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>> Mayor Reed: Good morning I'd like to call the meeting to order. This is the labor update section. Staff I believe there is no labor update, is that correct? Okay, we do have some people who want to speak. We'll take that testimony now. John Max Reger and then Brian Doyle.

>> Good morning, honorable mayor, honorable members of council. And members of staff. My name is John Max Reger, city employee 20 years. Had a few points this morning. Just read the letters on the Website regarding negotiations. Letter from OE 3 April 20th, proposed best last and final offer dated April 16th, specifically but not limited to health care cost sharing proposal. While local 3 had already conceptually agreed to proposed pension for now employees there has been very little discussion or bargaining over the details of it. Please contact union office to schedule a mutually agreeable time to discuss this issue. International brotherhood of electrical workers, April 20th, hi Gina, I'm a little confused by your last, best and final offer. I'm confused because I cannot recall your first or any succeeding offers. I know that we met approximately 11 times but I don't have record of any of your previous offers. Would you please send me all of your previous offers, and our counteroffer, so that I can compare them to your final offer. Association of legal professionals, second paragraph, during mediation sessions in January and February of this year the only subject discussed during mediation was City's proposed ballot measure with only one brief foray into discussion of tier 2 pension benefit scheme to new hires in the first meeting in January. Letter 4, AFSCME, second paragraph, in your letter you cite 11 bargaining sessions and seven mediation sessions, between setting union sessions, which the majority were spent discussing city's ballot measure. Therefore we dispute our being at impasse over the items you refer to your letter and we wish to negotiate over them. This seems to be a real confusion here on the negotiations process. I've been with OE3 negotiations team, the last five years. First time I see negotiations now is the last best and final offer. I think you need to work on your communication. This is coming up time and time again. Tangentially mentioning an item during negotiations for the retirement issues and then associating those with the memorandum of agreement, doesn't seem really bona fide to me. Also in the letter for the last, best and final offer there is a mathematical error on page 5 of 10 --

>> Mayor Reed: Sorry, your time is up. Brian Doyle is the last speaker.

>> Thank you.

>> Good morning. Honorable mayor, councilmembers, my name is Brian Doyle. I'm negotiator for the association of legal professionals. On December 17th, 2007, City Manager Deb Figone wrote a memorandum on retiree health care to all city employees and retirees. She said in that memo because this issue is so important to so many people we believe that all stakeholders, including employees and retirees, should be involved in the process to identify ways to resolve the problem. We also believe that the best way to engage stakeholders is through a collaborative approach that emphasizes open and honest communication. Our United efforts are needed to find creative and workable solutions. Instead of open and honest communication, working with all parties, we had maybe, maybe two or three hours of discussion of your one proposal on retiree health care with no numbers, whatsoever. What Ms. Donnelly failed to mention and what she was supposed to do was report to you was that we were just begin numbers on retiree health care yesterday after they were posted on the council agenda on Friday. This is -- all the numbers are coming after you walked out of mediation and negotiations. I hope the folks watching this at home will realize this is a complete farce, in terms of fair and honest collaborative, collective bargaining. This is a complete joke. And if the council says, well we didn't receive any proposals from the bargaining units, well, the reason was, there was no fair discussion at all in the first place. There was no exchange of any information on costs or savings on their proposal. Much less any legal discussion. Thank you.

>> Mayor Reed: That concludes the public testimony on this item, we'll adjourn into closed session and be back at 1:30 for the rest of the agenda.

>> Mayor Reed: (gavel strike) Good afternoon, I'd like to call the San José city council meeting to order for May 1st, 2012. We'll start with an invocation, Councilmember Campos will introduce the invocator.

>> Councilmember Campos: Thank you, mayor. Today I have the privilege to introduce father bill Leninger from the archdiocese of San José. First ordained in June 1956, father Bill Leninger has been a Catholic priest for over 50 years. He has served in the archdiocese of San Francisco as well as the diocese of San José. After official retiring in 1987, father Bill is one of the most actively involved and has been a strong voice in the immigrant community, fighting for their human rights, and equal justice. Father Leninger has also been a strong figure in labor organizations, supporting workers rights, and fair working conditions. He is the former chair of the social concerns committee, for the diocese of San José, and a long time member of the diocesan human concerns commission which advises bishop McGrath. Father Leninger is also a founding member of the interfaith council of religion race economic justice father Leninger spoke of getting people involved and being the force that fights against injustice. A perfect example of this is when father Leninger heard concerns expressed by bus drivers pertaining to their working conditions. The drivers began to face harassment intimidation and an unsafe working environment that threatened their well-being. Father Leninger pledged full faith for the workers and provided them with the faith they needed to move forward. This is one of the many examples of father Leninger's commitment to people, people's hardship in life allows him to provide opposite mix and encouragement to those he comes across. Because of this he has been able to touch the lives of many and I am honored to have him with us today. I would like to turn our attention to father Leninger as he leads us in prayer.

>> I forgot I did all that. I'd like to spend a moment. Usually I found and I have to apologize what I've done in the past with invocations, always invocations have been in asking you know for a change, a political speech changing your mind, this is what God says about what I believe in. Around so I realize that is an unfair position to take and so what I'd like to do today is to spend a moment and to recognize another way of looking at it. We all have our own opinions and own changes and attitudes towards things. Just spend a moment to recognize something else. It's my point of view, but from my point of view there is an overarching spirit in a world. Divine presence that exists in every last one of us, all the way through us and that we are here in some way to be in contact with that and to listen to that. Now, most of the time, when we have political talks and trying to change God's mind and

what I would like to do today is to spend a moment in quiet and belief that inside of you is a divine presence. Call it what you will. If you're a Buddhist it is not going to be personal but in a spirit in a world. In some way we believe there is this divine loving presence I call God, some people have a problem with that, but within each one of us. To spend a moment quietly and in a way our prayer will be to not think. Put all thoughts out of your mind. If, and what and all if rest of it, in some way experience within yourself that you have this loving presence that is yours. So I'm going to ask you, if you would, for a moment to close your eyes, take a big, deep breath and we'll spend a minute. That's going to be a long minute, I'm going to tell you already. But trying to think of nothing. Just realize that in some way this presence works through you, calls you to be something in your community and whatever it happens to be and just know that presence is there. So take a big, deep breath close your eyes and just experience some way that that love is there. [Moment of silence]

>> Open your eyes, and smile. And realize that it's a good moment, it's a good day and look at the people around you. Even the people who might even be your ideologic enemies. Smile at them because there's a loving presence as well. And so we begin with this whole thing and to realize that that, that's what the love of this God presence is for all of us. In some way, to hopefully bring that life and love to everybody around us. And that means as we go out, it isn't just for us. It's as we look out to take that love, we're a mirror, to mirror it out into our community, of how does it affect most of all, as we come today, in our particularly focus in life is, for me, is how are the poor, the dispossessed, the least among us, how are they taken care of? That is how some way we mirror that out to somebody else. If we have it within ourselves in the realization. So with this, I say, amen, and go to our meeting, God bless all of you. [applause]

>> Mayor Reed: Thank you, father Leninger. Pledge of allegiance. We're going to be led today by second graders from Yaven day school. Please stand. [pledge of allegiance]

>> Mayor Reed: Thank you, second graders, thanks for joining us. We're going to see them again on a ceremonial item. First item of business are the orders of the day. There are a couple of changes to the printed agenda. Want to defer the adjournment for Michael Hackworth to May 8th and I want to take items 3 dealing with

labor, all of section 3 first on the agenda. Any other changes to the printed agenda? Motion is to approve the orders of the day. All in favor? Opposed? None opposed, that's approved. Closed session report.

>> City Attorney Doyle: There is no report Mr. Mayor.

>> Mayor Reed: All right. We'll take up the ceremonial items. I'd like to invite Councilmember Herrera, representatives of the temple Emmanuel and the Yavna second graders to join me.

>> Councilmember Herrera: And consul general as well.

>> Mayor Reed: As we get assembled I just want to let you know that we're recognizing May 2012 as Jewish American heritage month in the City of San José. Had a flag raising a little bit earlier and the second graders are here to help us with this and a few other things that they did as well.

>> Councilmember Herrera: Thank you, mayor. And my council colleagues, at this time I'd like to introduce and welcome rabbi Dana McGott and cantor Mica simmerly and the vice consul of Israel here and Yavna day school second graders here today. We're really excited to welcome everybody here today. As a Jewish American I proudly carry on my culture's heritage and honor month among with my council colleagues and the mayor. So Jewish American heritage month is relatively new, it was proclaimed in 2006 first by. George Bush Bush and President Obama has continued to celebrate this and highlight it as a very special event which is what made me think about starting it here in San José. I'm proud contributions to American culture since the arrival of 350 years ago. During Jewish heritage month we celebrate this proud history and honor the invaluable contributions the Jewish American community has deep by woven into the fabric of San José's history. Working hand in hand with other pioneer communities dating back to the early 1850s Jewish settlers were one of the earliest settlers of San José. our you Jewish community was among the innovators of the first computer companies such as tandem and Intel which were started and steered by Jews. Jewish immigrants have maintained a unique identity, own American dreams while contributing to the development of our communities. The Jewish American community has set a positive example for all Americans demonstrating that Americans can choose to maintain cultural

traditions while still honoring the traditions and beliefs that bind them together as Americans. The Jewish synagogues and Jewish organizations exist here. I've invited these organizations to join us today because they have done so much to strengthen and enrich the local Jewish community and I'd like to recognize the Jewish federation of Silicon Valley for taking an active role in promoting humanitarian needs, Hillel Oscars and their long and rich history in San José's area serving the Jewish community for many generations. Tell Be Emmanuel is one of the few Jewish congregations in the area and this year they celebrate 150 years. We look forward -- yes, thank you. And we look forward to the future here. I'm confident that in the decades and centuries to come, the Jewish community will continue to be a positive force shaping the life and prosperity of San José. It's an honor to celebrate the history of Jewish contributions to American culture and the Jewish American heritage that has helped shape San José community, Shalom and Rabbi Dana McGott and Cantor Mica Simmerly, and would like to celebrate their 150th anniversary. Mayor please present the proclamation and Rabbi McGott will say a few words.

>> Mr. Mayor, councilmembers, on behalf of me, I appreciate the support of councilmember Rose Herrera who has added so much to our community. For 150 years, Tell Be Emmanuel has been an important part of the very fabric of our city. Our emeritus rabbi who lived to 105 years old and other religious leaders helped establish and interfaith presence in this community. From their humble beginnings we have in our city a vibrant interfaith presence. We are all committed to Tikkun Olam, repairing the world from its bitterness but together we can make the right highways. In the Jewish tradition, the Mitzva, it says in the Torah remember how you treat the stranger in the land of Egypt. Even now devastating there are those who are treated as if they are the stranger. Those in our community who are often the least treated are those who earn the least and yet their roles are crucial to the running of our community. On this day when you so graciously honor our congregation I ask you our dear city council that as you prepare your financial impact report that you'll be committed to making this report based on credible research and fact and not on fear and ideology. financial impact report that's giving voters true and real information. Let's be clear, the true stranger in our community is the minimum wage worker who earns an unlivable wage of \$16,000 a year. This is not enough to survive in Silicon Valley. And if we do the right thing, then we will protect low wage workers in our community by increasing the minimum wage. Then we can look at each

other with a sense of pride that we are treating the stranger in our community not as a stranger any longer. But as our community partner. Thank you.

>> Mayor Reed: Our next item I'd like to invite Councilmember Constant and the senior commission members who are with us today to join me at the podium as we recognize the month of May as older American month in the City of San José. Councilmember Constant has the details.

>> Councilmember Constant: Thank you, mayor. Joining us up here today is Martha O'Connell the chair of the senior citizens commission, Rich McCoy the vice chair of the senior citizens commission as well as Larry saltman Milton cardena and -- I got it right this year Chi. As we all know we have an increasing number of adults are reaching retirement age and remaining strong and active for longer than ever before. And as people become older, they join an interest group of sorts, the senior group, and we have a lot of people who are very, very active, and concerned about issues that affect seniors. And some, just some of those people are with me here today. The one thing about this interest group is it is the one interest group we will all become members of at some time or another soon, well sooner for some people than others. Ever since -- every May since 1963, the year I was born, the people in towns and cities across the country have come together to celebrate the interests of older Americans. The theme of this year's celebration is never too old to play. It encourages older Americans to stay be active involved not only in their own likes of but in their community as well. Last month Pierluigi and I hosted the seventh annual West valley senior walk at valley fair specifically to help seniors become engaged, learn what resources are available to them, give them an opportunity to socialize, get fit and have fun. The City of San José is home to more than 95,000 residents age 65 years or older. That's 1/10th of our city and that number is growing each year. We recognize the demand for preventive practices and opportunities that will help members of our community. Older adults take a lot of time giving back to the community and making a difference in the lives of many people. I urge every resident to take time this month to honor our older adults and the professionals, family members and the volunteers who work with and care for them. Our recognition of them helps us achieve stronger and more meaningful connections with each other. When you help seniors thrive in our community you gain far more than you give. I know that our city council values the contributions that our older Americans have made to our city. And have continued to provide commitment to resources that help our seniors. Please join me in

recognizing this month as older Americans month in the City of San José and mayor, if you could hand the chair of our senior commission, Martha O'Connell, the proclamation. Martha, if you would like to say a few words.

>> I would like to commend each and every member of the city council for the hard decisions that they made in the last year. We have a terrible budget, we all know that. It's easy to castigate these folks when they sit up and make decisions. But I can honestly say, having attended lots and lots of city council meetings they have not forgotten or marginalized the seniors in our community. I would like to especially acknowledge mayor Chuck Reed and Madison Nguyen for their strong support of senior housing, and their understanding that without rent control lots and lots of seniors would have to move out of San José because they simply cannot afford to live here. Would I like to senior nutrition this year. I know you've heard it a thousand times. 76% of the folks who participate in this program it's the only hot meal that they get every day. So I'd like to thank you, and just close by saying I know as you consider future budget decisions, you will remember what pearl S. buck said. Our society must make it right and possible for old people, not to fear the young, or to be deserted by them. For the test of a civilization is the way it cares for its helpless members. Thank you. [applause]

>> Mayor Reed: Our next item is the City Manager's report item 3.1.

>> Debra Figone: Thank you, mayor and members of the city council. Today is May 1st as you know, today according to the city charter, I'm submitting the City Manager's proposed operating budget for 2012-13. And this is a very significant milestone, as you know in our annual budget process. I do present this budget this year with cautious optimism. The budget for next year begins to stabilize the City's finances of a a decade of budge shortfalls and pageful decisions. However we continue to have significant financial challenges ahead of us. While the proposed budget technically results in a slim surplus our current reduced service levels clearly fall well short of council and community expectations. We still have significant work ahead of us including items on your agenda today. The proposed budget also reflects direction from the mayor's march budget message as improved from the city council as well as input from our community through a wide range of public meetings workshops and other amendments. Finally I must thank good our remarkably dedicated and talented city staff. They have worked hard

and spent hours preparing this proposed budget. They represent the strongest San José remains a wonderful city for our residents and businesses. And that concludes my report, thank you.

>> Mayor Reed: Thank you, City Manager. We'll take the next items as a group. That's items 3.3 through 3.12. Terms of disagreement or implementation of terms containing the city's last best final offer to Federated bargaining units and unit 99. That category. We'll have one presentation, we'll take public testimony on any or all of those all taillight so that we can get done with this agenda today. Now with that I'm going to turn it over to Alex Gurza to make the presentation which will apply to all of those items.

>> Alex Gurza: Good afternoon, mayor members of the stolen. Alex Gurza, deputy City Manager. With me this afternoon is Gina Donnelly chief of Department of Of the before you was on March 29th on a study session related to retirement projections and issues. And in fact in an article written about that session it was described as a mind-numbing discussion filled with charts and-d numbing discussion filled with actuarial numbers this presentation will have numbers but hoping will not be characterized as mind numbing. We will hopefully present a report on the various issues. As the city council has grappled for over the last emyears on related materials the council has factored in how various changes that the council has considered affects various groups of people. You have current employees or current workforce. You have current retirees. You have future employees people who don't work here yet and you have taxpayers. And the various decisions that the council has made has affected in some cases all of these groups and in some cases some and others. The two items we have before you this afternoon relates to benefit, retirement benefits for future employees in our Federated system as well as an issue related to health care which affects all of these groups. All of the items that are before you this afternoon are related to last best and final offers that the City and County directed us to issue to the bargaining units that represent our civilian workforce that are members of the Federated city employees retirement system. We presented those last best and final offers to those bargaining units on April 16th. As I said they relate to health care, active employees as well as to retirees. An issue related to Medicare part A and B and a very important step of instituting a new benefit plan pension benefit plan in our Federated system for new employees hired after July 1st of this coming year. Now related to health care, the health care costs are not unique to San José. There have been dramatic increases in health care costs and those health care costs affect not only the benefits provided to

active employees but also for retirees. Retiree health care is something that the city council has been working on for actually many years. The city council has began studying this issue in 2007. Which led to a very important agreement with our bargaining units to start funding retiree health care at an adequate level so there's funding set aside to pay for this benefit when people are retired. As we've looked at health care both on the retiree side along with any of these issues none of the solutions are easy. They're all very difficult issues and solutions. And this one that we have before you relates to a plan that will be offered as I mentioned to active employees and retirees. Now, in terms of premiums, our health care premiums it's important to note that in San José our premiums are blended which means that the rates that are provided to the city are a blended rate for both our active workforce and retirees. If you think about it, if you separated those two and had the health care providers provide us with premiums for active employees and separately for retirees the retiree premiums would generally be much larger because you have an older workforce. Our premiums are blended. And on the retiree health care side there is a cost for that which is actually accounted for called an implicit subsidy choose among the plans offered to active employees. And the premium cost sharing and the plan design affect costs. And they can affect costs on the plan design both for active employees and for retirees as well. This is a chart that the city council has seen many times which is the growing costs of health care premiums. And the chart -- the line at the bottom is what employees contribute for what's called the lowest priced plan. And historically that plan is the one -- is an HMO type plan offered by Kaiser and you can see that back in the years 2003 the health care premiums for employees were at \$25 and then it started to increase as the city had employees share a greater portion of the cost. Up until now you see 2012 where employees for the low priced plan in family coverage would pay right about \$200 a month and you see the upper line is the increase in this city's share of those costs. Now the cost-sharing. So for active employees we currently -- the city currently pays 85% of the lowest priced plan. As I mentioned currently the lowest priced plan is the quires plan that has a \$25 co-pay. The employee health care plan the employee pays the difference between that low cost plan and the premium for the higher cost. In the retiree health care plan the retirees actually receive a better benefit in San José than active employees which is unusual. When you retired, rife before you retired you are paying 15% of the premium for the low price plan. But when you retire you actually pay zero of the lowest price plan because the plan offered to retirees or the benefit is a 100% of the low-priced plan single or family. And you have to have 15 years of service. Not all of our retirees qualify for that but you have to have 15 years of service in order to qualify. So this is a comparison between active

employee and retiree health care. So on the left side is active employees and that 85-15, the LPP stands for lowest price plan. So for single coverage 15% of the premium is \$79 a month roughly and family coverage is the \$198. But as I mentioned when you retire, the plan pays 100% of the low-priced plan. So the premium sharing then is zero for that retiree once they retire. Now, on the retiree health care liability again as I mentioned this is an issue the council has been studying since 2007 we are on our road to addressing it but it is still a very, very significant issue. Most recently we've been talking most about pension but retiree health care is very much a part of retiree liability. Federated side for retiree health care alone is \$800 million. On the Police and Fire side it is almost \$600 million. For a combined amount of almost \$1.4 billion for the retiree health care benefit. The number on the right is what we talk about a funding ratio. And that basically is the relationship between assets to liabilities. And what this shows is that the retiree health care benefit is dramatically underfunded. So in the Federated side it is the funding ratio of only 14%, and on Police and Fire 9.2. And we've been recently talking about the numbers, on the pension side. If our pecks numbers were as low as this it would be dramatic. And again because there simply hasn't been sufficient amount of money set aside, to pay for the liabilities of retiree health care. So how are the costs shared? Now there's a difference between the premium cost sharing. How much do employees or retirees pay out of the premium but then how are the actual costs shared? So for retiree health care we talked about for the Lowest price plan the retiree pays none of the premiums. The way the retiree health care is funded is very different than on our financial side. Because what the plan currently says is that the members and the city pay 50-50 of the costs for retiree health care. And for dental it's roughly 75-25. So it's the active employees who are sharing 50-50 with the city to set aside the money so that the fund has sufficient money to pay for the benefit. So it's very different than in our pension plan where the cost is structured very differently. Now, this slide I'm going to hopefully walk you through it. It's something that the city council has seen before. But these are the contribution rates that are projected, or have been paid and are projected to need to be paid in the Federated system to fund retiree health care. Before I get into that a little bit I want to talk about how these numbers compare. The city since this benefit was put into place in the mid 80s has done what we call partial prefunding. But we have not been paying the annual required contribution or the arc. That's what the actuaries determine need to be paid to fund the benefit. Back in 2008 when we made those historic agreements to start paying the annual required contribution the jump for how much we were setting aside to paying the annual required contribution was very steep. Would have been very, very hard to go one year to the next to actually put

away the amount of money that was necessary. So we agreed to put it on a phased approach over a five-year period. So what this shows is what that five year period looks like. You see in 2008 and 2009 total we were paying 9.9% of payroll split between what you see here between employees and the city. This is money being taken out of the and if you just follow along the employee line it started to go up 5.07, 5.76, and a lot of this is because every year we agreed that the employee and the city portion would go up in steps. But 13-14 is the line that I would like to focus open. What the agreement said was once we got to 13-14 we would start paying the annual required contribution. So it would jump up to actually start making the payment that we're supposed to be making. So you can see that the employee's share goes from 7.26 and next year which is July 1 of 13 the employee's share would go to 15.5%, the City's share would go from 7.9 to 16.8. The total of 32% of pay to set aside the funds necessary to fund retire ehealth care. What these numbers point out, this is dramatic enough, these do not include pension costs. One of the things that len.

>> Councilmember Liccardo: Also wanted to point out is that we have partially been prefunding and in a letter from Dr. Bob Leninger, he indicated that retirees when they were working were set ago side 1 to 2% of their pay towards retiree health care. I believe that's an important point to put aside employees but had one or two percent been enough to fund the benefit then these two numbers would not have been necessary. Unfortunately not enough money had been set aside to fund this benefit. So now an employee facing 15.5% compared to maybe 1 or 2% when the benefit was first put into place I think gives some perspective of a challenge we face with active employees in the city trying to put enough money aside so there's adequate funding for this benefit. Again no easy solutions. On the Police and Fire side this is charted a little bit different than the last one so it's a little bit more complicated to explain. The numbers are different between Police and Fire and I want to point out one reason why that is. The Police Officers Association was actually the first agreement we reached with any bargaining unit to start to fund this benefit. They started a five-year phase in to get to paying the full annual required contribution. But as part of the agreement, the employees' share was capped at 10% and the City's at 11%. So there was a cap put into place on the fire side, the fire union was the last one to reach an agreement to fund it so you can see the numbers are not the same. Police officers are setting aside more because of their five year phase in started several years later. So when the actuary for the board, the Police and Fire board did these numbers they just stopped at 10% of the cap and 11%. What we asked them to do is to give us the estimate of

what the annual required contribution would be, if we were to pay the full amount necessary. Similar to on the Federated side. So what they provided was an actual combined rate. They didn't split it out between city and employee. But the answer is the same, you'll see similarities between the Federated and the other. We're still going to be at approximately 30% of pay to fund the benefit. so you can see that we highlighted the numbers where the ramp-up goes up and we start paying the full annual required contribution. So for police if you went from the 19.82, if you -- if city and employees started funding what was required it would go to 29.74 and on the fire side it would go to none%. Again the longer you take to start paying the amount that's required the more expensive it actually becomes. So what are the proposed changes on health care? Is to introduce effective January 1st of 2013, another health care option which we refer to as a high deductible plan, a plan offered by Kaiser. In our memo, we provide information about what that plan provides. For active employees, most important to point out, active employees' cost sharing of 85-15 will still be based on the lowest availability nondeductible health care plan which is the \$25 co-pay plan . So for active employees if they were to stay in the \$25 co-pay plan their reduction of premiums would remain the same even after the introduction of that high-deductible plan. But that high deductible plan would be available to employees to choose. Someone would requires more out of pocket expenses? One is because under based on this year's rates, we don't yet have 2013 rates, that employee would not have to pay any share of the premiums. They would be able to pay zero for the premium for that plan. Because the premium-sharing would be based on the \$25 co-pay plan. So there are some active employees who very well will choose that plan so that the premiums are less for them. Now for retirees. Now for current retirees there isn't a high deductible plan now so that's why it's nonapplicable. For the premium sharing is zero for a current retiree if they choose that plan and for Medicare supplement for the low priced plan when somebody becomes Medicare eligible at 65 they would pay zero. With the introduction of the high deductible plan the -- if a retiree chooses that high deductible plan their share of the premium would be zero because the plan would pay 100% of the low priced plan and that would become the low priced plan. If a retiree chooses to buy up, to buy up to the \$25 co-pay, saying no I don't want the out of pocket expenses that come with the deductible plan they could buy up to the \$25 co-pay plan and the cost there in the right column, \$130 a month for single coverage or \$323 for family coverage is what it would cost for a retiree to buy up. For the Medicare supplement low price plan for virtually all of the Medicare supplement plans there are many to choose from, that would still cost the retiree zero. So a retiree who is in most of the Medicare supplement plans would not be actually affected by the

introduction of a high deductible plan. These numbers are mostly numbers that we provided in a supplemental memo. But because this introduction of the plan affects primarily retirees that are premedicare eligible which is actually the main driver of retiree health care costs because we can retire much younger than Medicare eligibility most of the costs are in those years premedicare because the cost of the plan the Medicare supplemental plan as much less than it is for premedicare years. It gives you a sense that if we took the average pension benefit received for retirees, that are under age 65 or nonmedicare eligible, you see on the first row there, the Federated system, the average total pension for non-Medicare eligible retirees is 47,000 with an average of 21 years of service. And for Police and Fire nonmedicare it's a little bit less than 98,000 with 25 years of service. And important to point out that 25 years of service is pretty close to a full career, with 21 years of service a little less. Some of our retirees actually have different pensions from different systems from Cal PERS if they worked there before or after. The this only represents the pension benefit from San José's system. The column there that says average 2013 cola that is just to point out that retirees currently receive a 3% cost of living increase every year which is granted at the beginning of a calendar year in March or April. And taking the average pension just to give you a sense, next year the average Federated retiree under 65 will receive a cost of living increase of \$1400 per, again this is yearly, and the Police and Fire retiree receiving a pension of \$97,000 with 3% would receive 2940. This is an average of all retirees but to give you a sense of the value of the cost-of-living increase. So what are the savings from the introduction of this high deductible plan? As I mentioned from the active employee side, the savings would be for those active employees who choose to enter the high deductible plan because their premiums would be less. The savings primarily is on the retiree health care side and we've had our actuary John Bartel give us an estimate they are still subject to the board's actuary developing the cost estimates which is what the board ultimately bases to implement the rates. But this gives you some sense that what the savings would be. So the total projected savings using a 7.5% earnings assumption which is what the boards currently use is a little bit less than \$11 million. So it's significant savings, \$11 million annually. If it's a 6.75 earnings assumption the savings would be \$11.6 million. Give you the sense of the savings related to the introduction of the high deductible plan. So the next piece of it is Medicare part A and B. As I mentioned the primary cost of retiree health care is in the premedicare years. The cost from retirement perspective decreases when somebody becomes Medicare eligible. It is currently required that when somebody becomes Medicare eligible to sign up. And most people do, most retirees do but there's actually no consequence if somebody does not sign up. So the last, best

and final offers. You actually require people to enroll within six months and says that somebody who does not sign up during the appropriate or the prescribed time frame will result in the loss of the nonmedicare coverage again to try to control the cost of retiree health care. So that's it for the -- that's all for the retiree health care and the health care side introduction. The other very important step is to introduce a second tier pension in the Federated system. And very briefly go over that benefit. It is a defined benefit plan. And it does provide a maximum benefit of 65% of final average salary at 2% per year. That compares with 2.5% per year for the current system at a 75% maximum. The other significant difference however is the age. So someone will not be able to retire with the full benefit until age 65 with five years of service. They could retire earlier but would take a reduction in the benefit in order to do that. The final average salary would be based on that highest three years of salary and the cost of living increase which is the significant cost driver would be 1.5% based on CPI compared to the 3% fixed that it is now. Another important element that the city council included in our direction on the second tier pension is a sharing of the full cost with employees. So this plan would be shared 50-50 with the new employees. So the plan cost would be shared equally. And without going over in detail we have the disability benefit survivor benefit and the final offer is in the memo that we provided. And in terms of the estimate of cost the city's actuary John Bartel 7.5% earnings assumption with a total contribution rate of 13.8% and that would be split equally between the city and employees at 6.9. If it turns out that the fund does not earn 7.5%, it earns less than that the ultimate cost could be higher as we discussed with the council in the past. Just to give you a sense let's say the plan earned closer to 6.75 rather than 7.5, the cost would be higher. If they used a 6.5, between active employees and the city. And that concludes our presentation, we recommend approval of items 3.3 to 3.12 and happy to answer any questions you have.

>> Mayor Reed: City Manager has a comment I think.

>> Debra Figone: Yes, Alex could you just clarify through slide 10, we don't have to go there, but on the retiree health care and unfunded liability it is at this point in time that the activity once a retiree retires they no longer pay into the fund correct?

>> Alex Gurza: Completely. So if somebody is eligible to retire tomorrow they no longer fund the retiree health care benefit. It is all funded by the city and employees. Again this is an issue. For those employees who are recently hired and may have a lot longer horizon to retirement those costs are born by employees. Once you retire the only sharing of the cost is not at all for the funding of the unfunded liability or paying for it. It may be in the premium itself which is not fade at all for the highest price -- for the lowest price plan or for the deductible and out of pocket compensates expenses. All unfunded liability is borne by active employees of the city.

>> Debra Figone: So the key goal is to bring the costs down for our active employees as well as.

>> Alex Gurza: Absolutely. The \$11 million savings that is only on the city side. employees will actually save by actually mitigating the cost of the contributions. The costs are still going to be high but they are going to be -- they're not going to increase as much as -- as otherwise expected without the introduction of this cost.

>> Mayor Reed: I'd like to take the public testimony. We have quite a few people here who want to speak on this as well as other items on the agenda. I'd like to go ahead and take public testimony on this and then we'll come back with council comment and questions and a decision. Because there are a number of speakers for this item, I'll limit public testimony to one minute. Come down there are seats in the front row or you can stand whatever you prefer, please come on down so you are ready to go. Bob Leninger, Pat Saucedo, Susan Dee Vincenzi and that O'Connell.

>> Bob Leninger president of the Federated retirees association thank you for this opportunity. A lot of statements were made here in this presentation. I think it's important to point out that if you take this high deductible plan action today there's going to be hundreds of low income retirees who are eventually and probably in the first year going to take on a lot more premium cost in addition to the \$25 co-pay with all the associated fees that they've taken on especially in Kaiser which went into effect this last January. You're taking this action without any real serious numbers rub on the impact on these people -- run on the impact of these people we've given you an idea of what these Medicare retirees who incident paid in advance for that so-called subsidy. They paid their Medicare tax they paid their one or 2% which the city required them to do for retiree health, they go on Medicare part B, the

city is already saving about \$5 million a year once people go on Medicare in total, shifting the cost to 80% to the federal government. It's wrong you're already saving the city, you've got \$3 million being saved out the co-pay already. That's not coming out of the pockets of the health, but the pockets of the more sickly Medicare retirees. Think about it.

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

>> Pat Saucedo, to adopt the recommended second tier pension and health care packages as outlined before you this afternoon. City employees are valued members of our community, performing valuable essential service for our community. There's no question the proposed pension and benefit plans contain changes and health care plans contain changes from what has been the norm for the city for the past 15 years. The recommended trite changes in retirement age, retirement co-linkage to inflation, sharing employee and lore cost health care plans based on service deductibles is very much the norm today in the private sector and not a reflection of the quality of the employee. Whether it's public or private. But a reflection of our economy. These are difficult decisions. We encourage your support of the staff recommendations this afternoon. Thank you.

>> Mayor Reed: Susan de Vincenze. Margaret O'Connell.

>> Good afternoon. I am a retired city employee i'm urging you not to adopt the tier 2 plan today because there is no evidence that I have found that it is actuarial sound as required by charter section 1500. And when I requested copies of the actuarial reports, I was told that they are protected by the attorney client privilege and therefore they would not be disclosed. So as a taxpayer, a voter and a plan member I have no way of assuring that section 1500 is being implemented. Secondly, the July 1st, 2012 implementation date is totally unrealistic. There has been no vetting by the retirement board, by the board's actuary, there has been no analysis of how this would affect the pension administration system. And we don't even know for sure what the discount rate is going to be that the retirement board adopts. And I haven't seen an ordinance that would implement this. So until we have an ordinance --

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

>> -- there's nothing we can do.

>> Mayor Reed: That O'Connell, David Wall Nancy Ostrowsky.

>> Martha O'Connell citizen of San José speaking in favor of retirement reform. I'm tired of running out of money and I'd also like to say that as a taxpayer I deeply resent the floating of the idea by the councilperson Pyle and whoever else is supporting that to raise the sales tax. I'm supposed to pay more sales tax so people can retire at twice the amount of money that I made when I worked full time at San José State university. Something's wrong with this picture folks and I urge you to set the balance right and not keep putting the burden of this on the taxpayers of San José. Thank you.

>> Mayor Reed: David Wall. Nancy Ostrowsky, Bryan Doyle.

>> As a retiree you have lied to me, you have cheated me and now you're stealing from me. I'm here today to put you on notice that I'm going to be contacting all leaders of the seven sister cities starting with his lordship, Andrew Montague, lord mayor of Dublin, Ireland. Because if you take the steps you take today in stabbing your employees in the back, this is snake-like behavior. And the Irish know how to cast the snakes out of Ireland and I'm going to call upon their expertise and warn them about doing any financial business with the City of San José with reference to the Irish innovation center or Air Ling U.S., that's just for starters. Thank you .

>> Mayor Reed: Nancy Ostrowsky, Brian Doyle and then Vera Todorov.

>> RepresentingieA AMSP and CAMP. Last evening we submission of the city declared impasse on this issue to a fact finding panel pursuant to government code section 3505.4. This morning we received a denial from the city to recognize the new law that has been in place, since January 1st of this year. We ask you not to end up with

additional legal cost because now once again you seem to be moving outside the law, the newly created law, we're asking to go back and.

>> Councilmember Kalra: Have fact-finding done. You are not hearing the true intent of that language from city staff. Just bring us back and you know that we are quite capable of examining the facts and the figures. Thank you.

>> Mayor Reed: Brian Doyle, John Max Reger.

>> The composition of this bargain basement health care plan on San José's retirees will not solve any problems. It is both illegal and unwise. It attempts to take away a vested right. It was not properly bargained. No numbers on cost or savings were given to us during any bargaining or mediation process. We received no numbers whatsoever until yesterday. You heard more numbers today that be we ever heard in our discussions these are complicated matters. I think the more brains you put behind this the better rather than taking unilateral action. ALP remains open to financing of this benefit but at the bargaining table where we have always believed it belongs. There is no reason to do in today. You have until January to deal with this. We are ready, willing and able to sit down with you and discuss this. We believe it is a serious problem but we believe we can assist you in solving it. Thank you.

>> Mayor Reed: Vera Todorov, John Max Reger, LaVerne Washington.

>> Vera Todorov on behalf of the association of legal professionals and myself as a plan beneficiary. I want to speak to the tier 2 plan and we have asked bargaining units the impacts on the tier 1 retirement system of the retire 2 proposal. We have not had those discussions. We have repeatedly asked the city to public records requests through requests through negotiations on the costs of this plan and the impacts on tier 1. We have received nothing until the Bartel reports came out after negotiation and mediation concluded. That's a clear violation of Meyers Milius Brown. The city is regarding its proposals. We feel the intent of the city was to withhold this information until after mediation had discontinued. Moreover we didn't mediate most of this. We talked about

the ballot measure. That was the City's push. So if you want to mediate, if you want to negotiate let's do so. We're open to doing this.

>> Mayor Reed: Sorry, your time is up. John Max Reger, David printy.

>> Good afternoon, honorable mayor, honorable members of the council, members of staff, my name is Yonk Reger city employee 20 years, member of the negotiating team for five years. This is basically the first time I've seen here, much of my comments mayor ALP's here. Looking at the 3800 here this new proposed plan for the retirees there's a few sentences on the very last portion of the two-page handout. It says, this is a summary of the most frequently asked about benefits, this chart does not explain benefits. Cost sharing. Out of pocket maximums, exclusions or limitations nor does it list all benefits or cost sharing. For a complete explanation please refer to the EOC. Now for finding what an EOC means you have to go back to the front page, it says plant providers in your home region, except where specifically noted in the contrary in the evidence of comping.

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

>> Thank you, find out what it means.

>> Mayor Reed: LaVerne Washington, David printy Gay Gail.

>> Good afternoon, mayor and city council. Though I was dismayed retirement I was surprised to see the City's last best and final offer for this retirement that was similar to what was presented in negotiations with the rank and file coalition of bargaining units and appeared fair for new employees. But then I looked carefully at that offer and realized that just like the movie I just saw, mirror mirror, a take on movie but was poisonous, the express authority to change or terminate this retirement plan at any time without warning or negotiations and for any or no reason at all intends to strip new workers of the long held long standing vested rights principle for retirement benefits as part of their employment contract. To ask me or any employee to accept these terms is tantamount to asking us to

take a bite of the poisonous apple. But like snow white in the movie I'm savvy enough to know better. As AFSCME president and me personally, I will, cannot ethics hold me to an even higher standard I will fight for --

>> Mayor Reed: David printy Gay Gail and John wolfram.

>> Thank you mayor, councilmembers, David printy, senior architect of Public Works and on behalf of myself as a mid career employee I have to say in Linning to the presentation and reading literature, certainly a numbers on a dam basis I can readily acknowledge this is a complex issue but some things have certainly popped up to me that make me very concerned that-d of how some of these items have been represented. And particularly, under the label of cost-sharing. I would ask that you go back to the actuarials and the budget managers and evaluate how when roughly half of the costs relate to employees who are no longer here, that when you have a 50-50 sharing plan it's really 100% for all future expenses related to wireee health care or pension for that matter. As an active employee, I'm being asked to essentially front load the whole thing myself.

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

>> Thank you.

>> Mayor Reed: Gay Gail John wolfram Ben Field.

>> In 1997 I returned to the United States after living in Canada. I looked to the city as a place I wanted to finish my career and live the rest of my life. Having moved 28 times up to that point I decided this is the place I wanted to be and I targeted City of San José to get a job because I would be contributing and I would earn a fair salary and I would still make a contribution to my community. At that time the decision was made to come here because of retiree health care. I was willing to pay half, while working, because it's important after living in Canada I know that to have health care. So now, 15 years later, I'm 39 days from retirement, I'm 65, so my health care will go up three times, the day I retire because I'll be paying Medicare and now, it will go up and I will have almost no

coverage. For 15 years I've been planning on the coverage lowest cost plan that I have today and you're in the process of taking that away. That's really breach of contract if I ever heard it.

>> Mayor Reed: Sorry, your time is up. John wolfram, Benfield then McCoy.

>> John wolfram 22 year employee forced to retire by this body in front of me thank you. cola oops 18 years last eight years my take home income is reduced 7%, that's an 18% CPI, that's a lot of purchasing power of 25%. Sick leave being stolen, I mean stolen okay? So I quit. Now I also took 52% of my salary step 67, because I planned on working six more years for the city, I liked my job. So now you're going to punch me in the stomach again thank you. This idea of using colas to cover the co-pay, that's like when Mr. Gurza said, to other income from our investments. And I want to thank this -- by the way colas are supposed to pay for clothes for transportation and food and utilities also remember that. I want to thank the memo that says we can afford it because the cops get 97% -- excuse me \$97,000 a year and Federated get 47.

>> Mayor Reed: Sorry, your time is up. Ben Field is our next speaker -- sorry, your time is up. Our next speaker is Benfield and then Richard McCoy.

>> Mr. Mayor, members of the city council my name is Ben Field. I work for the South Bay labor council. Imposition every other city in the area can considered to be the most Draconian approach towards labor relations but here is a commonplace. It is a black mark on the city that it trees its workers with such disrespect but your workers have proposed a variety of substantial concessions. Your negotiators on the other hand have been directed to take an uncompromising stance. There have been discussions but little real negotiation. This rigid approach is out of step with the collaborative solution oriented decision making that has defined Silicon Valley. The principle at stake here today is not fiscal responsibility or whether to have a second tier. The principle that is at stake here is collaboration. Just because you have the power to impose does not mean that it is the right thing to do or in the best interests of the city, thank you.

>> Mayor Reed: Ripped McCoy.

>> Good afternoon, mayor and city council. I wish to speak in favor of the reform package and as you know many of the retirees now are themselves becoming seniors and will be eligible for many of the senior programs that the city offers if the city can still support them. However it's forced to pay higher money to the retirees a lot of those programs along with other community service programs will be sacrificed and it will be a great loss to the community. The programs for seniors road placement parks libraries could all be suffering. As a retiree myself after 45 years working in the electronics industry here in the valley I don't have a golden parachute to catch me. The only thing I have to protect me is my V.A. health programs and what's available to me through the federal government. I hope I can still maintain these and also take advantage of all the other senior programs that the city will be able to publicly offer. Thank you.

>> Mayor Reed: That includes public testimony this will what we're doing what's in front of us and the recommendations. But the why we're here starts back a long time ago. And ten years ago, we spent \$73 million towards retirement cost. This year, \$245 million for retirement cost. Retirement costs are now more than 20% of the General Fund and more than 50% of payroll. 10 years ago it was 14% of retirement costs. So we've had enormous increase in retirement costs, and as a result there are 2,000 jobs out of our workforce. So there are a million people who are not here today. Million people of San José who are not being served by those 2,000 people because we deliver services through people. And when we cut our workforce we cut services. A year ago the council decided that we had cut the workforce enough. But we had no choice. We had to make cuts again. And this year, everybody in the city took at least a 10% pay cut. And we cut and laid off hundreds of people. And as a result, we have a little bit of a cushion, as the centering described it in her report. A 1% cushion for one year. And then we're right back into large, significant increases in retirement cost. So a year ago the council adopted a fiscal reform plan to restore the city services, and to build back much of what we've had to cut. But to do that we have to reduce the cost of some of these benefits. And today in front of us we have two opportunities to reduce the cost of benefits. We have the opportunity to do the health care, which as was described in the staff presentation as going up, a lot, and this is an opportunity to control those costs, not to bring them down, but to really slow down the rate of growth. And then we have the second tier for new employees. Two years ago, the voters gave us the authority under measure W to set up new retirement plans for new employees,

and that's what we're doing. We're going from a retirement benefit, pension benefit that's costing us about 44% of payroll, just for pension, down to a benefit that will cost us about 7 or 8% of payroll. And yet it's still a very good benefit. It's a lot better benefit than people will get in the private sector, than most people will get in the private sector. Somebody who spends a career working for San José will still be able to retire at age 65 on 65% of their pay. That's a really good benefit. It's not nearly as good as the benefit that people have today. But it's not nearly as costly. And that's why we're here. We're here to save money for the taxpayers. Services for our people. And these are a couple of steps that need to be taken in order to do that. So we can restore services. And that we can begin to rebuild our departments that have taken so much in the way of cuts. So these are relative modest steps in outlined in the fiscal reform plan. But we know that if we cut the workforce, and cut everybody's pay, we can save money. But we've done that for ten years. And now's the time to bring down the costs of the benefits so that we can all afford it, the taxpayers and the employees. And that's what's in front of us today. So I'd urge my council colleagues to approve the staff recommendation on these last, best, final offers. Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you. No one can deny that these are difficult decisions, just as no one can deny that this is not about the work or the performance of our employees. I really appreciate the fact that they've made many sacrifices including taking a 10% cut when we asked them to, which we really appreciate. For me this is about the sustainability of our city, the ability to provide core services for our residents. I'm not happy that there's a decision I have to make but as a an elected official I need to be responsible to the residents that I represent not just in my district but I like to believe that I represent all residents in the City of San José. And so for me, it's about trying to maintain the city, this city, and being able to provide a quality of life for each and every one of us who live in the City of San José. So with that said, I'm going to make a motion to accept staff recommendations to approve item 3.3 through 3.12.

>> Second.

>> Mayor Reed: All right we have a motion on the floor. On that motion Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Let me first start with that I don't dispute anything that you just said. And tend to agree with the problem that we're faced with and the difficult decisions that have been made for quite some time now and only the past year that I've been here. But I do want to ask a question and I think I'm not sure if I should be directing it to, whether it's the City Manager or OER but it's the necessity for making the decision today. My office did have a chance to talk to someone in your department and you explained the process that would happen after action today. But the necessity for action for me prior to June 5th so to speak.

>> Alex Gurza: Clearly the council does not have to take action today. But I'd like to talk about what would happen if you didn't. So clearly, the -- on the second tier plan for new employees in the Federated system, the plan would be to have that in effect for any employee hired on or after July 1. There still has to be ordinances drafted and all that. So any delay would mean employees would be hired under the current first tier. And one of the questions I think would be important for you to consider is well how many employees might you hire in that second tier? It's always hard to see what our turnover is at any particular time but just to give you a sense of that, and again it depends on when you made that decision. Whenever you make that decision there will have been people that have been hired before that could have gotten in the second tier.

>> Councilmember Rocha: Such as the last year and a half that we would have had the opportunity to.

>> Alex Gurza: Yes, exactly. Even in the past consider our normal turnover rate which is approximately 6%, that's about 185 jobs in next year. That would mean 185 positions could start going into the second tier. But it just depends when you put that into effect how many would have been hired in between. The other issue, a little bit complicated to explain is on the retiree health care side. On retiree health care on providing actually instituting the plan available to active employees, how does the city and the employees realize the savings? It is actually through the contribution rates. The contribution rates have already been set for 12-13. If you implement this today the rates will not change for 12-13. The issue is when does a decision have to be made so they have to be put into effect for 13-15 to mitigate those rates that I showed you earlier where glows and the city would pay approximately 15%. What we've been advised is that it has to, the council has to have taken action prior to the end of the year. So that it's in place, so that the actuaries can --

>> Councilmember Rocha: Fiscal year or calendar?

>> Alex Gurza: Fiscal year. Even though the effective date is January 2013, in order for the actuaries to take that into account in setting of the rates next year it has to have been in place at least the decision being made sorry before the end of this fiscal year. So even if the council approved this action today there's a lot of work to be done to get these things in place. So the longer this decision is delayed the longer it will take to get the ordinances drafted to get the retirement's actuaries setting into place. But the most important step is making sure it's in place so the contribution rates will factor in the retiree health care.

>> Councilmember Rocha: You said fiscal year?

>> Alex Gurza: Yeah, it's ultimately up to the retirement board and their actuary but normally what happens is they take everything into effect that's sort of been decided by June 30th of this coming year. So if something were to happen mid year, I say generally, because generally it's up to the board, they wait for the next valuation to take that into account. So now we're talking 14-15. Again ultimately it's a board decision but what we've been told is they'll take into account any actions that have been taken up to June 30th.

>> Councilmember Rocha: Forgive my ignorance, if we do have a high obligation on the city side because we didn't implement this in time hypothetically, health care side? actual had the current health care liability, the rates are affected by both the city and employees because as we talked about implementation of this plan effective July 1 of 2013.

>> Councilmember Rocha: How does IRS approval play into either one of these in terms of the second tier or the health care?

>> Alex Gurza: On the health care there is no IRS approval whatsoever. On the second tier what we worked with the city attorney's office and theout counsel in lieu of Social Security we have been advised that it does pass that

test. Other than working through the ordinance process we don't believe there's any other process necessary unlike talking about that does require an additional step for IRS approval.

>> Councilmember Rocha: Okay and if council so chooses they could bifurcate the action and act on the health care in the second tier independently or no?

>> Alex Gurza: Well I defer to the City Attorney on that issue but there is the last best final offer that is a package and so it's really a part of the same package and like norm when we bring you the last best final offer we present it to you as a package. But I don't know if the City Attorney wants to comment on that.

>> City Attorney Doyle: I think you've been down the road before, that's how it's present, it's presented as an offer which are the three items that are before you.

>> Councilmember Rocha: Okay well in my mind, I alluded to a little bit earlier, thank you for jury responses we have had a year and a half that we could have been acting on the second tier. The impression I got, I could have been wrong and if I'm wrong someone correct me, we were to work through the pension ballot measure and implement some of these changes to the ballot measure as well and give the voters an opportunity to weigh in on some of this.

>> Alex Gurza: Not exactly. Part of the challenge on a second tier is to wait until the city council made its final decisions what the plan would look for the current employees the optional plan and what the new employee tier would be. The city council for your direction has moved significantly even on the second tier and the managers fiscal reform plan and the the new employees would have been in Social Security with a defined contribution component. Then we move to proposing a define benefit plan for new employees. That was 1.5%, per year, as opposed to the current 2%. So part of the issue was to not just related to the ballot measure but also really wait and see where the second tier slotted in. Because otherwise you might have been offering a benefit to new employees that would have been greater than the secondary election program. Might have been related but not really.

>> Councilmember Rocha: Not entirely that were --

>> Alex Gurza: Yes, not entirely. The ballot measure on the June election does set parameters around a second tier. And so this proposal that's before you today that the council authorized us to issue a is last best final offer is within the parameters of the ballot measure.

>> Councilmember Rocha: This would be in my mind, I'm looking at this process wise and I understand some of the issues you talked about. But I feel like I'm putting the cart before the horse here in deciding on some benefit levels prior to hearing from the public when we've got in front of them a pretty significant ballot measure they talked about city employee retirement benefits. In making this decision and you going off and doing all this staff work, let's just say hypothetically, not likely, but the ballot measure fails by a significant amount. We've put in a lot of staff time and we've imposed on employees prior to knowing how that plays out. I'm not convinced based on what you've told me that that's a compelling reasoning to I don't expect that we're going to have a hiring spree July 1st and even though hypothetically we are going to hire 150 employees July 1st, we have to do the job announcement, length the resumes, and conduct the interviews. I don't see a five week delay or deferral on this action and that's not to suggest we're not going to move forward on this action, that's allow five weeks, for us to take a look at how that played out and whether or not that staff that we're about to put into it is worth the staff time. We also have to go to retirement boards as you mentioned as well and that's a lengthy process. So for me I'd like to make a substitute motion on this motion to delay action until June 12th.

>> Mayor Reed: Okay, we have a substitute motion. I heard a second down here, Councilmember Kalra. Substitute motion to delay until July 12 -- not July 12, June 12 of 2012. Were you done?

>> Councilmember Rocha: Yes.

>> Mayor Reed: Okay Councilmember Liccardo.

>> Councilmember Liccardo: I was hoping I could just ask the maker of the motion help me understand better. Don as I understood it you expressed a concern about the fact that we've weighted for so long to put into place a second tier and as a result clearly have lost opportunities to obtain savings that we could use to keep city services going during that time. Is that fair?

>> Councilmember Rocha: Specifically, to that, yes. But to me it's a bigger issue that you could then pull into the process for how we've gone about the whole pension reform issue. Rather than get into that specifically I just called out that we could have if we were serious about, not really committed to our concern to that issue as far as hiring forecast in the first year, we could have acted on it some time ago and it wouldn't have required a ballot measure and some of it we could have done through municipal code changes.

>> Councilmember Liccardo: I understand certain of we've missed opportunities in the past I'm trying to understand what we gain by waiting an additional five or six weeks to move forward on a second tier, if the concern is we're essentially losing opportunities to save dollars for the city.

>> Councilmember Rocha: I could restate the issues, one is I don't see us having a hiring spree, where we're going to hire immediately, prior to the outcome of that election, where the public parameters around and even if we are going to hire we could, the five weeks that we could delay this for, I don't see us making those hires before that date and maybe I'm not answering your question if I'm not --

>> Councilmember Liccardo: I'm trying to understand if the public doesn't approve the ballot measure, does that change your view about whether or not this is an appropriate way to move forward?

>> Councilmember Rocha: Not necessarily. I've got a pretty clear record on benefit levels and the ones we have in front of us as well. But I 30 if we have a five-week opportunity here to hear from the public which has been a big part of our push in terms of getting this in front of the voters to let them decide are we on the right track, again as I mentioned to I guess everyone I'm not really that compelled that we need to move on that five weeks if it's going to save us a significant amount of dollars in the overall picture.

>> Councilmember Liccardo: Thank you, I appreciate your willingness to respond Councilmember Rocha. Alex as we look at the percent of pay that current employees are going to be expected to pay, for medical benefits, retiree medical benefits, I believe it was 15% for Federated, is that next year? And --

>> Alex Gurza: When we say next year, it's the following fiscal year, which is fiscal year 13-14.

>> Councilmember Liccardo: Right, I'm sorry so that would be fiscal year after the one that's approaching.

>> Alex Gurza: Yes, and as you can see the employee column on July 1st the employee's share of the retiree health care will be going up from 6.51 to 7.26, and then in 2013 the significant jump to affect that by introducing the high deductible plan to try to mitigate that. It's not going to eliminate by any stretch but at least it's going to mitigate that 15.5.

>> Councilmember Liccardo: Okay, and as I look at the report from John Bartel, as I understand it after we implement this, if we cut that number, that Bartel lists in his report roughly in half, although he's got contribution rates for 2012-2013, it's a bit of Apples to oranges comparison, I'm just trying to understand how we drive that number down, as a result of this reform. In other words how much burden are we taking off our employees in we're unable to mooch forward?

>> Alex Gurza: You're correct, clearly if the council passes this today we will be asking the retirement board to ask its actuary to recalculate the rates and tell us exactly what that rate will be since we don't have apples to apples comparison.

>> Councilmember Liccardo: I understand that takes math I don't understand.

>> Alex Gurza: If we look at Mr. Bartel's letter dated April 22nd, 2012, if you look at the 7.5%, the total contribution of 38.6, why that's higher is he used the full-arc approach, not our phased-in approach. Then if you

look at the high deductible plan it's at least 22.8%. Half of that savings would be on the employee apples side and half on the city's side. Gillespie.

>> Councilmember Liccardo: If we look at the calculations of Bartel which are almost \$11 million, more or less \$5 million, ask it is that fair?

>> Alex Gurza: I think that's a rough estimate.

>> Councilmember Liccardo: So by moving forward with this plan, we're reducing the burden. Obviously our employees and retirees are getting a benefit that is less than it was before but reducing the burden currently on employees by approximately \$2,000.

>> Alex Gurza: Approximately.

>> Councilmember Liccardo: I think overhead chart and this is for Federated and if you'll look at Police and Fire I know it's even more dramatic. It's actually dreadful to imagine 30% of their pay. Going for retiree health care.

>> Alex Gurza: Just to clarify though, this is a combined rate, this is not just employee rate.

>> Councilmember Liccardo: Oh I'm sorry --

>> Alex Gurza: The reason I didn't split it out is because of what doesn't split it out so actually you're looking at 30% total on either side, again it's not similar to what we're facing here in 13-14.

>> Councilmember Liccardo: Thank you for correcting my miss understanding. 15% of pay is a really substantial hit, our most obviously through the 10% compensation cuts. And you, I think Bob Leninger's letter, the points are well taken in the letter. As he says retirees pay between 1 or 2% of our paychecks and pay 1.5% to Medicare. If you add all of that up employees today are buried in the burden essentially for a system that wasn't paid in the

past. This is a question of generational equity here and we have to be mindful of that as we think about how the pain isalities distributed. We recognize that it is, brunt for the decision making of the past that failed to recognize the generational inequity of deciding that we would simply have someone else in the future bear the burden and cost for our decisions today. So that's why I'm supporting the health care portion's proposal. With regard to the second tier I agreed with Councilmember Rocha when he said, you know, we could implement second tier months ago, I don't think litigation anyway and let's face it, it's not going to resolve right away so let's get a second tier in place. Because we do know we actually have a relative right looking budget this year, that will unable us to hire some folks. I want to appeal to as many as upon, this is not just about police, it is about many positions, but we need to fill our libraries, we need to get officers out there, we need to do an awful lot and we're e-not going to do that if approach of the past. So I support the motion and I hope my colleagues will join in.

>> Mayor Reed: .

>> Councilmember Liccardo: Forgive me, I support the original motion not the substitute motion.

>> Councilmember Herrera: Thank you, mayor. I'm really concerned about the costs that are in place. Looks like what they would bear now and the future costs they would bear for this health care. This whole country is dealing with the orbit rise in O&M and so the City of San José certainly not alone. In dealing with this challenge. So if we don't take this action today Alex, can you help me to understand, if we took it five weeks from now what would be the outcome then? What's the worst or what's the likely scenario?

>> Alex Gurza: Well, if the council took this action in June that included this, it still would be possible to get the high-deductible plan in place for rates in 13-14. What the issue really more relates to the second tier. And how long it would take to get that in place. So it would delay it out because at that point in June there's usually no retirement board meeting in July so we're pushing out the implementation of that further out. And again how many people are we going to hire in the interim? It is true that we're not going to hire all 184 that I estimated in an average year all at once. It just pushes out that implements of the second tier in Federated.

>> Councilmember Herrera: The high deductible plan how affordable is it going to be for our employees. Can you talk about that plan, I want to understand if somebody ends up in a is there a capital cost for this plan? Are we going to put some people in financial jeopardy, not really health plans. Can you talk about that?

>> Alex Gurza: Sure. This plan offered by Kaiser is one of the standard plans offered to employers. It is clearly out of pocket expenses, that someone may pay in a year, \$4,000 for a single person \$8,000 for a family. Not that that's not a significant amount but there are limitations on the amount. And to Mr. Reger's point about all the benefits as you know health care plans have volume up knew professions. Even our current entire plan you know it is a book but the same applies to our current plans as well. So this is a summary of the benefits. But there are limitations on out of pocket expenses for hospital hospitalizations and things like that.

>> Councilmember Herrera: If they pay some extra they can keep a plan, a more generous plan.

>> Alex Gurza: Absolutely. One of the slides, if you go to that slide 15. Currently, if we talk about the current situation, so if you're a retiree and you want to be in Kaiser, the \$25 co-pay you have no premiums to pay. Many retirees now buy up now. They pay more money, to not be in that plan and to be in one of the Breeland plans for example.

>> Councilmember Herrera: P PO as opposed to HMO Kaiser? More choices?

>> Alex Gurza: Exactly. Those retirees who move out of the area, not even in the Kaiser area have to bypass to the plan if they want to buy in i'm in the \$25 co-pay plan I want to stay there these costs represent the costs of buying up to that.

>> Councilmember Herrera: And if they are in the low deductible, if they are in a higher deductible plan then it's zero.

>> Alex Gurza: If they choose to stay in the high deductible plan the premium is still zero and where they would pay more through the deductibles and higher co-pays and things like that.

>> Councilmember Herrera: I notice the POA sent a letter saying they were supportive. Do we get a letter from the POA?

>> Alex Gurza: I'm not aware of a letter from the POA on that issue.

>> Councilmember Herrera: I may be speaking out of school on that issue. I'm concerned about the costs going up and the burden it's placing on our employees. And have we heard from employees about the concern that this is going to mean in 13-14 that we're going up to 15%? That doesn't include for what they're paying for their own health care, this is jury for retiree, they have expenses for their own health care, right?

>> Alex Gurza: Yes there's a big concern about the 13-14 increase, especially for our civilian workforce. But you're right that there are two costs that active employees pay. So they're having money out of their paycheck to fund the retiree health care portion plus on the active side they're paying 15% of the premium or more, if they're buying up. So the active employees have two costs for the active health care plus putting aside for the retiree health care.

>> Councilmember Herrera: So I'm going to support the original motion if we get back to that. Because I think that we need to -- we need to do something about curbing these costs and we need to make sure that our employees can afford to work here and not have to be overly burdened with health care costs. And as far as the second tier, we need to act. I mean our voters weighed in, they passed W, they expect us to be able to do what we can when we can do it and clearly we can do this. We can make a change. And we've been negotiating and we've got to a point now that we can actually do something so when we hire people, first of all we can hire more people and we can reduce these costs. I don't think we should put it off. I think we should move forward on it so I'll be supporting that when we come back to that original motion.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. Many of you may not remember Will Rogers but he said never get between a man and his paycheck. That's kind of what we're doing with this. I am in support of the substitute motion for the following reasons. What I heard today was that there's a lot of sacrifices that are being made by employees. Today for current employees. And for those who will be becoming employees. And I also heard that there's been insufficient info begin to the groups. When you say it's not necessary today, then I have to say, why wouldn't we go back, satisfy the questions that are out there, I too have a lot of questions in reference to this, bring the cost savings figures forward to the employees, and try what I used to call marathon negotiations. And that would be you just determine that you're going to get together, figure it out and come to some kind of conclusion within a specified period of time. That did work for me as someone who was in a union. And I would like to say too that there are several things that I'm worried about. For example, if we take the time and we inform everybody to the max, we can proceed without rancor, without resentment, by voting later. San Francisco, for example, went to the ballot with a unified front. Employees, administration, board, was all on the same page. That made for a much stronger case. And for example, how do we stack up against other cities? From what I've seen, San José has been a leader. And we owe thanks to Mayor Reed for saying we've got to do something about this and he made a stand and here we are. But I wonder, are we making too dramatic a change all at one time. So I am also concerned about our ability to attract new employees. If employees know right off the get-go they're going to have a bare bones approach and other cities are not taking the same position, what will that do to our attractability factor? I really don't think it's going to help. And we certainly need to continue with the high quality of employees that we've enjoyed thus far. So I'm hoping that we can think about other ways to make the city highly attractable to other employees. I was absolutely heartbroken the last time we got together in reference to an offer that was made. This one, I hope I'm not embarrassing Nancy Ostrowsky, but it was her group that made the offer. And the offer was 70% versus 65%. Are we going to give up with a 5% difference? That really shook me up. Investing of tenures I can see some room there for some good solid continuance of negotiation. They did agree to 60% of normal cost of pensions, and the real deal-killer was a 50-50 cost-sharing of any unfunded liability. I can't believe that we can't do better than that. That was so close. And so Alex I don't mean to be putting

a burden on you because you've got 11 groups, et cetera. But do you think we had a little more time we could get a little more agreement from the employee groups?

>> Alex Gurza: Well, Councilmember Pyle I think there are a lot of implications of bargaining. Clearly, the city council authorized us to issue this last best and final offer so it's per your direction. So a few things the council would have to consider is, one is then it does have implications on the ballot measure. Because the before that you authorized us to propose on second tier is the maximum the ballot measure allows. So if what you're talking about Councilmember Pyle is to offer a more generous plan --

>> Councilmember Pyle: Well not quite as -- something if you're splitting hairs over 5% isn't there some way to get to the point where we could --

>> Alex Gurza: I guess my point Councilmember Pyle is not based on the current ballot measure if it passes. If it passes the city council would not be able to provide a second tier benefit that is any more generous than what you mentioned. The council started off with overall direction of a hybrid plan Social Security and otherwise. You've now moved to authorize us ballot measure passes you with wouldn't be able to negotiate any changes to the second tier plan. But secondarily and probably very importantly is we would have to begin bargaining again and you have changed our authority and all the time lines associated with restarting bargaining.

>> Councilmember Pyle: Well, I don't think anybody wants to do that. But there must be some way to get understanding, a little more satisfaction that's been requested is that something that we --

>> Alex Gurza: If -- clearly there's a large education component of any of these changes. So for example if the council acts today and implements the high-deductible plan and there are people that want to read up more. One of the reasons we put it in January is to make sure we would have a normal open enrollment period. evidence of coverage and what one plan provides for the other. That we still plan to do anyway. On the second tier the issue of more information, the new employees have to be educated about what that benefit is so there clearly would still be an opportunity either way to provide more information.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. While this is really a very complicated issue, we're a few minutes away there making the decision, seems like we still have more questions than answers, it is very intertwined, you know the health care, unfunded liability, with this retirement. And that is one of the reasons I didn't support to put the retirement, pension modification to the voter, because it is too complicated. Although, again, I support some form of pension modification. And the other reason I didn't support the pension modification or measure B is the sequence of the event, you know, I all along believe that we should negotiate a second tier. As kind of a low water mark. And before we put that issue on the ballot for the voter to decide. So I felt it is not really a missed opportunity to me, it is really out of sequence issue. And also, the timing of this one is really questionable. And make me difficult to support the original proposal. But I probably will support the modified motion. And I do like many of those items we have here. They definitely a very modest approach. We save \$11.6 million out of shortfall of \$1.397 billion. So I like to take a step approach. And average the three years average instead of the last year highest salary is great. We need to lower the ceiling, but question is, by how much. And tie the cola to an index. I think that's something that we could have done, that much earlier. And also increasing the contribution. So there's a lot of very positive points, positive to me, that I can support. But again, the sequence of it, and the timing of it, it really, really bothers me. And I would be making the decision really not to worry much about the employee per se. I mean mean, as Councilmember Herrera asked the question about what would that do to the employee, and I just heard from the employee, they didn't really have a chance to really voice, to really sit down and negotiate with our negotiation team. So if we can put it off by five weeks, and give them the opportunity to really voice their opinion on the impact to their paycheck, I think it's definitely a good idea to -- that we should -- to pursue. And I'm making the decision based on what's best for the city. Not really, you know, I had an opportunity -- I'm a small business person, for over 15 years, and I have managed more than 40-plus employees. I know if I can get 40 employees work 110% of their capacity, I can get 44 equivalent people the effort, 44 people. But if I got 50 employees and people just working at 70% of their capacity, I can only get 35 away you call, the equivalent of

output. So the morale issue is important to me. I think I'm concerning about going down the train that will be just either put it on the ballot for the voter to decide, or just blanketly implement to all 11 bargaining units, is really not the way I believe is good for the morale of the our city employees. And with all the good morale I don't think it's good for the city services. You know because we're again dealing with the people. You know the morale issue would have to be in consideration. So I will reluctantly support the substitute motion. And -- but I would definitely not support the original motion. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And I'd like to raise some comments, been a lot of good questions asked and there definitely seems to be a lot of questions. Although there's an underlying motion to go forward. And I'd like to first start making a comment about this five-year phase in to pay the arc or to fully fund retiree health care. As Alex correctly stated in 2008 there was an historic agreement, it should be something we all should be proud of as a city that we got the bargaining units to come forward and agree with the city to fully fund retire health care, something that no other public agency or even in the private sector they don't do. Our employees did it because it was the right thing to do, our city management asked for it because it was the right thing to do. It was the right thing to do for both the employees, current future and retired as well as for the residents. However, as often is the case when you're dealing with numbers the numbers don't always play out the way you hope they do. So that's why in this case, because of the five year ramp up it goes from a steady slow steady manageable increase in 12-13 it jumps from 7% to 15.5% Mr. Mayor 8% autoon the city's side to 15.8%. It doubles from the 12-13 to 13-14. Alex that was not anticipated at the time of the agreement is that correct?

>> Alex Gurza: That's correct, Councilmember Kalra. We did not anticipate that big of a jump. One of the factors involved here as the mayor indicated in his opening comments we've shrunk our workforce. So the cost of retiree health care is now spread over a smaller amount of active gross and a grow number to fund to pay for a growing number of retirees so we have a smaller workforce to spread that number across.

>> Councilmember Kalra: That's right, I made that point because if we knew that number was going to jump to 32, we would have understood that a five-year phase in would not satisfy -- the well thought out idea of fully phasing employee funding. Now we have new information, what do we do with new information, with new information do we act accordingly based on new information or do we all of a sudden pin our backs against the wall, now we jump from 15 to 30% and we must find a way to fully fund that and let's not do it on the retirees' backs. It's not logical and it's not how we should act and it's not reasonable. If you are looking at it in a mathematical sense. We're still responsible to the taxpayer by fully funding the arc. We just can't get there as fast as we could have because of factors that none of us could have prethought and are not predicting. What have we chosen to do instead? We have chosen to put in this health care plan. And what does the health care plan do in actual real terms for our retirees? As was indicated, Federated retirees are retiring with the \$41,000 base pension. So they're not living on a yacht somewhere, as some people may get the impression of public employees. Reality is they work a long career and they're getting a \$41,000 pension. So with that in mind, if they, right now let's say you have someone that lives down in South San José near Kaiser, they get an emergency and they have to take the ambulance and go to the emergency room. If that emergency room trip let's just say they go to the emergency room and it cost \$2,000. Right now they pay \$100. Under the new plan, my understanding is they would pay 30% of co-insurance after the deductible, assuming they hadn't paid any deductibles up until that point, \$1500 per calendar year is deductible. That means 1500 per 30% \$1650 for that emergency room trip now that say it's an ambulance trip and more serious injury. 100 for the emergency room trip. Under the new plan, that \$10,000 they would pay assuming again they haven't paid any -- they haven't paid any of their co-pays, or deductibles up until that point, it looks like their 30% co-insurance after the deductible. So the deductible is \$1500. They pay \$1500 and 30% up to that 10,000 and I believe it's capped at 4,000. Unless it's -- yes, it's capped at 4,000. So that \$10,000 trip to the emergency room that would have cost them \$100 now cost them \$4,000. So this is not insignificant. That is the plan that we're putting in place in order to make up the difference in a somewhat of a jump in the interest rate that no one anticipated after an historic agreement where we came together with our employees. That is what we're doing today. And so, you know, I just want to make that very clear because this is all information that even we're getting at the 11th hour to make a very difficult decision and a very important decision. And I appreciate the fact that you know, that there's some agreement now even though when -- you know when I first raised it that the measure B is going to go to litigation. There didn't seem to be

agreement when I was first saying that but now there seems to be consensus that that's what's going to happen. I'm glad to paying now because that hasn't been on the forefront of thought in the decisions we've been making. And you know, all of the decisions we're making are on behalf of the taxpayer, they're on behalf of the residents. No one's up here making decisions with no one else in mind than being able to make quality decisions on behalf of the residents. One vote one way is for the residents and the other vote is not is just absolutely not true. I get tired of implication that somehow oh we're doing this because we care about providing services to our residents. All of us up here care about providing services to our residents and we want to treat everyone, our residents our employees and our retirees with fair analysis you know the and the idea of that the timing of it, how much time we have, well we already know there's been no sense of urgency that this needs to be done today. I think Councilmember Rocha provides a good reason, and then -- and frankly it's in addition to all the other questions that have been asked. There are a lot of questions that we're only getting to now or we don't have answers to. Questions being asked now. Now look if we come back in a month, month and a half come back in June and there's an imposition, there's not going to be celebration. Not like people are going to be happy about it. But at least you get basic questions that both the council has as well as the employees and then the public gets a sense that you know if implementation occurs or if an agreement is reached that they feel that the council gave every opportunity for an agreement to be had, the timing of this doesn't seem to be interested in coming to an agreement. It seems to be motivated on different time lines than on actual contract negotiations. May 11th -- sorry in 2011, we reached an agreement with the POA on June 14th. There were six unions that were imposed upon on May thru ment. In 2010 five unions were imposed upon on June 22nd. And in 2009, there was an agreement reached with MEF and CEO on June 23rd as many may recall, you know, the employees were begging to give an extra week to give a few more days. And courageously Vice Mayor Chirco took used to be considered the final last really truly last option you can possibly take. And you know we speak, we choose although we choose to speak of compassion are we going to act with aggression. Now, you don't show appreciation for people by treating them this way. You don't show appreciation for the residents or the taxpayers by operating in this manner. And Alex in terms of some of the questions that have been asked I know that you're not going to be able to have questions or answers to all of them at this moment. But, you know, I know that you have tile lines of council dictates to you and that you try to follow them the best you can. The Bartel memo regardless, I'm not even talking about whether it's something that should have been handed over. That's something that could have been careful or it's reasonable

that they are going to expect that information as soon as you're able to provide it, the Bartel, the one that's 90 now included in the packet, the analysis I think dated April 6th. So there's a number of different questions and requests for information asked, that at the end of the day they may not change anything but they're reasonable requests during the course of bargaining, especially when so much of the bargaining has been focused on measure B and not enough on trying to come to an agreement when some of what's being proposed in tier 2 they're actually, I think many of those items would be agreed to or at least are very close to being agreed to in my estimation by a lot of the bargaining units. It's not like either what the city is proposing or where the employees are is that far part. And so I think that given the fact that we have -- that implementation typically has occurred, you know, oftentimes 11th hour certainly you don't want to wait until 11th hour if you don't have to, we're definitely not on the 11th hour on May 1st. I would support the substitute motion to allow us to have every opportunity to have questions answered. One last question, Alex. You mentioned if past to ask the retirement board to evaluate what's passed how long does that take typically?

>> Alex Gurza: Not to evaluate it tip.

>> Councilmember Kalra: Or to cost it out.

>> Alex Gurza: The steps to implement a second tier. One is the City Attorney would work on a draft ordinance. We sent it to actuary develop the contribution rates at a would be established. So that's one of the steps. Councilmember Kalra if I could, he want to make sure that anybody Linning doesn't have any misimpressions that the council directed us to direct the last best and final offer. This is not unilateral action by staff. We provided the last best final offers to bargain units I don't want anybody to think that this is a surprise to the city council. We had many discussions in closed session. I clearly cannot reveal those discussions but much of the information presented here is not new. The contribution rates moving to 30% was part of the OPEB valuation on the Federated site, I don't want peep the when the council is considering changing the retirement plan they have to have a letter from a certified actuary. In the best situation we'd have the board's actuary do it but that's why it's attached to the council memo. When the council is acting it's basing it based on a actuarial report. I want to be very clear. If the council does not pass this action and ask us to return to the bargaining table

we would have to go into closed session and ask you if your direction is changing and ask you about the process steps.

>> Councilmember Kalra: I made the mention of that, that you're following a time line and direction that council is giving you. I'm not suggesting that anything you're doing is easy. Because you have the pressure on both sides, both the council and as well as in bargain.

>> Alex Gurza: And we are your side.

>> Councilmember Kalra: I know. That's what I mean you're following the direction of council but there's obviously pressure from the side you're bargaining with as well to come to an agreement. That's why I mean there's pressure imposed by you and the bargain side in coming to an agreement.

>> Alex Gurza: That's why we know the difference of opinions on these very, very difficult issues. I think the first step is something that needs to be done and what's very difficult is agreeing on what the solution is especially not only among the council but among our 11 bargaining units who all had different ideas on solutions and that's what makes this issue very, very difficult because the various issues as I mentioned in the opening comments affect someone. To your point about the 32% it's very big but unfortunately there's no magic solution to that. If we weren't to pay the annual required contribution the cost actually gets higher for employees in the future. So each idea has another complication.

>> Councilmember Kalra: It's about balancing. It's about balancing it out. If there's an egregious -- if there's a dramatic impact you want to flatten it out. That's why we did a five year X amount of years down the road it's going to have higher payment than now. But it's not going to have a 15 to 32%, you can have some control over that. There are some things we have control over. Some things we phased in over five years, we like to -- the main issue should always be our ability to provide services to the community. And I don't know if these decisions are going to help us do any of that. And certainly when we consider a second tier, we know, we can -- we have a lot of options we could do. We could put in a hiring freeze with central personnel until it's in place, there are so

many options when we come back in June to ensure that we are maximizing people going into the tier 2. We're not going to be on a hiring spree although we would like to be sometime soon. There are things in our control, we would like to give April impression that they're not under our control because it makes the decision somewhat easier to make. But the reality is these are policy decisions that are creating a wall not just between us and our employees but us and the residents when we don't get the quality level of service and we don't have the ability to really responsibly and legally manage our accounts as well. So thanks for the conversation Alex and for all those reasons I'll support the substitute motion. I think there's still information out there that we could benefit from, the community could benefit from and again we may well be in the same position in June but there's nothing that's been indicated today that shows the urgency of doing today based on information we received. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. [applause]

>> Councilmember Campos: You know the gentleman that had come up here speaking, there were a lot of people up here speaking passionately about why he had to leave the city. And what we're doing today puts another -- puts us another step closer to, again, having a mass exodus of talented people that are serving. You know and I don't even know if he's a resident of the city. Perhaps he is, more than likely he is. But we keep sending a message that you know, we want you to come work here, put in your time. But when you retire get out because you're not going to be able to afford to live in Silicon Valley or in San José. And you know as my colleagues have expressed earlier, we don't need to do this today. We might not like the outcome of the vote. Some might, some might not. But that's going to be -- that is really going to give direction to the council as to you know, what we should be doing in terms of the issues that are in front of us. You know eliminate you made a comment that you sort of -- I think I heard you right that you made a comment that whatever happens in the vote that's going to determine the caps on certain benefits. That we can have, is that what I understand you correctly?

>> Alex Gurza: Council I think I was referring to the connection between the ballot measure and the second tier. Currently the council can adopt any second tier currently. However if the ballot measure passes the ballot

measure includes limitations on what the city council could provide to new employees. And so -- and the item before you today is at that maximum level. Because what I'm saying is if the ballot measure passes the city council could not come back the next day and offer a benefit that's any more generous to new employees than the one that's before you today. You have authorized us to issue a last best final offer at that maximum ballot measure. If that ballot measure fails you could consider a benefit that is more generous than the one that's before you today.

>> Councilmember Campos: And what you just described, that's democracy. We are making decisions without even taking democracy into account. Democracy is -- there's a ballot initiative in June. And you know, the voters are going to -- they're going to speak. Some on the council, again, mate agree with the voters, and some might not but ultimately that's our democracy. That's the system we have. And I think to jump -- to jump forward on a decision on benefits to retirees, really the most vulnerable population in our city, because you know, the examples that Councilmember Kalra had given, believe me, there are many folks that are having to make those decisions, or will have to make those decisions. There are many folks that you know, folks are -- don't call 911 because they don't want to bug anyone. But if someone's thinking that they're having a heart attack and this is imposed upon a retiree and then they have to worry about well, you know what maybe I'll just have my neighbor drive me to the hospital because I don't want to be stuck with a \$1500 bill or a \$4,000 bill. We shouldn't put people in that predicament. People should feel comfortable that if they're going to need to call emergency services that you you know, the last thing on their mind should be whether or not they could afford to be sick. And so [applause] And so you know we are not at a point in my opinion where we need to be making hasty decisions right now. We should let the voters speak. They will speak and you know, this will come back to us. And you know, in that time frame there's more time for negotiations to continue. So with that, I will be supporting the substitute motion.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Alex, a quick question about timing. I looked it up it seems like the Police and Fire meeting is on June 7th. If this were to fail and we defer this until June 12th, there would be no meeting in June no meeting left in July.

>> Alex Gurza: Just as a clarification. This doesn't affect the Police and Fire, it's only on Federated.

>> Councilmember Liccardo: Got it. June 21st.

>> Alex Gurza: I think it's June 21st.

>> Councilmember Liccardo: So as we think about -- if we were to go forward on June 12th, then it goes to the Federated board on June 21st, there are now nine days left in the fiscal calendar. What does our experience tell us about whether or not we're going to have a valuation from an actuary that's going to enable us to count on these savings the next or immediate fiscal year?

>> Alex Gurza: It's hard to tell how long it's going to take, but the ordinance process, first reading second reading it can't be effective --

>> City Attorney Doyle: If you were to ask us to come back with an ordinance, we'd have to come back on June 12th with an ordinance, if that's the first reading when this item comes forward, you'd have that ordinance in front of you, you would want to get that before the board on the 21st, they would want to review for first reading. It is not effective until 30 days after that. It's doable but very aggressive time line.

>> Councilmember Liccardo: I appreciate it's doable on our end. I guess I'm concerned on the actuary's end. At some point we get a bill from the retirement board and we have to pay whatever bill that is. My question is do we get the benefit of these savings in the next fiscal year or not if we're waiting based on whatever your experience is?

>> Alex Gurza: In terms of the second tier where the savings will be where we hire that first employee and the City's contribution rate is less than the current one, that's where the savings start. The hiring of the first

employee. The question is how long does it take to get it all into effect so that first employee is hired, when will that be, will it get pushed out to July, to August, that's hard to say.

>> Councilmember Liccardo: It's not a matter of one fiscal year to another, it's one month to another.

>> Alex Gurza: Why we discussed this time line and why we are before you now is to maximize the chances that we could actually have a second tier in place for any employee hired after July 1st. Even after today, it's very aggressive, if you push it beyond June, it's very unlikely that you would be pushing out the effective date past July 1.

>> Councilmember Liccardo: Okay, based on our employee groups and their ability to have all these numbers vetted and discuss these issues, we started the discussion in June of 2011?

>> I think it was last year Gina?

>> Gina Donnelly: Councilmember, Gina Donnelly deputy director employee relations, we began with one bargaining unit for all nine so we have been at this for nine months.

>> Councilmember Liccardo: Nine months, thank you. Quick question on the employee benefits side, how many big cities in the state offer retiree, free health insurance without paying any monthly premium?

>> Alex Gurza: I don't know the exact number of places but there are a very small number. Even though many agencies across the United States and even private sector and public sector are grappling with employee health care cost, every benefit coverage. In many places, other cities that Councilmember Kalra are saying where people aren't prefunding it yet, it depends on what that benefit is. In many places it's not a percentage of the premium it's a dollar amount. So in a lot of places it's a fixed dollar amount sort of a stipend so to speak that retirees can use to apply to the full premium. Our benefit is among the most generous in that it provides 100% of the low priced plan. In some cities for example where they're going to say we'll provide you X number of dollars

towards your retirement costs, the balance is upon the retiree to come one that difference. I don't know the number but there are few others that provide a benefit as generous of San José.

>> Councilmember Liccardo: We are a small minority of cities that offer 100% of benefit no monthly premium.

>> Alex Gurza: Stipend coverage. That's what makes it very expensive because the difference between our single coverage and our family comping is huge, very big difference.

>> Councilmember Liccardo: Okay and even after this passes we'll still have a high deductible plan that will be 100% coverage.

>> Alex Gurza: Still will provide 100% but 100% of a less costly plan.

>> Councilmember Liccardo: Okay. And then finally on the \$47,000 average pension that someone is making if they're between I guess retirement age and 65, well, the date of their retirement and the age of 65, as I recall, in reports that \$47,000, now that's just Federated right? Because it was 98,000 for Police and Fire. That reflects an average duration of the city a term of of about was it 20 years?

>> Alex Gurza: Yes, Councilmember Liccardo, 20 years on average.

>> Councilmember Liccardo: On average folks are working some other jobs in their careers.

>> Alex Gurza: It's very typical for employees to have come from another agency or go to another agency. reciprocity where people receive benefits from our system and from Cal PERS the state system. So that's what very difficult to know an employee with 21 years of service did they come from the private sector or did they come from the public sector or go to the public sector. We back and forth so this is why this reflects only the years in San José's system not in other public pension systems.

>> Councilmember Liccardo: Okay. I guess where I'm trying to understand is, you know, I appreciate Councilmember Kalra's passion. But I don't understand the accusation that we're doing this on the backs of our retirees. We've got a system which is among the very most generous in the state. I venture to guess in the country. Even after this reform we will still be one of the very few cities in the state that will offer a 100% benefit. It will continue to be the case that we'll have a \$1.4 billion unfunded liability that's been created because in part, employees have had not paid until somewhat recently, the -- to start to pay off that extraordinary cost. And now employees are paying in a very serious way, at a level that is many times what retirees paid back when they were working. I simply don't see the point that somehow or another this is hoisting a burden on retirees back whether the burden has clearly been hoisted open our current employees. And so I guess I'm a little frustrated. I don't mean to pit retirees against employees. That's not the point of this. The point of this is, we have to recognize where the burden is. And the burden is clearly employees today are paying for unfunded liability that was created over the last several decades. And if we don't do something to cure it, we might say there's no sense of urgency but we've been saying that for decades. And if we don't take this seriously and believe there's a sense of urgency we're just not going to get over the goal line. I think the voters clearly have authorized us to act. They did that back in 2010 with measure W and this is the time to do it. If the voters didn't believe the council should have the authority to put in place a second tier, they would not have authorized us to do so two years ago.

>> Mayor Reed: City Manager.

>> Debra Figone: Yes just as the council is considering your policy decision here, I just want to ensure we're clear and maybe Alex or Rick. In sending something to the board which is part of our process so whether it's a vote now to move forward or a delay, the board has the opportunity to provide comment back to the council. So what I don't want is the false expectation that the board will automatically act, and move forward, because they do have the right to comment back to council, do they not or --

>> City Attorney Doyle: That's correct. And the council can take that for consideration. But it's not uncommon to -
- we did it last week, in fact between the first reading and the second reading, get it to the board for comment. But

it may if it's substantial and the council wants to make a substantial change, if your point is it could delay it even further, you're right.

>> Mayor Reed: I'd just like to second something Councilmember Liccardo said which was, the voters spoke with measure W in 2010. That was a 70%, higher than 70% yes vote. So I don't think there's any doubt the voters interest in what we should have learned from the voters. We have been trying to do something in this area for a couple of years, negotiating officially for some nine months. And now we need to move ahead. If we don't move it ahead today and wait until the election we certainly can't start hiring employees on July 1st in the new plan. I certainly support we'll just push out the dates at which we open the libraries because I don't want to hire a backup of people for the libraries that we hope to open until we have the second tier in place. It will delay that. I know people don't feel the sense of urgency but if you look at the fiscal year not the one we're two months away from but the one a year out when we have a \$22 million shortfall. We need the savings in place, to cover that gap. And these are ways to do that. So that we don't have to just say we'll lay off some more people. And I know it seems like a long time away. But you've all seen how long it takes for the retirement boards and the actuaries to do their work. In order to take advantage of the changes. So I think we need to move ahead today with the changes so that we can get them implemented in time to close that gap of \$22 million. So I feel a sense of urgency. I know that others see it differently, as is your right. But I think we ought to move today so I am not going to support the substitute motion. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Mr. Gurza can you walk me through how we would hire? And actually not walk me through it. Just give me a sense of how long it takes to hire an employee. I'm sure there is a short version which is two days because it's a former employee or there's a long version which we have to post the job, we have to interview, go through the orientation, et cetera. Can you give me the two windows the short and long of how long it takes to issue an employee?

>> Alex Gurza: That's an excellent question. I'll have to get back to you on time frames.

>> Councilmember Rocha: I understand it's a shortened version.

>> Alex Gurza: Even if you get authorization to fill, you have to write the John posting and have it posted for a period of time. It's several weeks at the quickest and it could be longer but I can provide you and the council with more specific time frames. But --

>> Councilmember Rocha: I've heard anywhere two to three months in some days for some positions.

>> Alex Gurza: Absolutely. On the very shortest version, if you talk about posting the job, having a window period, you're talking about several weeks to several months.

>> Councilmember Rocha: So hypothetically all the information that has to be in place to make sure these new employees have the second freer could be going on between July 1st, four weeks six weeks or eight weeks that could be done by August?

>> Alex Gurza: I see what you're saying, having post announcements we'd have to be clear what benefits there are, would have to work those issues out whether we put an announcement out if there's a second tier did there isn't a decision yet, those are decisions we'd have to look through.

>> Councilmember Rocha: The other thing I'm curious about, how many employees have we hired since we passed measure W? I'm sure it's more than one.

>> Alex Gurza: Absolutely again. Even though we're in a situation that we in to cut employees, there are positions that were middle. I can get you the exact number of employees we hired since 2010.

>> Councilmember Rocha: I appreciate the sense of urgency, I understand my colleagues position, the vote to delay is not a decision to deny. What the outcome would likely be, not to kill this motion this action, again I have a long track record on this issue on where I'm at. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. Just a quick question, I don't know if you're able to answer or not. What is our turnover rate for last year? Can anybody here's?

>> Alex Gurza: I don't have the turnover rate for last year, obviously our turnover rate is higher than it has been, in other years. I can look at what our turnover rate was last year. Again our normal environment turnover is between 5 and 6% of our workforce.

>> Councilmember Chu: That's what I heard you saying earlier.

>> Alex Gurza: That's in a normal year. We do expect our turnover rates to hopefully return to normal numbers which are again in the 6% rage.

>> Councilmember Chu: We don't have any estimate or rough number on the turnover rate?

>> Alex Gurza: I don't somewhere the number but I can get staff to put it together and present that to you and the rest of the council.

>> Councilmember Chu: Appreciate that.

>> Mayor Reed: I think we're done with the discussion on the motion. I did have one cart. I'll take that one person, Paula Martinez, if she's still there. Paula, sorry the card got mixed in with the other item. We do have other items by the way, several other items. So we have a substitute motion on the floor. Councilmember Oliverio, sorry my little light thing is not working.

>> Councilmember Oliverio: I know where it is Mr. Mayor. Ladies and gentlemen it's just taken too long to get here but we're here. Any talk of delay or shock of this has come too quickly is just simply a failure to implement

the will of the voters 16 months ago. When residents voted in favor of measure W, by 74%, they allowed the council the embrace a second tier and that would have taken off the pressure off of first tier but that's opportunity lost. Retirement in the United States was never supposed to be your peak year of income for an amount of years equal to the actual years spent working. Second tier is about new employees who do not yet work at the city. Again it's about new employees have not worked one day at the city. Speaker Susan de Vin Kenzie had a but ultimately only a 401k would do that but unfortunately there are not enough votes on the council to do this. On health care, we're subject to the national price increases, and the only way to reduce cost today outside of forced wellness programs like Chicago is raising deductibles. We're not immune. There's no bubble on San José to the double digit health care cost increases. All these costs discussed today that people pay for health care includes all the residents of San José and the United States. All residents weigh deductibles and other costs for their health care. That's reality, it's not just here. Speaker Bob Leninger I know you're a reasonable guy and yes you and other employees paid 1.54%. However that did not keep up with the double digit health care cost nor did it put money aside to pay for the unfunded liability. Unions 50-50 split in 1954, we would not have such a large unfunded liability which ultimately risks retirees not getting paid health care in the future. However, that would have required someone back in the past to pay more, which no one seems to ever want to do today. Which forces the problem into the future. Retirees will still have health care provided by the city. Which in contrast is thousands of dollars per year if purchased on the open market for that age bracket. Current employees as mentioned will avoid paying \$2,000 a year and that's the reality. I accept I totally accept my colleagues we collegial about about it and I know some of my colleagues actually voted against putting measure W on the ballot wanting delay today and one of my colleagues who does have a long track record publicly endorsed measure W when you ran city council but wants delay today. In the end ladies and gentlemen I project it's a five-5 vote we'll do nothing. Unfortunately we're not doing what the residents really want us to do and acting in the way of economic pragmatism and we'll just see it another day.

>> Mayor Reed: Okay, let's find out if it's a five-five vote, we're done speculating what the vote may be. Substitute motion on the floor made by Councilmember Rocha to defer this to June 12th, 2012. On that motion.

>> Councilmember Rocha: 2013 actually.

>> Mayor Reed: I heard 12. That's a good one. On the motion, June 12, 2012 is the motion to defer this matter to. On that motion, all in favor? Opposed? I count opposed, one two three four five opposed. Five-five so the five opposed were Oliverio, Reed, Nguyen, Herrera and Liccardo. So five and five so the motion fails on a five-five vote. That takes us back to the underlying motion, which was made by Vice Mayor Nguyen. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. On some of the documents that were made, including the idea that some of us don't feel that the financial situation -- I said earlier I talked about urgency. What I meant was literally today the decision does not have to be made. There's not been a case made that it has to be today. The voters including the measures W if not absolutely they will expect us to do what we need to do for the fiscal health of the city. However, again, making it a black-white decision is far too simplistic. Saying that you know some of us want to do this some us don't is just not accurate. Many measures some of us have agreed upon some have not. Many has to do with the timing and the way we have approached negotiations. However, you know, it's true, that the retirees get the benefit without premium. Not retirees, and the reality is that the same jurisdictions that don't give as healthy retirement benefit none of them have been fully ramping up to Phillip fully fund retiree health care not that one we're the ones we have to take that into account. The options we can again we can ease the burden on both of them and as well as putting the burden on future workforce in a very reasonable phased in approach that was planned five years ago that just hasn't worked out. It has -- no one anticipated it was going to go -- you can shake your head Sam but the reality is that it has -- no one expected it to be 32%. No one. No one -- I'm sure you didn't because if you did or Alex did or anyone did they wouldn't have voted in for that phased in process. No one intended on that and it's not a matter of putting burden on the retiree or the full burden on the current employees. We can't put any more burden on the residents. We already put enough burden on them in terms of service cuts but let's at least reevaluate where we are. That being said my agreeing to defer this is there's clearly been a lot more questions that have been asked, there seems to be concerns from the bargaining units that some their questions haven't been asked. You know what even if we come back in June there may be questions have a sense of what happens with measure B and regardless whether that goes to litigation or not the bottom line is we

do have additional time to get this in place, to get some of our questions answered in the last -- since 2009 there have been two special Federated retirement board meetings. There have been two special Police and Fire retirement board meetings since 2011. We never thought wait to come to an agreement we never thought that was going to happen, it happened. All I'm saying is choose the sides to allow it to come to agreement and if we don't choose implementation, May 1st, that is my issue, I understand we've been bargaining on a lot of these issues but a lot of information has come out even in the past days, as discussions in nine months ago doesn't mean the exact discussion had on the first day of bargaining nine months ago is the first thing that was said you know last week. That's the nature of negotiations, the nature of bargaining, I think the same residents that want us to move forward, you know with a new tier that want us to move forward responsibly as I believe we should on retiree health care they want us to do it in a way that we can all hold our heads up and we did everything we possibly could to come to an agreement and that simply hasn't happened in this case. So happy May day.

>> Mayor Reed: It's law day loyalty day and half a dozen other days being celebrated around the country. You can all google it to find out what law day and loyalty day are but it is official May 1st. Okay. We have a motion in front of us as was made by Vice Mayor Nguyen which was to approve the staff recommendations on 3.3 through 3.12. Any further discussion on that motion? On that motion, all in favor? Opposed, one two three for five opposed. Same vote as last time. Except the yeses and noes switched places. It fails on a five-fives vote. That means we're taking no action today. Because we need six votes to do any kind of an action. It will go to Rules Committee staff will bring it to Rules Committee we'll reagendaize it for sometime after election day would be my guess would be the best time to put it on, sometime after election day. So I think that completes our work on 3.3 to 12 today. We'll move to item 3.13 and then we'll take up the consent calendar. Item 3.13, annual summary of upcoming labor negotiation. It's hard to talk about the upcoming labor negotiations when you haven't finished the ongoing labor negotiations but we asked you to do that anyway.

>> Alex Gurza: Mayor that's the reason this one came from the one before which is as the city council knows we've been providing an annual summary labor negotiations for the upcoming year. We're a little off cycle because we have been outside of the contract negotiations. But beginning we're now at the beginning of May we think it's very important to provide you that. There's a staff report that provides our general background

information, for the public, this is really an opportunity for the public to understand and the labor negotiations that we're entering into provide any feedback to you, and Gina will go through the presentation.

>> Gina Donnelly: Good afternoon, American mayor members of the city council Gina Donnelly deputy director, employee relations. We wanted to start our presentation off with a background negotiations. 5181 full time employees which is slightly more than 90% of the City's workforce as represent represented by a bargaining unit. for 12th our negotiations schedule as you can see here we have the expiration dates of all the bargaining unit agreements. There is one agreement set to expired at the end of this fiscal year, that is with ALP, the City's attorney's I don't understand. These next two slides demonstrate our areas where there is still more work to be done. We were successful in achieving a 10% total compensation reduction with all the bargaining groups. Some changes were made to automatic step increases reducing the steps from 5% to 2.5%, achieved with four of the seven groups eligible for those automatic step increases. The Disability oops as well as for unit 99 which is an unrepresented group of employees and reduced to three months for five of the remaining bargaining units. Strictly payout was eliminated for four bargaining units remaining seven. And finally vacation sell back has been phased out with all but one of the five employee groups eligibility for this particular benefit. And modification modifications to the 84 eligible for overtime. And that concludes our recommendation is to accept this report.

>> Mayor Reed: I have one request from the public to speak. I'll take that now. Brian Doyle.

>> Good afternoon, honorable mayor and councilmembers. My name is Brian Doyle. , Ms. Donnelly failed to correct a mistakes in the memorandum. When referring to ALP the memorandum states that in April, negotiations began with us on our new contract and then later in the paragraph says in May. We requested on March 12th to begin negotiations. We requested to roll into that negotiations all of the matters which you just discussed. We have been ready, willing and able to discuss second tier since early 2011. We begged you in open sessions, begged you for a proposal. We got none. This reason this took so long is because the council couldn't make up its mind what to do with tier 2. That's why it's taken so long. We were ready and willing to.

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

>> We never got any.

>> Mayor Reed: Our next speaker is John Emmy Max Reger.

>> Good afternoon, honorable mayor members of council, madam City Manager, members of staff my name is John Reger. When it comes to negotiation, I said this before we really need to work on communications, forthright, direct, honest, sincere. And timely. Some of these things were not timely. I just wanted to make one correction on the last best final offer cited 118% increase. It was actually 93.4% increase over that period of time. On a per annum basis, it was you can check the math.

>> Mayor Reed: Vera did you put in a card on this? Okay, Vera Todorov.

>> On behalf of ALP I want to reiterate bargaining with no numbers is no bargaining at all. Bargaining without representation is no good faith bargaining. We expect to get numbers we expect to confirm numbers and we need them immediately. Not yesterday, not -- we needed them a long, long time ago and we have received absolutely nothing despite numerous requests. I'm also going to ask the council to ensure that every communication is not only placed on OER's Website but communications to the council on labor related items are also linked with on the Website, that is consistent with sunshine reform and that has not been occurring. We ask for that policy change. Thank you.

>> Mayor Reed: That concludes the public testimony on item 3.13 13. Any council discussion? I feed a motion on the report. We have a motion to approve the report. We have a motion, was there a second? Councilmember Liccardo.

>> Councilmember Liccardo: Alex can you give us some sense of what information has been provided to ALP as bargaining unit in terms of the numbers?

>> Alex Gurza: Councilmember Liccardo I don't handle the negotiations with ALP so I'll turn that over to Gina Donnelly.

>> Councilmember Liccardo: I should have asked Jeep ah.

>> Gina Donnelly: They are posted on our Website they can be viewed during negotiations, the numbers that were within the fiscal reform plan that was approved by the council roughly a year ago, was also provided to the bargaining units. Including ALP. Across the table, links in e-mails et cetera. So those were the most up to date numbers we had at that time. There have been since more revised numbers that have been provided to the council in the supplementary memo.

>> Councilmember Liccardo: We have new numbers whenever we recalculate because of the demographics and all the economics changed?

>> Gina Donnelly: That's correct.

>> Councilmember Liccardo: Okay, thank you.

>> Alex Gurza: If I could add Councilmember Liccardo, the other things that happen when we negotiate retirement numbers all change one year to the next so -- and we've been bargaining when we talk about the last nine months there's a valuation change. So we're based we have some numbers the nulls get revised once we get the new valuations and we revise that. The nature of the numbers changing happen each and every time especially during the bargaining that has crossed over to valuations.

>> Mayor Reed: Any other questions or comments on that? Councilmember Pyle do you have a question?

>> Councilmember Pyle: I noticed with some of these figures and into the hundreds of dollars difference, this is kind of a theory but I just wanted to see if it's tracked. Do we ever track redundancy of retirements, in other words,

what I mean by that, is let's say someone retires from the city and they go get a job doing something else and they get a retirement with that. So we would -- do we have any way of knowing if there is redundancy? I can understand why that would drive up some of our costs. And I just wanted to see if we'd ever thought about that or tracked that.

>> Alex Gurza: Councilmember Pyle we don't track it per se, receiving another pension check is that they seek to qualify for reciprocity. Which is a benefit that is provided to employees who have other retirement credit with the state retirement system or any of the other ones that were reciprocal. If I could just take a moment to explain that benefit because it is an important one. What happens is if an employee has years of service let's say for the county and let's say they worked here and then they went to go work for the county. Each system pays them the amount but the reciprocal benefit what it provides an employee when he retires from two systems at the same time, whichever salary paid them the highest. So if somebody left here, let's say for example, making \$50,000 a year, and went to the county and were making \$80,000 a year, San José's system would have to pay the benefit of years worked here on that higher salary. So when somebody qualifies for that benefit, we would know that they at least qualify. We may not know the amount they get but we would know that they qualify. Other than that if somebody had a pension from either the military, private sector, how much they have in a defined contribution account, there is no way for us to track that and know that.

>> Councilmember Pyle: And would you say that is one of the drivers of higher cost?

>> Alex Gurza: Well it doesn't really drive our cost. The reciprocal benefit costs. If somebody drive our cost. It is really an issue of getting a full picture of what that retiree what they're living open. So for example if that's why it's possible to assume that a retiree their own assets are the City's pension plan because we have very high participation for example each in San José in our 401(k) type equivalent which is called a 457 plan. Somebody may have that, somebody play have service credit in other places. So it really doesn't affect our cost other than it doesn't give us a full picture of every retiree and what their particular financial situation is.

>> Councilmember Pyle: We have never talked about cash in lieu or anything of that nature.

>> Alex Gurza: Cash in lieu of what if the --

>> Councilmember Pyle: If somebody's retired and they work here we reverse the work scenario. If there was some cash in lieu, you mentioned the reciprocity agreement. But if there was any other way to brainstorm ways to keep those costs down, I suspect we are often paying retirements for people that aren't really using the benefits because they're getting them from somewhere else.

>> Alex Gurza: Do you mean in lieu, you mean provide being something instead of?

>> Councilmember Pyle: Right.

>> Alex Gurza: That is an item we have been potentially looking at for future employees and in fact in one of the council memos that was before you today which is our union 99 executive possibility for future employees that are hired in, could we provide them alternatives? If someone were to say jeez I don't need to go into your defined benefit plan I would rather have other types of compensation. And so we would be looking at that possibility for future employees down the road.

>> Councilmember Pyle: Good because obviously there is a possibility to save money down the road.

>> Alex Gurza: That is a possibility if an employee chooses a less expensive option down the road.

>> Mayor Reed: That concludes the council comments, if I don't call on you just wave. We have a motion to accept the report. On that motion, all in favor, opposed, none opposed, that is approved. Now it is time to take up the consent calendar. Item 2.11, will be pulled off the consent calendar to be heard. Any other items on the consent calendar? Mr. Wall you wanted to speak to some other item on the consent calendar?

>> Yes. With reference to the ad hoc committee on the airport competitiveness, I think the public should be kept up to date as far as the airport has cut as much as they can. And that discuss there's a good possibility that Police and Fire, San José police and San José fire at some point might not be providing security at the airport. And this is due in part for a variety of reasons. Your expansion of an airport based on financial calculations, in other words, a mistake but also, fuel costs and see what you can do about the fuel costs. On the Community and Economic Development committee, we hear every month, glowing reports of success from the Office of Economic Development, yet no real tangible dollars quantityively into the city I would like to see that.

>> Mayor Reed: Motion to approve the balance of the consent calendar, all in favor? I'm sorry Councilmember Rocha.

>> Councilmember Rocha: There was item 2.11 -- 2.7 please.

>> Mayor Reed: 2.7 and 2.11. Motion is on the balance, all in favor, opposed, none opposed, thps. 2.sen, Councilmember Rocha.

>> Councilmember Rocha: Forgive me, I was reading through this this morning on the consent item, there may not be staff here. What struck me, I'd be happy to have follow-up with staff off line, doesn't need to be here. Looking at the award of the contract, forgive me if I read it wrong, we're awarding a contract to a company in British Columbia, is that correct? Yes, who is there, Marge Giovanetti.

>> Councilmember Rocha: There was no local companies that were awarded this, basically as a result of the RFP process but really what I wanted to get a sense of, why you feel that would be the case. I believe we should have had a strong presence here of this type of service. What was your idea of the submittals?

>> Matt Cano: Matt Cano is from Canada. I would have to follow up with you unless Mark has a more thorough answer regarding why there were not more local companies competing for this. So I can definitely follow up on that.

>> Councilmember Rocha: Yeah and if you wouldn't mind sharing with me how many submittals you received. support this or not but I do have to share that it's troubling with you know San José tax dollars that sometimes we're spending these dollars on -- to companies and outside of not just our city but outside of the state and then outside of United States. You know, as a San José resident myself you like to see these dollars stay local and it's just unfortunate, but again given this the responses here, we need to go with the best service so we need to understand that for our residents. Did you want to say something?

>> Matt Cano: No, thanks.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: I wasn't going to pull that but I thank Councilmember Rocha of doing that. As a way of 1:of 5 million. Back when this was originally brought forward the idea was to spend \$1.6 million to manage park recreation which is a not everybody's in that type of business type of thing. It's very narrow vendors. And instead we -- you know I asked that we go back and ask, instead of doing it some way differently, we saved only \$117,000 instead of \$1 million. I any this is a brilliant item and I'd like to make a motion that we accept it.

>> Mayor Reed: Motion to accept. On that motion, all in favor, opposed, none opposed, that is 2.sen. We have 2.11 which is the action on the initiative petition, circulation, let me just speak to that in a minute. We had a lengthy discussion at the Rules Committee meeting where we agendized this. I want to make sure that everybody who sat through hours of testimony realizes, we are not taking action, we can't take substantive action today, we won't take substantive action today. That's going to be on may 22nd, if council approves that date. If you were told to come down today because we were going to make a decision we're not. I'm sorry you had to sit through that to find that out. You're certainly welcome to speak. I have a lot of people to speak and we'll get to that testimony in just a minute. So on this item, councilmember, does any councilmember want to speak on this before we take the public testimony? Councilmember Liccardo.

>> Councilmember Liccardo: Perhaps I'd just like to put a motion on the floor. Like to incorporate the memorandum from Councilmember Rocha and my own memorandum. Along with the staff recommendation.

>> Councilmember Rocha: Second.

>> Mayor Reed: Just so everybody will know, the motion on the floor is to accept the certification of the election and to set a hearing for May 22nd, direct staff to do some analysis between now and then. Based on the memorandum from Councilmember Liccardo, and Councilmember Rocha. I think those are the two, right? Okay. That's what's in front of us, sorry you're not going to get the answer today but it's not possible for us to give you an answer today. However there are people who want to speak so we're going to take that now. Councilmember Constant did you have something?

>> Councilmember Constant: Just real quick. Just a brief friendly amendment. If the follow-up analysis by staff could also include any effects open nonprofits or any effects on paint interchip opportunities for college students because those are areas that could be inadvertently affected by something like this.

>> Councilmember Liccardo: That's fine.

>> Councilmember Constant: Thank you.

>> Mayor Reed: And then let me ask about the maker of the motion and staff. So today is May 1st. Mayday, law day, loyalty day. Staff, we're going to have a hearing on May 22nd. You need to have your staff report written when, tomorrow?

>> Ed Shikada: Just about. I suspect it needs to be in the street in ten days.

>> Councilmember Liccardo: Could I suggest a short bed schedule?

>> Mayor Reed: Is there something we can do that would allow you enough time, you've got quite a list of from councilmembers for analysis. You're not going to get a lot of analysis in a week or two, is there something that would add to the direction that would change it?

>> City Attorney Doyle: If I could chime in, one of the memos I think Councilmember Liccardo's memo asks for an alternative that the council could adopt on the 22nd. And getting an ordinance in place is going to, in a timely manner is going to be a problem.

>> Councilmember Liccardo: I recognize that and I'm happy to amend the document to --

>> City Attorney Doyle: Let me though just be clear about the charter requirements under initiative. The council has the ability to either adopt the initiative without alteration or to place it before the voters without alteration. If it places it before the voters without alteration it doesn't preclude the council from adopting an ordinance as well. But if that measure passes by the voters it becomes the law. So there is some flexibility but I don't think we'll have anything ready by the 22nd.

>> Councilmember Liccardo: I appreciate that and we can certainly adopt some in the following week when there is adequate time. Would I certainly strike that portion of the memorandum that would call for an alternative to be ready to go on the 22nd. I would just want it to reflect that the phase-in does incorporate the ongoing cost of living increase after you get to the \$10.

>> Mayor Reed: Okay, City Manager.

>> Debra Figone: Yes mayor at the appropriate time and I realize two councilmembers have memos out, I would like Ed to have an opportunity to just express what we think we could deliver by the 22nd, and it may not meet your expectation he, so I am concerned about the depth of what we're going to be able to do.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: If I don't mind to clarify Councilmember Liccardo's you're willing to defer action on that item that you just discussed with Doyle until May 22nd? Or are you just delaying the staff work until beyond?

>> Councilmember Liccardo: No, the portion of the -- of recommendation number 2 which states that that council could adopt on the same date, I recognize it's too ambitious. The council would adopt anything -- excuse me -- other than the measure itself. So I would simply ask the City Manager to analyze an alternative proposal and that alternative is set forward.

>> Councilmember Rocha: Okay.

>> Mayor Reed: You have the second, so that's okay?

>> Councilmember Rocha: Yeah, I share the same concern about staff being able to do the work and I'd much rather them spend the time on some of the other work. And if council so chooses on that date on May 22nd to give them further direction to do that significant work, I'm likely supportive. I didn't want to hold them up, just so we understand correctly.

>> Mayor Reed: Okay so we've got a slight modification to the motion. Now back to staff, to make this a realistic prediction to get this ready in the next week or so.

>> Ed Shikada: Thank you, mayor, council. I suspect given the short time frame, some leeway with respect to the time frame for release of the report might be helpful. That said I think it's fair to say that this is an issue of significant community interest so we'd want to have information out as early as possible. That said it's also a significant policy question. Such that could certainly be the topic of doctoral these east and significant scholarly research for some period of time. So given ten days isn't a whole lot of time other than perhaps focus on understanding the literature and the research that's already been done, for us, the City Clerk's office has already taken steps to request any information that's been put together by the proponents in order to assess social impact

as might be expected from academic research along these lines. And to understand that level of research that's already been done. Beyond that, I suspect that our focus will be to identify the issues and some of the discussion that's happened at this point has identified a number of different factors, whether they be the nonprofit internships business impacts, potential employment effects that really we would want to take a look at. But really not have any expectation of being able to conclude one way or the other at this point. So appreciate the opportunity to weigh in. And certainly want to manage the expectations as to what could be put together.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: So can we provide a waiver of sunshine for a certain time from the council dais or does that have to be rules committee?

>> Mayor Reed: I think that can be done from here.

>> City Attorney Doyle: You can do it.

>> Councilmember Liccardo: I'm willing to waive sunshine, but this is a matter of great public concern on both sides. I'm willing to waive sunshine but I think staff understands there's a need to get some document out into the public for everyone to digest so I'll leave it to the City Manager's discretion as to how close or how far to get.

>> Mayor Reed: That's incorporated in the motion? Okay. So we wish you luck. Remember, the perfect is the enemy of the good and you're not possibly going to get it all done. So you do what you can with the resources that you have and the time you have. There are I think it may be more questions than answers but I know staff always be diligent about putting it in front of us so we can make whatever policy decisions need to be made. Okay so that's the motion folks. Councilmember Kalra.

>> Councilmember Kalra: Thank you just briefly I'll reserve comment until after public comment. It looks like folks from nonprofit community and what have you, Ed we're asking a lot of you. We realize breakdowns particularly

looking at Councilmember Rocha's demographics and part of that so we may have some partners that can help us accomplish some of the fact-finding the short order.

>> Mayor Reed: All right, let's take some public testimony. We have a lot of people who want to speak, we have other items on the agenda, as we started out earlier, everybody's limited to one minute. When I call your name, please come down so you're close to the microphone so you can testify when it's your turn. Jethro Moore, David Wall, father Eddie, Mr. Wall go ahead. I think you'll probably be done by the time the queue forms.

>> My only concerns is Councilmember Liccardo if you could express to the community why the minimum wage wouldn't apply to everybody. Your memo's well stated. And I thank you for the language. But I think it's burdensome and oppressive to try to track the reasons who's not getting the money, in other words, creating layers of bureaucracy, whereas just giving everybody the same minimum wage would eliminate that extra cost. And thank you again for your zeal in this area.

>> Mayor Reed: Jethro Moore, Tony Alexander, Bill Leninger, Larry yamasaki.

>> I'm pastor Jeff Moore oop NAACP feel security in the status quo and almost fear of the new. For him the greatest pain is the pain of the new item. It is possible that this study structures to find what it is looking for local chamber of commerce, to my surprise when I tried to answer the questions about how raisings the minimum wage would impact a business and unless I submitted one of five choices all negative including laying off workers delaying hiring leaving San José I could not submit my response to the survey bread telling me the response to this question is required. There is no way to submit a response in the negative format on this survey. I'm sure the findings of the survey will be shared with you and I hope it is not included in an economic analysis. It is not the type of quality research the 10th largest city in San José should have. Too many leaders act as if the sheep their people are for their benefit and not as a shepherd.

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

>> Thank you very much for your time.

>> Mayor Reed: Tony I don't see Mr. Alexander so Mr. Romnevasaki then Bill Leninger.

>> My name is Larry yamasaki I'm I am here to support the initiative to raise the minimum wage in San José and urge the city council to take seriously the positive impact of raising the minimum wage could have on earners from farm workers to gardeners so I am familiar with the hardship it puts on working families. The staff are recommending an impact study be completed on this issue and it's extremely important that any such study be conducted in a fair and unbiased manner. The city council needs to make sure the impact of a \$2 an hour wage increase for low wage working families is taking into account. It is a myth that most minimum wage workers are young college students. In fact most minimum wage workers are over age 25 over 60% are women and many support their families on this meager income. I urge the city council to adopt a fair, balanced framework for the impact report and want to congratulate the broad coalition which came together to support this campaign. Thank you.

>> Mayor Reed: Bill Leninger, Bill will be followed by Sergio Jimenez and Elizabeth Guzman.

>> Back for the second time. I would speak in favor of whatever directions you give to the people who are doing this to take a look at favorably for the low income people. I know business is going to have a whole 'nother spectrum to present in terms of how this goes. But whatever the committee does, I would really hope your direction to them takes that into account so it's factual and not on the fears and WORRY and concerns about losing all kinds of money if this doesn't go through. So I thank you.

>> Mayor Reed: Sergio Jimenez, Elizabeth Guzman, .com 9 tripani, Joy Ellen lipsky.

>> Good afternoon, I have a job working \$8 an hour. I worked very hard difficult, I can imagine what it's like for families with young members. Raising the wage pumps money back into the economy, people who earn more will spend more. Paying the workers another \$10 an hour will not break the bank of the employee but will allow low

wage workers to pay for lifestyle in this community. And we all know that a healthy less stress contributes to the good of a community. If you do a fair and balanced fiscal impact study on this issue that looks to the positive impacts of minimum wage workers and consumer spending, voters can decide in November to raise the minimum wage with all the best information available. So please take these points into account when looking into how a raise in the minimum wage will affect our community. It can only have a positive impact.

>> Mayor Reed: Sorry, your time is up. Dominic tripani is our next speaker, Joy Ellen lipsky, Diane fisher, Scott Meyers lipton, bill Mishler. Pancho Guevara.

>> Hi, I'm Diane fisher, director of the community relations council of the Jewish federation of agencies throughout Silicon Valley, we are very diverse group of people, ethnic social and economic backgrounds we're milk employees and private CEOs we have a great diversity of opinions on many things but what I wanted you to know is when our board sat down and studied the economic literature and studied what our faith teaches us about paying fair wages and affording dignity and self sufficiency to all working people we amazingly found ourselves completely and in unanimous agreement that we would like to see this minimum wage raised to \$10 an hour and we would like to see the council include our concerns on the impact report. Thank you.

>> Mayor Reed: Scott mayor's office Lipton Bill Michler,.

>> My name is Scott Meyers Lipton, I have a simple request and it's to police ensure that the impact report takes into consideration the mainstream social science literature on this field. A year and a half ago a group of students came into my sociology class and came into the San José. Faced with the rising cost on gas food and tuition the students concluded that making a living -- making a wage of \$8 an hour was simply not enough in Silicon Valley. As any good professor would do I encouraged the students to study the literature. First thing we learned was that three cities had done this before american stream social science literature finds that a modest increase in the citywide minimum wage helps two things, it helps pay for basic things like food and rent. It stimulates the local economy, it does not increase unemployment and it does not hurt small business because they generally

pass on the cost by request is that this literature, the mainstream of social sciences is included into the impact report. Thank you very much.

>> Mayor Reed: Pancho Guevara, Michael Cervantes, Susan price change.

>> To take care of his ailing mother but they paid more than 8 to \$9 April hour. The bills were stack being up and they were starting to have to make terrible decisions, choosing student loans. They came to sacred heart to get some support with food and PG&E bills basically a little breathing room. A few minutes later I asked Michael he would be willing to sign a petition changed entirely. A big smile crossed his face, I saw a look of genuine enthusiasm as he motioned to Mia to sign it as well. He says this is really cool you folks would do this for me for my family. The services we offer bring us in contact with thousands of San José residents just like Michael. Who work sometimes two or three jobs and still can't make ends meet. I got a chance to see Councilmember Rocha's memo regarding the staff report and I wanted to express my support for these recommendations --

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

>> Thank you.

>> Mayor Reed: Michael Cervantes, Emily Gatfield.

>> A minimum wage even a couple of dollars will make a difference in my ability to get by. I'm not talking about buying a vacation home. I'm talking about paying my bills and helping to take care of my family. A minimum wage job should be a job people can survive on. Feed their families and pay for rent and health care. I work hard every day and I want to be able to earn enough to take care of myself, my family enjoy reasonable quality of life. People who make minimum wage are not asking to get rich however employers to pay us enough to get by it's the right thing to do. Finally but just as important I would like to ask that the report to find out how this law will affect San José be done in a fair and balanced way to show that it will --

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

>> Thank you.

>> Mayor Reed: Emily Gatfield, John Friesman, Greg Miller, Matt savage.

>> My name is Emily Gatfield. I live in district 3 I'm here in support of the new minimum wage. And also to ask that in that report that is done, it is fair. I too saw the chamber's survey and that is not a fair question. In terms of the impact on business I'd like to point out Oregon has a living wage. And there's still businesses in Oregon. San Francisco has a living wage. And they're still attracting very good businesses into the city. I think we need to make sure that the report, the analysis we get, really is fair and balanced. Meet with the meaning of those words and not what the fox news meaning. Thank you very much for the opportunity to speak.

>> Mayor Reed: John Friesman Greg Miller Matt something, Yolanda Cruz.

>> John Friesman pastor holy redeemer Lutheran church. I'm going to tell you about my administrative assistant. and she said they must be tired of hearing from you. I said well we do it and we do it and we do it because we want to ask the city to do what is right. A worker is due his or her wages. That's what scripture says and when you try to determine those wages you must do it on a fair and impartial basis not on a basis that's biased. This is all I'm asking you is if you put your analysis together that you would analyze this situation in a fair and impartial way and you will see that this is right to do to raise this wage \$10. Thank you.

>> Mayor Reed: Greg Miller, Matt savage, Yolanda Cruz, Raul Sanchez.

>> It's three years since workers in San José making the minimum wage have had a raise. \$8 is not enough without a raise, of us may be forced to leave the area. This modest increase in the minimum wage will create direct economic stimulus that will create jobs here in San José. This measure will help create a city where people can afford to live, work and shop. Please ensure that the financial impact report is fair and balanced. Thank you.

>> Mayor Reed: Yolanda Cruz, Raul Sanchez, Orona Sanchez castenada.

>> Mayor, city council and staff, I implore you to make sure that the numerous studies that show little or no effect on fiscal impact report. To ensure that the study is fair and accurate. As reported by the Brennan center for justice for the New York university law school, the Santa Fe New Mexico have a brought power to protect low wage workers in their communities by increasing minimum wage. The current minimum wailing of \$8 an hour is the average minimum wage worker is yearly earning is over -- just over \$16,000 a year clearly not enough to survive in minimum wage at \$8 is not the best way for to you proceed. It is a disservice to our communities and the residents of San José who you were elected to represent. Thank you.

>> Raul Sanchez, Lorena Sanchez castenada, Grusella man, David Lasser Dave Gonzales, Claudia Shope.

>> Good afternoon, my name is Grasiela I'm from sacred heart community service. It might be easy to ups where someone is unemployed works needs the place is just ridiculous. Melissa is someone I knew, she has three children, has not one but two jobs, one is full-time. Her second job is part-time. She still has to come to sacred heart twice a month to get food and clothing. Here we are talking about basic things, food for her children, clothes to send them to school. So all we're asking of you right now is you honor Melissa, you honor low income residents in San José and you request a fair and impartial report that looks at real word examples like San Francisco and Santa Fe and look at really the positive impact that this has on thousands of lives of low income workers, thank you. [applause]

>> Mayor Reed: Allison Lasser, Dave Gonzales Claudia Shope Bill Guthrie.

>> I volunteered my time to gather signatures for the minimum wage campaign because I believe that people need tools in order to fish for a lifetime. In this case the tool must be increase to a minimum of \$10 an hour. While collecting signatures I met a woman from pet smart who approached me. And started to tell me how she earns 9.25 an hour. She's been there for five years ago. She's been passed up for raises and the raises run about 25

cents a year. Her understanding is that because she takes the bus, she's deemed less reliable and less flexible. She's in her 40s, single responsible and like every other worker should not be living in poverty. An increase in this minimum wage will help this woman and thousands of others. In order to even reach \$10 an hour she would need to wait another three years and not be passed up for the quarter-dollar raises. Can you imagine trying to survive in this valley on \$17,760 a year? She can't.

>> Mayor Reed: Sorry, your time is up. Claudia Shope Bill Guthrie, Carol Garvey and dip Tang.

>> My name is Claudia Shope and I live in the good year mastic area of San José. I realize you're not voting on the process it would also bring up the morale of workers some and provide a way to make more of a less -- living with less of a hardship. The report needs to look at that time impact on consumer spending and impact on low wage earners not just business. Do the right thing this time. The wrong thing was done going forward with measure B which is just subjecting the city to a bunch of lawsuits that residents and employees which could have been avoided. Please do the right thing this time. Raise the minimum minimum wage.

>> Mayor Reed: Bill Guthrie Carol Garvey dip tang.

>> Honorable members of the council my name is Bill Guthrie and I'm both a resident of Councilmember Liccardo's district and I'm an elected represent of UAW 393 santa Clara County. I am here today to speak in favor raising the City of San José's minimum wage. Through my union the members of local 393 have the benefit of making minimum wage and have health care for themselves their spouses and their chirp. make the bear minimum for perspective an average local minimum wage worker in San José making \$8 an hour earns only \$16,000 a year. This is in one of the most expensive cities in the United States. We can seek in pure humanitarian terms of what raising the minimum wage nutrition meal for their children to put an extra gallon of gas in their car of being able to turn on the heat when it's cold but there's a real positive economic impact to raising the minimum wage for cities like hours. Studies support what may seem obvious.

>> Mayor Reed: Sorry, your time is up. debbie Meza, Seruhi Sdduki.

>> My name is yip tang. to pay our average loan debt of \$20,000 a year and increase in \$2 in minimum wage would go a long way to help pay this debt. And so with that said this is important that the financial impact report is fair and unbiased, as it taken into consideration of how raising the minimum wage would impact not only the businesses but also the lives of the low wage earners in our community. That's it.

>> Mayor Reed: Jeanette Jimenez rebeck ah Morales, Debbie st. Laurent.

>> My name is Debbie Meza I live in council district 7. Like many families we work hard and captain always pay our bills. Today we're struggling my husband recently took a minimum wage job so that we could just have that couple hundred extra dollars a week to get by. It occurred to me that the difference in a full time job is \$80 a week if you go from eight to \$10. And just yesterday by water bill was \$78. So it didn't seem like a lot of money until I almost couldn't have money or water to water my brand-new organic garden which I'm counting on to supplement my food budget and take showers and all that stuff. So now it seems like a nice chunk of money. So I'm asking that you support Councilmember Rocha's memo, and make a fair fiscal impact study that includes the many positive impacts effects that a minimum wage increase will have on our economy on my family and some many other families in San José. Thank you.

>> Mayor Reed: (saying names) go ahead been.

>> Thank you, Mr. Mayor, members of the city council, my name is Ben Field. I work for the South Bay labor council. I would like to first celebrate if excellent work done by the numerous community organizations and schools and other volunteers who helped gather a total of 36,225 signatures to raise the minimum wage, so many signatures that the registrar of voters didn't even need to count 8,468. In fairness to those volunteers and of the voters who signed the petition if impact report should include four essential components. First, it should contain a complete and neutral review of the academic literature regarding employment impacts in business relocation, second it should include an evaluation of the positive impacts of the minimum wage increase including increased consumer spending, increased worker productivity, increased worker arena retention, third it should make use of

the data from other cities that have raised their minimum wages and fourth it should include an objective analysis of the impact on women and communities of color due to the increased minimum wage.

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

>> Thank you.

>> Mayor Reed: (saying names) come on down.

>> Happy international workers day, Mayor Reed and city council. My name is Victoria Bardone and I'm a concerned student and resident living in San José district 6. My sister and I were raised by a single mother who put herself through school and various jobs to feed clothe and shelter us. My mother was lucky to land jobs that paid higher than minimum wage but sometimes that wasn't even enough to pay for adequate housing and childcare. Today with cost of living in San José higher than ever many single parent families are struggling worse than my mother did in the '90s. Our current standard of minimum wage is far from helpful and a raise in this standard is annal opportunity for working people to have a better quality of life here in San José. Please Mayor Reed and city council, invest in working families and do not push this issue to the back burner, also with this financial report please make ill --

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

>> Good afternoon, councilmembers. My name is ally Bar-done. Paycheck to paycheck often results in a harsh reality for us young people. I believe raising the minimum wage is necessary to improve the lifestyle of your constituents who count on you to work in our best interest. Thank you. [applause]

>> Mayor Reed: (saying names).

>> Good afternoon. My name is Alisa Koff begins Borg. As a imagelessed to be regretfully due to the change in the order of the agenda you missthe opportunity to hear directly from several of our board members. They were to share the words that inspire them from the Talmud, the New Testament the holy Koran. I ask that as you give direction to satisfy on this economic impact report you think of the passage from your faith tradition that is closest to the words of the holy Koran, act justly, Ver verily the adequate job is should include a broad analysis on the impact of raising the minimum wage on consumer spending and on low wage earners not only on businesses. Thank you.

>> Mayor Reed: Diana Crinity.

>> My name is Diana Crimiti, I'm a student of San José State and I also live in district 8. I'm responsibility I have is to tell my family members my younger cousins that I want them to go to college. I want them to succeed and at the same time in the back of my head I remember running into a young lady that worked at little Caesar's was gleeting paid how can I tell my cousins to go out to look for a future strive for something positive knowing that the couple of reasons aren't fair. I'm asking that you be fair and that you consider fairness in your report many thank you.

>> Mayor Reed: Hi a lot of people who put in cards who didn't speak. If you didn't hear your name and you put in a cart to speak that's the last time, the conclusion of if public testimony on this. We have a motion on the floor. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. First of all I just wanted to congratulate the students and professor Meyers Lipton you know this is really historic, what has been done here. And you know, I supported the effort by the students and I did so after doing my own due diligence and research now. I appreciate the comments made and I am confident that Mr. Shikada and the staff, many staff I imagine, that will be helping to organize this information and put it together, will heed the call to use mainstream social science literature and I imagine as part of the motion that was intended that was going to use literature that can be relied Monday or studies that can be relied upon in regards to answering any of the questions by both Councilmember Liccardo and Rocha. I do know

that based upon inflation average wages productivity that the peak, the value of the minimum wage peak in 1968, I don't know if it's -- not coincidentally the same year that Dr. King was taken from us, in any case, we know now that this is just speaking federally, our cost of living is far higher now, the minimum wage, kept up with productivity would be over \$21 April hour and simply the other measurements of being able to survive would be cost of living are more here than they are nationally. That being said I do appreciate the questions Councilmember Rocha asked and was going to ask of Ed, given the memo from Rick Doyle and Dennis Hawkins, it looks like there's some factors some questions that are already being asked and some of them seem consistent with some of the issues that have been brought forward by some of the public comment. For example, the ability to attract business and employment. There was a comment about employment retention. That seems to be covered by this general -- in the analysis in the report and so I guess my question is are there things that were asked of, including some of the -- including the impact on women, the impact on people of color, are those things you anticipate you'll -- as part of this motion you'll report back on given the time constraints when you come back to us before the council?

>> Ed Shikada: Thank you councilmember. Let me perhaps try to frame my response. In terms of first question is I'm not sure exactly what mainstream might refer to. I think as with any academic field, I suspect we'll see a variety of perspectives. And so when I mentioned earlier that perhaps we'd start with an identification of the literature that had already been prepared if we take any of the policy issues that we've taken recently we know certainly advocacy figures into that work on any I was going to say side, but it may represent along a spectrum of perspectives. That said, I think ultimately what would be really key for the City's consideration of this issue that may or may not be addressed in existing academic literature is the question of how this applies to a city in the middle of a metropolitan area with ready alternatives both for businesses as well as consumers. Especially a city that's already underserved by retail uses in particular. So that dynamic recognizing we are the largest city in the valley, but that said simply across the street or not even across the street, can have alternative from a business perspective, understanding that gap, and how that may be addressed in the existing literature is a key question we're going to need to delve into.

>> Councilmember Kalra: If I can -- why would that be a key question? One of many questions, advance, Santa Fe and Washington, D.C. aren't islands so the studies that applied to them apply similarly to San José. And so there's an argument that can be made that we're in a different situation but the reality is objectively speaking impacts that minimum wage have on employers, employees and on lifting up employment in an area or not those seem to be relevant regardless so I would hope that the academic studies on what has actually happened as opposed to guessing what might happen in a city like San José might be valuable.

>> Ed Shikada: I think they are both key both very important factors. That said Washington, D.C. Santa Fe San Francisco are geographically different from San José situation. And again not to debate the point but to recognize that I believe those are valid considerations.

>> Councilmember Kalra: And you know and we're not here to debate it as the mayor correctly stated the statistician is not going to be made today. But I'm concerned if we're entering the objective analysis of this from a framework that somehow the studies that have been done which are -- which give us the best sense of what happens when you put in place minimum wage are going to be not given greater value than a guess as to what might happen in San José. Just seems like studies, that our academic studies of an actual minimum wage have been increased and impact on jurisdictions seem to be more valuable than us guessing what happens in San José. We have an opportunity to use research. We can all judge the validity of it and how much weight we want to give to it. But there is academic research that's out there and I hope we would rely on that more so than moving forward with the sense on how this is going to be damaging to San José. I would rather us look at the impact on individual workers, on the businesses, I think that you know, we do know that low wage workers, and something I think we know from many studies, their money goes right back into the economy much more likely than money that goes to higher wage earners may put it into savings or vacations overseas, someone going from \$8 to \$10, it's similar -- the memo from Councilmember Liccardo I appreciate them as questions to look into. If it had been to create an alternative to us to adopt I would not be supporting the motion because I think there's presumptions being made before we even do the analysis. Exempting employees under the able of 18 when we you know a lot of young people are working not to get to go to the mall and buy another new pair of jeans or buy a new pair of shoes. That work is going to supplement other minimum wage jobs that in many cases their family members are

following. deleterious or have a negative impact open business. There's studies that show and that coast doesn't necessarily have that. And that's why I supported the initiative. Around so I just want to make sure that we go forward here, take advantage of what's there, take advantage of a lot of the people that came here to speak, that are presenting academic research, and there's always going to be special interests. I understanding that, on every side of an issue. But you know I hope that we would be ability to at the very least come back with an objective analysis. Right now we're not talking about an alternative. We're talking about what the petition is asking us to do which is either the council vote to raise minimum wage or it's going to the ballot. And that going to the ballot if there's no other item will cost the city over half a million dollars. And so I would like to know what the real impacts are of approving this so when we come back in May the council will have an opportunity to adopt this without putting our citizenry through an election and to ensure that we're doing it in a thoughtful manner. And so that's another piece of it is to try to avoid an election if possible. If we can do it ourselves and we know it can be done in a convey the study shows it's not going to be damaging to our ability to attract businesses, all in all it raises the A income, expendable incomes in local businesses he think that we should go forward with this. But again I'm going to ask that all studies be considered. I have a stack of studies here that I'm going to submit to the City Clerk's office and I'm going to ask and these are academic the majority of them are different types of academic studies about the minimum wage that have been very thoughtfully done on San José and other jurisdictions. So this may be the beginning of many studies you are going to get to your office and so I do appreciate that and that's why I certainly ask I encourage you to work with some of the quite some time and I'll support the motion to come back in may with many of the questions raised here at least with the best effort of the City Manager's office to answer them.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. First of all I'd like to thank professor Scott Meyers Lipton. I appreciate the privilege of being able to meet with you, hear firsthand your passionate and your experiences and I was very, very impressed by the worked that mass been done by the students at San José State and professor Scott Meyers Lipton's class. So I just wanted to say that. And I appreciate my colleagues work in both memos and Councilmember Kalra's passion as well. So I look forward to this coming back from staff. I also take to heart,

today is also Jewish heritage day for of you who are not here for that. My rabbi Dana McGott and I also support all of that. My opinion on this right now is I would like to move this forward unless there's compelling reason not to. I'm very much supporting the idea of advancing the minimum wage to \$10. I look forward to this come back. I hope we can save an election. So I think there will be a good outcome on this vote I think and let's move this forward, thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Well I completely agree on let's move it forward. And I want to thank Dr. Meyers Lipton and also Pancho and all the other people I've talked to, students and other people. You have really tweaked my conscience. I went to the extreme measure to look back the so many years to the time I was struggling with minimum wage and getting to college. I could actually do that, I 30 it was \$1.35 April hour. You know how far that was takes them years to pay off. And it just decreases the amount of time they have to get on with their life. So I want to thank you for awakening my conscience and I too am very much in favor of this, thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Everything's been said and direction to City Manager's office as to you know, what our expectations are to study. But I did want to you know a statistic that Councilmember Kalra gave out, I think frames this perfectly. If the minimum wage kept up with the economy, the minimum wage, the proper minimum wage should be \$21 an hour. So if you think about it, there is a -- people are working two jobs just to make the equivalent of what even comes close to what should be the minimum wage. And there is a social of social impact of having a low minimum wage. And that is, parents are working two jobs. They're not there for their kids. They're not there you know trying to help their kids do better in school. Keeping them in their homes and being -- and being more active in their children's lives. This will -- it won't get us quite there but it will go a long way to help close some gaps in folks academic situations. So look forward to this coming back and this council eventually supporting and passing a minimum wake of \$10 an hour. Thank you.

>> Mayor Reed: I think that was everybody. To quote Zoe Lofgren, everything's been said but it hasn't been said by everybody. Councilmember Rocha.

>> Councilmember Rocha: I had three pages of comments, but I'm going to go into three pages.

>> Mayor Reed: Appreciate the editing.

>> Councilmember Rocha: It's impressive as heck when they talked about this issue, the work they were going to do, the work that they did do and their passion for it. And when I say impressive because I think when I was back in college and if I told you away I was doing at 20 I wouldn't be sitting at this council seat or at least I'd lose it. What you did was pretty darn impressive. I'd like to ask the maker of the motion for a slight friendly amendment. Point to the City Manager whether it can be done. It might provide am mow for those folks that are going to criticize the expenditure of public funds as often the case. Would it be possible to ask some of the contracts we've contracted out, whether they're paying minimum wage such as the janitorial and mill wage?

>> Ed Shikada: Our contracts typically require prevailing or living wage. Which is higher.

>> Councilmember Rocha: Which is higher. Then never mind, disregard. Thank you. As far as the referral to commissions I recognize they don't meet every month or in time for this but I think in my mind what I was asking for was at least a early to the commissions for them to provide input if they so wish. It's not a mandate or requirement, it's just letting them know this work is being done and if they have any perspective on this issue whether it's the senior commission, the youth commission or the human rights commission it would be helpful. So it's mainly a referral to let them know the opportunity is out there.

>> Ed Shikada: Certainly we can do that and also think whether there might be other commissions that would also have an interest.

>> Councilmember Rocha: The neighborhood commission too might be one we could at least make that referral out. It doesn't have to be a specific letter to each one it could be a form letter let them know the referral is out there for their comment.

>> Ed Shikada: I'll make that notation.

>> Mayor Reed: Are we done talking on this? I think we are. On the motion, all in favor, opposed, none opposed, that's approved. See everybody back on May 22nd. Staff you don't have much time. Burning the midnight oil tonight probably to get started. So we will move the agenda, we're move to convene the joint city Diridon development authority to consider actions regarding expansion of renewal of property district in downtown San José. So that's agenda item 11.something or other. It's a separate agenda item, just a joint item. We're going to -- fishes item is call to order and roll call, okay we're here, thank you. Actions, we have staff recommendation on this, some presentation. We've even brought Chuck hammer out of retirement back to the downtown association on this. So I know this was on the consent calendar, before -- after the consent calendar but we just got done after the consent calendar so. We have a motion to approve the recommendation but do I want to give our staff and the downtown association representatives a chance to speak to us before we take action on this. I know it's taken a while to get here so I at least want a period of time to do that. Jim Ortbal.

>> Jim Ortbal, assistant director of transportation. Chuck hammer, president of our downtown association, property based improvement district. The action before you today is to continue the services we've been doing over the last five years and to renew it for the next ten year period. These are important services to the downtown, property owners are very satisfied with the service. They leverage about \$1.9 million in private and other noncity investment. So we think this is a very valuable thing for the downtown. With that I'll turn it over to Mr. Hammers to talk about the engagement of the property owners and the board of directors.

>> I came downtown with my son couple weeks ago and he saw the Groundworks people out there and he says why do you do that? And I thought it was a service learning moment that I was going to talk to him about, but he says it was really a bigger question about Groundworks. And it made me pause and I thought you know I've been

coming downtown for 25 years as probably all of you have. And me being a business owner down here one of my biggest issues has been getting people to come out of the suburbs is a the downtown. And it's a what I told him it's the biggest battle I wanted to take on with Groundworks was perception of downtown. We love downtown. We come down here every day. But people out there, are nervous and so when we first started Groundworks five years ago we said how do we change the perception. It was three things. It was making it clean, making it friendly and making it beautiful. And the flowers are great. It's great to walk around and see the flowers. So as we've gone on with these five years we've added tree trimming now and now we're putting a proposal before you for ten more years. And we want to add some maintenance items. And then we also, we're seeing you know we've got empty offices so we want to put a little bit of money, and this is mostly coming from the property owners. We want to put it towards business retention. So we really want a vibrant downtown, and we thank you. You've been a great partner. You're the biggest property owner down here. And we recognize that's important. But our property owners love it. We have, often, our approval ratings among them are 80 to 90%. I think that might be mother Teresa, I know it's better than most politicians do these days. So we appreciate your support and we also appreciate the staff support. It's been great working with the staff of the city and now we're we're also working with the police department on a proposal to increase security downtown. So thank you very much and thank you for looking at this for us.

>> Mayor Reed: Thank you. What's in front of us today is the beginning of the process. Maybe it's not the beginning but it's certainly the middle including any actions recommended by staff was to set a hearing for approval on June 19th, 2012, assuming property owners are willing to support it. I'd just like to say how much I like to see the Groundworks team at work and I see them at work every time I walk outside this building. They're at work in downtown, certainly cleaner, certainly prettier, much better than it was before Groundworks started. We have evidence of that, I'm pleased that the property owners will step up and help pay for it. It's not possible elsewhere in the city. It would be great if what request happen really a public private partnership in every sense of the word and I want to congratulate Councilmember Liccardo for the work being done in his district and his support for this is obviously important. So I'm going to call on him and let him make a motion.

>> Councilmember Liccardo: I'd like to briefly emphatically thank Chuck and Scott Knies and Jim for making this happen. Of specific benefit to the property owners I'm absolutely certain of that Rick but this is something that many people in San José are really proud of. Thank you all. With that I'd like to make a motion to approve.

>> Mayor Reed: We have a motion to approve. That includes all three items resolutions et cetera, including setting the date. Further discussion on the motion? I had no cards as far as I know other than chuck hammers speaking for everybody. That's all it takes if you've got one chuck hammers you don't have to have tons of people, right? On that motion, all in favor? Opposed, none opposed, that's approved. See you June 19th.

>> Thank you.

>> Mayor Reed: That was the joint item so back to the council agenda item 4.1. Hearing on the approval of the 12-13 consolidated annual action plan. I think we'll have a minute for the staff switch. Leslye Corsiglia.

>> Leslye Corsiglia: Mr. Mayor, Leslye Corsiglia, director of housing. I do not have a presentation today. In the interest of time. But I'm here for questions. We do need to open the public hearing however.

>> Mayor Reed: Okay, to so this is the opportunity for public hearing. I have so far no cards from the public but anybody that wants to submit a card should do it now. Has to do with the process having to do with the federal government making sure we follow all the requirements. Plans and activities we get a lot of money from the federal government to do these things, we do it their way, we appreciate the funding and they make it possible for us to do the things we otherwise could not do. Is there anybody that wishes to speak on this item? Come on down. I don't have cards. But if you're here and you want to speak this is it. Actually do I have one card that's probably you Kevin.

>> My name is Kevin Zwick dedicated to make Silicon Valley a more affordable place to live we strongly support the City of San José's consolidated plans annual action plan and we thank the staff and the council for all the public outreach that went into this plan. When we're out in the community holding outreach and education event

the concerns we've heard over the last two years are the same ones highlighted in this consolidated plan that foreclosures continue to be a scourge in our homelessness in our community and we need to provide as much support as possible to help seniors continue to live in our city. So we look forward to working with our partners in the foreclosures help consortium to help support facing foreclosure and we look forward to working with all of you, thanks.

>> Mayor Reed: Anyone else wishing to testify? I would just like to note that Councilmember Kalra is abstaining on this matter because he's on the board of an organization that is a potential source of some of these funds, I guess. All right. No one else wants to speak? We're going to close the public hearing. All right then see if there are any council comments, suggestions for amendments to the plan or a recommendation to approve it as proposed? Motion to approve the plan as recommended by staff. Anybody else on that motion? Vice Mayor.

>> Vice Mayor Nguyen: Thank you. Just a quick question Leslye. Thank you very much for the plan. Great work. I like everything in it. I have a question in regards to the issue of homelessness and the section 8 housing choice vouchers. I understand that we have an agreement with the housing authority to allocate one-third of every turnover section 8 housing choice vouchers to the chronically homeless. Can you just give me a status update on that? How is it going and to what extent have we been effective in this action?

>> Leslye Corsiglia: Surely, Vice Mayor, this year we asked for the housing authority to set aside one-third of its vouchers for the chronically homeless in the upcoming MTW plan. And they agreed to 30% but capped at 100 vouchers. And so we will at this point we won't be getting the full third. We probably would get closer to 130 or so vouchers rather than the 100 and it's only for one year but they did give some vouchers.

>> Vice Mayor Nguyen: So how does that work moving forward? Is there a certain amount of time that we can reach that one-third percent or is this sort of the trend as we move forward with this?

>> Leslye Corsiglia: I think that's one of the things we need to look at as we move forward. We've been working with the housing authority and understand I think we both understand that we have a need to revise our

agreement with them. And I think at that point that's something that we need to work through. Because we have not always received the -- they have not always accepted the council's recommendations for inclusion in their plan.

>> Vice Mayor Nguyen: Okay, great, thank you.

>> Mayor Reed: I think we're ready to vote. The recommendation includes the resolutions and the submission and all the things the staff has recommended. On that motion, all in favor? Opposed, none opposed, one absent Councilmember Constant, one abstention, Councilmember Kalra. So that item is approved. We'll move to item 4.2, an amendment to the 11-12 consolidated annual action plan. Motion is to approve. Any speakers? I see no cards. All right. Anything special we have to do on this one? No script, just approve it. Motion is to approve. All in favor, opposed, none opposed, that's approved. 4.3, hearing to vacate a portion of South Monroe street. Councilmember Oliverio.

>> Councilmember Oliverio: Mayor Reed, this was a development where we had a split vote on if council because we rezoned land for jobs for housing. And part of it ended up being that of it was going to be housing and some of it was going to be office. But the only thing that holds us from getting the office is this easement today. I'd like to know if we go ahead and approve it, where is the office going to be coming, the question is where is the office being built? I don't have any update from planning that anything has been submitted to actually build the office. You know not knowing that I would make a motion to defer this item for the update. Otherwise we lose the chance for the office building.

>> Mayor Reed: We have a motion to defer. Does staff want to comment on that? Dave Sykes headed down.

>> Dave Sykes: Thank you, mayor. Dave Sykes director of Public Works. I'm not familiar with the status of the subject you just rose so I'm not sure how to answer that question.

>> Councilmember Oliverio: Ecan just give it to us another time?

>> Dave Sykes: I think we can defer this. I don't think there's any impact to the schedule at this point.

>> Councilmember Oliverio: Okay, thank you.

>> Mayor Reed: We have a motion to defer to date up certain, to be rescheduled as appropriate. On the motion, all in favor? Opposed? None opposed, that's approved. Fiep 2, antigraffiti program, contract services cost to report. This is a report back to the council pursuant to previous council request. City Manager.

>> Debra Figone: Yes.

>> Councilmember Kalra: , staff is coming down to provide a brief update. I did want to open this item. As council knows this is the staff's report on our antigraffiti program and this report was directed to come to you in February however there is no action required of council today. This discussion also provides an opportunity for us as an organization to consider where we are on one of the key strategies of our fiscal reform plan which the council adopted. And that is to use organizational efficiencies and alternating service delivery models. Faced with significant and continuing fiscal challenges the council has directed that we take on numerous transformational changes among these is contracting out. The new antigraffiti program contract is an example of one of many innovations we've taken to lower cost and improve services in response to our budget challenges and direction by the city council to explore new ways of doing business. Change is difficult however we will always need to provide oversight to any of our contractors as we would supervise our own staff. And there are always opportunities for improvement. That said, we have reviewed allegations made by recent television supposed investigative report and found them misleading and elaborate on that point if you are -- continue to be interested. Given that, I'm equally concerned that unfounded criticism can damage the City's attractiveness as a client, and make it more difficult to enter into cost-effective contracted services in the future. San José contractors know that they are held to a high standard of accountability for performance. Yet these vendors also have earned the right to receive public acknowledgment in a fair and balanced partnership. It's also important that we provide any new service and appropriate amount of time to succeed. We are less than one year into this current contract. After the last

summer's startup phase to get used to our community and our job if I, GPC has made significant progress and I know that working with staff it will continue to improve. Once again, we all know that change is difficult. In mechanicking through change however we will want to be mindful of how our public dialogue sends messages to our partners both current and prospective. Also as important to me as your City Manager we do support them when confronted by misleading allegations by the media. With that let me turn it over to Julie Edmonds Mars for.

>> Neighborhood services I'm joined by acting assistant director Ache El Rios and Mike Rowe who will help with the council requested that staff return to this body if we anticipated having the antigraffiti contract align item whip the overall antigraffiti budget were to exceed the original single contract expenditure this year of \$633,000. The purpose of this item is to update the council on the status of the antigraffiti program and its budget. As staff report indicates while the overall program costs have varied slightly, that is 8.5% from the original approved funding level in the adopted budget the entire anticipated savings to the General Fund of \$613,000 will be achieved and perhaps more importantly the service enhancements we envisioned with this outsourced service have been realized and the residents expectations have been met and in many cases exceeded. The department collects a folder of positive resident feedback much. To quote one resident they have been impressed by the response time. The application that the vendor has brought to the City of San José and the backup work order system really decreases the windshield time and as a result most abatements, all abatements 99% of abatements occur within 24 hours many within less and all of the gang graffiti is remediated within 24 hours. Another resident noticed, after cleaning, they almost look brand-new. And went on to say could you do more of this and make my neighborhood look even better? So we really received a lot of positive comments on this restoration color-matching type of service. Through the service evaluation abatement services we compared cost, we spoke to other agencies with similar challenges, who had also gone through a similar process, and then we provided our best professional staff estimation on the estimated work volume and the estimated cost that would need to move to this new model. As noted in the staff report, the entire estimated General Fund savings of \$613,000 will be realized. It will be realized because no additional funds are being requested because the department will be able to offset those by additional -- those additional services that are going to be needed because of the spike in the graffiti crime by fiscal management of other resources. While staff report indicates the slight increase of 8.5% variance the \$1.2 million program which the abatement has been increased -- excuse me -- graffiti program costs

have been spiked by the increase incident rate of graffiti property crime. Our vendor GPc was not really a limited figure for each individual year but instead was an average smoothed over a five-year period. And that is an actual contract cost of \$3.1 million. The antigraffiti program has been in place for 15 years. And during that period graffiti activity has fluctuated substantially. As the bar chart above shows the ten year history the dark bar indicates the resources that the City of San José has invested in this service in terms of dollars on the left axis and then every the fiscal years the lighter bar indicates the graffiti abated and that is measured in square footage. The lighter bar, the square footage abated, it's in -- city staff, this is a representation of city staff's abatements in the past as calculated by a utilization so we take the gallons of paint and divide it to estimate how many square feet. However with GPc we're now able to record more precise data collection with realtime photos and the backup data to support that. So we know with a greater certainty what the square footage is. It's important to note that this volume does not include the efforts of our 3600 volunteers, a really energetic work for, and the interagency efforts that occur as well. Looking at the resource bar it's important to recall that when this decision was made last year to outsource the program was already scheduled for a decline in resources from 21 FTEs to 17 FTEs due to prior budget action. So the resources in any case would have gone down. When the service delivery evaluation was completed last year in January the last full year of historical data was from 9-10 at 1.5 million square feet. The performance through December of 10 last year was approximately a million square feet and at that point when we completed the service delivery evaluation it was unanticipated that it would spike to 2.6 by the end of the year. Now with the retrospective 11-12 the graffiti crime activity has in fact risen higher than the forecast and we anticipate that 1.9 to 2 million square feet will need to be abated this year to maintain the current service level. We forecast this trend and the restoration model that we're utilizing will smooth out over the next year and then begin to decline. We do not anticipate that the five-year item amount of 3.1 will be exceeded. Moving forward, vendors' erat case 2 to 3 field inspection and ensure accountability. Will continue to recruit and train volunteers for eradication, and continue to collaborate and support the police department in graffiti crime investigations. We'll also continue to provide antigraffiti reports to the neighborhood services and education committee, and on a biannual basis. Clearly the city is responsible for regulating services provided to our residents and ensure that the service delivery is at confident that we are doing this and that the city has benefited substantially from these reductions and that our residents have also benefited from the enhanced service delivery and with that we're available for questions.

>> Mayor Reed: Thank you. You didn't give the name of the application that people can download for their smart phone. I forgot what that was. San José clean?

>> Thank you mayor, San José clean.

>> Mayor Reed: I'm really happy to see that we're getting better service for less money. That would be something nice we would be good to do in other areas as well one of the things I really look at this particular service is the ability to match the paint and to cover a larger surface. Bassoon though you may cover up graffiti with some paint it looks like a scar. If you just keep putting the scars up eventually it's almost as bad as the graffiti. But this particular process we're using now where they're painting a larger surface and making it look like new is just a vast improvement I think on the impact on the neighborhood. And the San José clean app I had a member of my staff try it yesterday. I was just curious. I have heard some good stories from councilmembers about how well it's working. So a staff member from personal e-mail reported it last night by this morning when he came into the office it had been cleaned up painted and it looked like new. Of course that's from the photo but you couldn't tell that it was newly painted. It matched. And I don't know what technology they're using to do that but it's really cool to be able to do that. Because it doesn't leave that blemish on the neighborhood and that's definitely an enhanced service and the fact that it's costing less money is certainly a bonus. I want to thank staff ground works and others but use the same kind of service that we got the same kind of product from other agencies, that will be a little project to try to spread this out. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. Yeah, I want to tout the wonder of San José clean application as well. We actually use it. I don't have an iPhone or an android, I have an old blackberry here but my husband has an funny. We walk through the neighborhoods early morning with our dog, we frequently report graffiti and it's cleaned up the next day. I think it's hopeful if you actually have the application we wouldn't have access to this technology, we'd have to develop it ourselves and I don't want to even ask you to tell me how much that would cost. To actually create our own software application to do this. The other thing is you can still report the it the same way too. I could still call on the phone, the 800 number and report it as well. I will eventually get rid of my

blackberry and get something more up to date. It's an incentive to use that technology because it speeds the process of reporting. I also want to talk about the opportunity, the less desire for people to tag over. So when we report graffiti oftentimes it will come back, somebody put it there, they want it there. After it's been removed two or three times I notice it doesn't return. Not like an obvious paint over where somebody can go over and retag. Visible sort of advertisement for somebody to go back and graffiti again. When you completely cover it over the way it's being done with our vendor it really lessens the long term graffiti coming back. I think it's a really great process. We just have to find a way to continue to expand it out to the rest of the city and I want to compliment our city folks are still involved in managing us and we have 3500 volunteers they are wonderful and we couldn't do it without them. I'd like to see us actually work to create a way that we can bring in the state and our other entities maybe you know, and have them use this application at least in a portal so that they can everybody can enter graffiti the same way. So I really think we should begin to think about moving this forward and how we can use this technology so that we can really get rid of graffiti in all the places. Because a lot of our residents complain about graffiti along the sound walls, on the highways on the railroad crossings where city where we don't have access and we don't have -- that is not our territory and we have to work with those entities. We need a joint powers authority where graffiti is handled one way, where you enter a portal and graffiti is handled in have that graffiti reported because I think it will help speed up the process of cleaning it pickup up. And for those areas where it doesn't -- where there's maybe it's not working I think there needs ton more education, more people getting involved with it. I know I had a class in my district. I got e-mails from my residents who were thrilled with the results. It's nice to see people writing in and saying how they like to see things actually responded to in a timely basis and so people are pretty excited about it. So I'm highly supportive of this effort. You guys are doing a great job and I look forward to continuing to see improvement in this area.

>> Mayor Reed: Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you. I am too very satisfied and very happy with the enhanced services provided by our vendor. We've been hearing nothing but just positive response from the residents in my council district. You know when they report the graffiti it gets removed within 48 hours to 72 hours which is good. But I wanted to follow up on Councilmember Herrera's questions about working with other entities. Obviously, we have

seen graffiti on utility boxes, overpasses, the railroad tracks. What are we doing with some of these agencies in terms of asking them help us out with graffiti removal?

>> Councilmember we have worked with agencies and had successes with the highway overpasses in particular. There is the railroad overpass on bird street, last December we worked on Willow Street bridge over 280 and our 101, multiple agencies, VTA, transportation agencies in the state. They're very labor intensive, it takes a lot of energy to get those folks all together to help us do these projects. Having said that once we get the 13th street bridge under our belt we'll look forward to convening some meetings with these agencies to a jurisdictional approach to graffiti abatement.

>> Vice Mayor Nguyen: I want to commend Tina Morrill for painting over the graffiti and making the utility boxes into something ready arty. I know there are others in other council districts and thank you very much for your ongoing effort and please convey my thanks to the volunteers in the area. Thank you.

>> Mayor Reed: We'll hear from Tina shortly. Councilmember Campos is next.

>> Councilmember Campos: Thank you, mayor. Couple of things. One, thank you for the report. I know that we had asked you to come back and give a report. However, you know, maybe things vary per council district. You know I have a council district that happened to have in the staff report, in February, that showed a 50% decrease, which reality, unless you live there, you know you know that that's not accurate. One of the things, Ken, can you put back on the slight where it had all of the years spread out and it kind of showed how much money was -- yeah, that one. That one. So one of the things that we need to take into account that from 2002, 2003 to this year, you know, we're seeing the incidences of graffiti, and funding that was -- that was put towards it, we have to take into account that during that first part, and maybe you know even up to 2008, 2009, there were a lot of resources into keeping kids off the street and keeping them busy. There were a lot of resources going to the gang task force, we know that graffiti covering it up again and covering it up again, that's not going to deter graffiti. We know that. So we need to have an honest conversation about what's going to work. We really do. And so, you know, I'm not here to do an I gotcha or point fingers. I'm here because we wept down a path and I'm not saying to reverse

our field. But if this path is not working then we need to find a path that's going to work. We really do. Because, you know, the reality is, you know, we're going to -- you know this council's going to be asked to increase the budget by \$170,000. You know, I -- or up to \$800,000. And then we're being told well you know what? This year's an anomaly. It's not going to be like that next year or the year after that or the year after that. But the reality, you know, programs for kids, we're not putting any more money into programs for kids. You know, there are groups that are not providing services that are keeping those kids off the streets. That's the reality. So what we should be expecting is, you know what, in that last year of this contract, we're probably going to be asked to increase funding by a full year. Because we're going to blow through the contract. I mean, that's the reality. You know, I put out a memo, you know, one is to -- and actually I'm going to put a motion out there. To accept the staff's report with the following direction. Staff will report to council before the conclusion of fiscal year 2011-2012 for discussion on whether or not the city should continue the agreement with graffiti protection coating incorporated for graffiti abatement services. As part of the discussion staff will provide council with service option alternatives to graffiti abatement. These options should include the possibility of a hybrid model with both city and credited field staff abating graffiti, along with a field coat analysis for a city payed graffiti program with six field operation employees. The decision to outsource the City's graffiti abatement services is presenting itself to be a costly decision. When you have to increase the contract in the first year it is costly because that's an unanticipated cost. Regardless of we're smoothing it over four, five years, the fact of the matter is we're asking for more budget this year.

>> Mayor Reed: Let me say that budget request has not been made. There's not a budget decision in front of us and staff has said they are not asking for the budget to be augmented. Which will start a few minutes with the delivery of the City Manager's budget proposal. But that's not being asked for today.

>> Councilmember Campos: We are being asked to continue the proposal until the end of the year.

>> Mayor Reed: Staff is not asking for that action. We'll do the budget analysis as part of the budget process is to do this is a kind of analyses so that council can make decisions. If we want to go in a different way what it will cost us. I don't have any problem with your motion but don't assume that we've got a budget request.

>> Councilmember Campos: Well when we've got a motion that's actually making and is indicating that -- and part of the staff report or analysis on this is alluding to you know we need \$800,000 or we need this to be bumped up to \$800,000 so that we balance out you know maybe this -- it is a matter of semantics. It sounds like a budget increase request so that's how I'm taking it. Anyhow you you know, I think we really need to look at this. We need to look at this because you know the folks out in all of our council districts. Some council districts have reported an increase in graffiti and that is in your staff report. You know, I will -- I would debate whether graffiti has gone down by 50% in my district, it probably has along the perimeter but inside the neighborhood is high. The Mount Pleasant neighborhood association is very satisfied with the response. But the Sierra neighborhood association, Mayfair NAC, Dorsett they're concerned. Let's have an honest discussion and I would appreciate a second, thank you.

>> Mayor Reed: We do have a second on the motion to do the analysis. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And I appreciate Councilmember Campos comments, in putting forward the memo I co-signed with him and Councilmember Chu. Again it requires us to take a look, especially when we outsource services like this, let's keep in mind what we started. Yes, we have costs that we have to be considered. But we have one of the finest 18th graffiti anywhere, I would argue nationwide that was responsive worked with the community and we got things done. And now we're seeing even looking at the staff memo, we're seeing, although you know we might save some money how much are we really saving if we're not getting what we're asking for or if the graffiti is not being taken care of in the manner that's being promised. I do have a couple of questions just on the comments that have been made. And Julie you mentioned you could manage without fiscal vs. is.

>> That's correct. There is a \$1.2 million budget, there is a percentage roughly half that was set aside for the contractor but other line items. Within those other line items we're saving money. We're saving money on materials, not utilizing as much material, saving money on personnel, we're going to partially improve set the need

for the additional abatement which has been required by the additional graffiti crime that's occurred. So that the parks and recreation total budget of \$50 million will not be exceeded.

>> Councilmember Kalra: Offsetting the otherwise more expensive delivery under if contractor. So that money could be used just to help boost the parks budget for the next year or it could be used for any other -- and regardless whether we outsource or not, if we found ways to save money on materials, that's great. It doesn't speak to the effectiveness in personnel saving some money, that's great for the General Fund but does not speak to the effectiveness of this contract. It seems like you're almost forced to find other sources of money in order to keep the program or keep the contract on pace in terms of the amount of money allotted.

>> Councilmember even with the money adjusted the program will save the General Fund over \$510,000. We're still getting graffiti services at a much lower rate per service with the outsource model.

>> Councilmember Kalra: I understand there's money saved but you know we've seen an increase in graffiti and one question I had regarding the square footage being used. So I know that initially, this is something we went on a tour, I went on a tour when you were explaining the model of the new company and you indicated they were going to go to the walls and paint these entire walls. I recall when I had that done I think it was the Silver Leaf neighborhood, I wanted the wall entirely done. I was told that's not graffiti abatement. It took a long time but the staff finally did it. The question is when we're talking about square footage, is that graffiti abatement square footage, is that going through neighborhoods completely cleaning, basically painting out a whole stretch of a wall which, is that included in the square footage of the abatement?

>> Councilmember the contractor's work is 40 cents a square foot, we have other mechanisms we utilize and Mike is going to talk a little bit about that.

>> Councilmember Kalra: Okay thank you.

>> They do paint the entire wall if it's necessary. The goal is to make the area look as if there wasn't any graffiti. In the old model secondary tags. In this new model we paint out the whole wall. Color match is important, we don't want to give as much greater recurrence on these walls.

>> Councilmember Kalra: I agree, mayor started off that point. The blotches you know it may not be a tag but it's not exactly attractive. It's blight in its own way. But the question the original, going through a whole expanse wall, I'm not saying when they respond and do a square, that initial drive through where they do the entire wall, is that included in the abatement?

>> It is. The thought being when they come back they're going to be doing wall smaller square feet of graffiti. If we're going to compare this and say queer saving money we should compare it to what the parks staff was doing before and the park staff when I recall and I account abatement. And so this is going beyond abatement some if it's beautification and abatement then we're not addressing the problem for which they've been contracted. Although I love the look of beautiful painted-over walls. Although I will say, I appreciate Councilmember Campos getting feedback positive-negative. For anyone to claim on any service we provide that you're getting 100% feedback it doesn't happen. That's not the nature of the business we're in is city -- when it comes to city services. But I've used the phone app, I put the phone 'on my phone to market it. I'm trying to use the service it exists to the best way possible. I've gotten mixed results in using the app but there's greater lack of response on the phone calls in. That's what's concerning me is not much has a smart phone app available. I think if there's going to be a summons you're going to respond to a smart phone April, many more quickly. They ask questions and there's been miscommunication in that regard as well. So in supporting communicate I'm not saying let's get rid of GPJ. What I'm saying is the reason we asked for this to come back is just for this reason, so we can have the opportunity to evaluate it. Before the vote was done, the contract was clear, we can get out of this contract if we choose to do so, as long as you have a certain amount of days you can get through the contract. Other cities that try to get out of contract with GPC, GPC sued them. Under the mindset that if it's not broken don't try to fix it, our 18thgraphy graffiti, those could have been done without bringing in outside which is argued at the time we were make making a volt on the contractor. An app is great. There are a lot of places that we can get an app that this, I've gotten mixed results from my community and I have very active antigraffiti

community members. Coyote creek around the Hayes neighborhood certainly in the Silver Leaf area that like for many, many years working with our team and have had the great results. Quick reaction to graffiti, they're certainly out on the walls and weekends, I'm not. So when they make the call is that's more relevant to me than anyone else because they've been doing that work for so many years in conjunction with. I support the memo because I believe given the feedback I've gotten looking at the cost estimates and how they're off and one other questions I know before I think it was you a Julie, but even though wildfires didn't contract we would have drop by 17?

>> Yes, by prior budget actions.

>> Councilmember Kalra: You indicate half the budget is going to contract. How many personnel did we get to dedicated antigraffiti?

>> We cusp activity workers those folks have gone and engaged with community on a regular basis in addition to the folks that coordinate with PD and with code enforcement as knee be.

>> Councilmember Kalra: Okay, 3.5 they're kind of stretched too, at the onset of the contract that's been the case all the time. It comes to your attention if you set up the program, it would be 3.75 FTE?

>> Absolutely.

>> Councilmember Kalra: That's where a lot of the cost as well as the other resources. And is in any intention to increase that number of the park side FTE?

>> There is a proposal to make a modification in the City Manager's budget.

>> Councilmember Kalra: What would that be?

>> The modification we are proposing is that we eliminate one of the staffing positions that's been overseeing some of the community activity work. And then, to modify that and some other nonpersonnel cost convert that into vent cost so we'll be able to maintain this same service level and stay within the budget allocation.

>> Councilmember Kalra: 3.5 down to how many feet?

>> 2.75.

>> Councilmember Kalra: To.

>> Chair Kamei: relevant to me is the service being provide he to the community and whether the graffiti is being eradicated as efficiently and quickly as possible. There are some pluses and minuses as to how GPC has rolled out their program. Good things, bad things. I think it's our responsibility especially going the feedback and especially seeing it's more expensive than was promised that we take a look at this. Thank you.

>> Mayor Reed: Let me just say it's not more expensive than promised. We have a contract, we are paying by unit and the problem is the units of graffiti are going up and that is not something any of us seem to have of be able to control. The unit cost is fixed by the contract .

>> Councilmember Kalra: I agree mayor. But when graffiti is left it multiplies. there is a number of factors but one of them is the effectiveness in responding quickly to graffiti and --

>> Mayor Reed: The data we have is they are very quick and responsive. We know that's a problem, you need to knock it down quickly. I would encourage those of you who think that somehow they are not complying with the contract and they're not being timely in responses to share that with staff, make sure staff has that and make sure we have data on that because there are 25,000 units per year or events per year. And I don't know if it's one or 100 that people are complaining about. It would be great if we put quantities on that because I don't think we're going to get 100 first perfect out of any vendor.

>> Councilmember Kalra: It's unfair to us to say we've got a complaint here and want to make sure it can be responded to.

>> Mayor Reed: City Manager did you have a comment?

>> Debra Figone: Mayor you touched on what I wanted to reinforce. As you're considering whatever you want us to come back with, and ultimately it's going to be your public policy call, you root cause of this graffiti. City is a victim. So staff when we do come back to not only talk about our data but perhaps there are some underlying social issues that we need to continue to remind ourselves of and try to get at those.

>> Mayor Reed: And I would like to add that the budget message approved by the council in March funding for the mayors gang prevention task force and some of the don't have today we'll be able to restore some of those and that could and probably will have a positive impact on our graffiti totals. But that's in the budget process and we're not quite there. We got another hour before we get into the budget process. Unless you've already delivered them in our absence. Probably already in our offices right? Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I'll be quick. I just wanted to ask, Julie if you had any idea of how many graffiti cases are small, in other words, when somebody has an app they take a picture of a small bit of graffiti and send it in. And then when you add all these up it starts to get expensive.

>> Yes, councilmember, we do have a higher volume of small and I can let Mike wells probably weigh in a little more quantitatively. But since we're only paying for abatement on a square footage basis, if the graffiti abatement company responds to a five square feet abatement that's a cost of \$2 to the city. The volume is high but we're paying the same amount whether in a unit cost basis.

>> Councilmember Pyle: Okay. I just wondered if there had been any thought begin to kind of a hybrid program. And we won't know mayor how much abatement there will be because of your programs. In district

5. There's a lot we don't know so this is a future thinking. You know a hybrid program for some that need to have a little extra help with their problems. I don't know if there's been any discussion about that or not. And I just -- I think there's a lot of people that want to do something to help. And I certainly wouldn't want to discourage that.

>> Councilmember regarding smaller graffiti and helping, we are certainly encouraging folks to volunteer for this program. The program from the get go has been very volunteer based. Smaller tags as with any vendor any source, smaller unit is a greater cost to anybody. The contractor is willing to work with our partners and the City of San José to get volunteers to do community walks, to abate the smaller tags that way the contractor can focus on the larger tags or say the gang graffiti tags or the more violent related tags. And to that end we do have a community event scheduled for may 12, it's been relocated to Metcalf park in Councilmember Kalra's district.

>> Councilmember Pyle: You really already have a hybrid program.

>> We do yes.

>> Councilmember Pyle: With city personnel with contracted field staff and with volunteers.

>> Correct.

>> Councilmember Pyle: I just wanted to clarify that.

>> Mayor Reed: That's a Tribid.

>> Councilmember Pyle: Very good.

>> Mayor Reed: We have some people who have been sitting for a very long time. Please come on down. I'm sorry you had to wait, I can only give you a minute. Tina Morrill, (saying names).

>> Good evening, my name is Tina Morrill, I live in the eventual.com neighborhood in District 3. I'm old school I don't have a smart phone so I call into our antigraffiti folks and I call about two or three times a week on average and overall have been very, very happy so I just wanted to tell you guys I'm very happy with the service provided by the team. I find them responsive and thorough. I find them very timely. And I find that they follow up as necessary. There have been some complaints that you know they ask a lot of questions because they're out of state. I really appreciate that. I'm really glad because they're out of state or not in this area that they want to know exactly what I'm talking about and they also ask for my phone number and explain to me here's why we're asking we might need to follow up with you. So I really, really appreciate that and I wanted to just say kudos to those of you who are managing the program. I did have one idea, I wouldn't be me if I didn't have an idea. If there's you know a question about how the program's being managed or monitored, maybe this would be a good job for an intern or two. Lot of San José State students need jobs and this would be a lot more interesting than filing. So just to put a thought out there. Thank you.

>> Mayor Reed: (saying names).

>> Mayor Reed, councilmembers my name is Eric Hahn, I'm the operations manager of the San José downtown association. I manage the P bid through Groundworks and we've worked with city staff and graffiti protective coatings. We've been pleased with the work they've done, they do a great job color matching, we have sent in information via the app, it takes a long time to get the program up and running, they've been at it for a short period of time but they're quite capable of doing it and doing it efficiently. Thank you.

>> Mayor Reed: (saying names).

>> Cheryl Ospling, 32 year resident of district 2 Representing Coyote creek neighborhood association secretary and past president. For over 30 years my husband and I have volunteered with the city's graffiti abatement program which I consider to be the most critical and important program within the City of San José. My history with graffiti comes from growing up in East L.A. where some of the highest profile gangs are located. I know what it means having certainly numbers such as 14 and 13. My experience with the City's antigraffiti and ABC

dedicated and hardworking professionals that I've ever seen. The volunteers of our neighborhood absorb works very closely with antigraffiti staff with their provisions of paints and supplies. Last year, the staff was directed by the majority vote of the council and the mayor and city staff to be a combination city and outsourcing program. Based on this, I would encourage all of you, not only to use the app program but to encourage the members within your own council districts to learn the app program. I think that's where we're having some issues. Just a show of hands on the council and the mayor, anybody a volunteer, have you actually utilized this program? I know my councilmembers. I'm encouraging all of you to come to antigraffiti. Use the program. Learn how it works. Don't just use the apps but volunteer your own time. Thank you.

>> Mayor Reed: (saying names).

>> Hello I'm here because I read an article in the Mercury News that was just packed with lies. I've been a long time volunteer, I also last year was -- got the honor to receive the antilitter volunteer year of the award -- award. There's no 24 hours on graffiti. Believe me. Maybe on the gang, if you specify it's gang but not for other graffiti. They do an excellent job mapping paints. Councilmember Nguyen, I encourage you to i'm continually having to report graffiti over again. Sometimes I forget. I would say the turn around time is for like a week. Around I really advise the City Manager, you know you captain put down one --

>> Mayor Reed: Sorry, your time is up. John Allen Ben Field.

>> I'm John Allen I'm the president of college park neighborhood association and I want to tell you our experience. In December we started having walkabouts of the neighborhood. A group of us would walk around the neighborhood three we moved up to the e-mail I like that because you could remember who you said when. We got good response fast turn around great quality on the work. In fact one time somebody was using some kind of glue which would make a quarter-inch raised bead on the sidewalk. They took care of that too. In fact it looked like a brand-new piece of sidewalk when they got done. The first part, they had to paint the concrete to make the shadow go away. We got the smart phone thing and my God, I had to check to make sure it was true. I got the text message within hours, that particular graffiti was gone. And by God it was gone. In December

we started doing the this, I was personally calling in one per day, other people called them in. We cost you some money. For about a month we haven't had a single tag in college park. It's gone.

>> Mayor Reed: Good news I got to tell you your time is up. Ben Field is our last speaker.

>> Thank you Mr. Mayor, members of the council, Ben Field, I am here to speak in favor of Councilmember Campos memo. I don't believe everything I see in the news and so I went to the Website to check out the documentation which was eventual post thread, there are GPC work logs and I really wanted to see whether or not the investigative story was just revealing really aberrations to the work that is being done by GPC and what I found when I looked at those logs just a very cursory look is that it appears that overcharging is a fairly routine thing. The estimate of square footage for utility poles and trees and signs seems to be routinely more than it should be. I think that if this is performing well, then it's hard to know what poor performance would look like. You have to be really a very pro, rigid outsourcing requestedolog. .

>> En firsthand myself by using it anonymously. I've seep it from feedback from the residents and I'm happy that we paint out whole walls versus patching it. I think everything's been great. I'm sure there will be some levels of criticism on everything as led by my colleagues nothing is perfect but by far this is a better service at lower cost which allows us to continual to provide this amenity. If people are looking for a way to actually deter graffiti, I'd counsel you to check the country of Singh program later, but the testimony has been pretty clear. People are happy with this. And I think it's -- we're putting staff and taking you know sort of wasting the resources of time that could be spent on other things. I think the staff report was good. You're going to be vigilant on the vendor, you'll always come back if mayor says we have a contract. We're paying based on units and if more people are doing things, vandalizing dollars we are paying so that's my motion just accept the staff report.

>> Mayor Reed: All right, we have a motion to accept the staff report without giving further direction. As a substitute motion, Councilmember Kalra.

>> Councilmember Kalra: First of all thank you mayor on the -- you know it's going to people are going to say good things and bad things I've used this anonymously I've gotten good results and bad results mixed results. We've got to look at the numbers. The numbers are particularly if we're not differentiating eradication clearly this is not keeping pace with what city staff was doing. And secondly, the color matching is being great if it's being used. On Monterey, now I'm starting to see those square patches again and it's a concern because one thing's being promised and it's not consistently be being greated on. It's an opportunity for us to evaluate, some of these concerns whether they can deliver on the issues to look into what we're getting not what we're paying for but that we're paying the service. The fees are going up and if our neighborhoods particularly neighborhoods I know some of the arteries get focused on more because it's more visible and it gives you more impression at a more of graffiti is being covered up. Some of the neighborhoods and some of the parks it doesn't get that response. I know the 24-48 is not like what it was when it was strictly park staff. Make sure you fix the problem but just to blindly support it, bay because we save a few dollars and not to mention there's one less city position because we're under budget, because we under budget the real cost of the graffiti program at a they were proposing to use is unfortunate. Oversight of these crucial city services.

>> Mayor Reed: I'm going to support the substitute motion. I think this is one case that's pretty clear, we're getting better service at lower cost, there's no need for us to restaff with just city staff. Councilmember Herrera.

>> Councilmember Herrera: I would expect any time we're using a city pattern that we have oversight that we look at what they're doing we need to be monitoring that all the time. That's a very critical function that the city will how we're doing that in terms of addressing some of the concerns that have been raised?

>> Sure, absolutely, we monitor the database and we also go out the staff goes out into the field and verifies and ensures that the accountability is there the as well. It is a spot check program, we don't check every single abatement that wouldn't be efficient. When we find anomalies we work with the vendor so they're quickly to remedy what anomalies are present.

>> Councilmember Herrera: Are we Gillespie because the overunderrecord of reportingers always resolved.

>> Councilmember Herrera: So I'm really concerned about giving-sending a negative message to the folks who are doing this work, the contractor that's working with us. Because what I'm hearing from the people in my district is, they're really pleased with the results of this and people want to see results they want to see services provided. And it's unfortunate that our budget situation has forced us to take a look at lots of terms but in this case it's actually providing a really good result. I am going to sport the substitute motion, I think we ligamented already up here this idea of having this partner work with us to provide this service. This was already voted on and that is why we have it in place and I think there's an effort to kind of go backwards. I don't want to see us go backwards. Ways we can use this innovative technology such as the freeways around other agencies. People get excited when they see something that works. We're in the center of Silicon Valley, this is innovation, we should embrace this. I think we need to focus on that and stop trying to go backwards.

>> Mayor Reed: Okay on the motion, the motion is to accept the staff report. On that motion, all in favor? Opposed? Got one two three four five opposed, motion fails on a five-five vote. Get to count City Clerk? You got the count? So that's a five-five vote so we have an underlying motion made by Councilmember Campos, sometime ago, but I don't remember based on his memo. On that motion on the underlying motion.

>> Councilmember Rocha: Mayor, my lights has been on.

>> Mayor Reed: I didn't know which ones are or aren't. It was on for a little while.

>> Councilmember Rocha: That's probably because I was changing my mind to speak or not speak, begin the time and the comments and repeating everything else that has been said. I had some strong feelings on this so I felt a little bit compelled to ask a few questions and make a few statements on this. I'll start with an easy one in terms of how we measure this and that's in terms of square footage now. In the old days I remember it was more about tags. When did we move from this different measurement if you don't mind?

>> Councilmember we do both. We do tags which are incidents and measurement. The contract is based on square footage, that's why we've been focused on that in the staff report.

>> Councilmember Rocha: Didn't I see in the reports, maybe just square footage as opposed to tags. Maybe you're doing both.

>> That snapshot in time is singularly focused on tags not square footage.

>> Councilmember Rocha: How are we measuring accurately to the old days when we did it through our cells? I thought we just did tags or did we do square footage as well?

>> As I mentioned we estimated on square footage paid on paint utilized. The whole time the staff did the work they estimated square footage based on paint.

>> Councilmember Rocha: The debate is yourer what you want to hear, that's unfortunate. Early on in the program as I mentioned to you, I heard a lot more complaints than I heard in terms of positive feedback. That's slowly been change as the program has gone longer with GCP. I recognize that you have a new service delivery, you're going to have hiccups. I didn't pass on every complaint I had, I was willing to support the council action that we're contracting out, we'll follow up and get this done. So it wasn't about me trying to point out how many complaints we got or point out how much positive feedback we got. I try to answer and I know one of your'ss to Councilmember Kalra was we're saving money. I try not to base my decision bureau on dollars. I'm sure you could find someone doing your job I know someone permly I know Councilmember Oliverio is a big proponent of contracting out services. I know somebody personally who wants to do his job cheaper. That's the only measurement I want to use in terms of whether we should look for someone else. So this constant point to we're saving dollars we're saving dollars we're saving dollars and as I mentioned to you on the phone, that the way this issue has been framed in terms of feedback from the administration is pointing to the cost savings, pointing not feedback pointing to whatever it may be and admission any of the obvious problems we had early on and dismissing how this is being reported. If I had seen a different response from staff saying, you know what there's

some problems from staff we're going to make sure the public is not getting burned on this. That is not what I'm hearing from the administration it will what I'm hearing is admission any report that doesn't support the policies of this administration and to me this doesn't make me feel comfortable about moving forward with the substitute motion which has already failed. I'm not as comfortable going as far as Councilmember Campos is going but what I do feel is if we do have some concerns and this isn't meeting what we had owned to and we are now spending more dollars, to me that would be a basic policy direction let's take a step back and look at it. Nothing more nothing less nothing political, there's no debate about contracting out as far as I'm concerned there's a debate from me personally about the quality of the service. So that's why I did not support the substitute motion and that's why I'm interested in us taking a deeper look if we do have some deeper concerns. I'll repeat again this is early in a new contract and we're going to have issues but for me I'm not completely convinced that we made the right choice here in terms of maybe the company. Maybe we should look at another company if we still have problems. We need to look at that over time. I don't need to take care of that today. But I tried to be short but this issue has been driving me crazy for a while.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I was hoping we could make a motion to accept this report with some kind of input on issues if there are problems some kind of ability to follow up with it and respond back and I don't know what that process is. It kind of reminds me of the senior nutrition program where we heard some problems from folks who were going to the community centers to have their meals and then we got some really good effective response from the vendor and I stood up here and was very vocal about what my seniors were saying about the service and I do find out later that the vend has been very responsive, and the seniors were happy that they were heard. We do want to find a way to hear that feedback. What are we doing in terms of management? If we have an outside partner, we definitely the city has to be very much managing that quality. So I would like to make a motion and maybe incorporate a suggestion from councilmember --

>> Mayor Reed: There is already a motion. We'll vote on the main motion so we've already had a substitute motion so we need to vote on the main motion, if that fails then we can get into other permutations. City Manager

will come back to the City Manager. On the main motion to give direction to the staff on the analysis, on that motion all in favor? Opposed? I count one two three four opposed, five opposed, same five, five-five splits.

>> Councilmember Rocha: Giving us report or look to or report to the neighborhood services committee. I really would like to hear from you in terms of how make sure that we're getting the right service that Wood hoped for.

>> Yes, councilmember in termination of the budget process itself, it will be one of the things that we have not done in the past that we are working toward now is actually logging the complaints and the positive feedback that we receive. Would that be helpful in that regard?

>> Councilmember Rocha: Yes, what about auditing in terms of the companies reporting on how much square footage? I'm a little concerned about that, not significantly concerned because I recognize that there's going to be glitches here and there.

>> I'm going to let mike respond to that because he may have opportunity.

>> We have opportunities to provide initiated a group called the graffiti services review committee and it's made up of park volunteers, graffiti volunteers as well as parks and rec commissioners. So I can bring that group together and ask that they identify a way to evaluate the program's performance. That is their mission actually to evaluate the program's performance and that will be reported back to the parks and recreation commission as well as the PRNS.

>> Councilmember Rocha: Is that where we approved the contract where you you talked about evaluation of fiscal components on a monthly basis?

>> I don't believe, this committee was formed in October of this year so it's different.

>> Fiscal components, is something different. Mike could you talk about the field supervision what we do to monitor the conditions?

>> The program she -- because the databases hat not only numbers of square feet and descriptions of the actual work that's done but also has photographs. Many of the photographs she can clearly see whether or not, compare the size of the graffiti color matching and so forth. She'll take a select few of those and actually do field visits and measure to make sure that the work was properly done. She probably does probably five to ten a month and depend we're up to 25,000 work orders that the contractor has completed. Having done that when she comes across the program she contacts the vendor, the vendor fixes it. Whether that means they go back out and repaint the wall because it's not properly color matched or they credit us, whatever it is, the vendor has been very responsive in reporting back. We went through a thousand work orders and found out the contractor was underbilling us. They there was 200 square feet that they covered and they only put 50 square feet on the wall. Actually measure the work that they do very clearly, and they're complying with that now.

>> Councilmember Rocha: I don't know if that was more or less what you were looking for, I'm comfortable with that if you will.

>> Councilmember Herrera: I'll make the motion to approve the report.

>> Mayor Reed: And give the staff the direction.

>> Councilmember Herrera: The commission you were talking about or the group that was being formed I think that was great, because we'll have will folks involved in the feedback. Council just really wants to be kept abreast of what's going on in that program and we want to know if there are issues that they're being addressed.

>> Councilmember Rocha: Second.

>> Mayor Reed: New motion on the floor here.

>> Councilmember Rocha: And let me also thank Councilmember Campos and other folks on this memo for continuing to be diligent on this issue. I know you're passionate about it.

>> Councilmember Herrera: I don't want to step on your motion Councilmember Campos. I appreciate your comments about needing more resources from the gang prevention task force we need more resources especially in our areas where the youth need those resources. I'm supportive of the changes in that budget and appreciative in you bringing that up.

>> Mayor Reed: We'll have our first budget discussion in about 15 minutes, just kidding, 15 days, maybe not that long. Councilmember Herrera's motion,.

>> Councilmember Oliverio: I'm fine with that, staying with the same biannual process and adding some things.

>> Mayor Reed: All in favor, one two opposed, that passes with Campos and Kalra in opposition, motion passes. Taking us to some Redevelopment Agency successor entity and which is nine 9.1, successor agency to the Redevelopment Agency, also known as Sara, we will take that up first several items on that agenda but hopefully it will move along more quickly than some of the items on our agenda. Richard Keit.

>> Richard Keit, 9.2 and 9.4 we don't have a presentation Staff is available to answer any questions you may have. The whole point of nine.1 is to approve the disposition strategy and direct staff to present it to the oversight board this Thursday. So --

>> Mayor Reed: Okay, we're going to have a little bit of a presentation.

>> It was a short one.

>> Mayor Reed: It was pretty short, it was excellent by the way. Pretty short.

>> Mayor Reed: Councilmember Rocha?

>> Councilmember Rocha: Are we going to have the presentation or just move to the motion? Somebody? I'll move the memo as signed by the mayor and Councilmember Liccardo.

>> Mayor Reed: Okay come so the motion is both the memorandums which modifies the staff recommendation slightly. On that motion staff want to make a presentation on the motion? I think we're probably okay with this without a presentation. Councilmember Rocha.

>> Councilmember Rocha: And forgot to medication inclusion of Councilmember Oliverio's memo as well as part of that.

>> Mayor Reed: We've got three memos. We have a motion based on the three memoranda and the staff recommendation. On that motion? All in favor, opposed, I get cards here before I call the vote. We need to hear from the public, Jerry stranges and Chris flood.

>> Thank you, Mr. Mayor, members of the council, Jerry stranges president of the board of the San José stage company here to support the motion you just passed.

>> Mayor Reed: Haven't counted the votes yet. You could discourage some of these --

>> Thank you, Councilmember Liccardo four support of the stage company, special thanks to Councilmember Rocha for the help that you provided the company. We want to buy the building, we want to improve the building and we want to stay there for another 20 years. It's been 22 years since Barry Swenson builder actually took that old tire shop and renovated it. We're engaged with him again, we're looking at estimates to improve it. What we need is time and some flexible with SARA, that's what we need. So see some you Thursday, we'll be pushing that

to the successor agency and hope to see you all for the 19th annual Monday night live and thanks to councilmember Nancy Pyle for guest-hosting the show this year, June 18th, thank you.

>> Mayor Reed: All right, Chris blood.

>> I just wrote a brief memo so let me just read this to you. I'm a bit nervous speaking in public here. The Billy 1981 and since that time we've been providing services in a place called home to the LGBT community. In the early parts of the RDA worked a deal where we would be Lou to use the space at 938 the Alameda for only a dollar a year. We've been very appreciative to the city for that generosity. That has been shown to our community over these years. In recent years we've been hit like all nonprofits by the poor economy and have had to make some pretty significant changes to the way we do business. In a mere couple of years we have gone from a \$2 million a year agency to a \$250,000 a year agency. Because of severe reduction in available funding. We have been able to bear the severe change due to devotion of very committed and talented volunteers. And very committed and generous individual donors.

>> Mayor Reed: Sorry your time is up, I can't give you more time.

>> One more sentence?

>> Mayor Reed: One more sentence.

>> Where the city has had to cut back to close numerous community centers, we've thrived to because of our volunteers.

>> Mayor Reed: That was two sentences.

>> And we do appreciate --

>> Mayor Reed: And I am counting, that's three. That concludes public testimony. Councilmember Rocha.

>> Councilmember Rocha: Two sentences. If I might include not direction but encouragement to staff to entertain or at least have a discussion with the folks at the successor agency equal obviously equal or greater value so we can maintain ownership of some of those parcels. Just a suggestion and I don't know how willing they would be to do it.

>> Mayor Reed: It certainly would be allowed under the statute I believe but I'll check with Rick Doyle for that.

>> Councilmember Rocha: Do we have to?

>> City Attorney Doyle: I'm not going to comment on that, on Councilmember Oliverio's memo, number 4 waive any slip requirements for repairing any leaky roof. That I'm told is not a discretionary act, it is something the building official cannot wave so I'd ask that the motion be amended to delete that part.

>> So move.

>> Mayor Reed: On the amended motion, all in favor? Opposed? None opposed, motion is approved. Item 9.2 regarding sale of our property across the street at 1 93 East Santa Clara street? On that motion all in favor, opposed, none opposed, that's approved. nip 9.3. Mixing budget for FY 2012-13, half year budget for the successor agency. 9.4, successor agency conflict of interest code. Have a motion to approve. Open that motion, all in favor all in favor, opposed, none opposed, that's approved. Open forum is our last item. Darryl Ospring, Matthew knight. \$miss Ospring.

>> Thank you. I have for the City Clerk something to share with each of you. On behalf of the members of the Coyote creek neighborhood association and the CCNA neighborhood pride committee we want to express our appreciation which we do to a lot of people in this community and this city, our appreciation to all of you, and your group, for all that you do as elected officials for giving your time to make the City of San José capital of Silicon

Valley one of the very best large cities that's in our nation. For the past three years this wonderful, I have to get it out, I have to show you.

>> Mayor Reed: Just tell us. We've got 10 seconds.

>> So we provide and extend our appreciation with a chocolate cake and I hope that you guys can enjoy it either tonight since we're all hungry or tomorrow in your 18th floor.

>> Mayor Reed: The clerk is required to take possession of all that kind of stuff so we'll see what --

>> This is what we do to thank everybody in the city and everybody on this list that you're receiving, I want you to at least put that up because it is everybody that helps us in our neighborhoods.

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

>> Councilmember Kalra: Mayor since he she's a lovely district 2 resident I'll be happy to take it to the 18th floor and distribute it.

>> Mayor Reed: Matthew knight.

>> The railroad, nothing is going on there in the future the land is going to be developed but I think it should be developed into factories and manufacturing plants because there's a railroad there. And they can bring in like goods. Like to export to other cities in California. And I think it would be great for factories to be built there because the last thing we need is another target or Walmart in the city. And it would be a good source for jobs. And stuff like that. So thank you.

>> Mayor Reed: That concludes the open forum, concludes our meeting, we're adjourned.