of money.

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

>> We done thank you.

>> Mayor Reed: Vicram Singh, Jesse Singh, Said Ali.

>> Good afternoon, everybody, my name is Vicram Singh. As we heard from everybody, I think it can work even better. This is working partially from some of the stakeholders. If it can work for all of the stakeholders it can even make it better so my request is from both of these memos is somebody from this council can make a friendly amendment, by directlying the staff to look into it, equal distribution for the majority of the minority owned cab companies in San José. And I think the term for the contract should be three-year, and no business can 79 for a short period of time. We have put so much into taxi San José and it's nonprofit and we our heself without getting paid anything. So I think the term should be three-year. So my opinion I think if we put both memos together, most probably with a little amendment, Councilmember Ash Kalra's memo should be passed with a friendly amendment, or the other memo can incorporate the other consents. This is really important because this will save lot of small business owners. In my opinion, every taxi San José employee of a small business, every driver in this city is a small business, every taxi company is a small business. And here instead of looking for a few small

business owners we should be looking at every business in this city including drivers including cab companies  
thank you so much.

>> Mayor Reed: Jesse Said. Tony Alexander .

>> Good afternoon, mayor, councilmembers, my name is Jesse Singh taxi San José is a nonprofit organization, with full clear transparency. The main issue here is, the airport allocation of the permits. There are 14 companies in the City of San José. Only primary four are at the airport. Two additional are owned by the same companies. So the current allocation of the permit does not work for us. So there are right now the current percentage is 53% of yellow have the airport. 37% has green cab, 8% Milpitas cab, 2% California cab. So what this current allocation of the permit is doing, is driving away small businesses out of San José. If this is not addressed immediately, I will have to close down my company along with the other eight small cab companies in San José. And this is just not a bluff. I will come and show it to you that businesses closed if this allocation is not changed. Thank you very much.

>> Mayor Reed: Said Ali, Tony Alexander, Katherine Burnett if she has returned.

>> Dear mayor and councilmembers I believe mayor this is what you said. November 2006 you remember? You will be a consensus builder and I am the one that gave you this sign at that time. And I believe honor when I came to the U.S. the first reason I said it was, the land of opportunity and justice. And I believe justice should not be delayed. We are suffering if we are part of taxi San José, I am part of green cab. I started with green cab working with him for six years, I became part of green cab. The money we paid Your Honor is too much. I paid \$1.50 each, from the airport, or I drove. That is fair I believe. And I don't know, I had this Bill Sherry is raising up with the taxi San José and I think he should be removed and give it to Kathy Hollister, I believe justice would become soon, thank you Your Honor.

>> Mayor Reed: Tony Alexander, Katherine Burnett, Biseba Bisouni.

>> Mr. Mayor, and councilmembers, my name is Tony Alexander and I represent USEW we represented taxi drivers and part of taxi San José in the beginning. Since the beginning it started in our office. We put together a number of people including yellow cab and United cab and all the small cab companies we have now. Taxi San José has worked hard to build customer service and do a lot of other good things. I'm going to be real honest with you. We participated and followed the process that City of San José wanted us to do. We put together a system that includes everybody the problem is that sometimes the council will go ahead and overrule some of the recommendations that are coming. So we work with that and we've continued to work with that. Now the airport comes with a recommendation, because they took a look at it. You've asked your airport director to go out and bring back the best recommendation and they've done that now we're getting an amendment to that recommendation. At the last minute all of a sudden it comes back to something different. Look, I'm going to be perfectly blunt with you. We've worked, we've done all the things that this council has asked, we've done all the things that the airport has asked, okay? What your memo Mr. Mayor is asking is, too much. We are as transparent as we can be. We're very transparent but the problem is when we hear rumors of what we're going to try to go out and do, it's wrong so the airport director has given us a recommendation. We support that recommendation, begrudgingly because they have asked us to do more, to pick up more services and do a number of things. And then you come back and say oh, no, you guys got to go ahead and take a look at do more things. So what we're asking is, support the airport's recommendation on that. And we're going to continue to do what we do. Provide great customer service, work with everyone else and continue to work with cab companies cab drivers and --

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

>> Thank you very much.

>> Mayor Reed: Katherine Burnett, Baseba Basume, Abraham Alzuni.

>> Thank you, Mr. Mayor, and councilmembers. I support taxi San José service is very nice at this time, I think it's good and it has been seven years, I think you can see the difference we have been through seven years and now

we can see the difference how they operate the system at this time. It is good they operating nice way and this is before taxi San José is coming, there is any different companies competition, the lowest permit in here without San José at that time. But any company they can come, they don't get any profit they can not work. I don't know there is something going on at the end of that, that runs different and that's in time taxi San José is working properly, and you know the drivers happy and you know like is working fine. I don't know, why this thing has come up like this one. Thank you. I support taxi San José to work as it is. Thank you.

>> Mayor Reed: Katherine Burnett, Ibrahim Mohammed, and.

>> My name is Katherine Burnett and I work at taxi San José. We are asking that we have our contract extended another three years. We do a great job out there and we ask that our contract be stepped for three more years thank you.

>> Mayor Reed: Ibrahim Mohammed, malik, and.

>> Good afternoon, honorable American, good afternoon, city council members, my name is Ibrahim Mohammed, I'm a green cab driver. I'm the secretary of San José airport, taxi drivers association. I am honored to stand in front of you today to express my concerns and my grievance about the proposed fee increases on our airport this system. We should be clear, nobody's against taxi San José. Nobody's endorsing anybody else. But the thing is, an open competition, can't, we'll give you some -- will get me to feel some sort of fairness. And taxi San José, I'm sorry, I'm supporting the memo of the mayor for the RFP. Because the taxi San José can come for it. I know taxi San José is a nonprofit organization but that does not guarantee me that they will return any less, they can charge me whatever they want as long as they will allow me to and they can put their zero zero, nonprofit, everybody should have but if their open bid RFP is open I might what I will feel that I will get another entity which will charge me less. So I can save a little bit for my kids. And that's all I want to say. I will have to thank very much for the ground transportation which might -- they have to have, thank you everybody, thank you.

>> Mayor Reed: Amjid malik, Ali Roble, Abducaran Jama.

>> Respected mayor and respected city council and attendees good afternoon. I'm here as a driver, I've been working in San José for 12 years. And as a cab driver, since I'm at the airport I haven't seen any misbehave or unfairness by the taxi San José. There are no concerns. But there are some issues about the fee -- management fee hikes which a lot of drivers are concerned. But the thing is, where that you know, improvement is coming. It is coming by the airport. The airport is imposing more and more things on taxi San José to increase their fees and there are some brains working behind it to deteriorate this system that the driver will not have which they have suffered for ten years. So I would say that you know those things should be considered before you review the contract with the taxi San José. I think taxi San José is doing wonderful job, as far as customer services. Thank you. [applause]

>> Mayor Reed: Ali Roble, andicara.

>> Good afternoon, ladies and gentlemen, so there were people talking about that yellow cab yellow cab yellow cab, yellow cab is not here. We have drivers who work at the airport who see daily life, what taxi San José do. The people you support on taxi San José are the people that have a favoritism. To me the association, airport taxi driver association, and everybody's against like the other guy said, 200 to finalize that's what we have it. So please I'm supporting Chuck Reed proposal and airport transportation they usually do good, they always come in and communicate over that. And the other thing is the union. Union only represents five drivers, and taxi San José. That's a conflict of interest. It supposed to be one side only and that thing has to be checked. And they say we are nonprofit organization. Where do they attend this \$900,000, almost \$1 million? They propose they are going to high Jack jack, every year they going to put some money. This valley, Silicon Valley is a business town not a tourist town. And if business is not going to be up I don't think we're going to make mope. If the business is going to be up we're going to make money. If business is not up we're not going to make money. City council try to listen to 200 people who sign it who says taxi San José has to go and has to be there thank you very much.

>> Mayor Reed: Abdicar jama. (saying names).



>> My name is Abd Kareem Jama I'm with green cab, I've been driving for something like ten years now. Firstly I want to congratulate you for giving us this opportunity to pass our side of this because there are two sides of this story. We are not carrying water for anybody. We are speaking for ourself from the heart. We have been suffering. We are the ones who are doing the hard work, we are spending there from 6:00 a.m. to midnight. So that's what is causing the grief and the hardships, no able to see with our families with our children, we regardless of whether we get sick or not we are the ones who are there because we have to pay gate fee weekly. We have to pay monthly management fee. We have everything, we have to pay the trips we have to pay the PD for our permits, for our major measures everything we have to pay. I'm asking to you keep the eye open the ball, the person who is sovereign of these actions you're going to take is the driver. It's not going to be the cab companies who are asking for more presence which they cannot compete with other companies and so I'm asking you that the driver is the story. The bottom of the story is the drivers that you should keep an eye on. Not the cab companies, not the taxi San José. Not the conflict interest -- conflict the union. The union is taking from -- taking from left and right. They are -- and they cannot be speaking for the drivers and at the same time be representing the management company. For better option, we are forced to take the option that the mayor is passing which is two years. Although we would like to have an RFP right now right here. But we are forced for --

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

>> Thank you very much.

>> Mayor Reed: Kurpal Basadi.

>> Honorable mayor, and city council, Good afternoon. My name is Kurpal Basadi and I work long time at airport. Right now working for green cab. I'm here to request city council and mayor that taxi San José is doing very good job. We are happy with them. And we support Mr. Kalra's memo. And I think gentlemen talk about 200 signatures. Probably they are right. There are 200 signatures. But those submitted not came as voluntary. The cab company, the special cab company who has lot of pressure on drivers, they are fearing about their jobs. They are fearing about their permits. They are manipulating those drivers. That's why they sign it. Second reason is,

there's number 4 on the memo, you will see about in the middle of the page, there is a \$400 fee per driver per month. They are misleading those drivers. It is not actually \$400. That's why they are just misleading and misinformation in there delivering into the drivers. Two main reasons that's why they get signatures. Other than that, they are saying yellow has nothing to do with it. Yes, they do have a lot of benefit in it. They wanted that to go with the system. They wanted their own way. We don't want this to happen. We want the system, the way it is. It is working fine. And we support taxi San José. We support Mr. Kalra's memo. Thank you very much.

>> Mayor Reed: Lakmir Puni, Mohammed Omar. Good evening. Mayor and all city council members. I'm Omar from Milpitas cab company and city cab company. I spend in this industry almost over 25 years and very hard work, with all my family. And we already since the start reallocation investment this company all companies very hard for all the time changing. I'm support Ash Kalra memo and taxi San José. Thank you.

>> Mayor Reed: Mohammed Omar.

>> Honorable mayor and city council, my name is Mohammed Omar. I work with Milpitas cab but I'm speaking for myself. I live in the city for about 25 years. I work as a cab driver about for 15 years. And the model that was created was to improve our income. But that didn't happen. But it's still, we're trying to maintain whatever we have. And as you know, the economic situation is bad. The city is living off people cutting left to right. Because of there is no budget. You don't have money. How you expect us to pay more, when we are already starving, just to increase our money, the cost of what we paying them. I don't have a problem with taxi San José's bidding open bidding and giving us even less money. But I should be able to say whomever you know give me the list I should say I'm going with you, not -- nobody shouldn't be imposed open us. That's my point. I should be able to say, I will be able to pay you this much. Even I -- if the drivers with me, even when we can hire one manager, and the day that's when we're working drivers even couldn't work. This only appearing the manager and then we can do service at the airport, start with \$8, barely minimum wage. Why should we pay \$900,000 to this guy? They not doing good job. I give them F and I thank you very much. [applause]

>> Mayor Reed: That concludes the public testimony. Bring it back to the council for discussion. I had a few comments to begin with. I agree with several of the speakers, we need more flights. We know that. Bill Sherry and his staff are working on that all the time. I'm working on it. Silicon Valley leadership group's got a special committee just for that, and we've had success with All Nippon airways, ANA. But there's more that needs to be done, because that will make life better for the cab drivers, it will make life better for the employees, it will make life better for everybody including the people who live in San José who have to travel to San Francisco in order to fly. So we're working on that, and that makes the problem worse when traffic is declining as it has been for the last few years. The second thing is, the airport, because of the debt service needs to be at cost recovery. I don't think we're going to be at cost recovery even with the things that were shifting here, the staff is proposing to shift to taxi San José. We're still not incurring all the costs we incur in order to operate the taxi system. We're kind of moving in that direction, maybe it's not getting worse. But that's important to realize that the staff is responding to the direction the the council is giving them to move towards cost recovery to make sure we can pay our debt service which goes up every year. 2007, my first year as mayor, one of the first things we did was to take on the taxi contract organization, goals, allocation, we spent a lot of time, and there was a huge involvement with members of the stakeholders, drivers, you name it, people were involved in that. So I'm not anxious to change the model. I'm not anxious to change the way we do things. But I do think that it's appropriate occasionally to audit contracts and see if we're achieving what we intended to achieve. I think we probably are. But certainly some people think that we're not and that we should make a change. And I think doing the audit is a way to help us get the data and the good facts so that we can evaluate that. But I'm also very concerned about our staff's ability to respond to one initiative or another. Right now, they're really busy. And airport West comes to mind. This really important thing that's going on with an RFP, we are going to hopefully be negotiating contracts. I want to make sure whatever the council decides to do that we have it far enough out in the future that we have a chance to get the West Side development projects completed and that the contracts around all the things that take a lot of staff work to do that. And that's why I was supportive of it at least a two year extension of the current operation to allow the staff to do their work time for an audit and time for a thoughtful decision about an RFP. So with that I think there will be quite a few councilmembers that want to talk about this it's typically the case when we deal with this issue because it's complicated and a lot of moving parts. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor. I want to thank all the drivers, all the members of the public who came out to speak because recognize that this is an issue that goes right to the ability of the drivers to support themselves. We recognize it's incredibly important. For your ability to pay your own bills and we want to do right by you and be as fair as we possibly can. Obviously there are drivers on each side of this issue but one issue I think they all agree on they want lower fees. And I can understand why. The newly constructed staging lot building I recognize is something that struck a cord, I know, with drivers on both sides of this debate. I have a question about the recommendation that's contemplated in both memoranda here, which is extending the amortization period, for lack of a better term, of that payment to see if we can reduce the burden. Is that something that's possible to do?

>> Bill Sherry: Councilmember Liccardo, I think that the council has some discretion in that. But let me give you the background on it. As you know, the airport is a heavily regulated operation, specifically from the federal aviation regulations, and federal government. The FAA requires us to obtain fair market value for real property that is leased or granted to an entity or an operation. So I would say to you that as long as we stay within the parameters of what fair market value is, we have some discretion. As order of background, we assessed the new building, and along with the site, and the annual rent on that came to about -- I'm sorry, \$218,000 a year. Knowing that that was pretty excessive, we, airport staff, looked for ways that we could reduce that rent. It's made up of two parts. Roughly \$90,000 for the building and the land that the building sits on. And then about \$128,000 for the staging area. So what we did, and I think that I can defend this in front of the FAA, we concluded that the staging area really isn't part of the lease. It's just an extension of the roadway. In other words, if taxi San José said okay, well, we don't want to have the staging area, we'll just have our cabs park on the roadway, that would create a hardship on the airport. So not to experience that hardship we're building this staging area. But it's really just an extension of the road. So with that position, we were able to delete the \$128,000 for the staging area. So now, all we've got is just the building and the land that the building sits on. The FAA requires us to do an appraisal, unless there's sufficient justification not to do an appraisal. And in this case, I think there is. As you know, when you do an appraisal, there's three methods by which the appraiser will use. The first is the income approach for income-producing properties. Which this is not. So that approach is not an appropriate approach. The second is a comparable methodology where they go out and they look for comparable sites. And that could be an option here,

but the third approach, which is the replacement value, is clearly the most appropriate. And the reason is, is we're building it. So we know exactly what the cost is to build that building. It's roughly \$900,000. So you know the cost. So now, you have to allocate what's called a capitalization rate. And the capitalization rate in our rate resolution, the one you just passed, but it was also in previous rate resolutions, is 10%. So you take the 900,000, 10%, that's the rent. I will tell you that in my experience, in Silicon Valley, capitalize sayings rates vary between 8 to 10%. So if you wanted to, you could carve out from the rate resolution and reduce the capitalization rate from 10 to 9 or 8. But if you went any lower, I think I would have problem justifying that in front of the FAA. If the FAA deems us to be in noncompliance, the tenant, in this case taxi San José, would have penalties and interest imposed, which would be pretty severe. Okay. So that's where I kind of see the play between 8 and 10. The only caution I will give you on that is, the me, too. If we do it for this operation, I think you're going to have every nonaeronautical tenant coming in, asking for the same.

>> Councilmember Liccardo: Bill, thank you for that. Help me understand, then, I recognize there's a limitation or a limited range within which we can move as we choose a cap rate. But it seems to me that the duration over which you pay off any capital cost should be something we would have more flexibility with. Am I wrong about that? Can you help me understand why we can't -- the same rate simply say we're going to amortize this over 20 years rather than ten?

>> Bill Sherry: Right. You would think that you would have the ability to say, do we want to amortize this over ten, 15, 20, maybe even 30 years. Maybe the useful life of the building is 50 years, so why not 50? The FAA doesn't tell you you have to do 20, it doesn't tell you you have to do 20 or 30, and it doesn't tell you, you can't do 40 or 50. All it tells you is, it has to be fair market value so you have to be consistent with what cap rates are in this area.

>> Councilmember Liccardo: Okay, I guess I would encourage us then reducing it from 10 see if we could make the burden a bit easier on the drivers. And then with regard to the last RFP which was I guess ten years oop that we had a provision that prevented anyone with an ownership interest in a cab company from bidding on the services for dispatch. Is that true that we had that requirement?

>> Bill Sherry: The RFP was a little bit before my time so I'm going to have to pass this over to Bob.

>> Councilmember Liccardo: I'm not sure if I heard this from the city attorney's office or from the airport.

>> Bob Lockhart. Operations manager. I don't believe we had that restriction in there, but we did not have any taxi companies themselves propose.

>> Councilmember Liccardo: Right. Is there any reason we cannot impose that requirement on any RFP that if you are a cab company or you have an ownership interest on a cab company you can't bid on that dispatch service?

>> We can put whatever restriction in we want if that's what's desired. Sometimes those companies though have the best operational sense of how to run the operation. So you have to give -- you have to take a look at the operational sense of how it's going to work. If you have a company that doesn't know the taxi industry running a dispatch.

>> Councilmember Liccardo: Everywhere else I'm going obviously the elephant in the room there are cab companies that are concerned about the much more dominant taxi company, yellow. I want to address the fear at the same time, my interest in us going out for an RFP has a lot less to do with any criticism of taxi San José. I'm frankly don't know how valid any criticism may or may not be, I'm fairly certain that taxi San José was doing an extraordinary job at the airport. People would still be unhappy because it's a really tough time right now to be operating a taxi at the airport. We know that volume is down and revenues are down and it's hurting everybody in the pocketbook. So really, I'm not really here to figure out whether taxi San José is doing a good job or bad job. I guess that's going to be up to the auditor and when we'll learn more. I'm just concerned about the fact that we haven't had an RFP. We had planned on going on an RFP a incumbent of years ago. If we go forward with it the staff recommendation it will be well more than a decade before we have an RFP and I believe in competition. I mean, this is a service that we recognize should be competitive because we want to have competition and reduce

the burden on taxi drivers, ensure there's sufficient operations at the airport. So you know, as the reason why I supported this memo, it really comes down to that. Wouldn't surprise me at all if taxi San José prevailed in the RFP and that would be fine. And I think there's nothing wrong with us doing an audit coming back in a year and a half and asking ourselves do we still want to go forward with an RFP and maybe changing our minds at that time. But having an RFP hanging over the head of taxi San José it seems to me it's very important to encourage them to perform at a high level and ensure that their rates are low and be competitive, and I think that's our role as a council. We're not here to pick among one company or another. We're here to ensure that there's fair competition so the best company can prevail. So that's why I'm supporting the memo.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I had one follow-up question where Councilmember Liccardo was going and that was police rates and the time we set the cap rates and also the length of time. Are we able to house services, are we able to house services at the airport without charging them, you know let's just say the dispatch service we consider a function of the airport and we want to hire somebody to do the function at the airport we can provide them space to do that function without charging. Is that possible?

>> Bill Sherry: Councilmember, yes. But I think the FAA will say, is that a function of the airport? So let's -- let's draw some analysis. Our parking operator. They -- the parking lots are our parking lots. We pay them to do a service for us. And so they collect the revenue. And then they keep their share, and remit the rest to us. They're doing a service for us. In the case of the taxi operation, I think you'd be hard-pressed to say that you're doing a service for the airport. It is most airports have a concession operation. We don't. We have more of an open, but normally, in the industry, it's done like a concession. You put out an RFP, the winning proposal gets it, and then the airport is paid 10% of the gross. And that's the way it's normally done. So I think, you know, I know I'm answering in kind of a lock winded way. But I know the FAA will say the taxi operation is a revenue producing operation. For profit, that's operating on the airport, and therefore it should pay fair market value for the facilities it uses.

>> Councilmember Rocha: Okay, I did have a question for City Auditor. And I too want to concur with Councilmember Liccardo and thank all the folks that showed up and all the staff work that was done on the issue. This is a difficult issue, always has been always will be, this decision has left some people happy, some people upset. If you don't mind I had some questions about potential reasons for an audit. My interest in this is, again, sharing some of the councilmembers' opinion on this, is assuring the drivers that their money is being spent appropriately, so to speak and I don't have any belief that it's not. But what I need for me, the public interest for myself, is to make sure that it is. And so I can point to that document and say look, this is the right amount that they're being charged, being spent appropriately and now we can move on to the next issue. As far as the scope of an audit, what would be within your purview or jurisdiction or ability I guess in terms of the audit? I would think of something for me, some management compensation level, expenditures you know, typical bookkeeping and accounting, let's see here, away was another one oh, board membership even things such as that. Are those some of the things can you look at in the scope of an audit?

>> Sharon Erickson: I am not sure whether the taxi San José contract has an audit clause in it. I'm assuming it does. Most of our contracts do. And even if it doesn't then -- oh, sorry. Yeah. I'm assuming it has an audit clause in which case we can look at taxi San José's books in the same way that we look at other agencies' books.

>> Councilmember Rocha: Okay. As far as your work plan do you have a sense of when you would be able to accomplish this? Should it be approved?

>> Sharon Erickson: Well, we're already overcommitted for the current fiscal year. So depending on the council's desire, we could bump something off of the current fiscal year's calendar or we could prioritize this audit for first thing in the next fiscal year. Depending on your desire, the timing of the council.

>> Councilmember Rocha: And when do we go over your work plan again?

>> Sharon Erickson: So I think the rules committee approved it in August.



>> Councilmember Rocha: And the next time is it an annual or biennial?

>> Sharon Erickson: Annual. Next fiscal year would begin July 1.

>> Councilmember Rocha: Okay. But as far as those items I mentioned, those items you could include within the scope of an audit?

>> Sharon Erickson: Yes, the scope of an audit can be determined, and we would be soliciting questions from you or others that they would like answered. What the auditor can do for you is provide the facts. So we can't necessarily tell you whether something is good or bad or fair or not fair. But what we can do is give you the basic facts that would help you make a decision.

>> Councilmember Rocha: Okay. And how long would that audit take assuming you were able to start in July?

>> Sharon Erickson: Generally our audits take six months at least.

>> Councilmember Rocha: Okay, thank you. Thank you very much. That's -- I am again going to echo what Councilmember Liccardo said and I have no concern about taxi San José in terms of the work they're doing. I just need assurances for me before I extend a contract for anyone doing business with San José or for San José without knowing we're doing the right thing and making the right decision. I'd feel a lot better if we had that in front of us and an independent staff analysis would be very helpful for me to make a decision. Let's see here, I had one more item. There was some questions about page 4 and the \$400 amount. Could you speak to that?

>> Bill Sherry: Yeah, I think there's some confusion about that. Page 4 what they're referencing is the rate resolution. All the rate resolution does is establish a range between what the fee will actually be. So it's between 200 and 400. Taxi San José in this renewal, assuming council approves it, has already done some estimating that the fee would start off at 217, between year 1 between 273 and 287. That is not the 400, that just establishes a range to where they could go.

>> Councilmember Rocha: And then increases, how are those approved again?

>> Bill Sherry: Taxi San José has to submit to us their cost, their P&L. And we review it for reasonableness. And then they determine the allocation based upon what they know today with the rent that we've established and also, we're -- we're requiring Team San José or taxi San José to do more of the administrative work. In exchange for that we're giving up our -- the fees that we get, which are \$25 a month. So they're going to do more work but they're going to get more revenue. They're going to get the revenue that we previously got. So with all of that considered, they estimate that their range will be -- or their fee will be between 273 and 287 for year 1. Year 2, 287 to 309. And year 3, 309 to 322.

>> Councilmember Rocha: Okay.

>> Bill Sherry: So that's what they're estimating. And on an annual basis, we approve or disapprove of it, based on the justification they submit.

>> Councilmember Rocha: With that I would like to make a motion to move the recommendation as listed in the memo from mayor Reed, Councilmember Liccardo and myself.

>> Mayor Reed: We have a motion on the floor.

>> Councilmember Rocha: And before that second comes in, I'm curious to see if the two cosigners on the memo would be willing or interested to include the memos from Councilmember Kalra and Chu and Campos, I believe mabsent the recommendation for the three-year, but those items 1, 2 and 3. I don't know if those conflict with any of the direction we have in our memo. Again I don't want to go too far out on the limb if my colleagues aren't supportive of that.

>> Councilmember Liccardo: If I might just comment, my second was limited to the memo, I'm fine with recommendation 2. My concern is going into analysis of the current methodology of airport permit obligations, because I would expect that would necessarily mean it is going to need to be a public process. I think that's a very extensive process to engage in and one that this very tired and small staff doesn't want to deal with or not able to deal with, given their very constrained resources and everything else we are trying to accomplish there. So I'm very concerned about opening up that Pandora's box now recognizing there may be another time when we need to look at it. But those fights were very lengthy a few years ago and I'm hoping we don't have to relive them immediately.

>> Mayor Reed: I would agree with Councilmember Liccardo. Although I do think that the audit will give us the facts on which we can evaluate the methodology. Because I think the methodology is one of the things we have to consider and whether or not things are working in the way we intended. But just to start the analysis, I think if this is the wrong time to start it we ought to do the audit first, which is something we contemplated in our memo originally. And then that would be one of the things that I think the auditor would look at, would anticipate the auditor looking at that. Because when we do get the results of the audit that may be something that we have to take up. But I'd like to get those facts established first.

>> Councilmember Rocha: All right, then I'll hold on the memo as listed and then I'll stop here and look to my colleagues to suggest some friendly amendments and we can have that discussion after. Thank you.

>> Mayor Reed: Okay. Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you. I also wanted to thank everyone who came to speak today and also appreciate the opportunity to meet with the drivers and representatives from the following companies, yellow, checker cab, San José airport taxi drivers association, taxi San José and California cab. We -- either myself or my staff actually met with these individuals representing these companies. Let me just start by saying that this is a very complicated issue. My -- I have a lot of concerns about the current system we have in place. But given the fact that this -- the previous council has gone through this seven years ago, there are certain things that I see that

is working effectively. There are certain things that I'd like to see changed. And I think that the audit will review some of the things that needs to be changed. But to say the least, this issue truly and as described by a lot of the folks that we met with, that it truly affects the livelihood of the drivers. One of the things that we heard from almost all the drivers is that the concern about driver affected, people are driving more than 14 hours a day, and that is a big concern to me. And so I'm hoping that you know hopefully the audit will reveal how -- what is the work hours like for some of these drivers. Because we do want to maintain a quality of life for our residents in San José, and that, including taxi drivers. I too am very concerned about the RFP process. I think that it's time to revisit this issue. I get really concerned when we have a process in place where, for more than five years, you know, we don't have an RFP process and so I like to see that happen. And that fits into the current recommendations from the mayor's and Councilmember Liccardo and Rocha's memo. As part of the friendly amendment that Councilmember Rocha is asking for, I do want to see the audit look at the allocations of the permit. I think that currently right now, we have 195 permits allocated to individual drivers, 115 to the companies. And we heard both, that you know, if we just give all the permits to the companies, that would make some people happy. And we also heard that we give permits to individual drivers, that would make other people happy. So the only way to figure out if it really works whether this is effective or not is to have that review in the audit. And so as a friendly amendment I would like to see that come out of the audit and as the auditor just stated she's just presenting the facts. It is up to us as a council, as a body to determine the effectiveness of the permit allocation, so I think it's crucial that we include that.

>> Councilmember Rocha: So to be clear you're looking for one of the components of the audit to look at the airport permit distributions, not all of them but the ones at the airport?

>> Vice Mayor Nguyen: Just the airport.

>> Councilmember Rocha: I'm comfortable with that.

>> Mayor Reed: Is there a second? We have a friendly amendment.

>> Vice Mayor Nguyen: I think that it's really important, because again, we wanted to create equal opportunity for everyone as much as possible. Again I don't pretend that this will create the opportunity for everyone but at least that we're addressing the concerns from the majority of people that I met where. And so moving forward, I also want to see if we can actually prioritize this audit. And I know that you know, we have a work plan in place. But this is such an important issue. I really don't want to see this audit that takes place next year, I'm not sure how my colleagues feel but I wanted to sort of open the conversation about putting this as part of the auditor's priority so that we can somehow start working on this and it will come back to us you know within nine months to a year, and not more than that. So that would be a --

>> Councilmember Rocha: Well maybe you could have that discussion at Rules, maybe that would be the best place for it and you have my support.

>> Vice Mayor Nguyen: Thank you.

>> Mayor Reed: Let me add to that the timing and sequence issue. One of the reasons that the memo refers to a 24-month extension is, we need a year, at least, to deal with the airport West. The bulk of the airport West work. And that would then allow six months for an audit and you still have six months left to do an RFP during that two-year period. Because I think the critical limiting factor here is the ability of our airport staff to manage the work, and I know the auditor does all the work, and the staff doesn't have to do anything. Except somehow it always works out staff does a lot of work too. So if there's an audit, there is a substantial amount of work, not as much as putting out an RFP, the process, so I think we should talk about that at Rules and just figure out how to manage the work loads of the various departments on that as Councilmember Rocha suggested, I think it's a good way to try to work that out. Vice Mayor did you have anything else? Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. And I appreciate that we're all trying to work through this. And I think this is my third taxi discussion. Since I've been on the council. I appreciate Vice Mayor's comments and suggestions about focusing in on looking at how permits are allocated. And I wanted to ask the auditor some questions, if you could come back up, sorry to make you walk back up here Sharon. I have a few questions. So it

sounds like and you're not going to know the answer to everything. I'm just sort of going to talk about it. It seems like the audit that we were asking that Councilmember Rocha was asking you about a few minutes ago is kind of a long term process. We're going to look at the company and do the kinds of -- look at taxi San José and really kind of delve into -- that's kind of a long term audit would I say, several months' scope right would you say?

>> Sharon Erickson: Correct.

>> Councilmember Herrera: So is it possible to take the portion of the audit where we're just looking at the reallocation issue and make that a much smaller time frame? And I'm thinking like no more than four months or how would you -- how would you describe the possibility of doing that? So that would be looking at that allocation, trying to see that the way that we have done that actually achieves the goals that were set forth when we first put the system in place and make recommendations. How long could -- could we bifurcate that and take that subset and how long could that take?

>> Sharon Erickson: You're correct, we could bifurcate it. There is some ramp-up times for me and my staff to get familiar to the process that you all are familiar with, with regards taxis, but yes, we could bifurcate and do one piece first. From a workload standpoint from my staff we would rather do it all at once once we're there but it could be bifurcated. I think my concern would be with the airport staff's ability to be able to help us walk through some of the details of this and at least help get us started on that. So I think actually from your standpoint the priority is, we can more easily reprioritize our audit work than they can reprioritize what I hear is airport West.

>> Councilmember Herrera: And airport West as I understand it, so Bill, can you comment on what I'm asking for? And any impact that would have on airport West?

>> Bill Sherry: Yes, councilmember. First I would say it's not just airport West. I -- I don't want to sound like a bureaucrat here where I'm saying that you know I don't have enough staff, and I don't have enough money, and resources. But unfortunately, I am going to sound that way. We've lost a considerable amount of staff, we have also had a lot of turnover in bumping and retirements. So we've lost quite a large amount of institutional

knowledge in the airport. And to deal with that, the management staff has really kind of focused in to core responsibilities of just opening the doors, turning on the lights, maintaining compliance with safety rules and regulations, et cetera, et cetera. And it's -- we're handling it, we're dealing with it, but our capacity to do much more is very limited. As referenced, we have the RFP out for the West Side. And that is equally as complicated, if not more so, than this operation. We're dealing with it. We're going to do it. So I'm not saying I can't do what we currently have on our plate. But putting more on the plate, I -- as your aviation counsel, have to express grave concerns on our ability to continue doing the operational, critical mission items. So you know, that's just something we're going to have to factor in. We can help Sharon and her staff. But if that's -- if they need a considerable amount of reliance on us to share information, get information, explain information, I have a deep concern about that.

>> Councilmember Herrera: Okay. So then I have another question. I'm not sure who I'm directing this to. Possibly the City Attorney. In terms of making a decision on how these permits are allocated, is that the city council, could the city council -- does the city council have the able to make a different determination on how these permits are eliminated?

>> City Attorney Doyle: In terms of the methodology and how -- yes, it does ultimately.

>> Councilmember Herrera: So ultimately we were the ones on how they were allocated in the first place?

>> City Attorney Doyle: Yes, exactly.

>> Councilmember Herrera: Via the T&E committee I think it went through, and then it came to city council and we approved that recommendation. And any given Tuesday as Councilmember Oliverio always says, we can make a different decision on how these are allocated, is that right?

>> City Attorney Doyle: That's correct. I mean within some reason of you know noticing and all that. But that's generally the right --

>> Councilmember Herrera: So if I were to make a motion that contemplated a different type of reallocation could I do that today?

>> City Attorney Doyle: I think I'd -- on Brown Act -- for Brown Act purposes I think you'd want to direct staff to bring it back and reask that question.

>> Councilmember Herrera: Then coy ask staff to go back and look at it?

>> City Attorney Doyle: Yes.

>> Councilmember Herrera: I'd like staff to relook at reallocating the 300 airport permits equally, among all companies that qualify, within 100 days, based on a fleet with at least 25% clean air vehicles, and use of computer-aided navigation and dispatch, a fleet that consists of at least 20% more vehicles than permits allocated, and the company is a licensed taxi operator in the city as of 9-18-2012 and upon verification of companies that qualify within the given time period airport staff can direct taxi San José to allocate permits accordingly as soon as practical. And I think it's important to look at the allocation, especially if we're looking at going out with an RFP in the future that we give everybody an equal chance. And right now, and the reason why I wanted the audit but it doesn't sound like the audit is going to -- it's going to be difficult to get the audit going as quickly as possible, begin the staff allocation and all the other priorities. I'm concerned it's not necessarily a fair distribution and originally, the methodology and what it was created for, things may have changed or we may have overweighted certain companies more opportunity than others. So I'm looking at how to even the playing field. I'm looking at giving small businesses an opportunity and would I like this to be considered.

>> Mayor Reed: And I think you kind of need to wait for the audit to have the facts on how to do that. If you are going to reallocate 300 permits that means you're taking them away from somebody and giving them to somebody else and that really is the whole ball of wax in terms of issues and problems. It's not just a piece of what we're looking at, that's a lot of what we're looking at. So it just makes it very much a big project to do



that. That's not a small project. That really is essentially redoing what we did in 2007. So I think that gets back to the resource allocation and when the staff is going to have the capacity to do that kind of work. And I think the audit will help, it certainly would narrow down the work that would have to be done once we have the facts in place. So I couldn't support directing staff to do that today. Just because of the timing.

>> Councilmember Herrera: And my -- so -- City Attorney remind me again, can I make that a motion? And direct staff? I can make a motion for that, right?

>> City Attorney Doyle: Well this point we have a motion. Unless you're making a substitute motion or amendment, thinking a amendment to the motion.

>> Councilmember Herrera: So I'll hold it off then. I don't know if my friendly amendment would be accepted. I'm offering it as a friendly amendment Councilmember Rocha.

>> Councilmember Rocha: Well I have concerns not the same concerns as the mayor. I would highly encourage to you approach this along the same lines that Vice Mayor Nguyen just suggested. And accelerate this audit. So we can get to what you're talking about, consideration discussion of that on a quicker time frame. I do agree with the mayor that I'd like to look at the whole issue with all of the details in front of me so we can make that good decision with all the information. But I really would support Vice Mayor's suggestion to try and accelerate this audit so we can have that and we can move where you're looking at.

>> Councilmember Herrera: So how can we accelerate the audit?

>> Councilmember Rocha: That's going to be the discussion at Rules, I'd be happy to show up with you. And we can deal with that.

>> Councilmember Herrera: I'd highly support the acceleration of the audit.

>> Mayor Reed: The City Attorney had a discussion earlier about audits.

>> City Attorney Doyle: I'm advised we do not have a specific provision about audit in the existing provision. Sings this is a direction to negotiate and execute, I would suggest that council direct staff to add an audit provision .

>> Councilmember Rocha: Then I would modify my motion to direction to allow for an audit is that what you're --

>> Mayor Reed: Secunder, it's okay with the seconder. So we have another modification. Councilmember Pyle. I just wanted to clarify can exactly what we're voting on at this point. So we're taking every recommendation except number 4 from the memo, from Rocha and Liccardo and Reed?

>> Mayor Reed: Well, I think the motion included number 4.

>> Councilmember Pyle: That was the -- okay. And so we're doing -- we're basically doing number 1 and 2 are all kind of a repetition on the Kalra, Chu, Campos memo but number 3 is the only one we're not including, would that be accurate?

>> Mayor Reed: I guess I'll let Councilmember Rocha speak to his motion. But the motion was to move the memorandum plus the friendly amendments and not to incorporate the different part of the Kalra-Chu-Campos memo, some of the same.

>> Councilmember Pyle: Okay, I think I --

>> Councilmember Rocha: I originally moved my memo in its entirety and the seconder wasn't comfortable is that correct?

>> Councilmember Liccardo: Yes, that's correct, obviously the provisions are virtually identical.

>> Councilmember Rocha: I had encouraged my colleagues please throw out some friendly amendments as we move down the dais.

>> Mayor Reed: So Councilmember Pyle.

>> Councilmember Pyle: I'm fine. I'm sure others want to speak as well. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor and thank everyone for coming out here. There are a lot of friends out there, I'm in favor of the mayor's memo I'm in support of the memo I wrote. So this is an issue that requires a lot of concentration and work and we're trying our best. Bill hi a question, since recommendation 4 in the mayor's memo which is essentially the same as my third recommendation is going through and you indicated there is some -- and I appreciate the clarification. I understand much better now the reasoning behind the 90,000 a year. But I think you can feel the concern that we have about that burden that's eventually going to be passed down to the drivers. And so you talk about the capitalization rate that you may be able to vary between 8 and 10% but going further below that would be tough for the FAA. And I didn't quite -- and I know you -- I didn't understand the answer very clearly. But would you feel that it would be possible then, to you know even if we keep the 10% but somehow do financing so that a payment is done over 20 years or more is that something that could be done?

>> Bill Sherry: I think -- well did way I responded to that councilmember is that I think there is latitude and if so instruct that we can explore possible ways of lowering the rent. Past practice and what has been in our rate resolution for probably a decade or more has been an appraisal of the value of the real property and then application of a 10% capitalization rate. If the council -- and that applies to everyone. All nonaeronautical tenants. If the council so directs us I think that there's latitude for lowering that capitalization rate which in practice -- practical sense extends the amortization period.

>> Councilmember Kalra: Sure, yeah.

>> Bill Sherry: I can do that but we would have to do a special carve out in the rate resolution saying it's just for the taxi operation and so forth. The only caution I put out is that whatever we do and whatever we end up with, it has to pass the test of fair market value.

>> Councilmember Kalra: Okay. And it sounds like there is a way to do it and I know you did express the kind of me, too concern. That's something the county have to taxi operation is unique airport other concessions what have you. Although, although these are in essence you know small companies or actually in some cases each drivers their own company the reality is they are providing a service that as we add as the mayor stated correctly the highest priority and first priority is to add more flights. As we add more flights the taxi company the taxi drivers are providing a service to San José which ultimately betters our bottom line it's part of a larger equation of what the airport is there for and how the airport helps to benefit and really enhance our economic vitality in the region. So I think in that sense, you know, there's no doubt and I think this is evidenced every time this comes up every few years that the taxi situation is so unique from the rest of the airport. And so I think in that sense my recommendation which is essentially the same or similar to the one that's in the mayor's memo I think it's pretty clear that that is something we would like to see you do is to lower, to reduce the burden to the great extent possible in terms of that fee to relieve some of the burden on the drivers. Thank you. And the -- and you know, it's been stated that there's not a whole lot of difference between the memo that Councilmember Chu, Campos and I put out and the one put out by the mayor. But there are a couple of areas that I think that need further discussion from -- in regards to my memo. One is, as has been stated, the burden that's on the airport right now in terms of the work that the airport is doing, and the fact that even those up here that are -- have signed on to and are supportive of the mayor's memo have indicated that there is no reason to believe there is anything wrong with the way State of California San José is operating. If there is there would be a greater urgency for one thing. But the fact of the matter is that we have a City Auditor that is booked for this year. Public Safety issues, issues regarding our directly to our community any less valuable than this audit. And so that's one hesitation that without any real reason, we're kind of pushing this forward. And then the flip-side of that is the RFP issue which as the mayor

indicated is very work intensive. And I'm not saying an RFP shouldn't be done at some point but we're putting the cart in front of the horse by already accepting that an RFP be done before we conclude the audit. I think it's time both our memos for a reason. I think everyone agrees that there is never anything wrong with doing an audit, especially with a service that is as important as taxi San José is providing. That's I think is an important distinction because it allows us as the mayor indicated to get the audit first, take a look at it and then decide what the next steps are. If there are only a few things tweaking to the operations of taxi San José let them respond to it let them fix it. We need to go out to an RFP but to make that decision today and to put that burden of work on the airport it's not like when Airport West is done your work is done. There's a lot of work to do particularly in terms of attracting airlines. So that's why my memo was consistent with the recommendation from the airport. I trust your analysis in terms of the need to have that three-year extension. The reality is if the auditor doesn't even get around it to next year and at least six months to get the audit done we're approaching two years by the time we get the audit back and that gives us plenty of time to respond and to react and there's nothing that stops us add that point from doing an RFP to ensure the quality of service is the best possible both for the airport and for the driver. I'm taking a more cautious approach that's a little bit -- let's do the analysis let's see, and only because as has been noted by others up here there's nothing that indicates that anything is going wrong with how taxi San José is operating and I think if there were I think you'd be the first to tell us. And so I don't know if you want to comment on that Bill.

>> Bill Sherry: You know, if we had any inclination that there was impropriety or wrongdoing obviously staff would know not make this recommendation. We think that the operator is doing a satisfactory job, we do continuously monitor them both from an operational perspective as well as a financial perspective. I think that the model is generally meeting the goals and objectives. So that's why we recommended a three-year extension.

>> Councilmember Kalra: Okay, thank you. And I was just, Rick, you were talking about the whole, the allocation issue, and indicated that at any point the councilmember, Councilmember Herrera or any other councilmember would have the opportunity to present another option. The mayor indicated his preference of waiting for an audit, that's not needed it's just something that obviously could help inform us better but it's not a requirement is that right?

>> City Attorney Doyle: That's correct.

>> Councilmember Kalra: And so I mentioned that also, the issue of the audit which is also in my memorandum and item 3, and I disagree that that is something that can be looked at as part of an audit. But also I think it's important for our staff outside of the methodology and as to allocation also. So that's why it's two separate things where there's an audit and then in addition we do want to have the feedback from airport, airport staff, as well as the different drivers and cab companies. And so on. So, although there's not a huge difference, there is a distinction, particularly in regards to going immediately to an RFP and I think more significantly extending for three years to taxi San José that gives us ample time to have an audit done without putting undue pressure on the auditor or as Sharon indicated even if we rush her she needs the airport staff to help her get it done and they have airport West next year. So I think it's a more respectful position of both the auditor and the Airport to have the three-year extension which allows us to do exact same thing, the only difference is it's 24 months instead of 36 months and it gives us time to respond to the audit dictates or not we still have every right to do that anyway. And so I'd like to put a substitute motion which is the memorandum that I wrote with councilmembers Chu and Campos.

>> Mayor Reed: I have a second from Councilmember Campos. We have a substitute motion with the second memorandum. On the substitute motion, I'm not going to support the substitute motion. For all the reasons I've explained why I was supporting the main motion. Councilmember Campos.

>> Councilmember Campos: Just for point of process, do we vote on the substitute motion first, or do we continue the debate?

>> Mayor Reed: Well the debate will continue until we have a motion to cut off the debate. So and it's pretty hard to sort out whether you're talking about the substitute motion or the main motion in this discussion. So the main motion is tabled while we take up the substitute motion, although the debate is pretty much the same either way.

>> Councilmember Campos: I'll just add on to what Councilmember Kalra was, you know his comments. And one being, again, the audit and the workload. And I know there are a number of things that are in the pipeline that deal with public safety that are going to be audited this year. One of them being -- that's a huge concern I'm sure it's a huge concern for most, if not all councilmembers, is code enforcement. You know, if you think about quality of life, for the million people that live in our city, I would not want to prioritize speeding up the -- you know, the taxi and -- issue at the airport over something such as code enforcement. So Sharon, you know, off the top of your head, can you give us an idea of what some of the audits that might be lined up are in store for us this year?

>> Sharon Erickson: Some of those audits include as you mentioned code enforcement. We were going to look at the graffiti abatement contract. Library hours and staffing, overhead reimbursements. Revenue management, the water pollution control plant master agreements. We're doing an audit now on consulting agreements. Another one on OED's performance measures. We've got an audit going on on fire prevention and then the City's deferred compensation program.

>> Councilmember Campos: So you know, obviously, there are I mean these audits that are in front of us this year are -- are extremely important. You know, I don't -- I mean even -- even some of them that might sound on the surface that, well, maybe that can be deferred. But with our city trying to figure out how to bring services to the community, on shoestring budgets, you know, and some of these fiscal audits that you have in the pipeline, they will also share a number of -- or you know share light on the number of issues that, you know, perhaps we could find some efficiencies. And I would hate to have to delay those, if they could bring other revenue into the city that could restore services. In particular, I know the one that you know I've talked to Sharon about, is code enforcement. You know, I mean that's quality of life. That's you know I mean if you look at code enforcement you look at a district like mine. I mean code enforcement is how quickly or how often are we getting out to homes that have illegal garage conversions that could be life and death. You know we're coming upon winter, winter time, folks are going to do whatever they can to try to find heat in a -- in a unit that could have been illegally converted. That might not have everything done the way it should have been done. So I think what we need to do is you know, do an audit, and you know in a time -- in a time line that's going to be respectable to all those that have interests, you know, in this case both sides of the issue here. And you know, that's why I supported the

motion as well as signed onto the memo. I did want to add that one of the things, I'm not going to ask for a friendly amendment on this. One of the things and this is something that we should be thinking about are these extensions. You know I, there is a perception that these are automatic extensions. But you know, I would like to see extensions come back to council, so that we can review them and then staff can go on and do what they need to do after council has had an opportunity to review whatever feedback you have on performances of contracts. But that's just you know food for thought. I would like to see that, though. And that's not just with the airport. The airport was just one of a long list of, you know, of contracts we've reviewed where we see these extensions. And again, like I said, there's this perception that they're automatic extensions. And I know that nothing's automatic but we need to at least council give feedback on your past performance. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you. I do want to ask for a friendly amendment. And as the, I think Councilmember Kalra you brought up something important. You said that we don't really need an audit. To take a look at reallocation. That we could direct staff to do that. So I would like to ask if you would include that as part of your motion to have staff take a look at reallocating the licenses equally.

>> Councilmember Kalra: Okay, so I will I guess as part of my third recommendation which is already out there too but I'll ask to look at your particular model that you're referring to.

>> Councilmember Herrera: Equal distribution of all the licenses.

>> Councilmember Kalra: Okay, I can incorporate that under number 3 and so under number 3's already directing staff to analyze the current methodology and they can look at the model that you're suggesting as part of that.

>> Councilmember Herrera: Okay.



>> Mayor Reed: Okay with the seconder?

>> Councilmember Campos: Yes.

>> Mayor Reed: So that's a friendly amendment accepted by the maker of the motion. I think we're ready to vote on the substitute motion which is based on the Councilmember Kalra's Chu and Campos memo. On that motion all in favor, opposed, I count opposed one two three four five six. So that was Oliverio, constant, Reed, seven, seven opposed, Nguyen, Pyle, Liccardo, and Rocha opposed. Seven. So that motion fails on a four-seven vote so we're back to the main motion which Councilmember Liccardo made, with the friendly amendments, sorry, Councilmember Rocha made, Councilmember Liccardo seconded with the friendly amendment. Further discussion on that Councilmember Chu.

>> Councilmember Chu: Thank you very much. Mayor, thank you Don Rocha Sam Liccardo on the mayor's memo but looking at this, if we limit it to a two-year, 24-month term and then we also pushing for an audit, I feel that's really not the best way of using the staff time. And therefore, I will not be supporting this motion.

>> Mayor Reed: On the substitute positions, I think we're ready for a vote based on Councilmember Rocha --

>> Councilmember Oliverio: On the original motion.

>> Mayor Reed: Let me back up. We already voted on the substitute motion, now we're back to the main motion.

>> Councilmember Chu: Mayor.

>> Mayor Reed: Yes.

>> Councilmember Chu: May I ask for a friendly amendment to extend the contract extension from 24 months to 36 months ?

>> Mayor Reed: Not acceptable to the maker of the motion so that's not a friendly amendment. So the motion remains by Councilmember Rocha. On that motion all in favor, opposed, I count opposed one two three four opposed that was Kalra, Chu, Campos and Herrera opposed so that peace on a seven-4 vote. That concludes our work here but not the staff work, this is a difficult complicated issue and we're doing the best we can, thank you. We still have open forum on the agenda so please leave quietly. There's plenty of time outside for conversation so take them outside please. Open forum. I have a couple of requests to speak. Angelica Arpia and fatim de Guzman. Angelica Arpia, fatima de Guzman . Open forum, anybody that wants to speak on open forum, now is the time. Sir.

>> So fatima did he Guzman had to leave so I can read her statement for her.

>> Mayor Reed: Okay.

>> Good afternoon, mayor and councilmembers. My name is fatima de Guzman. I'm a member of the group ace. I'm here because I'm concerned about traffic safety in my neighborhood. I live in the Seven Trees neighborhood first I would like to thank Vice Mayor Nguyen for accommodating some of our demands by having the Department of Transportation pass some needed traffic-calming measures in our neighborhood and also, the police department for temporarily placing controls in our neighborhood to control unlawful activities however we are back to square one in terms of the problems we're dealing with in Seven Trees. We continue to see reckless driving, some drivers are drag-racing, on residential neighborhood streets, including easy street. And this is not just going five miles over the speed limit. Some cars are going over 50 miles over the speed limit as they're racing down residential streets. And endangering the lives of pedestrians. Drug dealing is another major problem in our neighborhood and I'm here today to again ask that speed bumps be placed in our neighborhood to control reckless driving. And we also need increased police patrols to keep the possess in our neighborhood. Given the

City's budget constraints we need to look at new sources of revenues in order to pay for these improvements, including making sure corporations are paying their fair share of taxes. Thank you very much.

>> Mayor Reed: Angelica Arpia. All right. That's it. We're done with the open forum. We will recess until 6:30 when the council will go into closed session and probably be back into open session at 7:00 p.m.