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>> Councilmember Liccardo: I believe we have some comment? We're going to review the work plan. This is one item that is to be deferred, South Bay water master plan. Is there a motion?

>> So moved.

>> Second.

>> Councilmember Liccardo: All in favor, that passes unanimously. Consent calendar. The regional transportation activities report. Is there anyone who would like to pull that item off the consent calendar for discussion? If not, we'll entertain a motion.

>> Motion to approve.

>> Second.

>> Councilmember Liccardo: Okay, Councilmember Herrera we are just on the consent calendar, regional transportation activities report. Do you have any questions you would like to ask?

>> Councilmember Herrera: No.

>> Councilmember Liccardo: All in favor of that consent item, opposed, that passes unanimously. Thank you gentlemen for joining us. Reports to the committee, we'll start with the quarterly energy update.

>> Kerrie Romanow: Good afternoon, Kerrie Romanow acting director environmental services. Today we're joined by Renee Irely, our sustainability and compliance division manager, and Mike Foster, our energy program manager, will lead both the energy report and the green building report. So with that I'll hand it over to you, Mike.

>> Thank you, Kerrie. Thank you, members of the committee. Again, Mike Foster with environmental services department. We are here today to take this opportunity to update you on the energy efficiency and solar opportunities and accomplishments over this past quarter. Today we are going to cover a committee referral from the T&E centered on pace and updates to our municipal and community energy efficiency programs and we'll talk about next steps. In March, T&E and the council directed staff to report back in June of the status report open the City's efforts to develop a property assessed clean energy program or pace for short. Pace program essentially allows property owners to finance energy efficiency and solar work through their property tax bill. Since March city staff has been in conversations with the county of Santa Clara regarding this effort and the interest in developing a regional approach to a pace program. Currently the county is in conversation with the City of San José as well as the county of San Mateo. So we're talking a fairly substantially large geographic area. On May 18th the county of Santa Clara issued an RFI to the industry requesting information on a series of questions relating to financing, program development, implementation and oversight. Responses were due May 29th and the county received four inquiries. Their satisfy is currently doing an analysis and review of that information and tends to report to the board of supervisors at the end of this month on their findings. The county is currently talking with other cities throughout Santa Clara County, on this -- about this effort and they're interest in the county coordinating this region-wide approach. We intend to closely work with the county as the county moves forward in this direction. I should note that in November of 2011, OED and ESD held a community workshop around energy efficiency and what the city could do to accelerate widespread adoption of deep green energy retrofits throughout the area. One of the ideas it came up was pace. And if overwhelming feedback we got from the community at that time was this should be a regional approach and the city should not do this on their own. They want to see regional consistency. This has been one of the driving forces behind our efforts with the county to look at this from a regional perspective. On to our municipal energy efforts. So far this quarter, five energy audits and five projects have been completed. And we anticipate another ten projects and three audits be completed by the end of this month. We expect about \$105,000 in energy cost savings from this work and we are currently on track to complete all identified energy efficiency work by the end of our EECSBG grant which is November 2012. On the LED street lights we've currently purchased nearly all the 2100 street lights and staff is installing those as we speak and will be completed this summer so we're very excited to see that progress moving forward. On our municipal solar projects the notice to proceed was issued for Kelly park, the municipal water administration

building police activities league and the south services yard in early April and I'm excited to announce that construction at Kelly park was completed last week. We are anticipating that the interconnection with PG&E will happen late this week or early next week so the system will be quote unquote turned on so we're very excited about that. All other projects will be completed by end of July. We're currently working with solar city and public works to do the private activities analysis on the next set of sites and we anticipate that that notice to proceed will be issued sometime in early July. On the community side of things, is our better buildings program. And that better buildings program is a partnership with the Department of Energy to work, take a whole neighborhood approach to energy efficiencies in the Hillview Tockna neighborhood. The success of that program is growing nationally and has been recognized by the U.S.A. weekend magazine. In fact, Kevin bacon was at an awards ceremony the other weekend to present a \$10,000 as prize money and I'm excited to announce that our staff is giddy that we're now zero degrees from Kevin bacon. There are three awards nationwide and San José was one of those. The \$10,000 that we received will be invested in the Hillview Tockna neighborhood for graffiti abatement as well as dumpster cleanup days. Over the past several months our better buildings program's resources have been shifting to support a partnership with our housing department to enhance their marking and outreach efforts to promote the residential rehab and loan program. As of May 1st, 12 applications have been submitted and four grants and loans have been approved. Participants will be able to rehab their homes with energy efficient and environmentally friendly products in addition to making other much needed repairs. Also in the community engagement side is our Silicon Valley energy watch which is our partnership with PG&E to do countywide outreach and marketing for energy efficiency. In second quarter, we served 67 customers including small businesses and nonprofits saving them about \$400,000 in energy costs and helping them leverage another \$400,000 in rebates from PG&E. In the upper right-hand corner is our Silicon Valley energy map which we've been working on updating for the better part of the last year. And I'm happy to announce that it was formally launched, the updated was launched in April. And residents or anybody else in Santa Clara County can zoom in by zip code and look at the energy use by zip code. They can identify the number of LEED buildings in -- throughout Santa Clara County as well as all the solar that's been installed throughout the county. So this is a very, very useful tool and helpful tool to get residents and businesses to better understand energy use and the connections between them. Our current contract with PG&E expires December 2012. But in April, the California public utilities commission authorized extensions or what's called a bridge year for 2013 and 2014. We expect the

final decision from the CPUC sometime in October at which point we'll enter negotiations with PG&E to formalize an extension with our current agreement as well as add in any new requirements that the CPUC deems. So we anticipate that will be coming to the county probably late first quarter 2013. So just to put that on your radar. One of the great successes that we've had with our Silicon Valley energy watch is our community energy champions grant. In 2011 we awarded \$332,000 to 16 community agencies throughout the county to conduct innovative energy efficiency programs to very targeted communities. And today we just want to highlight three of those awardees. First is rebuilding together. Their Silicon Valley April Rebuilding Day had an army of volunteers installing health safe team energy efficiency measures in 81 homes occupied by seniors and disabled persons. The art inspector program conducted personal visits to five local artists replacing energy intensive and toxic materials with environmentally friendly alternatives. And art installation created during this process is currently on display along fourth street here at City Hall. Then finally our green energy agents is a program that trains youth and groups in energy efficiency and environmental conservation and then teaches those youth to be energy efficient ambassadors in their communities, the train-the-trainer approach. I've briefly touched on some of the successes we've had at one of the local high schools in first quarter report and this is continue to build on that success. We also have a participate and pilot program with watts on for our green energy match. This is another exciting aspect of some great things that we're doing in the space of energy efficiency. As we continue to implement this -- our demonstration policy, with local energy companies, we are looking to directly link residential energy savings and local economic development. The key goals is to provide residential energy savings, stimulate local economic development and demonstrate the linkage between the two. Our early analysis by watts on is indicating a very strong economic development connection. For every \$1 of energy saved represents a \$1.80 spending in local retail. So a pretty good multiplier. This program's going to be expanded citywide starting in August at no additional cost to the city. This is primarily because we've been piloting this program in three neighborhoods in San José and what we're realizing is we don't have a really good data set so we need to expand the program citywide so we can get much more robust data. Again it's no cost to the .city. Residents will be able to sign up online, participate and get customized energy efficiency savings and then coupons to local merchants if they achieve their targets of savings of anywhere between 5 to 20% on their monthly bills. As you can see from the statistics at the bottom, homes that are saving energy are saving about \$42 a month, which is representing about a 30% decrease in monthly utility bills, so this is a very positive sign. Again wrapping up here

our next steps will be to continue to work with the county on development of a pace program. We will be hosting a solarathon in the Hillview Tockna neighborhood with grid alternatives to install somewhere between 15 and 20 photovoltaic systems on low income homes and that will be happening July 19th. We are currently developing per council direction from two weeks ago an Esco procurement which we estimate will come out sometime this summer and we will be reporting back to council later this year probably early fall with results of that procurement. And lastly in June of 2010, the council adopted a two-year strategic energy action plan. The goal was to set a framework listing out specific tactics for pursuing energy efficiency and solar efforts within our municipal operations. We've reached the end of this two year plan and have had many successes including the conversion of LED street lights, our solar PPA and reducing our electrical energy uses by nearly 12% within city facilities. As the city continues to progress in this area staff will be incorporating new planning efforts into the Green Vision annual report and work plan. This will provide a better opportunity to align and find synergies with other Green Vision goals. And with that I will conclude presentation and open it up for any questions.

>> Councilmember Liccardo: Okay, thanks Mike. Questions. Councilmembers? Councilmember Campos.

>> Councilmember Campos: So you know, I'm going to bring this up every time I you know it comes to committee or comes to council. You know I see that we've done a great job of providing solar panels at parks. And I see that we're under the gun to get things done before you know within this time line. And so a concern of mine is that we're not going to do the environmental review due diligence in terms of aesthetics. And I'm concerned that Prusch park could be one of the sites that has a big parking lot, and I do not want to see ugly panels there without -- I mean there's ways to make these look nicer. And there's too many buildings there that they would need to blend into you know to make it look like it's part of a farm. And so I just need to state that.

>> Kerrie Romanow: Councilmember Campos you've been both consistent and clear on your thoughts on the subject and we have taken them to heart and we are now working with OCA and seeing if there's additional support that our art leaders can provide and others to help still make the projects financially sound but are there other sources of money or other ways that you know environmental and energy leaders we just haven't thought of so we sort of broaden the pool of folks that are involved and will continue to take that into account.

>> Councilmember Campos: One of the great examples is the Water District. I mean that's a great example.

>> Kerrie Romanow: Their project was -- did not have quite the ROI that ours does.

>> And just like -- I'd like to add on Prusch park for exactly the reasons you mentioned, we looked at it and took it off the table. We won't be doing solar there.

>> Councilmember Campos: There are other park places in the city, I don't just want to focus on Prusch but we have a lot of park space that have large parking spaces and we want to be sure we are respecting the aesthetics there. The question I had was at last page 6, the administration is recommending that the fairs five years of savings be transferred into the energy fund. Was the original intent for that to go back into the General Fund and help refuse essential services?

>> Originally it was, the first two years that would go to the to the energy fund so we could keep kind of doing more projects, again putting the first two years' savings in the energy fund, and then anything beyond that in the General Fund for funding other services. In March of this year, as part of the Green Vision report, council gave direction to change that two years to five years. To be able to kind of expand and do more of the energy efficiency projects. So beyond the five years it will go to the General Fund for anything else. You know, any general purpose.

>> Kerrie Romanow: And Ashwini, just to clarify, the projects that have already deposited their two years won't be extended to five, they just -- it's sort of the bar starts now.

>> We weren't exactly sure, maybe Jeff would like to add to that.

>> Well, in the memo that we put out we had extended it to five years. And I anticipated that it would be the projects ongoing, the old ones and the new ones for five years.

>> Councilmember Campos: And you know, hoping that you know, we continue to buck the trend you know throughout the nation in terms of an economic recovery, let's say we don't. I mean is there -- I mean, is this -- you know, I mean, solid? If we -- if we have to you know start looking at alternative areas to find funding we could always, as a council, change that?

>> As council policy could always change that.

>> Councilmember Campos: Okay.

>> Councilmember Liccardo: Councilmember Herrera.

>> Councilmember Herrera: Thanks for the report and I'm excited about the solar projects and the return on investment that we're going to be seeing from those. I'm grateful to have this project going in Hillview and Tockna in part of our districts and I know the homeowners are really excited about it, and I think there's nothing better to really promote energy savings than to have homeowners actually get to experience that and neighbors get to see things happening with energy efficiency. And I can tell you having visited been there with rebuilding and meeting the homeowners there, they're very excited and very grateful to have those projects going on in their neighborhood. So we look forward to the solar because district 8 wants to be the most solar adoptive district in the city and we challenge everyone else. Thank you.

>> National conference in July because the whole neighborhood approaches that we're taking in the Hillview Tockna neighborhood is the only whole-neighborhood approach in the country that's actually working, and DOE wants to hear how we're making it happen. So a feather in our cap to our team that's leading that effort and the community for embracing this approach.

>> Councilmember Herrera: And great community. I mean, we have Going Evergreen, which is a group in Evergreen that's promoting solar and other alternative energy, so district 8th's very, very focused, maybe because

it's Evergreen, as part of it, too. They're just very focused on moving forward, so you've got willing partners in the community there. I did have one question related Councilmember Campos' point about solar. We see technology change over time. So I imagine in a few years the solar panels we see up there and the ways that they're installed there is going to be a new generation that will look really different. So what -- do we have plans for that or do we see in the future a time when they would be less visible, they would be less prominent, there would be changes where we'd want to make you know to make changes that would make things esthetically more pleasing? I don't know I'm just throwing it out there asking the question.

>> The way our power purchase agreement works now is, as long as the systems meet the council direction of an NPV of five in 20 years we can use whatever technology makes financial sense. So if there's a more architecturally or esthetically pleasing technology that's out there now that meets the broad council direction we can certainly take a look at that.

>> Councilmember Liccardo: I guess my question is, just like all technologies, you buy a computer and it is obsolete in a couple of months or whatever, and so you have an upgrade path. Is there an upgrade path for the solar that's being installed now? Is there any thought about that? So we're out there for 20 years. What if we have some dramatic game changing technology that comes do we have any way to upgrade? We may not. I just wonder if we do.

>> So the way our agreements are set up it's really we're buying energy. We don't play a role in what goes up. So if the company finds that there is a much more efficient technology, that makes sense for them they may do it.

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

>> Councilmember Liccardo: Just on that last point I know that since thin film solar was a kind of a darling of the industry a couple of years ago, people were talking about wrapping it around buildings and doing all kinds of cool, artsy things, I know it's not as efficient as traditional PVs, but is it -- does any thin film technology come -- do well enough to be able to meet our standards in terms of pay-back and net present value?

>> Not that I've seen.

>> Councilmember Liccardo: A ways off. We'll leave the sexy stuff for now and stick to the boring stuff and other lots I guess. The question I had related to commercial pace, when you started off the presentation, I thank you for the presentations. It was great Mike. My question is, why regional? And you know Berkeley came out with a pace program, we thought for residential, we know it didn't work so well for lots of other reasons but they're a very small town, we're a big city. Why couldn't we go it alone or try to go it alone? What inhibits us from -- I know that regional collaboration is great but I also know it's really time consuming and involves organizations like ABAG that measure progress by decades. And why don't we just do it?

>> Kerrie Romanow: Well, we are hoping to just do it but we really want to be mindful of the cost. So we're really looking for ways to hit our environmental objectives but also be very financially responsible in spreading out the administrative cost help us. And I'll led mike at a little bit more of the detail why regional is a little bit better approach for us we think today. And you know, it will be the details that will tell us if it is really better.

>> I'll just add that really economies of scale. At this point in time, the county of Santa Clara has offered to do the heavy lifting on the administrative side so that's -- it's sort of a free resource to the City of San José. And so we see that as a value. So that and again regional collaboration, similar to the green building approach where the Santa Clara County cities association took a much more regional approach to green building rather than a bunch of individual cities adopting or operate their own programs, we wanted some regional consistency.

>> Kerrie Romanow: The volume really helps keep the pricing down, for the folks that wind up taking advantage of the pace financing. Because the administrative cost would be spread over a much larger pool and we think that would encourage more adoption. But we typically like it when someone wants to do something for us for free.

>> Councilmember Liccardo: I don't disagree. So that's a very good explanation. I guess are there -- the marginal returns such that going even larger makes sense, in other words why don't go a -- we've got established

concerns, I'll say it ABAG, that are broader, nine counties. Why don't we make this truly a regional effort and really try to incorporate all the Bay Area cities and towns?

>> At this point in time, it is ABAG's bandwidth.

>> Councilmember Liccardo: Okay.

>> They don't just have the bandwidth at this point in time to take on a pace program or development for all nine Bay Area counties. So you've got large geographic areas within ABAG territory that's looking to develop pace programming.

>> Councilmember Liccardo: So we're in the goldilocks sort of approach of taking the counties and --

>> Kerrie Romanow: Yeah, it worked out great for us. The county is very interest and we're very interested at the same time.

>> Councilmember Liccardo: Okay, sounds good.

>> And ultimately the county would be doing the transactions on the property tax bill so a lot of the administrative work is going to be on their end anyway.

>> Councilmember Liccardo: Right. Sounds good. Last question. Some folks came to me from the solar thermal water heating industry saying we'd love to have the city get involved with us. As I understand it, they don't have the really cool zero down programs and the P.P.A.s that the PD installers have, and I'm just wondering if there is -
- I have referred them to some of the folks we've been working with, folks like Solar Tech, but I'm just wondering, is -- do we have an interest as a city in trying to promote solar-thermal water heating in the same way as the pay back be such that that would be worth our time and energy to really dig in on that?

>> I think the answer's yes, we do want to promote it and in fact an incentive that we have going on right now through some solar America city grant funding, we currently are incentivizing the cost of a solar permit in San José until the end of June and solar-thermal could tag along on that incentive.

>> Councilmember Liccardo: To qualify.

>> Qualify for that until the end of June.

>> Councilmember Liccardo: Okay.

>> So it's something.

>> Councilmember Liccardo: Great, thanks Mike. Any other questions?

>> Councilmember Herrera: Motion to approve, accept the report.

>> Councilmember Liccardo: All in -- wait, do we have any cards from the public? No. Okay. All in favor? None opposed, that passes unanimously. Thank you very much. We're on to item D-2, update on municipal green building program. Thank you.

>> Hello, I'm back. Mike Foster, environmental services department, and we're here today to talk to you about our municipal green building program. This past March Planning, Building, and Code Enforcement provided an update to the committee on the community side of green building and we're here today to talk about the municipal side of green building. Just a quick history of green building in San José. Council adopted the first green building policy in June of 21 which required that municipal buildings be designed to meet LEED intent. In March 2007 the policy was changed to require LEED silver certification for all municipal buildings or additions over 10,000 square feet. Later that same year council adopted the Green Vision which set a goal of achieving 50 million square feet of green building space in the city by 2022. The current municipal green building program has two major

elements. Support for the design and certification of new municipal buildings and support to improve efficiency and to certify existing municipal buildings. As of June 1st, 2012, we have 16 buildings that have been certified LEED new construction. From the U.S. green building council contributing nearly a million square feet towards Green Vision goal 4. An additional seven buildings or 351,000 square feet are registered for LEED sophistication and are either in the design or construction phase and have been completed or are awaiting final formal certification from the U.S. green building council. As an example of the direct benefits to the city, the six projects certified using the LEED for new construction and major renovations have realized and estimated savings of \$245,000 through their energy efficient design alone. In the long term this is going to have big pay backs. The other piece is our municipal for existing building program, and currently the Dr. Martin Luther King library was certified LEED silver earlier this year. And together with City Hall, which was the first City Hall in the nation to receive LEED for existing building certification at the platinum level contributes an additional million plus square feet towards Green Vision goal 4. This is a list of the 18 buildings that have been certified under both the LEED new construction and LEED existing building and together they represent nearly 2 million square feet of LEED certified space. The city owns and operates approximately 3.4 million square feet in existing buildings larger than 10,000 square feet and 58% of that square footage is already certified. This does not include facilities like the convention center or Children's Discovery Museum which are third party operated. San José is a legacy of firsts in its green building program. We are the first city in Santa Clara County to adopt municipal green building program. We have the first LEED certified library in the world in west valley branch library. We are the first and only city in the nation to participating in the U.S. Green Building Council's portfolio program and I will touch on that in just a moment. And again, we had the first City Hall certified under existing building at the platinum level in the nation. So again, San José has a long history of firsts and we are very, very proud of that track record. Oh, and probably most importantly, we actually have the first LEED certified zoo and park in the country at Happy Hollow. Approximately 42% or 1.5 million square feet of existing buildings remain eligible for certification, and staff is currently focused on certifying additional buildings through the LEED volume program. The LEED volume program offers a discount or a bulk purchase for certifying bundles of 25 buildings over a three-year period. Think of going into Costco and buying the 50 rolls of toilet paper approach. We are currently finalizing our protocol to U.S. Green Building Council and anticipate beginning certification efforts in early fiscal year '12-13. We've been participating with you the U.S. green building council in the launch of their pilot program since 2007 and we've

been an official participant in the program when it was informally launched in June 2011. Again, the City of San José is the only city that is participating in the volume purchasing program at this point in time. The benefits that we see will be reduction in certification costs and consultants' costs to fill out and submit the paperwork required by the U.S. green building council. This can range anywhere from 10 to \$50,000 per site. It will add to San José's total number of municipal LEED buildings with the successful completion of buildings currently under construction and those certified through the volume program San José's total will rise from our current level of 18 to nearly 50 over the next several years. And to put that into perspective, Los Angeles currently has 20 LEED municipal buildings, Chicago has 32 and L.A. has 52. One of the ways that we communicate our green building efforts is through faculty sheets which you should have a copy of. And those fact sheets are available for download from the Green Building website. We have fact sheets for 11 of the 18 certified projects and they provide an overview of the LEED score, interesting facts about the building and highlights of the green features within those individual facilities. We're developing fact sheets for all the remaining certified facilities and anticipate those will be completed later this fall. We have poster size versions of each of these fact sheets being hung in all of the lobbies of our certified facilities and we have those hung here at City Hall in the community elevators and here in the wing area. The set of posters is also being evaluated for happening in the gallery space in the 18th floor of City Hall and a smaller set of posters are available for staff to display at community centers, community meetings and conventions. I also want to close by noting that in November 2012 the U.S. Green Building Council will be holding its annual green build conference in San Francisco where they expect 52,000 or more attendees from around the world to learn the latest and greatest about green building. San José has been selected to be a tour, so we are the only buildings in the South Bay region that will be represented on those tours. So you could say that the San José municipal buildings will be the representation for Silicon Valley. So when folks sign up for tours they'll be touring our building and these buildings will be representing the icons of Silicon Valley. And there were some very large household names that I'm sure you've all heard of that applied to be part of the tour and our facilities beat those facilities out so we are very, very proud and very, very excited about that accomplishment and with that I'll close and open it up for questions.

>> Councilmember Liccardo: Thanks Mike. Councilmember Herrera.

>> Councilmember Herrera: Congratulations to all of you, that's a great accomplishment. Can we work with the broker community too so we can highlight the opportunities to move to San José? Maybe we can work with economic development do partner up with that. Anyway I think it's great. I'm half joking and half serious about that. I think we should use every opportunity when the spotlight is on us, and this is certainly a spotlight for a really great reason, I mean, I think we should actually leverage that in terms of economic development.

>> Councilmember Liccardo: We have one member of the public who would like to speak. David Wall.

>> I just wanted to compliment, to environmental services department with the quotation made earlier today, big pay backs. Let's reference building number 16, educational park branch library. Enormous pay backs. Last week, the city had stuff over \$115,000 in liquidated damages from this project from a prevailing wage violation by Barry Swenson builders. Which gives me an opportunity to say that I think the attorney's office should probably get half of that because they're the ones that are basically going to enforce it. There's a bonus, a tax bonus and the other portion should go directly to the library. So I think this is a great opportunity that ESD provided. Although I don't see fire station number 19 on this list. And I'm a little bit concerned since fire station number 19 was the mother load of all liquidated damages of \$440,000 but that had to be chewed up for the environmental innovation center which was a great loss. Thank you for the \$115,000 plus for the educational park library. Thank you.

>> Councilmember Liccardo: Thank you. And thank you Mike for the presentation and congratulations on all the great success in moving forward municipal green buildings. We can entertain a motion at this time.

>> Councilmember Herrera: Motion to approve the report.

>> Councilmember Liccardo: All in favor? None opposed, that passes unanimously. We will move on to -- I believe we have CEQA, CEQA mitigation report. Laurel Prevetti is here. Welcome Laurel.

>> Laurel Prevetti: Thank you. Thank you, good afternoon, Laurel Prevetti assistant director for Planning, Building, and Code Enforcement. This afternoon I'd like to catch you up on our activities with respect to mitigation

monitoring. As we've discussed before, this is a requirement under state law, and it's associated with our implementation of the California Environmental Quality Act. Our part focused on some new fees that council is considering through the fees and charges for the upcoming budget. We also discussed our internal development review protocol as it relates to how we are tracking the implementation of mitigation measures. But what I'd really like to discuss with you is the public reporting of mitigation and monitoring. Because beginning in the fall, we essentially will start calling out projects by name, by developer, and the specific mitigation measures that have been completed and have not been completed. We've become very concerned that there are some portions of our community that are not following through on mitigation, and we really need to make sure all of those mitigations are complied with. Our first attempt has really been through the biology, because that is such a critical part of our community. We want to make sure that our habitats are well maintained and that the trees are planted and everything is in order. So we've been putting particular emphasis on that. However, we have also become very much aware of the fact of historic buildings and the mitigation that's required for them are also not always being complied with. So those are our two major foci for public reporting. And I'm very interested to hear from you as committee members as we begin to think about our report to you this fall. Are there other particular areas or things that you've heard about that maybe we could be alert to. Because again, you know, the community relies on the city to make sure that mitigation is complied with. And as our report indicates, we are looking at how we can improve our internal processes with our partner departments in Public Works and building and others to make sure that as we learn about construction activities, that we have the benefit of the analysis that indicates whether or not something has been truly mitigated. But again, since -- once we start going public we recognize it's really going to shine a spotlight. So any insights that the committee might have about how we approach this, we do expect to be talking to the development community about this in advance. And particularly, talking to any builders that are coming up on the noncompliant list, just so that way, they have the benefit of the information before our report goes public. So we do expect to have a dialogue. But it's gotten to the point where we really have no choice but to go public. So with that, I'm open to any comments that you have, as well as questions, and I think we might also have some public testimony on this point. Thank you.

>> Councilmember Liccardo: Thank you, Laurel. Questions? Comments? I have some. Unless someone else has some. I know Brian Grayson is here I think I can anticipate why. I don't think you were part of that meeting we

had on Friday with Joe Horwedel and some friends relating to Lecher's garage and the church, St. James. I can see in that instance where I assume CEQA is directly implicated because you have an historic resource, actually two historic resources. I'm thinking about those instances where CEQA is not directly implicated but we have conditions on development approvals or DDAs with conditions. Are we going to include failure to comply with those also as part of this sort of monitoring and reporting and I'm thinking about things like ecopass commitments that developers are making and you know constructions of parks that are supposed to be occurring and things like that.

>> Laurel Prevetti: Yeah, it's a great point. Because there are traffic mitigations that we know that haven't happened. And there is oftentimes overlap. Many of our project conditions include the CEQA items. And so for the lay public, all they know is that it needs to get done. Whether it's for the permit itself or for CEQA, it's not always a material difference to them. We're going to start with CEQA, just because that is a state requirement. But to the extent other conditions of approval are not complied with and we have data to that effect, we'll be certain to bring those forward as well with those particular projects.

>> Councilmember Liccardo: Well, if the committee is open to it, I would really like to see us push. I mean it seems to me it's pretty readily identifiable to us based on the minutes of a clerk's report you know council action. And you know, the four corners of a DDA document as to what those conditions are. You know as long as those conditions are easily enough for us to verify I'd like to see all those conditions in there. Because I think it's important that communities know that we keep developers to their word and developers know that they have to keep their word if they're doing business here. You know I don't know how my colleagues feel about that issue but I'll leave that maybe for further discussion. I guess the other question I just want to raise, it seems to me as we're doing reporting, you know there are some communities for lots of reasons because of you know, affluence, education, so forth are going to be on stop of it if they read a story in the Mercury News or other communities may not -- the information may not get to them as easily. And what I really think would be important is that we incorporate as part of our standard outreach whenever there's development in particular community, and the a developer, if we have staff out there making a presentation about an in-coming development in a community, that

those community members who are there who are present are somehow presented with information about the track record of that developer in keeping their commitments.

>> Laurel Prevetti: To the extent we have that, and it doesn't jeopardize the city, you know, we are happy to share that information. As you can imagine we try and, as staff, be a neutral party as a project is going through the process. We do find though that our community, they are very good researchers and oftentimes they know the track record of some of our local builders. And so they're quick to share that information with others. But to the extent as we start putting our mitigation monitoring reports up on our Website, that will be public information for everyone. Whether we need to call that out at a public meeting or not we can always indicate the information's available for the public if they choose. We don't want to -- obviously we want to make sure we are still acting with appropriate discretion, in a public forum. But we also want to make sure information's availability available so the community that is benefit of that.

>> Councilmember Liccardo: Okay, I just think that might be sort of a standard kind of line in a report that indicates you know CEQA compliance in the past might be enough. I agree it -- you know we don't want to be posing ourselves as advocates on one side or another but -- anyway. I know Councilmember Campos and Councilmember Herrera wanted to.

>> Councilmember Campos: Thank you for the report. I just want to make sure we are also look at smaller applicants. The majority of what's here are from smaller applicants. If I could count on the number one hand the number of developers or businesses that have had conditions on their C.U.P. or S.U.P. that you know, I know they haven't complied with. I have a reasonable accommodation in my district that they're still not complying with it and they know that they're not complying with it. It seems like they feel we're small enough no one's going to come out here and put the screws on us so they just ignore us and so that's frustrating. We treat the big developers, the same way that we're treating or vice versa, you know, that we're evening the playing field that the whole intent is to make sure that everyone's keeping up with their agreement.

>> Laurel Prevetti: Thank you, councilmember. And ultimately it does come down to resources. And for those types of situation we do rely on our city code enforcement to assist us. And we have great tools thanks to the municipal code and our fines, et cetera. But it still takes an inspector to do that. So we can do as much as we can within the CEQA realm but with city code enforcement you know life safety remains our number 1 priority. But we're -- we'll follow up on the particular item that you mentioned. Thank you.

>> Councilmember Liccardo: Councilmember Herrera.

>> Councilmember Herrera: I guess I had a question. So in terms of the type of violation that Councilmember Campos is talking about, would that have to be complaint-driven? Somebody would have to call in and let code enforcement know about it?

>> Laurel Prevetti: Typically it is.

>> Councilmember Herrera: When we have these code enforcement agreements, perhaps we don't have the resources right now, is it possible for us to get an online system that just notes whether they've completed it or not? I don't know if that violates anybody's privacy or anything, I don't think so, because it is public right? The public could go ahead and check these projects and see in an instance whether or not they've complied or not. Is that something that could be feasible?

>> Laurel Prevetti: Absolutely.

>> Councilmember Herrera: And I don't know how much the cost would be, but it would save staff time. So people could just go look, they could see the project, they could just go right there and see, was this, did they make these things or not, right?

>> Laurel Prevetti: It's a great idea. We would love to help the public be able to access this information. Already our public can pull the permits themselves and look at those conditions and they would be able to know. They

would in the ideal world love to have a spreadsheet or some other mechanism to say yes, all the boxes on this one were completed and they are monitoring and maintaining things as requested in their permit so --

>> Councilmember Herrera: So I have to believe if the public can already to this online, there should be some way then to assemble this data so we can see whether or not it's been met, all the obligations have been met.

>> Laurel Prevetti: That's right. And that's where we're trying to gather the information on the specific projects. So we know through our planned conformance process and the building division that we go through some of the conditions. But others of the conditions are more operational such as what Councilmember Campos was mentioning. And so that does take some ongoing monitoring and those are the systems that we still need to set up. But just making sure we even have the basic data available to the public is really key.

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

>> Councilmember Liccardo: Thank you. And we already have an amended database that theoretically has all these conditions recorded, right?

>> Laurel Prevetti: Yes, and it is public. The public can access it through SJpermits.org and can access whatever permits.

>> Councilmember Liccardo: Thank you, Laurel, Brian grayson.

>> I seem to be able to reach it. I started doing this. Anyway hope you can hear it. Brian grayson representing preservation action council. We're pleased there seems to be a greater effort to make public information more easily available in this area. We do have concerns, particularly with the resources you need to have a good plan in place, and it can't be in force, which is part of the problem now. And you have mitigations that in most cases are good mitigation and if they're followed through with would resolve enough of the issues that we're concerned about. The problem is it's not being enforced in some cases and it's difficult for the public to plow through the tells

and figure out what has and hasn't been done and what should have been done. I know a little bit of my way around and it's difficult. For a person starting for the first time it's not an easy process. Some of the areas we're concerned about the former KMTV studios, that had an EIR for mitigations among other things photo documentation. We can't get an answer as to -- as far as we know it has not been done. We can't get a specific answer as to where that is in the process. I had some communication with OED a couple of months ago and since that time we can't find out what's happening. It shouldn't be that difficult. If it hasn't been done, tell us what the time line, we're not asking for detailed information. Certainly, the first church, as you referenced, that's been an ongoing issue for us. The developer is nonresponsive to us. All we want to know is the time line, where things stand in terms of what is supposed to have been done and if there are things that were supposed to have been done that haven't been done, then the city should do something about it. And it should be easy to find that out. Another one is historic exhibits should have been part of mitigation. We have out at Lowe's as an example the former IBM site. If those and I don't know the status of that, I know it's been completed and we've had some reports that it's not been kept up, I've not seen that recently. Just using them as a general example not specific to them, if there could be two problems. One, there haven't been specific conditions under the original mitigation for the exhibit if it was just to establish an exhibit and after that they're on their own and whatever happens to it happens to it and eventually it disappears it disappears, so that's one thing but if in fact there are conditions that require it, not only to be done but to be kept up it should be the purpose of it. Nothing -- there doesn't appear to be any active mitigations in place for that or active enforcement of that to ensure those exhibits remain. The buildings are gone at least the exhibit ought to be there. So those are some of the areas that we would request you take a look at and hopefully will come out as the program was forwarded and more public information becomes available.

>> Councilmember Liccardo: Thank you, Brian. David Wall.

>> I had an epiphany in the back of the room on this issue. Why are developers slow to respond? Maybe they're taking a cue from City Hall with reference to the ecopass. We have taken away ecopasses from city employees. So why would the developers really worried about giving ecopasses to the people that are buying into these (inaudible) projects without car parks. So to solve this I think all these contracts should carry a liquidated

damages clause with treble the amount. Or in this case if you really want -- are green, four or five times the amount, all right, and use that funding to fund the attorney's office since we're losing our litigators and less fund the ecopass for the city employees that you've taken away. And I honestly think that these developers are just having a field day with all of you. Because you're worried about the recurring deficits and are taking money in any way shape or form and yet you're going to have blight, you're going to have these cars parked on the street, and this would all be solved with this liquidated damages business. I think you should look into it. And also restore city employees' ecopass start, so you don't look like they're the pot calling the kettle black so to speak.

>> Councilmember Liccardo: Thank you, David. Okay. Any further questions or comments? Then we'll entertain a motion to accept the report.

>> Councilmember Herrera: So moved.

>> Second.

>> Councilmember Liccardo: Okay, all in favor? Any opposed? Passes unanimously. Just checking. No questions, okay. There's now time for open forum. David you're bat on.

>> Thank you sir.

>> Councilmember Liccardo: You're earning your salary today.

>> Actually, I'm bearing tribute to the councilmembers, because I've been harvesting cherries the past few days.

>> Councilmember Liccardo: Yes, and they're delicious.

>> And several councilmembers, 9 and 8 haven't yet to get yours, but 5 has, because there was nobody in your offices today. But this gets me to the point let's get rid of Silicon Valley. You can't eat Silicon Valley, all right, but

the valley of the heart's delight, that's very encompassing. Get rid of this capital of Silicon Valley stuff it doesn't make you money, it's old, it's archaic. Now next week, pay attention to the Water District. Santa Clara Valley Water District's agenda. They have a really unique South Bay water recycling issue there. I mean everybody's running for cover, trying to figure out who's going to (inaudible) for the advance water treatment. And so that's interesting reading so you should pick up on that and speaking of water, last segue for today's opportunity, you know I'm trying to help you with St. James park because it's not really fair to say it's all your problem. But I figured out that the vagrants tapped criminal element they don't like water. So why don't we use that, they don't like water. Why don't we put some water cannons out there and have a unique art display that's in keeping with public art and you get a twofer actually a threefer, cleaner vagrants and criminal element. Have a good day, I'm going to go pick more cherries.

>> Councilmember Liccardo: On that note, this meeting is adjourned.