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>> Mayor Reed: Good morning. We have a quorum. I'd like to get the meeting started. Thus our labor update portion of the meeting. Start with Alex Gurza.

>> Alex Gurza: Good morning, mayor, members of the city council, Alex Gurza, Director of Employee Relations. And as we pause for a second while the presentation comes up we do our weekly reminder, anybody listening or watching, that the information about labor negotiations including proposals made or received are on the City's Website for anybody to review. In terms of our update from last week, with the association of building mechanical and electrical inspectors, we did receive notification that the membership has ratified the tentative agreement and now it is simply subject to the city council's approval in open session which is scheduled for May 31st. With the -- we had been and we let you know that we were in mediation process with all the remaining bargaining units. Unfortunately, we were not able to reach an agreement through mediation with IBEW, OE 3, the associations of legal professionals or MEF or CEO. We did provide last best and final offers. Those are available on the City's Website. What we did is provide alternate last best and final offers. We included one with a two year term and one with a one year term. We've asked the bargaining units to get back to us and if not we will early hopefully bringing to you agreements for your approval, or consideration of the city council to impose terms. That will be all very specified in the council memos when we issue those. With POA, we did participate in mediation on May 12th, and we have a second mediation date scheduled for May 18th. I wanted to take a moment because we are in mediation to make sure that the council as well as the public is aware about the process for mediation. Mediation is called for in our local rules, as the impact resolution procedure. Mediation in our local rules which is our employer-employee relations resolution, considers mediation to be private. It actually says all mediation proceedings shall be private, the mediator shall make no public recommendations nor take any public position concerning the issues. All mediation procedures and sessions shall be private. The reason we say that is because the city has gone to great lengths to provide information to the public, openly, about proposals. But we cannot, under the rules, disclose publicly ideas or concepts or potential settlement discussions that are made during the mediation process. We just wanted to be sure that was clear. One of the other things that we wanted to mention again is, last week, we mentioned, wanted to clarify, MEF and CEO's last offer. Because at the budget study sessions we were hearing that members of MEF were indicating that they had offered the 10% so we had showed a slide which is this slide here, which is the last pre-mediation proposal. So in other words, the last

proposal that was public going into mediation. The reason I'm raising that is because there is a letter to the editor in this morning's San José Mercury News from a member of MEF negotiating team talking about making -- having made concessions. One thing that's very difficult to get from a very short article is all the terms that are contained within a proposal. Several weeks ago during an open session presentation I explained the difference between a single-issue proposal and a package proposal. So a single issue proposal is when either side makes a proposal on one item, and a package proposal is when either side makes a proposal on all of the terms that they would -- they are proposing to settle the contract. On a package proposal it isn't like we can select one or the other and say we like that part and accept only that part. If we couldn't accept the package proposal and vice versa, another package proposal might be made. So the thing to note about the letter to the editor, it indicates a 10% total compensation reduction and a 2% give back. But under a premediation proposal, that was part of many other things in the proposal. Including in the April 18th proposal, that there would be a 10% pay increase, in 2013, there would be nine additional paid days off, all part time employees, of which we have many, would receive a 2.5% raise, a step increase at the term of the contract plus many other items. We just wanted to clarify that this was in a package proposal. The other think that I wanted to mention is, the letter to the editor mentions about money being directed, the 2% being directed towards retirement contributions. We just wanted to clarify that that was not in a premediation proposal. So that was not contained in the proposal that you see here. So we just wanted to make that clear and anybody who wants to read any of the proposals that were made either before mediation or the city's last, best, and final offers are all on the Website for review. That is the end of our presentation other than to say again to acknowledge the bargaining units where we have reached contract agreements, the firefighters, the association of maintenance supervisory personnel, engineers and architects, city association of, management personnel, and as I mentioned, the building mechanical and electrical inspectors, and again, we still are hopeful that we can add additional groups to negotiated agreements in the very short term. Thank you.

>> Mayor Reed: Thank you. That concludes the presentation. I have no requests to speak so we'll adjourn into closed session and we'll be back here at 1:30.

>> Mayor Reed: (gavel strike) Good afternoon. Like to call the San José city council meeting to order for May 17th, 2011. We'll start with the invocation, Councilmember Campos will introduce the invocator.

>> Councilmember Campos: Thank you, mayor. Father Eddie Samaniego entered the Jesuit order on September 1st, 1980, and spent two years in the noviciate, I think I said that right, based in Montecito, California. After making vows in August of 1982, he spent time in Madrid, Spain to study philosophy for two years. After his studies he returned to Loyola High School as a teacher, a coach, and a counselor for those on academic probation. After his teachings at Loyola high school, he entered the Jesuit School of Theology in Berkeley, California. While at Berkeley he finished two master's in divinity and theology and at the same time completed a master's in private school administration at the University of San Francisco. Today Father Eddie's true passion is to spread the word of faith to his communities at Most Holy Trinity Catholic church. He is currently involved, actively involved in PACT and many, many social justice issues that affect our city and most particularly in East San José. His commitment to God and community is unmatched and we're honored to have him today with us. Please join me in welcoming Father Eddie.

>> Lord our God we find ourselves in times of financial crisis, and in need of guidance. Help us to be thankful in times of adversity as well as times of prosperity. Help us to guide what we say and be fair in our judgment. Help us to be a shining light as darkness tempts us to despair. Only then can we claim to be one with you. Help us to open our eyes to the service of the poor, to those who have few choices in life. Help us to be a breath of life to our city citizens as a fruit upon the tree of humility. People are suffering because of lack of fiscal accountability, lord. May we all take responsibility for decisions made, and have the courage to change what we can change, so that pain and suffering are removed. May our leadership take the reins in challenge ourselves to make the budget decisions that serve the masses and not the few, keeping families in their homes, keeping immigrants and homeless safe, and educating our children well. Help us to find solutions to the problems of affordable housing, health care, and excellent education for children regardless of their status. Help us to see that we will be judged by how we treat the poorest in our midst. Remove our fear and replace it with the consolation of knowing that you too are crying. Let us cry together, struggle together and reach our solutions together. Let our ears hear your call, and may we act with courage. Help us to bind the wounds of our souls, and unbind what keeps us unfree. May Dr.

King's dream come true in us. Together, as one, for a better city, state and America. Let there always be peace in this gathering and in tonight's as well. Replace ill will with goodwill. Bad judgment with good discernment. So that we may act in love and see your face, for you are meek, and humble of heart. May we act justly, love tenderly, and walk humbly with you today, and every day, as good citizens of our city, and citizens of your kingdom. Grant this, in your most holy name, amen.

>> Mayor Reed: Thank you, father. Our next item is the pledge of allegiance. We are joined today by Rosemary elementary third graders, they are going to help us with the pledge. Please stand. [pledge of allegiance]

>> Mayor Reed: Thank you, Rosemary elementary school, third graders. Orders of the day. Are there any changes to the printed agenda, I have some requests, item 3.3, salary setting commission recommendations to defer to June 7th, item 11.3, administrative hearing and considering of appeal of Planning Commission's decision to deny a conditional use permit, to defer to June 14th. And item 2.3, rules committee reports, to defer to May 24th. Any other changes to the printed agenda? Motion is to approve the orders as amended. Councilmember Chu.

>> Councilmember Chu: I'm sorry, was just addressing 11.3. You have already covered.

>> Mayor Reed: Okay. Motion is to approve the orders as amended, all in favor, opposed, none opposed, orders are approved. Next item is the closed session report. City Attorney.

>> City Attorney Doyle: The city council met in closed session this morning. We were given authority to initiate litigation in one matter. The name of the action and the defendants as well as the substance of litigation will be disclosed to any person upon inquiry once the action is formally commenced.

>> Mayor Reed: We'll now take up the ceremonial items, we'll start by inviting Dave Sykes and the department of Public Works team to join me at the podium. Before we do that, I wanted to note that we are going to adjourn today's meeting in memory of Alejandra Maree Gonzales, and Councilmember Campos has some comments.

>> Councilmember Campos: Thank you, mayor. Alejandra Gonzales passed away Saturday, April 9th, 2011, surrounded by family and friends. Alejandra was known and loved for her cheerful approach to life. She found humor and humility in every moment with her comical needs to test any boundary. She had a special ability to sense a friend in need, and she was always willing to lend a helping hand. Her desire to help others was a true testament to her kindness. Those who knew her will remember her extraordinary gift to illuminate a room making her presence to be a charm to be around. Her infectious personality, instantly turned strangers into friends. Alejandra is survived by her mother, Alvina, father, Ron, grandmothers Mary Padilla and Dolores, sisters Miranda and Rachel, her niece Analisa, and her fiancée, Tulio Roseo. Alejandra's compassion, loyalty and love to family and friends will never be forgotten. She will truly be missed. Thank you.

>> Mayor Reed: Thank you, Councilmember Campos. Now we'll take up the ceremonial items. We'll start by inviting Dave Sykes and representatives of the Public Works project delivery team to join me at the podium. We're here to recognize May 15th through the 21st as Public Works week in the City of San José from sewers to walks, roadways to parks, libraries, community centers our Public Works staff, our team, our workers, whatever you want to call them, there are a lot of people who act behind the scenes sometimes, and many times right out in front of you on a construction project, to protect our health, safety and our comfort, as we go throughout the day. This is an opportunity to thank them and I'm going to allow Dave Sykes to give some more details.

>> Thank you, mayor. As the mayor mentioned we take this opportunity, national Public Works week to recognize the work that Public Works workers do and that goes well beyond the Department of Public Works. Many departments have workers that contribute to these efforts. Oftentimes we recognize the large projects that get done and sometimes forget about the smaller projects. This year's theme is serving in your community. So we thought we would like to take this opportunity to really recognize the work that was done on three smaller projects. With the lower profile. The projects that really made a big impact to the community. So the first project is the Albany Keily storm drain improvement project. This was a project on the West side of town that constructed storm drainage improvements in a neighborhood that desperately needed them but really more monitor than that is the way that our staff worked with the community. The community was very concerned about this project, and

whether it would impact some of the traffic-calming facilities and other landscaping improvements that were out there. Our staff worked with the community and made sure the design of that project worked around those things. In addition the community was very concerned about impacts to traffic, and we were able to work through those issues and create a project with very little impact to the community. The second project that we're highlighting is Seven Trees sidewalk project, a project we completed over a year ago, but we never really did take the time to recognize what a big difference this project made for that community. It was their top number 1 project I believe in the SNI Seven Trees neighborhood plan. And the project sounds simple. But what it did is, it installed sidewalk in an area that was unimproved. It basically was an area where a lot of trash was dumped and you certainly couldn't walk through there in the rainy season because it would be flooded. This project went in and put in sidewalk, curb, gutter, and street trees and really made a big change in that area for people to get to schools and community centers without having to trounce through the mud. The third project and final project that we're recognizing is the Mexican Heritage Plaza project. The project itself that we're talking about today converted the second floor of the MHP to classrooms so the nearby school, the school next door could use that facility while the school went under construction. And so we completed that project successfully in a very short time frame. Of course never have enough time to do these sorts of projects. And as one of the inspectors told me today, we actually had the project done before we had the final plans approved. So it's a good example of how governments can work together, the city and the school district, and the state architect because the city doesn't have jurisdiction over those types of projects. So I'm very proud of the group of people that stand behind me and the others in the audience that represent all the great work that Public Works employees do on a day-to-day basis. Thank you.

>> Mayor Reed: Thank you, Dave [applause]

>> Mayor Reed: Can we have any other Public Works folks or part of this team here, is the others here? Please stand up. Thank you! [applause] I'd like to invite Councilmember Herrera and members of the Jewish American community to join me add the podium as we celebrate Jewish American heritage month.

>> Councilmember Herrera: Thank you, mayor. So we have representatives Jill German, CEO of the Jewish federation of Silicon Valley, Gideon Lestig, deputy counsel general of the Israeli consulate, Diane Fisher, Community relations council director, Steve Ellenberg, chair of the Jewish Federation of Silicon Valley, and Eric Rosenbloom, chairman of the community relations council of the Jewish federation of Silicon Valley. And also Summa Teal Hillel, our Silicon Valley representative, rabbi Joshua Birkenwald, Temple Sinai, and rabbi Dana Magott, Temple Emanuel. As a Jewish American, I am proud to carry on my culture's tradition and honor. My heritage by proclaiming May as Jewish American heritage month. Jewish American heritage month was first proclaimed in 2006 by president George W. Bush and I'm proud to have San José join the nation in recognizing the history of Jewish contributions to American culture since the arrival of Jewish immigrants to the U.S. more than 350 years ago. During Jewish American Heritage month we celebrate this proud history, and honor the invaluable contributions Jewish American individuals and institutions have made to our communities. And to San José specifically. The Jewish community has played a significant role in the history and development of San José, working hand in hand with other pioneer communities to develop San José, transforming the city from a farming community to an agricultural center to what we know today as the capital of Silicon Valley. Jewish immigrants were among the earliest settlers in San José and their presence in San José dates back to the early 1850s where Jewish merchants evolved into the downtown area. As San José was transformed as a center of agriculture to the heart of Silicon Valley, our Jewish community was again involved, as many of the first computer companies, like Tandem and Intel, were started or steered by Jewish Americans. And new companies like Google continued to be founded by new waves of Jewish immigrants. The Jewish religious presence in San José has continued to expand with many synagogues and Jewish organizations existing today. I've asked these organizations to join us because they've done so much to strengthen and enrich the Jewish community. For taking an active role to run campaigns to assist with humanitarian needs and supporting local Jewish agencies and community programs. And Hillel of Silicon Valley, for supporting Jewish campus life at San José State, Santa Clara, Foothill De Anza and West Valley Colleges. Jewish immigrants have maintained a unique identity preserving their cultural traditions and pursuing their own American dreams while contributing to the development of our communities. The Jewish American community is set a positive example for all Americans, demonstrating that Americans can choose to maintain cultural tradition while honoring the principles and beliefs that bind us together as Americans. We look forward to the future confidence 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 is an honor to celebrate the history of Jewish contributions to American culture, and a Jewish American heritage that has helped shape our San José community and now I would like to ask Mayor Reed to please present the proclamation to Jill German from the Jewish foundation. Actually it will be presented to Steve Ellenberg and he will say a few words.

>> I'm not Jill German.

>> Councilmember Herrera: He doesn't look like Jill German. Come on.

>> For those who couldn't hear, I'm not Jill German. For Councilmember Herrera, Mayor Reed and the rest of the city council as a lifelong resident of San José I'm very honored and grateful that you would recognize this month and this day, the contributions of Jewish Americans, to our city, and to our community, and to the world. We really strive -- parts of our culture is the pursuit of Tecuna Lum, the healing of the world, and we thank you for your recognition. [applause]

>> Mayor Reed: Thank you all for being here. Appreciate it.

>> Mayor Reed: Now I'd like to invite the rebuilding together Silicon Valley representatives to join Councilmember Herrera and me at the podium as we commend rebuilding together Silicon Valley for their dedication to safe and healthy homes for low income residents for renovating over 1,000 homes in San José over the past 20 years.

>> Councilmember Herrera: Thank you, mayor Reed. We're joined here today by rebuilding together executive director Bev Jackson, board chairs Steve and members of the staff and volunteers from this organization. I think Deanne Everton, Julia Metz, Terry Zuniga, Nicole Muller, Neal East and Niah Ocompus. Today we're honoring the 20th anniversary of the founding of rebuilding together Silicon Valley. Rebuilding together is dedicated to ensuring that elderly disabled and low income residents live in warmth safety and independence. Over the past 20 years rebuilding together has organized over 24,000 volunteers that have contributed more than \$13 million in home

renovation. Rehabilitated more than 1,000 homes in San José and turned every dollar in in donated materials into \$8 much home repairs. All of this is provided without any cost to the homeowner. On April 30th Rebuilding Together organized several hundred volunteers to rehabilitate 50 homes throughout San José. That day I was able to tour the homes in my district with board Vice President Jeff Schats and many of the dedicated volunteers that makes this work possible. One of those homes is owned by Dave Carter, a retired army veteran who served during the Nuremburg trials. His home was renovated, was sponsored by Sears through their heros at home program. What a wonderful way to give back to the veterans that so bravely represented our country. Many different walks of life and we are truly grateful for all this organization has done for our community. Thank you rebuilding together and at this time I ask Mayor Reed to present Bev Jackson with a commendation.

>> Mayor Reed, councilmembers, thank you very much for this honor and for recognizing our 20th year of celebration. We're excited to be celebrating 20 years of service involving over 24,000 volunteers, and helping our neighbors here in San Jose to be in homes that provide for their independence, warmth, and safety. Thank you very much.

>> Mayor Reed: Thank you. Our next item to take up is the consent calendar. I have some requests from the public to speak on the consent calendar, I'll take those first. David Wall.

>> David Wall: Good afternoon, Your Honors, I don't envy you at all on your positions today, one little bit. Item 2.1B, habitat conservation plan minutes, my testimony seems to be abridged again. There's no mention whatsoever in the habitat plan which is a flawed plan and Gilroy's opted out of it but I contend that a sewer hookup moratorium would provide plenty of ample habitat for God's little creatures. On item 2.3, the Rules and Open Government committee meeting, I had been for some time complaining about how the treatment plant advisory committee is dealt with, that deals with billions of taxpayer dollars. It is not adequately recorded. Mr. Mayor, there may be allegations and assertions of violations of the Brown Act and one minor detail about accommodation for an American with a disability. The draft minutes are out Mr. Mayor, they are an atrocity. They are a draft but they are an atrocity. The environmental services department clerical assistant is to be held harmless in this manner for she delivered the cards in a timely manner to the chairperson of this event. On 2.9,

Senate Bill 184, land use zoning regulations, this deals with inclusionary housing. We discussed at Rules also, the duty to warn of single family homeowners that have to adjoin these properties. For the type of people that will be given these inclusionary housing type offers, convicted felons and whatnot can gain access to neighborhoods they could usually not afford to live there. And who wants to have that element in their neighborhood hoisted on them by municipal ordinances? But also, carrying with this is unfunded mandates, this inclusionary housing doesn't provide the necessary funding for the attorneys' office, code enforcement, police and fire and whole host of city agencies and services. So inclusionary housing is more like a Trojan horse type ordinance where it confers benefits to people that would not normally live in our neighborhoods. This does not mean that everybody is a bad person by any means. But there are significant troubles with this Senate Bill and I advise that you just cancel it, don't support it whatsoever. You do not have the staff, Mr. Mayor, as you very well know, to deal with any more housing, with any other nature whatsoever, as the agenda idea on this agenda will be discussed further today. Thank you.

>> Mayor Reed: That concludes the public testimony on the consent calendar. I'd like to pull 2.9, the Senate Bill, for discussion. Any other item for discussion? Motion to approve the balance of the consent calendar, all in favor, opposed, none opposed, 2.9 is a recommendation to support Senate Bill 184, carried by Senator Leno, having to do with the inclusionary housing and zoning. I just want to verify my understanding so that the people who care, and there are those who care, understand that the North San José projects that are subject to satisfaction agreements would not be affected if state laws changed. That is one of the reasons we did those agreements is so people would have certainty. I just want to be sure that that is still the case.

>> Leslye Corsiglia: Thank you, mayor. Leslye Corsiglia director of housing. That is correct. We entered into the satisfaction agreements that indicated that if there were a change in law that it would not impact notices particular projects.

>> Mayor Reed: The other question I have is as far as deadlines, the people who have those agreements have to pull building permits by September sometime. There is work to be done on the city side. Just wanted to be sure

that we are moving forward on those projects so we don't have a race at the end to try to get it done the last week. We don't have anybody here from planning --

>> Leslye Corsiglia: Yes, Joe was here earlier but --

>> City Manager Figone: Joe, can you come down and help answer this question?

>> Mayor Reed: Joe, the question is whether or not the work is proceeding with those developers who have agreements, satisfaction agreements that have to pull permits by September, whether or not the work along the way is proceeding and the time line will get us there before we have a last, mad rush at the end.

>> Joe Horwedel: I think we are seeing people move forward. That's part of the discussion for 4.1, we do have a chart that accounts for all the North San José projects that are trying to achieve those satisfaction agreement triggers on that side of it. Not aware of where I've got other people that are also trying to meet that clock. I've got an affordable project we're having a little bit of challenge with that they're trying to kind of run fast but the market folks I think we're doing okay with.

>> Mayor Reed: Okay. We'll have some further discussion on 4.1 then of those North San José projects. On item 2.9, is there a motion? Motion is to approve 2.9 and support the bill. All in favor, opposed, none -- one, two, I count two opposed, Oliverio and constant, one two three I got six in favor so that peace on a six-two vote. Count 'em right clerk? I think I did, two opposed, right? So that concludes the consent calendar. Move to item 3.1, report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor, members of council. I have one report. Yesterday the governor released his May revision to the 2011-2012 proposed budget. And so I did want to give you a brief update. The revision reflects unexpected growth in state revenues which have reduced the \$16.2 billion deficit down to \$9.6 billion, however this is still a very large number. Yesterday's announcement modifies the governor's January tax package. He continues to propose a five-year extension of both the 1 cent sales tax increase and the half-percent

increase in vehicle license fees also known as VLF and he continues to press for an election this fall so voters can ratify the tax extensions which he hopes the legislature will approve. However he is now proposing to delay for one year implementation of a quarter percent income tax surcharge which would then continue for four years. In terms of the proposals that would impact San José he continues to push for the elimination of redevelopment agencies with the shift of \$1.7 billion from local redevelopment agencies to the state. Regarding the enterprise zone program he has now shifted his position. Rather than eliminating enterprises he would limit the program to allow tax credits only for the creation of new jobs. We are still evaluating this proposal, but believe that it would essentially undermine the intent and benefits of the original legislation. Finally funding for the state COPS program and booking fees would only be provided if voters approved the sales tax and VLF extensions mentioned previously. The city continues to work with the league of California cities, the California Redevelopment Agency and the big ten mayors to ensure the City's interests are considered and we will keep you informed of any significant developments. And that concludes my report.

>> Mayor Reed: Item 3.5, actions related to the retiree health care benefit funding and payments of retiree health care benefits. I think we had a motion and I wildlife heard a second. We do have a second. No cards in the public. We have a motion to approve. All in favor, opposed, none opposed, that's approved. Item 3.6, continued suspension of supplemental retiree benefit reserve payments. City -- we have a motion to approve. City Manager comments?

>> City Manager Figone: No, just available to answer questions. Thank you.

>> Mayor Reed: We do have some requests to speak on this item.

>> City Manager Figone: Perhaps mayor while you're waiting for the speakers I can just make a couple of comments about what this is about. Would that be helpful?

>> Mayor Reed: Yes, there's some more cards in the speaker's box that might be relevant. First speaker is Paul Solerno. Come on down, let the City Manager make her comments before we start the speakers.

>> City Manager Figone: Just very briefly to frame this issue. The council took action in 2010 to suspend the supplemental retiree benefit reserve, the SRBR program, also known as the 13th check, for fiscal year 2010-11. Both the Police & Fire and Federated plans have significant unfunded liabilities, in the amount of \$1.43 billion for pension, and \$1.53 billion for other postemployment benefits. The city commenced negotiations with the majority of the bargaining group in 2011 and to date five agreements have been reached which include a side letter to continue discussions to the extent required on this issue. In addition, the fiscal reform plan which I issued on May 2nd includes a recommendation to continue to suspension of the SRBR. So in order to allow sufficient time to continue the outreach the administration is recommending continuation of the SRBR through the end of fiscal year 11-12.

>> Mayor Reed: All right now public testimony, Paul Solerno and then Bob Leninger and Jay Wendling.

>> Good afternoon, mayor and city council. My name is Paul Solerno. I'm a retired police officer, I'm vice president police of the San José Police and Fire retiree association. While we know that you have reasons to consider your suspension of the SRBR, I do want to express my disappointment once again in the process. That's really been the issue here. Once again, you set out to take action with any outreach to us. We've offered time and time again to sit down and attempt to resolve these issues. Keeping everybody's benefits and needs in mind. Yet you take these actions, capriciously, we're continued to be rebuffed and we don't even understand that. Why is that? Are there some type of fare that we're going to have a workable solutions? We understand the fiscal realities that the city is in, that the plan is in and we stated back in November that this is not lost on us. What we're at a loss about is why anyone has refused to work with us. The same day we find out you'll be taking action once again to suspend the SRBR we find out that the mayor wants to reduce benefits for current retirees. Again no dialogue, no discussion just the threat that if you fight to protect what you have, we'll make things worse for you. This is no way to treat people who have dedicate themselves to the service of the city for multiple decades, and yes, we are offended. But we've been offended before, and hopefully, offenses can be put aside and we can come to some type of resolution. What we're so concerned about is: When did this method of doing business

become the way of the City of San José? We've always negotiated, I think we've done quite a good job, and the capriciousness that this is being handled with is just distasteful. And secondly and but most importantly --

>> Mayor Reed: Sorry your time is up. Bob Leninger and Jay Wendling.

>> Thank you, Bob Leninger, president of the Federated retirees association, just have a question, I don't understand why this action needs to be taken. We've got some guidance, effect on this on the low income, worked on formula changes for the distribution to address your concerns recognizing that there's some inequities in the way it works now. We have begun to contact some of the active employee groups to start setting up some study sessions under the side leathers that were mentioned so why do we have to take this right now? We have some needy people out there if we can put together a fair and equitable formula, do this in the short term now, why don't you let us finish that work and come back and make decisions like this?

>> Mayor Reed: Jay Wendling.

>> Good afternoon, honorable Mayor Reed, city council members. And city staff. My name is Jay Wendling and I'm with the retired Police and Fire. I'm here to get out the side of the story that is very seldom heard. That is, the fact that there has been no SRBR payout since 2008, although the fund did make enough money to make a distribution on our right. The second thing is that 40% of your retirees live on less than \$42,000 a year annually. That qualifies them for the City's very low housing. 30% of your retirees have pensions of \$35,000 a year or lower, and 20% of your retirees have pensions under \$30,000 a year. What is -- you're doing is by postponing the payout is you're hurting the people who absolutely need your help the most. When we get a chance to work with the city council, as we have a few times in the past, we've been able to be fairly successful at it. We would ask, again, that you talk with us and work with us through this ordeal. Thank you.

>> Mayor Reed: That concludes the public testimony. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I just wanted to state how important I think it is that we do pass this item today. We have a situation in both of our pension funds, with an incredibly high unfunded liability, and by continuing to make these payments it really hampers the fund's ability to reach an acceptable funding level. So I urge all of my colleagues to vote yes.

>> Mayor Reed: I had just a question for the City Manager. I understand the reason to suspend this is so we can continue to work on a resolution, one way or the other. The alternative would be just to terminate the program before June 30th, is that really the alternative?

>> City Manager Figone: Correct. We are recommending extending the moratorium as you said so we can continue the dialogue as has been requested. If you do not extend, one option is to just merely terminate, that's not a recommendation at this time. And if you do not take this action today, as stated in the staff report, you will be distributing over \$6 million in 13th checks at a time when our funds are in a very serious state of unfunded liability. And thus our recommendation to continue the conversation and not distribute the checks on July 1st.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you. I just wanted to clarify the language that's used in the proposal. We're going to provide that there shall be no supplemental retiree benefit reserve in 2012 and yet at the end of that paragraph it says to refer the matter to the board, I'm sorry is this the retirement board? Right, pursuant to Municipal Code section 3.3, 4.58, 5.V. We're referring it for further consideration. I'm a little confused as to where we're going.

>> City Attorney Doyle: Councilmember, the municipal code requires that generally prior to adopting an ordinance that affects retirement as a courtesy you first give it to the or send it to the retirement boards for their comment. And then it comes back to council. There's an exception for that when the time -- due to time sensitivity it needs to be adopted in advance. And so what is proposed is that, because of the time sensitivity, that this needs to be in place as the City Manager said by the end of June, that the council adopt the ordinance, and then

send it to the board for their review and comment. They can send it back and then any recommendations or tweaks that the council could consider at that point, to amend it. But at this point that's the recommendation.

>> Councilmember Pyle: So would it be duplicative to vote now, have them take a look at it and then come back with their recommendation? I'm trying to figure out if we can to wait a while.

>> City Attorney Doyle: No. What the proposal is, is really to just continue the status quo. The status, currently the council has suspended SRBR distributions until June 30 of this year. This would continue that, until June 30 of next year. And so the protocol would be to requesting the council to adopt this. If they do, send it to the board see if they have any additional comment. If they do then can you consider it. But it doesn't really seem duplicative.

>> Councilmember Pyle: All right, thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. Deb, I don't know if either you or Ed can answer about the -- it's been a little over six months since there was a suspension of SRBR has there been meetings with the retirees? I know there's been meetings with the bargaining units and they've expressed desire to work on it.

>> City Manager Figone: You know councilmember, we've had so many meetings that we haven't had the time to put into this that we would like. And that's the reason this is before you today.

>> Councilmember Kalra: I do appreciate the mayor's comments that it is not elimination of the program. My concern that's expressed by a few of us up here previously is, not that the program in the most part get eliminated but that it be preserved for those in greatest need. Those living in poverty. Obviously we know there are some that get a very low city pension because they have pension somewhere else. But there are some that retired several years ago that frankly get a very small pension, they live on a small salary, I'm sorry, pension payment and they need, the checks started coming out in 2003. So after a certain amount of time especially when they're

living on these very small checks, that extra check has a dramatic difference. And so you know to me, again, I know that obviously we're working on a lot of different things but that's the greatest concern to me is not that we're suspending the program on principle because we need to look at it and we obviously have other obligations but just that those in greatest need right now that they are there. And I think that I don't imagine it will be too difficult to identify particularly if we actually sat down the with retirees, I think they can probably identify those in greatest need as well. And so I think as we go forward with this it looks like there's probably going to be majority council support for the further suspension of the program. I would just hope that when we do get a chance to put some more energy into this that we have the retirees at the table and we figure out a way to get any extra resources to those that really are in greatest need, they don't have the healthier pensions that those that retired more remit may have.

>> City Manager Figone: Understood. And we've heard that sense in the council. I think that's in great measure why more time and thought is needed. So that we can really consider those in greatest need but also have the structure in place for income verification which is -- can be a very complex issue. So I do think sitting down with the retiree association and looking at alternatives to achieve the council's goal about poverty level individuals is really in great measure why we need some more time.

>> Councilmember Kalra: But couldn't -- and I understand it still takes some people-power to do it but couldn't -- tax returns would indicate what kind of income someone has. Wouldn't that be one way to do it quite quickly?

>> City Manager Figone: I don't know if it could be done quite quickly quite frankly and that's where we need to put more thought in it.

>> Councilmember Kalra: Misconcern is that we have a system that doesn't just take into account those that are living -- those that are living a lifestyle that requires them to go paycheck to paycheck but also that now we're going to be approaching over a year where some of those that really have relied on this check now aren't getting that money. And, you know, we all know the cost of living has continued to increase and now as we're discussing

some might want to freeze or lower cost of living from having a greater impact on those that may need those checks. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. A question to the City Manager. You mentioned \$6 million, is that \$6 million a year or that is aggregated over 2008, 9, 10, four years?

>> City Manager Figone: Councilmember if I'm not getting this right I'm sure Alex will correct me. But that is the amount pending distribution for this round of SRBR, is that not correct Alex?

>> Alex Gurza: Good afternoon, Alex Gurza, Director of Employee Relations. That was the amount that was pending to be distributed from the funded.

>> Councilmember Chu: Because we haven't distributed anything since 2008, the amount actually accumulated to \$6 million correct?

>> Alex Gurza: Well, no. It could be that in one of those years there would have been no payout. This is just the payout that would have occurred last year.

>> Councilmember Chu: Just one year?

>> Alex Gurza: For one year, correct. Now I did want to point out that the issue of SRBR is contained in the City Manager's fiscal reform plan and we actually have a recommendation to eliminate the program while the plan is not funded. And so that's the big question for the council. There has been some discussion even bargaining units that are interested in the issue of whether the program should continue while the funds are billions of dollars in unfunded. These programs are normally called excess funds. The question really for the council to consider is, do

we have excess funds in the retirement plan to distribute. And then if so, how do they get distributed? But just so you get a sense in the fiscal reform plan. If the program were to not continue, it would save \$4 million annually.

>> Councilmember Chu: Okay. I probably -- I don't necessarily agree with the amount. And how did we determine the \$4.7 million annually amount, is that based on the market performance?

>> Alex Gurza: No, there's -- the program has a cost to it, to distribute money out of the pension plan has a cost. And so if the program were to be eliminated, that would have an annual savings of \$4.7 million. Then that's different from the distribution amount which is the \$6 million number that the City Manager referred to. That would be the payment that would have been made last year to retirees. Also, just to point out that the federated actuary actually just released an experience study for this last year, that specifically talks about the SRBR and the costs associated to it. So in the fiscal reform plan one of the things that we mentioned is that the council would need to decide if it wants to have an excess check program and if so, what would the features be and how would it be funded? And so those are questions that are going to come before you in -- well, starting tomorrow at the retirement study session, and then on the 24th, when you take action on the fiscal reform plan.

>> Councilmember Chu: Thank you very much. Let me make sure I understand clearly. If it costs \$4.7 million to administer this SRBR?

>> Alex Gurza: Not to administer it. If it were to be eliminated where we wouldn't give this 13th check program, it would result in a savings of \$4.7 million annually.

>> Councilmember Chu: Where is that 4.7 million coming from?

>> Alex Gurza: Out of the retirement fund.

>> Councilmember Chu: No, no, I mean, how do you get that number. This is on top of the \$6 million payout. So you're saying that this SRBR actually costs \$10.7 million?

>> Alex Gurza: No, sorry Councilmember Chu, if I wasn't clear. There are two different concepts. One is, what is the value or the -- that would be distributed in any given year? And that amount's going to vary, depending on the calculation of the money that gets put into the SRBR, and the distribution methodologies of each plan which are complicated formulas based on years of service and a variety of how long somebody has been retired. That value each year --

>> Councilmember Chu: 6 million.

>> Alex Gurza: -- is about \$6 million. Setting aside that, if the city were not to continue the SRBR program, it would mean a savings to the city of \$4.7 million every year.

>> Councilmember Chu: This is just a projected amount over a long period of time?

>> Alex Gurza: No that would begin annually every year over a long period of time starting -- depends on when, if the program were to be eliminated and that is a number that our -- that we've gotten from our Department of Retirement services.

>> City Manager Figone: Excuse me. And Alex isn't that because if you look at all the elements of the retirement rate, SRBR is a part of that rate structure?

>> Alex Gurza: Well, currently that is one of the issues, is that it's not specifically funded in the plan. What it does is when the plan earns more than the assumed rate, there is a certain percentage that's put over in this fund. But it doesn't take into account like we are now that the plans are very seriously underfunded to the tune of several billion. So that's the issue. If it's going to continue to separately make sure that it's funded in an appropriate way, or do you redesign it in a way that says well, if there is excess funds to be distributed, it could be redefined. And so there's lots of things to decide about the program. One is whether to keep it and if so how would it be structured.

>> Councilmember Chu: Okay. I will support a redesign of the plan. You know, maybe we can lower the percentage, and definitely, I know that a lot of retirement groups are working on a different formula. So I just believe that this is the amount, this retirement money, that we withheld, we have promised that the retirees, you know they are kind of anticipating this 13th check. So I will not be supporting the motion.

>> Alex Gurza: And I just wanted to add, just to point out, the section on the SRBR in the City Manager's fiscal reform plan is on pages 38 and 39.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. So could you give us a time line as to when you expect to be able to -- for the board to deal with this, and come back with the recommendation? Because I see this as a little bit backward. I'm on page 4 of 5, in the staff report, third to the last paragraph, right above distribution and methodology. You know it says very clearly that if the council receives a recommendation if any from the board it could decide to reconsider the matter taking the board's comments at such time. It almost seems like, you know, we're putting the cart before the horse. And so that's a concern of mine and then what we've heard, there are many people right now that retired 20, 25 years ago that are still with us, thank God, and they are living in what HUD would categorize as in poverty. And that concerns me. You know I mean, having them wait longer is -- I just -- I think we could do better for our -- those that are retired. Thank you. Those are my comments.

>> Mayor Reed: City Attorney.

>> City Attorney Doyle: I'll address the timing issue. The reason for the -- with respect to the Police and Fire plan, the ordinance needs to go today with the second reading on the 24th in order to become effective by June 24th in order to continue the suspension, so there's no gap in the suspension period. After it goes from the council, it will go to the board for comment, and if the board has any comments it can come back for council consideration. But it is important to make that deadline, if the council wants to continue the suspension. With

respect to Federated I want to clarify there is a difference. Because that's a resolution. This is going to go to the Federated board, before the council adopts the resolution for comments. So we do have time to get comments from Federated board to get comments back, it would be anticipated June 21st for the council to consider any resolution as with any recommendations from the Federated board. So they are both handled a little differently given the fact that one's an ordinance, it takes -- there's a time lag, 30 daytime lag between the second reading and the effective date of the ordinance and the resolution which is immediate. So that's the reason for the timing. It's just so that there is no gap in suspension.

>> Councilmember Campos: I mean, thank you for the explanation. I'm just -- again, I'm just really concerned that there is a population in the retirement category that they can't -- I mean, they were living in poverty, before the 13th check, they were still living in poverty with the 13th check. And with it being suspended, I could imagine that -- I mean that, who knows what someone's situation could be. That could be the difference with them being able to have heat 30 days out of the month in the winter time and they cut back on something. I just don't -- I mean I think we're better than that. I mean, that's where I'm at. Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. So the excess earnings reference in the analysis on page 3 of 5, right at the beginning of the analysis section, so that's measured on annual, not overall?

>> Alex Gurza: Yes, Councilmember Rocha, it's based on an annual valuation, whether or not there was any quote unquote excess earnings.

>> Councilmember Rocha: And it's a fiscal year to fund it?

>> Alex Gurza: Yes.

>> Councilmember Rocha: Okay. Now, the -- well this may not be at the top of our priority list, I'm sure it's probably important to a lot of other folks. And I've shared some of my concerns about us not moving on some issues that we've made clear, are priorities to us, yet haven't actually presented anything in terms of an alternative. And this falls into it as well for me. That's my frustration with this. I recognize that we've got a fund that is underfunded, in terms of long term unfunded liability. And I understand the struggle of my colleague, and Councilmember Campos in terms of our obligation how we can do better. Reconciling too is important which is why in my opinion we should be focusing our energies on this. So let me ask a question for the City Attorney in terms of the suspension. Is it an annual suspension so it must be a year, or is there a shorter amount of time, let's just say six months?

>> City Attorney Doyle: You could make it a shorter time. There is no magic to it. The idea the first time was to get the first of the fiscal year and I think that's the same idea right now, to get us through the fiscal year.

>> Councilmember Rocha: In my mind, if I'm not doing something I'm supposed to be doing, I need to put a timeline on myself that doesn't allow me to procrastinate. I'm speaking of myself, not for this city council or city staff. If I felt this was the case and in my mind I think a six month suspension to put us out to December 31st might force us to actually focus on this and put some time and energy into it and come to a place where we feel better about it and we can make a recommendation. And again, regardless of what that recommendation is, whether it's to fund it completely, whether it's to only provide for it if our fund is completely funded, whatever that may be I just feel we should be doing the work and not putting this off again and again and again. I don't know if you have a comment about that or if I should continue along with my --

>> Alex Gurza: Actually, in the fiscal reform plan --

>> Councilmember Rocha: Which is the MBA --

>> Alex Gurza: Yes.

>> Councilmember Rocha: Which we haven't adopted yes.

>> Alex Gurza: Yes, we actually recommended a six month suspension. The reason we switched to a year, depending what happens to the SRBR there might be meet-and-confer obligations. As the council knows we're in the middle of trying to settle all of our 11 contracts and we wanted to ensure to the extent that we had a contract that is let's say a year, without a side letter to continue talking about the SRBR that there be sufficient time to meet the meet-and-confer obligations if such were implicated based on what was going to change. So I think that would be the challenge with a six-month extension, depending on how well our labor contracts turn out, it may preclude us from the ability of meeting and conferring with some of the bargaining units if we don't achieve a side letter specific to the SRBR with each and every contract.

>> Councilmember Rocha: But at that point I'm assuming from the City Attorney that we can extend it another six months if we feel the case and I'm not advocating us to continue to go through this paperwork and this council agenda item nor this discussion nor this debate nor any of it. But again I'm going to go back to if we're not doing our jobs, and again speaking for myself, saying are, then I need to force myself to face this issue as quickly as I can and not drag it on. Because I'm sure it's not any fun for the other folks that are impacted on this, just as much as it's not fun for us having this discussion.

>> City Attorney Doyle: Councilmember, I can also suggest that having the year extension of the suspension can stay in place with the council's direction that staff come back periodically whether it's every 90 days or in six months with reports and keep the council updated and that's one way to keep the feet to the fire.

>> Councilmember Rocha: Okay.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Rocha: Well let me --

>> Mayor Reed: Sorry.

>> Councilmember Rocha: That's okay.

>> Mayor Reed: If you want to follow up on that for a second?

>> Councilmember Rocha: I'll let everybody else go.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Any time I've spoken on this issue in the past it's always struck me that this original program, the original intention was to address retirees in need. It wasn't meant to just supplement someone's income who was not in need. And I think part of the problem is, we don't know if we're really addressing that. And I think that's why different colleagues, my colleagues are asking about the amount and do we know where it's going. So I definitely would be supportive of trying to achieve the original intention of the program. I think that it's very tough to do that, given the unfunded liability in the current budget situation we find ourselves in. And I think we do need time to figure that out and I do not feel that you know staff is going to be able to address this in the short term. And I also have concerns about, you know, funding a program unless it's very specifically aimed at those in the most need, funding a program when we have the unfunded liability and we are not -- it doesn't seem that it's reaching the intent which was in years where we had excess distribution, to make that distribution. We clearly don't now. So I just think there's a lot of issues with the way the program is set up. And as much as I wish that we had a list of the people who are truly in need and if that amount -- and I had actually, you know, asked for that in the past and it just seemed to be impossible to get that information, if that number were very, very reasonable, that we could -- you know that we could fund it. But it doesn't seem like we're going to get there this time so I'm going to reluctantly support the motion.

>> Mayor Reed: City Clerk.

>> Dennis Hawkins: Thank you, mayor. Could we clarify who made the motion and who seconded it?

>> Mayor Reed: Councilmember Constant and seconded by Councilmember Liccardo.

>> Dennis Hawkins: Thank you very much.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Couple of questions, one Rick, the \$50 million or so that's remaining between the two funds, I believe the \$28 million in one and \$32 million in another, I'm sorry, more than \$60 million, forgive me. For the council to essentially terminate SRBR and sweep that money back into the retirement funds is that simply done on any given Tuesday with the vote of the council and changing the ordinance or is there additional requirements?

>> City Attorney Doyle: As Alex indicated there may be meet-and-confer elements it's brought under that umbrella, so the short answer is no not on any given Tuesday. I think we would have to give it some relative thought.

>> Councilmember Liccardo: Okay, if some portion of this \$60 million were preserved to focus on paying retirees on a means-tested basis, Councilmember Kalra suggested something that seemed relatively straightforward and I'm just kind of curious how this would work in process. I assume we were to require retirees to submit say the last two years or three years of tax -- you know of 1040s and perhaps sign a declaration saying they simply don't have assets beyond some amount, is that the kind of information that we can actually require as a condition of payment, or do we run into legal problems if we start requiring people to submit tax forms?

>> City Attorney Doyle: Generally I think you have a problem requiring tax forms. You can certainly require declarations under penalty of perjury. I would want to do some additional follow-up on that. We have for example hardship exemptions in our business tax areas or different types of exemptions. And I think we require some kind

of verifications. I'd like to see the processes we use for those types of things. I mean, seniors or low income discounts for PG&E or those, you know it's common and I think you know how do you get verification? I'd like to look at the different methods of getting that verification. There are ways to do it.

>> Alex Gurza: I think, tomorrow at the study session, Russell Crosby, director of retirement, will be here, we might ask him some questions from an administrative perspective. One of the things we put in our fiscal reform plan is that if the council were to want to design a program like this is to really look to see if there are other examples like this in pension programs where they do sort of a means testing. We don't know of wip where you put the pension administrators in a position of checking you know W-2 returns and tax returns. But it may be something from an administrative perspective that the administration may want to seek something.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Along the lines to what the City Attorney suggested, may I can directs to staff to actually sit down with representatives from these two groups to at least talk about what their interests may be and maybe compromises that they have in mind that we haven't considered in our meet and confer with the existing?

>> Councilmember Constant: I think a status report is fine and I think those discussions may help in light of our side-letter agreements continue meeting and conferring with the bargaining units so I'll accept that.

>> Mayor Reed: Okay with the seconder, Councilmember Liccardo? Okay so modification by friendly amendment. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And I appreciate the amendment and acceptance of it. I think it's important that we actually get an update on what's happening. Obvious we've all been busy but we've had six months to try to come up with some sort of methodology to find out who was in need. This program wasn't put into effect to suspending it, there were a number of us that brought that issue up and found it to be very

important. And in six months, to be the same, exact place, it's -- I think that it's very troublesome. Again, not because we don't need to do reform. And clearly, the SRBR in its current form should not continue to exist. I think that the amount of money Alex referred to is how much we'd have to pay into it is too much on an ongoing basis. So the amount of money that would be far less I would imagine than the amount that we'd have to pay right now if we instituted it back in place July 1st. But I think that it's easy for us just to continue suspending it, suspending it, suspending it, there are people that need those checks and need that money. And I'm glad that it looks like we're going to move in a direction where we get some movement on this. As we move furiously in other areas of pension reform there are people that need these checks and are living on these checks. And so I hope that we can at least go at some -- take some steps forward rather than remaining still for another six months and I think that with the amendment we can likely do that. I will not support the motion. I think by this time we should have at least some methodology to help those living in poverty get some assistance.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I forgot what I was going to say. Oh, well. Yeah, he just --

>> Mayor Reed: He was going to agree with Councilmember Rocha.

>> Councilmember Constant: It's quite often when Ash talks, my mind goes blank.

>> Mayor Reed: I had a question for staff. There were some info memos or some info memo sometime within the last month or so that showed the distribution of the funding out of the SRBR and what the economic range was of people who were getting the SRBR payments. Or am I mis-remembering one of many other possible memos? But I'm pretty sure you put out the information of where does the money go by cohorts or something like that.

>> City Manager Figone: Yes, we did and I think it would be helpful to recirculate that.

>> Mayor Reed: Yes I think it would be helpful if you did that. Councilmember Constant. Now wants to disagree with Councilmember Rocha.

>> Councilmember Constant: Yes, it came back. I said before what we really need do, if it remains, I still question if it should remain, we need to not only discuss the distribution of who it goes to but also, how we define excess earnings and things like that. But my question to the City Attorney about requiring tax returns, right now if someone retires early we require them to submit tax returns on an annual basis already. That's partly of the plans, keep in mind as we look at that.

>> City Attorney Doyle: That's why I say we should have various ways to look at that.

>> Mayor Reed: Motion is is amended by friendly amendment. I have one request to speak, Mr. Wall.

>> David Wall: Normally on retirement matters do I not speak since I'm a retiree and I have a strict code of conflict of interest. The only rationale for me to speak at this time period is for revenues and consideration of testimony by best evidence, and that is the testimony of the retirement director himself. Which is arguably -- not even arguably, he's probably one of the finest if not the finest administrator outside the attorney and the auditor's office that this city has ever seen. And I refer specifically to the budget study session that occurred February 14th of this year, in which his testimony on various issues pertaining to retirement issues was very profound, very analytical and very impressive. So before I think that you make any decision, I think we should have the retirement director in here to answer any and all questions publicly, and this would assist you in all decisions. Thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion. All in favor? Opposed, I count one two three opposed, that's Kalra, Campos and Chu opposed, that motion passes 7-3 if I did the math right. Taking us to the next item, item 4.1, review of North San José residential activity and consideration of potential changes to reservation and allocation process. I believe we'll have a presentation by staff. It's good to know that people in

San José want to spend money for construction projects. It used to be every Tuesday somebody wanted to do construction projects, but now it's request to see they're starting again .

>> Joe Horwedel: Thank you, mayor, Joe Horwedel director of Planning, Building, and Code Enforcement. At your seats I distribute a chart of the memo, and I wanted to put it on the overhead screen a little bit.. harm for the home audience to watch but there were two pages in that and why I wanted to go through and talk through it was to walk through the four alternatives that Leslye Corsiglia and I put together about how to look at North San José. That we are fortunate that we do have a lot of activity happening in North San José. I think the satisfaction agreement process that was put together at the end of last year has moved people off of the sidelines in actually building things which is good. But we do have a bit of a challenge of the amount of housing units in North San José that people are wanting to pursue. And so staff has come back as requested to talk through where we are in North San José. A little bit of a preface that the council will remember that we have made several changes singers North San José area development policy was approved back in 2005. In 2007 and 2008 we approved nearly 8,000 housing units in North San José. Those were predicated on the affordable housing being built in each one of those projects. That is the way we have done housing in redevelopment areas for many years. Several changes occurred since then, that allowed housing developers to essentially pay in-lieu fees for their affordable housing requirements. We applied that citywide and then with the melt down that occurred in the economy we started extending permits and as we did the satisfaction agreements and other changes related to a court case out of Los Angeles, on rental housing, we now have a little bit of dynamic change that we did not anticipate early on, and that's a little bit of why we've gone over in our allocations, our reservations for North San José. And it's I think an important preface to the discussion today. Staff is recommending that we continue the way we have allocated and reserved units in North San José, that have -- looking at both market rate and affordable housing and in the chart we have accounted for all of the projects that have come through thus far. And as of today, we are actually 277 units over on our market rate allocation. We don't think that's a big problem. The council earlier had directed staff to look at a temporary increase in the cap for market rate units so that we could approve the project at century court. And staff has now approved the first phase of that project for 220 units and that's partly why we are a little bit over. We did want to explore a little options with council and those are the alternatives in the memo. One is looking at something that we have started doing which is giving developers a smaller piece of their

project as a reservation, and on a use it or lose it type provision. We did that with the Irvine project, their large development, we have done that with the Thompson Dorfman project, and we did that with the Barry Swenson towers. We gave them the reservation for the next tower, if you have it in place by next July we'll talk to you about the second tower. We really want to encourage people to be moving. We're not proposing going forward with that full steam today. We also looked at should we eliminate the distinction between market rate and affordable units. We think that's been really something in North San José to maintain that distinction, that we have done a number of things to encourage multiple or market rate housing in North San José but we have not had challenges from the affordable housing people because we've preserved that option for affordable housing to happen in North San José in accordance with redevelopment law. We think that's still possible to do. The proposal put forward in the council memo does actually implement a portion of this with the 500 unit transfer, we think that is appropriate right now to do but we see it term for a transfer if projects don't proceed, that those units would revert back into the affordable bucket until we replenish that and become again. Suspend these inclusionary process, the satisfaction agreement process. We thought it was something at least to talk about. We don't recommend them at this point. We think it's having the desired effect of getting developers to put dollars on the table and go forward with projects but it is something that if next year we're having the same conversation it would probably warrant a conversation. Is do we need to continue to incent for programs that haven't broken ground yet tracking units in the past that we think the 500 unit shift that's proposed in the memo does give some flexibility, and this is where the page 2 that has the yellow comes into play. And that on this the yellow reflects where there's been some changes. And staff wants to clarify that the body of the units of 52 that is with the 500 units moved from affordable to market, that we would still be 52 units over. Again we think that will be work itself out here before all those units break ground but it is one that because we were already 270 units over with the proposal to add 275 units for the Fox Markovitz property that that would be the math related to that. Staff has talked with the applicant on the Fox-markovitz property and whether it would be in phase 1 or not and council memo does recommend putting that forward. Staff really does believe that we need to make sure that we're achieving the true objectives of the plan and in that had really worked hard with the applicant to go through and get the commercial development to happen as a part of that project, to remind the council that all of this housing is in redevelopment areas and that the property taxes are going to pay for tax increment which right now does help with the General Fund to pay off agency debt. But that over the long term does not provide for police officers, libraries and parks and that as our

budget discussions go on we do need to make sure we're generating General Fund money which comes from retail. We need to be very diligent about making the retail happen staff does not believe we should be putting further units on the Fox markovitz property without the retail happening, staff has said they will concur with that, will not bring in phase 2 before the building permits for the commercial which is a good starting point. But going into the future we need to be very, very diligent as a city with having the retail happen. With that we're available for questions.

>> Mayor Reed: Before we get going I want to disclose that me and my staff have met around Irvine castle group, D and B associates Eric Shanehauer and Sean Morley, all who are interested in moving ahead. Which it is good to have \$400 million of projects under construction now and hundreds of millions more that are interested in getting going. It is great to see that interest in the economy but I am interested in the retail piece to make sure we get the retail because we need the sales tax dollars as well as the other things. So is this more we need to do, Joe, around the Fox and Markovitz property on the allocation piece? They don't rupees changes so they can be commenting to us in getting the retail under you construction. How do we tie those together?

>> Joe Horwedel: As a part of the action today, I think the question is do we go through and provide a first phase reservation for the 275 units that the families asked for. So I think a clear direction from the council that the expectation is before any other units would be reserved for the remaining I think 375 units of the properties, that we would want to see commercial running concurrent with those residential projects. And it's the same push that we're having with other projects, the North San José making sure that that's concurrent and not as the last phase.

>> Mayor Reed: Thank you, good work on this and I just wanted to again thank the jobs and revenue team that we put together last fall that made it possible for these 1100 units to get started in December and then thousands more to follow on. Because that's generated funding not only for our Planning, Building, and Code Enforcement department for concerted effort at staff to work at the speed of business to get people moving and every time I go past the projects and see people wearing hard hats it's a good thing. Because I think the unemployment rate in construction industry is still around 30%. So it's good to see that progress for a change. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I want to ditto your disclosure. I have met with most of the developers in North San José who have been granted permits and are allocated hoition units. I also wanted to thank the Planning Department, the housing department and the mayor in your office in your support of developing the North San José vision. I'd like to make a motion to approve the recommendations stated in the memo co-authored by mayor and myself, dated on May 17th. This approval today will support and facilitate the continued development of North San José as a vital job center, consistent with the vision set forth in the City's general plan. The North San José area development policy, and the North San José neighborhood planning task force guiding principle.

>> Mayor Reed: All right, I have a motion with a second by Councilmember Pyle. On the motion? Councilmember Pyle.

>> Councilmember Pyle: I just wanted to say how thrilled I am to see this. And when you talk about the retail, doesn't that always follow housing? I mean, it just tends to happen. But I don't know at this point, Joe, there are -- well, some of this should be automatic, that if X amount of houses comes that developers know hey, there's an application for it. So are there people that are more into the retail component? Kind of anxious about this?

>> Joe Horwedel: Well, typically different developers are retail versus residential and I think the family does have experience in the real estate brokerage side, and are pursuing the commercial development. We do have some commercial development also proceeding across the street from it. So you know we think there's a good synergy that will happen at this location and we just want to make sure that there's the incentive to move forward with the commercial and not just with the residential.

>> Councilmember Pyle: Well I was thrilled to see this report and congratulate you on such a good work. Thanks.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. And I want to thank mayor's office and the mayor and Councilmember Chu and your staff for working on this, it's a great memo and great direction. I'd like to disclose that I was also contacted by rep from DMV. But if I could ask from planning staff and the only reason I'm asking this is not that I'm trying to create more work but I know it's something we've done in the past, could you add another cell in there that shows the square footage for retail that's included in any project so we get an idea what we're looking at, and resend it.

>> Joe Horwedel: The segment did include retail, we dropped it off when we decreased to letter size. The cell does have it.

>> Councilmember Rocha: Would you resend it, interested in seeing the success. Thank you. Let me ask a process question. On the -- how the affordable and market rate are going to transfer now. So I'm reading this correctly, where is the affordable going to be made up, in phase 2 or in the overall, just so I'm clear.

>> Joe Horwedel: The expectation is that there are still some projects that we have not seen come in, for building permits at this point. And that they have permits that expire in 2012. So one of those is listed that you see two question marks river oaks which is about sixth from the top for 297 units. That developer's not been back in to talk with staff so that's why you see no other action. At this point I can't take that reservation away because of the development permit but at some point either they will build or lose it. And then potentially some other projects if units drop off, we've had some units scaled back and take ten, 20 units identity of their project. So it's a equal evolution we'll see over the next couple of years. So in your mind you are not committed reapportionings in other places maybe have the project change from market to affordable?

>> Joe Horwedel: Correctly.

>> Councilmember Rocha: You just can't guarantee?

>> Joe Horwedel: Right now, this is the way the snapshot looks at. We've seen it evolve over the last couple of years. The goal that Leslye and I have that we'll get back to the 1600 rates of affordable in phase 1.

>> Councilmember Rocha: Thank you for your work. Pose the question that just came to me now for Leslye. As some of these developments pay these in-lieu, what's your vision looking for potential opportunities for affordable housing flojts North San José? Partnerships or --

>> Leslye Corsiglia: Right now we have several projects that are planned and are included on this list that are affordable, and they don't all have funding so I think that's one of the things that, with the Fox markovitz in-lieu payment will help us move some of the projects forward so that's a positive piece. As far as where the other projects might go, we know those are other things we would be working on and looking for new sponsors come in with new projects and would not necessarily be one of these projects.

>> Councilmember Rocha: Okay, matching some of these projects, not being the master developer or acquire land ever?

>> Leslye Corsiglia: No.

>> Councilmember Rocha: I know those days pass us by now but that's the direction you have seen in your work?

>> Leslye Corsiglia: We want the developer move forward with redevelopment reform, that will be more likely what we will want to do. Because there are penalties for only, and property for a longer period of time.

>> Councilmember Rocha: Thank you, thank you very much.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. I like that optimism, Leslye, redevelopment reform.

>> Leslye Corsiglia: Yes.

>> Councilmember Campos: Keep that positive energy. I just also wanted to disclose, I was in contact with a representative from the Fox property. And just further, I support the motion, I think that this was laid out very well, and any time we have developers that are interested in making this investment, in bringing that type of investment back to our city, then, you know, I mean this is the way to help us get out of this recession. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Forgive me, I know I stepped out and this question may have already been asked Leslye. But on the Fox Markowitz property, we are still going to be listing affordable housing fees?

>> Leslye Corsiglia: On the for sale projects yes, and that one is a for-sale project.

>> Councilmember Liccardo: Since we this project would pair its fees?

>> Leslye Corsiglia: That's correct.

>> Councilmember Liccardo: Do you have any sense how much that would be?

>> Leslye Corsiglia: We believe it will be \$6 million but that would have to be calculated based on housing prices.

>> Councilmember Liccardo: Okay, great, as we talk about shifting units allocated from affordable to market, regardless what happens to the Redevelopment Agency, I assume that 15% requirement in redevelopment

project areas under state law, that there would be still be 15% of the housing be affordable, would that apply wouldn't it?

>> Leslye Corsiglia: That is an open question. If redevelopment law is eliminated, we're not certain what would happen to those something we'd have to look at. Clearly we have our own inclusionary ordinance and that is citywide. So if redevelopment were to go away and the city still had its ordinance it would apply.

>> City Attorney Doyle: My suspicion, councilmember, is that if the ordinance -- I mean if the state law goes away in its entirety the provisions would go away too. But that's something that we're having discussions and you know there's always more questions and answers and when the legislature gets in the act.

>> Councilmember Liccardo: I hope they know the answer. Couple more questions, Joe. The century court project, are those units still reserved, the 220?

>> Joe Horwedel: The first tower is reserved. The second tower you will see on the bottom of the chart, awaiting phase 1 reservation, so we're -- penciled it in for phase 2 of North San José, the second 220 units.

>> Councilmember Liccardo: Okay, forgive me, I didn't see where the first tower is.

>> Joe Horwedel: It's right in the bottom of the top chart. So it -- B, century court.

>> Councilmember Liccardo: Okay, so the two towers have exactly the same number of units.

>> Joe Horwedel: Correct.

>> Councilmember Liccardo: Right I got it. I thought it was the same project --

>> Joe Horwedel: Tower 1, tower 2.

>> Councilmember Liccardo: Tower 1, tower 2, to my knowledge that is the only project in my district that would be in play, is that right? South of 101.

>> Joe Horwedel: Um yes, the other two projects are under construction.

>> Councilmember Liccardo: Rosemary would still be going forward in affordable. With regard to the decision to allow the housing to go forward without the retail on this phase on the Fox property, was there some insistence on the developer's part that they would not build at all if they were required to build the retail?

>> Joe Horwedel: I think that's a question best asked of the developer.

>> Councilmember Liccardo: Okay.

>> Joe Horwedel: The proposal to give 275 units to that project as a result of the council memo not a result of the staff recommendation.

>> Councilmember Liccardo: Right. I appreciate that. Perhaps then I'll await the developer's comments.

>> Mayor Reed: We'll be there in just a minute. I do have requests to speak including some folks that can answer that question. Councilmember Liccardo -- Councilmember Chu.

>> Councilmember Chu: Thank you Mayor. Just a few minutes after I make the motion like to make a little modification. Since I notice that we have 52 units are still left hanging out there, I'd like to make a motion to move to borrow 552 units to give the developer a clear certainty that you know all those people that entitle to the number of units would not have to fight over another 52 units, and we don't have to go through this exercise again.

>> Mayor Reed: That's a request to amend. Councilmember Pyle had the second, it's okay with her so motion is amended. Staff any questions on that?

>> Joe Horwedel: No.

>> Mayor Reed: Math still works. Let's take the public testimony at this time. Please come down as I call your name. We allow two minutes per speaker. John Bruno, Marva Fox, Eric Shanehauer.

>> Good afternoon, Mayor Reed, and members of the city council. My name is John Bruno and I'm here representing DMB associates. I sincerely appreciate the opportunity to address you this afternoon. Our firm has been working diligently with the Fox family and city staff to realize the next chapter of the North San José development policy. This over time it will create a balance of new single family residences and permanent jobs. Today with your action we can begin the process of implementing the direction of this council, with the allocation of housing units to commence the first phase of this project. We are committed to creating a new and vibrant community in North San José and we are excited about contributing to the economic activity in San José by providing new jobs, in-lieu fees for transportation improvements, affordable housing and most importantly enhancing the tax base of this city. In closing I would respectfully request your support of the memo which is before you today which was authored by Mayor Reed and Councilmember Chu. Would I also like to take this opportunity to publicly thank all of the assistance we received from this process from your department leaders especially Mr. Horwedel, Ms. Corsiglia and Ms. Weerakoon and thank you.

>> Mayor Reed: Martha Fox oop.

>> Good afternoon, Mr. Mayor and councilmembers. I'm Marvin fox and on behalf of the Fox family, we'd like to express our appreciation for all the efforts that have been made to facilitate developments in our -- on our property. And we thank Mayor Reed, and Councilmember Chu, for your memo, and agree with its recommendations, and conditions, we've had the question asked of us by potential retail developers and users, what is the status of the rooftops going up next door? With the certainty of 275 units soon to get underway, we will

be able to give a positive answer to that question, and we'll be reaching out even further in our retail marketing efforts. Actually, we started our planning on this site from the retail perspective. We hired Ken Rodriguez whom we considered the best architect retail planner in the Bay Area to design our master plan. He came up with a plan which, in addition to the residential area, covers approximately 14 acres, that would accommodate a multitude of retail uses and which we are providing to perspective developers. We are most interested in seeing our master plan fully realized as soon as possible and believe it will fit extremely well within the surrounding neighborhood. It has the advantage of being served by public transportation, convenient travel corridors, a public grade school, the future Coyote creek trail, and the San José municipal golf course across the street. Many thanks again for all your attention to our project.

>> Mayor Reed: Eric Shanehauer, Brendan Hayes, Roger stores.

>> Good afternoon, Mayor Reed, members of the council, my name is Eric Shanehauer, W 2 I Thompson Dorfman on the Weis property long standing support for the North San José policy. Specifically want to thank Mayor Reed and Councilmember Chu for their leadership in putting forth this memo. We strongly support maintaining the current reservation system for market-rate projects. We really view this as a mutual promise to each other. We the developers promise to diligently work to start construction of our project and to expeditiously complete all the phases, and allocation or our ability to complete the projects. So we're committed to the promise and it sounds like you are as well so we appreciate that and we look forward to the construction jobs, fees and taxes that will be coming your way. Thank you.

>> Mayor Reed: Roger stores then Brendan Hayes.

>> Good morning, excuse me good afternoon, Mr. Mayor and members of the council. I'm actually Ed McCord for irfairfield residential, I'm stepping up here for Brendan. We weren't sure who was going to be here in time to speak. We appreciate the opportunity. We echo everything Eric has said, we councilmember Chu and Mayor Reed specifically. All we really ask for as developers is Insurance to continue to invest we are the ones with the 704 units at the corner of Zanker and Tasman and ground floor retail so we're going to be moving forward with

that project this summer and having the satisfaction agreement gives us the assurance that in the future so we appreciate everything, and we look forward to continue to working in San José. Thank you.

>> Mayor Reed: Roger stores, David Wall and Brendan Hayes is here, he can talk if he wants to but I think we got it in.

>> Good afternoon, honorable mayor and city council, my name is Roger stores and I'm speaking today as a resident of San José, and more specifically a resident of council District 4. As an engineer I like math and I like to use math to illustrate how I see the situation. We have not enough jobs, and too much housing, in this city. You add the two together and you get a structural deficit. As you have already heard on countless occasions, from your own office of economic development, from your own Planning Department, and from your own colleague, Councilmember Oliverio here, this city has too much housing, to support the little jobs that we have. And that the residential development that we do have in this city does not pay its own fair share. You need more jobs, you need more commercial, you need more industrial to balance things out. The situation for the General Fund is even worse when we talk about this project area, because it is in a redevelopment zone. What that means is, all the property tax money that these projects would generate that would go to the General Fund, end up going to the Redevelopment Agency. So therefore, the additional police, fire, library, street maintenance services, that all of these projects generate, now need to be funded from somewhere else. Either through cutting services, or just not giving the -- or taking from the existing residents. If this city really is in a fiscal emergency, then how can you justify changing your own policy to encourage more development? More residential development? At the long term expense of our General Fund. It's been talked about again and again and again. Residential does not pay for itself. You need more uses to balance it. And if you can't provide the services, the basic minimum services to our existing residents, how can you justify bringing more residents into the city?

>> Mayor Reed: Sorry, your time is up. Our next speaker --

>> I'd just like to finish you can't dig yourself out of a hole.

>> Mayor Reed: David Wall is our next speaker.

>> David Wall: I support the previous speaker very well, excellent. The Irvine company, Mr. Mayor, you ought to know them very well. They show up at T-PAC as part of the McCarthy ranch push to deal with the odor situation or the alleged odor situation. Do we have a hold harmless developer agreement north San José prior to spending a minimum of \$500 million for relocation sludge drying? There are too many options in this plan with reference to the Palmer versus City of Los Angeles. This puts enormous burden and is very burdensome and oppressive to the attorney's office in lieu of the amount of attorneys that have to be laid off which I generally do not support. This whole plan should be basically put on the back burner. To answer your question that you start out with, why do people spend money in San José for housing projects? Well, Mr. Mayor, it's because they get all sorts of benefits, at taxpayer expenses, that's why they do it. I mean it's profitable or the them to come in here, and get all these perks, like deferral of sewer hook justify connection fees and all sorts of other fees. Now we see that inclusionary housing can be thrown upon the altar of money where it was once a sacred thing at least in District 3. If somebody needs house you give them one, right? But now you can do it, buy it off. But above all you have all these unfunded mandates that the previous speaker mentioned. You have police, code enforcement, fire, parks, but above all Mr. Mayor you don't have a sustainable water supply on top of it. Now, people take it for granted you turn the tap on and you get water. But those days are coming to an end. By the way retail is dead for the foreseeable future. All you have to do is look at the financial market.

>> Mayor Reed: That concludes the public testimony. Councilmember Liccardo.

>> Councilmember Liccardo: Yeah, I was just hoping if any representative from the developer or developer would like to speak to just the question about the willingness to develop the retail concurrent to or prior to the housing.

>> Mayor Reed: That's on the fox-Markovitz property.

>> Sean Morley, on behalf of fox, more than three years on this property, in coordination with staff. As you may recall there was a reverse conversion to move quite a bit of acreage to commercial. The family was not in a position initially to do anything on the property. And spent millions of dollars to remediate it. To make it ready for any type of development. As Mr. Fume mentioned they proceeded with Ken Rodriguez to look at how the site might be developed feasibly for retail development rather than just leaving some remainder part. And then work backwards and looked at the residential piece. A fundamental premise from day 1 was that the two sites could develop independently for a couple of reasons. First, there was no market two years ago for retail, whatsoever. Because of the larger economic calamity we all faced. In addition the Dolinger property across the street was going nowhere and is about the same size as this potential center can be. That project is now, while it has struggled moving forward, and in addition, the entitlements weren't complete and retail developers were simply not interested in having substantive conversations with the family about retail until we got to that point. As to the specific question of timing, we looked at the issue of how the two sites might develop, given timing. It was a fundamental premise from the Fox family standpoint from the day they proceeded that the two sites would be able to develop independently. DMV properties is a primarily a residential developer. They are moving forward with that but they are doing some very important things to facilitate the retail development. Most importantly, building the master plan infrastructure that will service the retail part, primarily the access roads. So it is one more step in the process to get the site ready for retail developer. The family is actively marketing the property now, as Mr. Fox said, I think you're all going to see a very aggressive marketing effort on the retail side but as the zoning indicates the two piece are going to be able to develop independently so that was our primary approach. And just last this is only a portion of the residential development that was going to be allowed on the property. We thought it was an appropriate way to do it without moving something more aggressive don't plan to move more residential forward absent a retail development.

>> Councilmember Liccardo: Thanks Sean. So then in phase 1 you are actually building some of the access to the retail property as well?

>> Yes, in fact DMV will be building access roads that are on the retail property and it just frankly makes it cheaper and more shovel-ready for a retail developer. And those are the kinds of things that we kept hearing from the retailers were important in addition to having a basic entitlement in place.

>> Councilmember Liccardo: Thanks sane.

>> For a site that size that basic entitlement took a bit of time, because of the fact we're in North San José and all the transportation requirements. But we're coming out of the market, we're seeing an improvement and the family as Mr. Fox said is very eager to sell it for retail purposes.

>> Councilmember Liccardo: We hope the interest continues, thank you Sean.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you mayor. I wanted to make a comment. I really appreciate Roger stores comments, I wish more from that perspective would speak to council. But I wanted to give some kind of background, I'm sure Roger knows it, anyone else watching that this is really a culmination of projects that have been approved by this council. Some I approved of and some I voted against but it's all part of the North San José plan swy this large plan to decide tut putting housing where jobs was, to make a sense of for that matter, these projects were already approved and the only reason we are dealing with the topic of allocation is we have phasing. One of the first times and hopefully whole, saying we are only going to do certain increments of housing until the traditional R&D one story buildings are knocked down and we have higher densities with more jobs and more commercial going on. And I think that and also these are projects this isn't sprawl, this is density. Density of the right matter that you know leads to less water usage and things of that matter since not everyone has a lawn. And by the way I just recently found out that grass is the number one crop in the United States. You know not soybeans, not corn, grass. I guess the question for Rick, should redevelopment agency end and we have this project -- Nancy I know what you're laughing about but that's something else. So Rick should the Redevelopment

Agency end and we have nice new properties that are now let's say it's done next year and RDA ends in June I'm assuming then the city is going to get 11% of that increased value of the land our share of the property tax?

>> City Attorney Doyle: Not necessarily. Not immediately. Ultimately, that would happen. But the immediate benefit or the immediate need for the money is going to pay down existing obligation which is I think you're aware, there's a ton of.

>> Councilmember Oliverio: Ride.

>> City Attorney Doyle: So existing bond indebtedness and other indebtedness including obligation to the city. So really, we'll see how the legislation plays out but it's a before that legislation plays out.

>> Councilmember Oliverio: That's I always refreshing. Any and all improvement to land will go to the bond holders, et cetera. But at any rate, increasing the value of the RDA area will actually get you to the point that you actually have more money that's extra that will actually go back to the city, that might be three years, that might be six years?

>> City Attorney Doyle: Yes, yes.

>> Councilmember Oliverio: Okay, thank you.

>> Mayor Reed: Let's stay on the money track. That's important. 700 million of investment when would that ordinarily be enrolled into the tax rolls, despite who gets it, we're talking another 18 months probably before the tax rolls are adjusted?

>> Leslye Corsiglia: It would be probably a little bit longer the than that but what happens is they will start doing incremental tax assessments and they do that during construction so as these get going probably in another 18 months we'll see the first infusion of taxes but then probably two to three years for most of them.

>> Mayor Reed: Okay let's just assume because the math is easier this way to assume it, if there's \$400 million worth of construction here for 1100 units, 1% of that is the tax increment. That's \$4 million a year potential tax increment, for the foreseeable future, four or five years at least, that \$4 million would go into the Redevelopment Agency, which then could be used to pay debt service on the convention center, which the city is projecting having to pay, so it directly relieves the General Fund of a debt obligation. If the Redevelopment Agency goes away under the groanls proposal, that \$4 million is still coming into the tax increment pot and getting distributed pursuant to the water fall as the state calls it to existing obligations, some of which include the convention center debt. So it's highly likely that the City of San José's General Fund gets the benefit out of this development, no matter what the state does to it. Details to follow, with the governor's plan. But this could be directly important to the General Fund, unfortunately it will be a couple of years before we start seeing the impact but it's good to have them under construction because you can ultimately see the benefit coming. And one last comment, I think in a question. First off, remember the North San José plan is a jobs plan. And the reason we're doing this housing plan was to facilitate the jobs growth that we want in North San José for the future of Silicon Valley and our innovation economy. Some of you may remember the good old days back in 2000, 2001 when we were out of jobs capacity in North San José. We were almost built out and we were working very hard to figure out a way have enough capacity to allow eBay and strum capacity in North San José. And part of the price of doing that, in order to meet the traffic issues, and environmental issues around traffic, we needed to add some housing to the mix in order to be able to increase the jobs capacity. At the same time, companies like Brocade and Maxim sic, believe it's in their interest to have more housing nearby because their people work there. So while we're getting the housing ahead of the jobs as Councilmember Oliverio pointed out we're phasing this so that it will be in support of jobs in North San José, a much larger project than these few housing projects we're looking at. And finally wanted to reask my question about the timing between now and September when a lot of you need to get finished and permitted. Knowing the changes that are happening in the city attorney's office in Planning, Building, and Code Enforcement and all over the city, I want to make sure Joe you're running your chess clock about who's in charge and who's responsible if somebody doesn't get it over the goal line by September. Because we can do our part really well on the city side and if the developer drags along we're not going to make it in time so could you just comment on that Joe?

>> Joe Horwedel: Thank you, Mr. Mayor. Working on the chart with the yellow on it, the vista Montana project, changes related to the park agreement on that, and we're trying to move that one through expeditiously so they can be under construction by September. The Thompson Dorfman project they are talking to us about their changes on architecture and business design, we're work around the proposed, Fairfield, you heard from them that they already have pulled the building permits for their first 498 units. First community housing is 100 units under construction, that's steel about six stories in the air now with the tower cranes. The next two phases have permits issued and they've authorized design for the next two phases and we've started working with them on the succeeding six tawses 297 units I would be surprising if that one does break ground before September at this point if they have not been in to work with us. ELCORE, we just approved revisions to the architecture and design in planning that they can move forward with the building permit for those 174 units. Essex has been working on the design of their three buildings, have been working with my building staff and the planning staff on some modifications to that project. The Rome -- Rosemary project is an affordable housing development, we're working with the developer for the park requirement on that and the originally the agency was going to assist in acquisition, that's not happening so we're having to rework the park agreements on that so that requires a rezoning. And the Oyoma and charities housing projects are both under construction. So there's two that I would say some concern about whether they will be really out of the ground. That's the Thompson Dorfman, Eric's here, they would like to be under construction by September and if we've got a schedule, they're running on it then we will do our best to make that happen with them and then the one on river oaks which I haven't heard from, that one I would say is pretty doubtful but the other ones we will hit September for phase 1.

>> Mayor Reed: Okay, we have a motion. As made by Councilmember Chu with the modification on the other spare 52 units. all in favor? Opposed? I see none opposed, so those that motion carries and we can move on to 4.2. 4.2 is the funding commitment for the Taylor oaks apartments being developed by for the future housing Inc. Councilmember Campos.

>> Councilmember Campos: Thank you mayor. Unless Leslye has anything to report on this I'd like to move approval of item 4.2 but I'd like to speak on the motion if I get a second.

>> Mayor Reed: Do you have a second, so we have a motion on the floor.

>> Councilmember Campos: First of all I'm real excited to move this project forward. The improvements will begin the process of turning around a section of the Ryan neighborhood that's been neglected for years. Those of you that might remember, in the late '90s, this commonly known as the Colmar apartments. A large section of roof activated in. And it was a huge news item. But it was just, again, evidence of just the condition that these apartments have been in for decades. And finally, there is a new property owner that's coming forward to want to make improvements on the site, and provide affordable units to a community that really needs it and not just making affordable units available, but allowing people to be able to be there, living in a nice and respectable location for themselves. I hope that my colleagues will support in motion, thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I just had a quick question about the source of funding for relocation, I believe that runs just a little over \$1 million for relocation for the tenants. Does that run with tax equity?

>> Leslye Corsiglia: It comes out of the project costs so I'm not sure which exact source it would be coming out of. It's a project cost.

>> Councilmember Liccardo: Got it. So there's no separate pot of money where we're going to have to go hit for the relocation? Great, thank you.

>> Mayor Reed: One request from the public to speak. David Wall.

>> David Wall: I compliment the junior councilmember from District 5 for his humanitarianism and he is correct. One does raise the issue of why didn't code enforcement not step in with the previous owner with a vengeance? Needless to say, it is my opinion that these structures are so dilapidated and so out of date that they

should be leveled, just completely leveled and new structures built. And this deals with the neighborhood stabilization, too, Mr. Mayor, if you will remember your Patton Boggs newspaper that that funding is going to dry up. And furthermore that that is borrowed money that our nation can really not even afford anymore because we put off paying our debts. And at some point in time in the country, he is going to have to stand up and saying I'm a patriot, I can't keep operating on borrowed money. What is more alarming is on page 3 of this document, is that and I'll quote, for the future housing incorporated, FFH will be the developer and will be responsible for acquiring financing managing construction and ongoing management. While FFH is newly formed in April 2010, and this will be their first project, the principals of FFH have extensive background in finance, redevelopment management. Period close quotes. This is like the old San José two-step. People have friends in government, decide to form a company, get some funding, they cannot move forward with the project without your approval. There's a lot of other funding issues that are included in this document that makes this project very suspect and a false leader to the poor people that have to undergo this -- the area that they live in. But thanks to you, Councilmember Campos, you are helping them, thank you.

>> Mayor Reed: That concludes the public testimony. I want to disclose that my NHSSV in preparation for this matter. We have a motion made by Councilmember Campos. Any further questions? I have no other public testimony. We're ready to vote on the motion. All in favor? Opposed? None opposed, we had one abstention, Councilmember Kalra who I think is on the board of the housing trust. He has abstained and left the room. We'll move to item 4.3, approval of neighborhood housing services of Silicon Valley's plan to address its home venture fund and home investment partnership obligations. I'm sorry. Is there -- I'm trying to count to make sure I've still got a quorum here. Get back to you in 30 seconds. Just a minute here. Ready to go? All right. So is there going to be a staff presentation?

>> Leslye Corsiglia: No, there's no presentation but I'm here for questions, mayor.

>> Mayor Reed: And Ed Moncrief is here. We have some public testimony. David Wall, we'll let Mr. Moncrief have the last word.

>> David Wall: Like all of these housing projects I don't support any of them for reasons already stated. But let us turn to page 3 on this report, too. "in the course of the City's subsequent review of NHSSV's home-funded contract, for the administration of home capital funds, it was determined that NHSSV was charging both home and the home buyer for staff costs associated with processing home-funded loans." So we have an issue of either negligence, or it's a con game, and there's wrongdoing. It hasn't been determined who actually in this memo found this out. And on page 4, the last rather damning item, first of all, quote, in order to assure that the city remains in good standing with HUD, the housing department is recommending that the city council approve the transfer of \$115,000 from the housing trust fund to the home investment partnership program fund, in order to immediately resolve the repayment due to HUD." so whether or not there was negligence or wrongdoing, as long as we squeeze the money from somewhere we can be in good standing with the federal government. To me that goes to the issue of possibly cheating, possibly lying. And who knows, if there's interest involved, possibly stealing. And Mr. Mayor, I wouldn't have any -- I'd recommend not having anything to do with the Silicon Valley group that does this, Silicon Valley what the city had to do to recoup the money and thank you.

>> Mayor Reed: Mr. Moncrief, while we're doing this let me repeat the disclosures. It my staff and I met with Ed Moncrief and Jamie Mongula to prepare for this item. Mr. Moncrief.

>> Ed Moncrief, executive director of naked housing of Silicon Valley. Thank you for the opportunity to perhaps respond quickly. Neither we nor the city were aware that this would be considered program income by HUD at the time this happened. And I think as I remember, HUD took approximately two to four months to decide itself that we had earned some program income in the transactions. We charged \$250 per loan for our subordinate financing funded by HUD. We responded to the City's requirements at the time, and as I say we were surprised our selves around I think it's fair to say the housing department was that the city considered the transactions to be program income. As regard the other item, we're just here to answer questions. We've provided you all with a letter explaining the current request with regard to the repayment of our own account and asking for that to be deemed unrestricted funding, which will return our balance sheet to a much better position. And appreciate your consideration of that. And the other thing would I like to announce to you is, if you haven't heard, I am retiring. As of July 1. I will continue to be associated with neighborhood housing services, but I want to thank you all for the

11 years that I have spent as the executive director of NHS, and appreciate very much the support you have provided, and am very proud of the work that we have done over the past years, and look forward to a continuing relationship with the organization. Thank you very much.

>> Mayor Reed: Thank you. Councilmember Pyle.

>> Councilmember Pyle: I just wanted to congratulate Leslye Corsiglia, because there always seems to be a way that you figure out how to make things work, and I really do appreciate that. Did I meet with Mr. Moncrief as well. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I just wanted to also disclose that I did meet with NHS, thank you.

>> Councilmember Constant: Ditto.

>> Mayor Reed: Councilmember Liccardo. That was Councilmember Constant. And Councilmember Liccardo.

>> Councilmember Liccardo: Myself, as well.

>> Mayor Reed: We have a motion I believe. I forgot who got the motion. Did we get a motion, City Clerk? Not on this one. We need a motion on this. We got a motion by Councilmember Campos with a second from Councilmember Chu. On the motion to approve, all in favor, opposed, none opposed, that's approved. Our next item is 6.1, report on bids and award of contracts for the 2011 slurry seal project.

>> Hans Larsen: Mr. Mayor, members of the council I'm Hans Larsen director of transportation. Item 6.1 and 6.2, recommend contract awards to implement pavement maintenance work this summer for 72 miles of streets in our city. Staff's here to answer any questions.

>> Mayor Reed: We have a motion to approve. I have no cards. On the motion, all in favor? Opposed? None opposed, and we didn't even have a conversation about the merits of chip seal or slurry seal or anything else. 6.2. Report on bids and award of construction contract for the 2011 remove and replace asphalt concrete pavement project. No cards from the public. We have a motion to approve. All in favor? Opposed? None opposed, that's approved. Sen.1, the news markets tax credit financing for the construction of the environmental innovation center. We'll have a presentation from the staff. We have a motion and a second to approve. We'll have a staff presentation.

>> Ed Shikada: Mr. Mayor as our staff comes down perhaps I could do a quick intro on the topic. As the council is obviously very much aware, the environmental innovation center has been in the works for quite some time and the proposal that staff will present this afternoon represents both an important as well as time-sensitive opportunity. That said, and recognizing that it has come together relatively quickly we do want to respect the council's questions and any further information you might like. What we would propose is have the staff go forward with the presentation, answer any questions you have and to whatever extent it's useful based on follow-up information necessary, we could lay this over for a week and come back for the action at that point in time. Again it would be at the pleasure of the council. With that Mr. Stufflebean I believe -- Kim will lead us off.

>> Kim Walesh: I'll lead us off. Mayor and councilmembers, I'm Kim Walesh director of economic development and chief strategist for the city. I'm here with members of our team including OED and easted. As the assistant City Manager mentioned, the item in front of you is about approval of the influence markets tax credit as a financing tool for construction of the environmental innovation center. But we thought, since this is a project that has a multiyear history and a number of pieces to it, we would start by stepping back to the basics of what is the environmental innovation center and where are we in the process of developing it? So what we're focused on is the property is a 4.2 acre industrial site that is located at 1608 Las Plumas afternoon and it has on it right now a

46,000 square foot industrial warehouse. And this property was purchased by the -- from the housing department in 2006, for \$4.5 million. So this project actually goes back to 2006 and there has been -- the oversight for it has been provided by the T&E committee. So there were a number of council actions taken over the year, which results in about \$12 million having been invested in this project to date. So the first I just mentioned, the \$4.5 million acquisition. Then council, in June of 2009, awarded the phase 1 construction which was \$2.5 million for the exterior site improvements, the street lights, paving, landscaping and grading of the area and also in 2009, there was a \$2 million agreement with the ceacialg development whose name is group 4. The CEQA process for the center was completed in 2009. You may recall this was a very extensive 30-month CEQA process and there was extensive community engagement for the original EIR. So more recently a year ago in June of 2010, the T&E committee approved the master plan for the facility and at that time, council deregulated \$2 million rebate from the recycle plus! hauler contract amendments go towards supporting the household hazardous waste facility on this site, construction of that on this site. And then in December, this council approved the consultant agreement for expertise on the new markets tax credit and then in February, this council approved an MOU with habitat for humanity, to open one of their restores as an anchor tenant on the property. So that's just context to where we are today with the project. And I think you can see, it's been a multiyear planning effort, and in the team's view here, in many respects, this really represents a new model for how we continue moving forward, and make strategic projects happen. First of all, this project is about leveraging a city-owned, debt-free facility, and land, for maximum benefit. In this case, economic development benefit, and also, environmental benefit. Secondly, this project builds partnerships to leverage private capital and also to leverage capital from other levels of government, nainl, state and federal. And then third, this project proposes to take advantage of a federal economic development financing tool, that previously we really didn't need to pay much attention to when our own resources were flush. So this is a project that is in many respects a new model. So what are we talking about here? There's really three elements to the center. The first is, the new building which is a 10,000 square foot permanent indoor household hazardous waste drop-off facility. So as you know this provides property owners with a place to properly dispose of common hazardous materials, the paint, cleaning, house hold dropoffs annually. It supports our city's waste diversion, watershed protection, sanitary sewer pretreatment goals. And an important point is that capital and operating funds for this portion of the project are already in place. And in fact, this service is operational outside, so what we're talking about is in a building to move it inside. The second main element of this is, habitat for humanity's

store, called the restore. Which will be in the renovated industrial warehouse. There's one of these in Oakland, one of these in San Francisco, there's a big market for this in the South Bay. And what this is, is it sells new and like-new building materials, to the public at a significant discount. So it's sort of like a Home Depot type of experience but at really low prices. So from the city's point of view, this diverts from the landfill and I want to point out that habitat for humanity has used this new markets tax credit financing for other restores in the U.S. So the habitat restores are very attractive to new market tax credit investors, it aligns well with their goals. So in this case habitat for humanity is very excited about leasing space in this building. We've negotiated the terms of the lease. It will go to council for your approval on June 21st. So that leaves the last piece. Which is the clean tech demonstration center. Which aims to be California's premier facility for the demonstration and display of innovative technological green fleet vehicles. So I think you've heard over and over again, the last four years that the most valuable way the city can assist growth of the clean tech cluster in Silicon Valley is to provide opportunities for companies to demonstrate their work. This has been the scene, demonstration on buildings on land is the weak link in the commercialization process. So we've had a very positive experience with our City's demonstration policy. We've had more than 50 companies respond with interest. We've had more than 30 demonstration projects, if you think about the Coulomb electric vehicle charging stations, LED lighting in City Hall, the 16 solar companies that are across the street in the solar demonstration project. So what this project does is, it says let's have a single physical space dedicated to clean tech demonstrations. So at the environmental innovation center inside the building on rooftops on the ground and we will believe this will make our companies more successful and it will also help us recruit more companies. And we've spent the last year testing this idea and have received a lot of support from partners in this concept. So we have companies that have demonstrated their interest in being part of this. And said, typically, companies will pay demonstration fees as part of their R&D budget. So companies like Lunara, redwood systems, dmentenrari wesley group draper fisher coulberg ventures and others. The second interesting things of this is Lawrence Berkeley national labs has a special relationship with San José. They are building a test-bed facility at the labs and they would like to link to this facility here. So that the technology being developed in the labs can be demonstrated with real companies in Silicon Valley. So there's a huge potential for partnership with Lawrence Berkeley national labs which energies exponentially industry funding. The federal government is a source of funding for this. We have made it all the way through the hoops for a federal EDA grant of \$4 million. And anticipate hopefully a decision on that when Congress is ready to

move on that. But we're at the top of the list. And there will be significant other grant opportunities to support regional innovation efforts by this administration for the next several years. Last, the state of California the California energy commission has dedicated funds of \$100 million annually for clean transportation technology demonstration and commercialization. And they're interested in talking with us about deploying some of those funds here. So we are basically in a bit of a chicken and the egg situation. Where we have a lot of verbal interest, and commitments. But we, until we have the facility commitment moving forward, we're not able to take those conversations to a specific level. So for example, with the grant funding, the facility is the match to secure additional grant funding. So we have an initial business plan, an initial pro forma budget and an additional operations plan. If we are committed to moving forward with this then the next 18 months we'll have a whole 'nother demonstration project fee sponsor shims and leases. And the last thing I want to point out before I turn it over is that other regions are moving forward with physical hubs like this, to showcase technology. So the photo up there is the Los Angeles clean tech corridor. Also San Francisco, at this point has created -- is creating a physical hub their clean tech R&D corridor. In February San Francisco was awarded \$35 million in new market tax credit for their projects. So that's just a little bit of the elements of the projects.

>> John Stufflebean: Okay, so at this point I want to talk a little bit about the money. First of all, the money for the construction of the project. And the numbers are in the memo but I wanted to highlight the fact that we will be coming to council next week, with the construction contract, for the improvements of the facility including all three parts of the facility that Kim has just talked about. And the construction cost is approximately \$11.5 million. And I think the highlight of this memo is that we have put together a funding plan that brings forward a wide variety of funding sources to help cover this and it's a very balanced suite of funds. There's the construction and demolition deposits which you can kind of imagine it ties in with the restore recycle plus! rebate that Kim mentioned, the 939 fees the recycle plus! revenue and both revenue from the sanitary sewer and the storm sewer because of course the household hazardous waste program not only protects the trash program but it also protects the sanitary sewer system and the storm sewer system we have essentially the sufficient funds to cover the construction kind of per se. Where there is a gap is the construction contingency and the construction management and Public Works staffing and the solar project. The solar project will be coming to council, the PV project, a very large project then as a separate council item. So as we're looking for to complete this funding suite,

the new markets tax credit came forward as one that is very nice, very nice match for this. I guess I would like to mention that we did get a very attractive construction bid which we'll talk about again next week. The bid was \$3 million under the engineer's estimate. So the engineer's estimate was \$14.5 million. The bid came in at \$11.5 million. This bid reflects the very attractive construction market that we're in. And the project has been designed to be flexible so that if things change, if we need to make some adjustments along the way we do have the ability to do that. So that's kind of the construction side of it. And in a minute we're going to talk about the topic which is the new markets tax credit to see how that fits in. I did want to talk about the operation of the building. San José is don't want to go down that path again, we want to make sure we have solid fundings in place to make sure this building can be operated once it's constructed and we believe that is indeed the case. Can you kind of see that currently we are budgeted \$185,000 in our budget to just maintain the facility. That's funds that are already -- that are in this year's budget. That's the footnote in the table there. So that's basically we already own this building. It is debt-free. We have to maintained it. So that's kind of the money we have currently including a manager of the site and so on. We estimate that with the building fully occupied, those costs to maintained the building will increase and that's shown in the top half, the top table which we're estimating at and I think this is a pretty conservative estimate, in other words this is kind of a top end estimate at about \$260,000 a year. And that's facilities maintenance and so on. So there is a gap there of about \$75,000. And then we can look at well what revenues can you expect to generate from the three uses that we have identified that Kim talked about? Household hazardous waste we're estimate going \$60,000 a year. Habitat for humanity at about \$78,000 a year and then the clean tech demonstration center at about \$200,000 a year. So you can see the revenues easily make up the cost of obligation this this plan that these are simply revenues that are -- can be used then and Joe in a minute will talk -- take you through how the new market tax credits works. But we're not using these funds, we're not relying on these funds to take care of a debt repayment obligation. And the other thing to mention is the CTDC space is a flexible design there are other uses that can be put to that if good flexibility built into the project. I'm not going to turn it you over to Jo Zientek who is going to walk you through the new markets tax credit works. It is kind of a situation where the stars aligned in terms of this availability of funding and this project, you know is a good match so we wanted to obviously bring it to council to give you an opportunity to consider it. So I will turn it over to Jo to go over how this works.

>> Just real quickly I wanted to go over the fundamentals of the new market tax credit program. It was established by the Clinton administration in 2000, administered by the U.S. Treasury Department and its target goal is to promote economic development in low income communities. Low income communities are defined as those where the census tract has at least 20% of the population at the poverty level, and we have several of qualifying census tracts in San José which we can talk about a little further in the presentation. The allocations, the treasury issues allocations every year, to entities called CDEs, community development entities. It is a very competitive process to get allocation. And then, the CDEs partner with projects and investors, and investors are typically large banks, in our case if we were able to move forward our investor would likely be Chase. To finance these projects. The city hired two specialized consultants to help us come up, fashion a new market tax credit transaction. ESD procured the services of a nonprofit, national development council which has closed probably more transactions on the West Coast than any other firms. They've done about \$500 million of transaction since the program began. And then the attorney's office procured the service of cancer tale Nelson and Boyd transaction. We've worked minimizes city risk and we'll talk about that a little later in the next slide but we think we have come up with a proposal that really minimizes the City's exposure in this process. We have already identified a community development entities interested in partnering with us on this project. There is some timing issues, like I said it's very difficult to get allocation from the treasury, allocation is given out every year to the community development entities. Less allocation was given out last year than the year before and there's a lot of projects seeking these types of funds. The next allocation is due to come out this summer, and the CDEs with current allocation got -- have to demonstrate to the federal government that they have partners, to expend the existing allocation before they get further allocation. So the time right now, through mid summer, it's very important to come up with these partnerships if we want to have a good chance at procuring a transaction. Other municipalities have used new markets, and been participants in various forms of the transaction, to build facilities that are definitely in line with the environmental innovation center. One was Berkeley that took a leveraged lender role in the transaction and they built the environmental center the David Brower center by U.C. Berkeley. Richmond participated in the Ford assembly plant oil house in 2010 and then as we already discussed San Francisco actually became a community development entity this year and was awarded \$35 million that they planned to use to develop Hunters Point shipyard. Next I'm going to slowly walk through the transaction. The core of the transaction and the recommendation before council today is that council allow us to move ahead and form

what's called our new acronym, Qualic B, a qualified low income community business. This is the crux of the formation, allowing us to qualify for the credits forming this transaction would work, and I'm going to go over the steps, all these steps happen in a single day. The city, the community development entities and the investor, Chase, close the transaction and execute the final agreements. Then, in one day, the city makes a \$23.5 million loan to the investment fund that you see on the chart. This represents what the city has spent to date on the project. The \$12 million that we've already spent, and the \$11.5 million in cash that John showed you on the previous slide. The City's loan is then combined with approximately \$9 million in new market tax credit equity from Chase. After deducting the community development fees and transaction cost the Qualic B nonprofit that the city would establish would receive 31 million in net tax credit investment. Then, in the same day, the Qualic B would use the \$12 million to purchase the leasehold interest from the city and the city would use the money to repay the one-day loan from Chase. So that's one day. Then the Qualic B is funded. It would use the remaining funds for construction of the environmental innovation center and the closing cost for the transaction including the closing cost that the city incurred. And that's about \$19 million. So that concludes 11.5 million we need for the construction contract, the 6.5 million proceeds from the transaction, again those are net proceeds, we do not have to pay that money back and some ongoing costs that the Qualic B will incur over the term of the compliance periods for the transaction that we will have set up in reserved from the proceed of this transaction. The city may - - will have several -- will maintain control of these funds and this transaction in three important ways. We are the leverage lender, so we are lending the funds to the nonprofit, Qualic B. We will have the developer agreement so we will manage the development to construct the facility and we will also be the master tenant. This will maintain the City's control interest in the property. Also the city will only be leasing the property to the nonprofit, it will not be transferring title. During the seven-year period, and this diagram shows how the city will maintain compliance with the provisions of the new market transaction. We will, as master tenant, we will collect revenues from the subtenants, and including the household hazardous waste facility and we will pay operating expenses for the facility. We will use the net cash flow to make lease payments to the nonprofit, equalic B. The Qualicb will use the loans from the community development intits and its own expenses and the community development entities will pass gives the money right back to the city. So our interest payment is about \$260,000 a year. We will get that money back approximately two weeks after we pay it. So it's a circle -- circular preaks. At the end of this seven year compliance period there are provisions in our agreements with the community development entities and with

Chase on the unwinding of this structure after we meet the terms of the new market tax credit program so exit the transaction.

>> Kim Walesh: Just like to point out the longer term opportunity here. We've made a significant investment in understanding this new market tax credit tool and getting a tool to the point where it could be put into place. So just wanted to point out that conceivably other projects in other parts of the city could benefit from this tool for economic development purposes. This map shows our analysis of San José. The red areas are census tracts that are probably most clearly eligible to compete for these -- the right know to use this tool. Orange are -- and yellow are also eligible to a slightly lesser extent, so this is a very popular program. But once we're familiar with it, this may enhance our capacity to use this to compete for other projects in low-income communities related to economic and community development.

>> John Stuffelbean: And this is the final slide. Just to talk about the next steps, if the council elects to move forward with this. First of all, the action today is to establish the 501 C three Qualib B, qualified active community nonprofit and this entities nonprofit intnt would have five members of the board of directors with experience in real estate development finance and environmental programs. We're recommending three city staff, Matt Morley, Ashwini Kantak and and also Judy Chirco, former Vice Mayor and a member from the Silicon Valley bank. This entity, the board will have independent fiduciary duty and the purpose of a nonprofit and the board would be to execute the agreements close the new market tax credit transaction. For tax purposes instead of transferring the title as Joe mentioned we will have a long term ground lease from the city on which the environmental innovation center would be build. Secondly as I mentioned the council would consider the construction agreement next week and then there would be during -- once this is approved, if this is approved between now and June 21st we would be negotiating the new markets tax credit term sheet and final closing documents and this would require a \$40,000 deposit and possibly another \$25,000 for the CDEs. The cost would be paid to the city with the proceeds from the transaction when that occurs. Execution require the city to assume all costs incurred by the other parties during the negotiation period and staff would return to council with the total obligation to execute this would exceed \$250,000. And if there are any issues that staff is unable to overcome during the negotiation after execution, the city would be liable for those costs. Beyond that, we would then come back to council on June

21st, as we mentioned this has to be done by June because the money is in -- would then no longer be available. And we would also be evaluate egg commercial paper as an alternative in case we always have a plan B. We have a plan B in case the new markets doesn't occur, in terms of carrying forward the additional gap we would not do the solar or do it on a PPA and we have an additional -- someone is available and have to put new funds available next year if the gap updates to the CED committee on the development of the CTDC organizations beginning in the fall of 2011. I would like to close by introducing the two consultants that are in the audience here. First of all, Tom Nelson, raise your hand Tom. Thanks. He's a partner in Cantok Taylor in Seattle, Washington and a recognized expert in the tax issues involved fiduciary tools and he's been involved in the new markets tax credit financing since the program was initiated back in 2000. And then Gina Yune, she's a director with the national NDC nonprofit organization that provides technical and financial assistants to municipalities across the country to help them achieve their development goals? And NDC is a recipient as Jo mentioned in allocation and she assists in NDC's client communities throughout the rest and also involved in the close of new marks transactions I know that's lot to put out here it's a fairly complicated transaction but I guess the bottom line is it's a fairly low risk proposal with high benefits essentially being \$6 million in moneys that don't have to be repaid. So staff is leer to answer any questions that you have. Thank you.

>> Mayor Reed: Thank you, I'm sure we have some questions. I think this looks complicated but if I could simplify it, right? We want to build a \$17.8 million facility, that's right, that's the cost?

>> John Stufflebean: With the solar, yes.

>> Mayor Reed: 17.8, the development agreement is \$17,739,000. So that's the project . Right? Okay. So if we had \$17,739,000, we'd just build this. We don't have that much. What we have I think \$11,739,000,.

>> John Stufflebean: In other words we don't have to repay the \$6 million. That's the important element.

>> Mayor Reed: Why don't we have to repay the \$6 million?

>> John Stufflebean: Because the \$6 million is basically equity that is put into the project that is then available for the tax -- to offset taxes by a private entity. So they are because of taking advantage of investing the 6 million and getting that full amount back in form of taxes they don't have to pay.

>> Mayor Reed: I've never seen an investor who put money into something that they tax credits they tend to want their money back.

>> Councilmember Liccardo: Perhaps an analogy --

>> John Stufflebean: Time to have the expert come in.

>> Mayor Reed: Somebody explain to me why the IRS is not going to consider this an abusive tax shelter.

>> Councilmember Liccardo: Structure it's essentially a federal subsidy.

>> Mayor Reed: It is, but somebody has to pay the money back.

>> Councilmember Liccardo: The taxpayer.

>> Federally sponsored tax credit initiatives that includes the housing tax credit, historic preserves credit. The tax credit is a dollar for dollar reduction in investor's tax liability. So from an investor's perspective it's as good as cash. In this fair transaction, this transaction will generate roughly \$12.7 million in tax credits. Those tax credits will be purchased by the investor. The investor will purchase the tax credits, but they're not going to pay dollar for dollar for those tax credits. They're going to pay-

>> Mayor Reed: Let me stop through, otherwise you're going to make me confused. I got to make it simple, otherwise I can't follow it.

>> The --

>> Mayor Reed: Let me ask my question, this chart says they're putting \$9 million in of equity . That's money I presume.

>> Cash.

>> Mayor Reed: Cash. And they get out \$12, sen 29,000 of tax credits. They're happy, they just go away.

>> That's right.

>> Mayor Reed: Just for the tax credits.

>> That's right.

>> Mayor Reed: Somewhere I heard the tax credits were 40% to the investment.

>> 39%.

>> Mayor Reed: The investment is not the money they put in, the investment is the cost of the project?

>> The 33 million of total capital that's placed in the upper tier investment fund so that's the combination of the \$23. and the \$9 million of equity and that \$33 million will generated \$12.7 million in tax credits swy 39% of the \$33 million.

>> Mayor Reed: Okay, what happens if these tax credits are disallowed by the IRS?

>> In the future, or -- so there is --

>> Mayor Reed: Let's say they collapse this deal and say this is a noneconomic deal because it was a sham, there wasn't really \$32 million of project here.

>> With every tax credit program there are -- there is a concept called recapture. Which is-d so in every tax credit situation, there is a risk to recapture of tax credits. And every program has different events which capture tax credit.

>> Mayor Reed: With new market tax credit who is responsible for that?

>> So the events that trigger recapture in new markets tax credits are almost all controlled 50 community development entity.

>> Mayor Reed: Let's assume one of those that is not dirmd government?

>> Well, so there are going to be certain guarantees, and nements that the investor will expect from the CDEs and from the newly formed QALIC B. and the city.

>> Mayor Reed: The city that's the one I'm getting at. So I don't see Scott Johnson sitting here at the table. I'm trying to figure out what the risk is about the General Fund. I care about that more than anything in this transaction.. I need to know how much money the General Fund is putting into it and what's the risk to the General Fund. The General Fund has to be the guarantor of this package. And are either of you going to guarantee that this structure will work?

>> I'm happy to address that.

>> Mayor Reed: Will you guarantee?

>> I can tell you that you won't have a call on your guarantee.

>> Mayor Reed: Will you guarantee that?

>> I am writing a tax opinion to that effect.

>> Mayor Reed: How much is E and O insurance?

>> Probably enough to guarantee that.

>> Mayor Reed: That would be good. I'm trying to analysis, if we have to take risk.

>> I think program it is a structured finance but it is structured around standards that are set out in the internal revenue code.

>> Mayor Reed: I understand all that. I just wonder who's taking the risk, if I'm taking the risk or you're taking the risk.

>> I'm addressing that. So the code itself that is of in save safe harbor. Bough wees risk at the city level. That's why I'd be happy to write that tax opinion.

>> City Attorney Doyle: Mayor, I want to comment too on the guarantee question because that's something that I understand still needs to be negotiated, that the city cannot provide a completion guarantee as requested under -- because without going to the voters, there's a debt limitation issue. So there's some limitations because you're dealing with the public intnt as to how hair ooms nextions but not guarantees, but in terms of a city making a payment guarantee that's something that we would have difficulty doing or we couldn't do.

>> Mayor Reed: And I understand the structure has been done before. We're not the first to do this and I understand complicated transactions, we do them all the time, we have lease-revenue bonds and all kinds of things, but I'm trying to figure out the real risk and this is somewhat complicated. You're telling me there's almost no risk that this will collapse from the IRS's point of view, is this, private sector? So what do we have, any private letter rulings on this stuff?

>> There aren't private letter rulings but it has been, cities have been participants. We've worked with the City of New York, a number of the cities in the Bay Area, certainly worked with the City of Richmond on a number of projects, the City of San Francisco currently has an allocation and we're working with them.

>> Mayor Reed: Have any of these been audited by the IRS?

>> I don't know. The IRS audits them on different projects on a regular basis. Compliance rate is very high. I'm not aware of which projects the city has -- which projects the IRS has audited.

>> If I can add too, with NDC we have worked with a handful of different municipalities throughout the country where they have played the same exact role that the City of San José would be playing here. We worked with Salt Lake county in Utah for their public library that was part of their year of all sponsor, the developer, as well as the master tenant. We also did two deals in the city of Abilene, Texas, very similar transaction structure.

>> Mayor Reed: Have any of those been audited?

>> Well, there are a number of compliance requirements throughout the new market tax period they have to submit audited financials and other compliance documents, and as far as I know, there have been absolutely no issues. Abilene has done two transactions to date. They are about three years old. Three and four years old projects. Salt Lake county completed their project two years ago and are now in the process of working with their second project and we also did another project with Salt Lake City, transaction.

>> Mayor Reed: Have they been audited by the IRS? Because they're the ones that can cause us trouble.

>> So there are a number of different auditing that goes on throughout the transaction. In fact, in order for the transaction to even close, obviously, tax opinions need to be prepared at everywhere level of the transaction. We hire a third party accounting firm, usually Nova Graddick or Resnick group to provide third party independent cash flows that are certified and accepted 50 investor and the CDEs and then of course every party to the transaction is doing their own underwriting and compliance review. And there have been no issues in my -- that I've heard of regards to municipal or transactions.

>> And it's a program that's administered by the Treasury Department. So it's a branch of the treasury that provides allocation and to whom information is provided. They are a key participant in a transaction. When information is closed, transaction goes back to the treasury. I'm sure they do routinely audit transaction of the 100 plus deals I've been participant in I'm not aware that they've been audited or not. We've had no issues with transactions.

>> Mayor Reed: I know a lot of deals hold together when you're talking about them on the golf course that don't necessarily hold together whether or not they've done this or these things pass mover, because sometimes they clatches. If I ask if they're too good to be true because they are.

>> The program is frequently promoted by the IRS as a why to provide stimulus to the communities. I know the IRS and the treasury is intimately involved in how these are structured. I've personally been on panels of the IRS and I know they are aware of how these things work and in regards to the statutes and promotions, provided in the federal income tax code and it's a program administered by the IRS not some other administrative agency.

>> Mayor Reed: That's one area of risk. The second area of risk, throughout the staff report, the city fundings such as commercial paper, which is when the city borrows money. Or other appropriate sources of funding, and I don't know when those events might be. But where are those appropriate sources of funding going to come from if we need to identify them?

>> John Stufflebean: Yeah, so I guess the main point is, those are simply alternatives that if the new markets tax credit isn't ultimately executed then those are -- that's the backup plan for making up the gap funding in the project. So those would not come into play if the new market tax credit moves ahead.

>> Mayor Reed: So if we get down to the end of this and we decide the new market tax credit won't work for whatever reason, it's complicated as everybody's pointed out then what?

>> John Stufflebean: If the new market doesn't work?

>> Mayor Reed: Right.

>> John Stufflebean: Then there's a shortage of about \$2 million, we would look at doing the solar from some other mechanism, sort of a PPA cps we would look at scaling down the projection mostly IWM that would be looked into next year as to making up the difference.

>> Mayor Reed: What I'm trying to avoid is making commitments that is going to cost the General Fund money to finish.

>> John Stufflebean: Right.

>> The \$2 million gap that we take up solar is construction contingency and construction management and we can fund that based on the same funding strategy that we have in the program and also we're in control to some extent how those play out. In the project itself we've done all the undergroundwork we've moved the transformers, we've done the environmental work, so the chance of us needing a large timings or the 12% contingency represented in the \$12 million gap is not high. We have other funding alternatives that we can find to fund that but that is in part in our control.

>> Mayor Reed: But we won't be so far along in the project that you will come back to us to say we continue do the taxes so et cetera give us \$12 million out of the General Fund so we can finish the project.

>> Utility rate payer money and that's household hazardous waste facility. A third of the project is eligible to be funded by integrated waste management funds. And the third of the project wo use unrestricted funds the unrestricted funds we would use to the project thus far that's the clean tech demonstration part of the budget has all been unrestricted funds and the environmental services department late fees and ineligible deposits from the construction and demolition project.

>> Mayor Reed: Okay, I think the answer was the General Fund doesn't have to worry about that part of it, right? Okay. Third area of risk, the tenants subleases and the subtenants. I'm particularly interested in the CTDC which is by far the largest dollar amount of what you're anticipating coming out of that. That's kind of speculative. It looks like another incubator project that involves a lot of staff resources that have to be funded out of grants. And we know that the environmental incubator and the bioscience incubator have required the Redevelopment Agency to pay the rent. So whether or not you could get any money out of the CTDC I think is a pretty big risk. So the question is if you don't get any money out of the CTDC how does that affect this plan, and this structure?

>> John Stufflebean: It still works. There's still sufficient funds. We already are budgeting for maintenance of the building as an empty building. If HHW and habitat there are sufficient funds to cover that. I think Kim may want to add to that.

>> Kim Walesh: I don't see any risk here though there is uncertainty. We wouldn't open or operate a demonstration center unless the special revenues were there to support it, in the form of grants and demonstration fees and sponsorships and leases. And so that's our work over the next 18 months. To put that in place. And if we don't put that in place we have a marketable property in industrial area that we think will be attractive to tenants. So it's an opportunity but it's an attractive building to lease out once the improvements are made anyways.

>> Mayor Reed: So we don't need rent from CTDC in order to pay debt service?

>> Kim Walesh: Correct.

>> John Stufflebean: There is no debt service.

>> Mayor Reed: We don't need money to pay maintenance, if they're in there paying maintenance then we can for their part of the building.

>> Kim Walesh: Exactly.

>> Mayor Reed: I know that sponsorships and grants are pretty hard to rely on other than the year you get them and it's a long term issue if you don't do something else.

>> John Stufflebean: Mr. Mayor, I want to reiterate, even on the first risk that you talked about, I don't believe it would be the General Fund that would be at risk. It's still the city but since the utility funds that are covering that it would be the utility funds that are impacted in that unlikely event and not the General Fund.

>> Mayor Reed: Okay, I think I've asked enough questions for a while. Yield the floor to Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. So I just first of all want to thank staff with coming up with an alternative to find funding to move this project forward. And I guess I want to ask a question a different way. So what's our opportunity loss if we don't move forward on this? What's our opportunity cost?

>> John Stufflebean: I think Kim should take that.

>> Councilmember Herrera: As opposed to deferring, waiting, what's the opportunity?

>> The issue with the tax credits is, the CDEs are looking to get those partnerships now. We're a little behind that game. Most CDEs have found their partner projects already for the allocation that they got for 2011. We have identified three CDEs, they're wanting us to close very quickly because if we don't close with them they need to find someone else or they risk their ability to participate in the program next year. We also on several substances on this project taken significant very competitive bidding project. Phase 1 came in 30% under budget which gave us additional funds to fund phase 2. Phase 2 bidding environment still came in a full \$3 million under engineers estimate. So that went a significant way to funding the construction gap and then Kim can talk to --

>> Kim Walesh: I think on the demonstration center it's a risk San José to really lead in this demonstration space. I don't want to CED this to San Francisco or L.A. to have this demonstration hub. This is a partnership need ppts the participate picked the City of San José as their partner and I personally don't want to miss that. I also know there are grant applications that we can be submitting to the state and to the federal government, there's another one that just came up this week, the jobs and innovation accelerator challenge. But we need to -- we would need to commit that we're doing this facility because that's the leverage to go get additional money. So that opportunity would be either lost or delayed.

>> Councilmember Herrera: And by having the hub what kind of -- you know all of us are interested in creating new jobs, industry, supporting new industries we're all interested in doing that especially I'm on economic development committee very interested in that. Having this hub here what kind of opportunities will that present in terms of getting companies to expand to create more opportunities, create more jobs?

>> Kim Walesh: I think it's the next step in our very forward-looking demonstration policy and practice that this city will have. So it will help make our existing companies more successful and it will also attract additional companies to this area. Because they will want to be close to this facility. And the opportunity that it operates. And it continues to signal that San José gets it. Local government has a role to play in accelerating the development of the clean tech cluster.

>> Councilmember Herrera: So I really appreciate the mayor's clarifying questions. This is a very complex transaction. I was just trying to follow it, just as I thought I had it, I realize the risk. I appreciate the answers. The best part about this is we don't have to pay any rent. If the building sits there what's our cost on the building right now, it's maintenance right? We are paying some maintenance?

>> John Stufflebean: You're paying \$135,000 a year to maintain the empty building.

>> Councilmember Herrera: The risk is we have to find some other purpose if this doesn't work out. I think leveraging our own resources, like leveraging the brtd, utilizing -- we don't have RDA, we don't have other ways to fund things. I think it's important, I think there's a risk in that it won't work out. There is always that risk. But it looks like the financial risk is fairly minimal, from no risk to the end, I was happy to hear that conclusion at the end of the last discussion there, not that I would want it to impact any fund but it just can't impact the General Fund at this point, that kind of risk is not acceptable. It also fits in with our economic development strategy. I know there is already a motion on the floor. I don't think we need to add to this. I think you have this coming back to the economic development committee for at least three times a year for oversight and review. That is already contemplated in your recommendation?

>> Kim Walesh: The project has been reporting to the T&E committee over the last few years but I think especially with this demonstration ability, it would really be appropriate for us to report back on that perhaps three times each year, every four months or so over the next year and a half to the creakedc committee.

>> Councilmember Herrera: If I could make a amendment --

>> Mayor Reed: We have a friendly amendment to bring this back to the CED committee.

>> Councilmember Herrera: Great, I think we need to move forward with this and take advantage of the opportunity that is in front of us to move economic development forward.

>> John Stufflebean: Formula, I want to make this final decision about this will not be made to -- come back in June. So this sets some things in motion. But the final decision of the full aspect of it would be made in June.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And I think you've asked most of the questions in terms of sensitivity to the General Fund. And I have a question regarding the QALIC B, the nonprofit that has to be created. Once that is created, take me kinds of going forward, is this an entity that will exist as an oversight agency? What kind of a role is it required to play in order to qualify for the funds?

>> John Stufflebean: Yes, and it will continue to exist. Potentially it could be unwound after the seven year period and I'll let our expert talk about how -- what the nature of the QALIC B is.

>> It's a structured finance so each participant needs to meet various requirements. It assists the evaluation if we have an intlt that's engaged solely in this transaction so we don't have to look at other activities that may conduct - it will need remain in place for seven years. It, at the end of seven years, at the option of the parties, this structure that's assisted the financing could be condensed again. So it would be held just in all respects within the City's control. But it will continue as an independent entity, to hold its interest in this real property, again, for this seven years and it will have its own board.

>> Councilmember Kalra: And it would also oversee the other grants, other funding sources as they come in, it will have that kind of fiduciary duty as well?

>> It may receive some. I would expect that most grants would come, be directed to the city because the city will be the master tenant and will have control over the use of the property.

>> Councilmember Kalra: Okay, I thank you.

>> Sure.

>> Councilmember Kalra: And I will be supporting the motion. I think this is a unique opportunity and I think this can help certainly to spur job growth especially in some of the industry that we've been promoting for many years here, thanks.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. We about the board composition, the qualified active loan community business. is there any requirement that the members actually come from the community, the qualified active community this purports to serve ? I see that three of the individuals is a city employees and a fourth is a former city employee.

>> There isn't, it's I think the idea in establishing this board was to have representation throughout the community. The program does require community-wide representation, in a much broader sense, community wide representation from the CDEs so when they make a selection of an appropriate project they're aware of other projects that are available and use of resources in the most responsible way. Hence they've chosen this project. That the QALIC B themselves, the board members need to have a fiduciary responsibility back to their organization but don't need to maintain any kind of broad based community representation.

>> Councilmember Liccardo: Okay, so it's a little different than other federal programs we're familiar with where there's a requirement that there actually be some representation from the community.

>> There's that requirement that's at the CDE level.

>> Councilmember Liccardo: I think this is a variant of the mayor's question. I'm concerned that this appears to be no better than an alter ego for the city. Let's face it we know who's on the board. Redevelopment agencies in

Richmond and San Francisco, and I think there's one in Berkeley, I'm not sure if there's a separate entity, whether it's a Redevelopment Agency or a CDC that seems as though there is a bit of a mismatch between what you see in the IRS missive about sort of the function and purpose here, I was just looking online at a couple of articles where it just seems to be really kind of focused on private sector stimulus and then what we're doing which is really essentially a public sector enterprise. Are we -- are we different than those other arrangements in Richmond or San Francisco?

>> The idea having private sector stimulus can come in a number of different ways. And so the objective to provide that stimulus is to have investment in low-income communities. Whether it is in support of a public facility, ultimately the facility's going to be used by private organizations. But whether it's a public purpose, charitable purpose or a private business purpose, is all of these are qualifying uses under the new markets tax credit program. It's very broad. The pure -- the sole objective is to try to get funds into these communities with the understanding that if you invest dollars in low income communities, it will create additional stimulus in jobs that will hopefully flourish within those communities.

>> Councilmember Liccardo: Okay. Could I ask you a couple of questions about recapture.

>> Sure.

>> Councilmember Liccardo: As referenced in the staff memorandum. And I know this was addressed to some extent in the responses to the mayor, but I'm looking at page 10 of the staff memo that the investor may require the city to indemnify the tax credits. Now, I think John mentioned that, ultimately the back stop would be some of the utility fund and not the General Fund and we'll explore that in a moment. But essentially if the city is the back stop what is the full extent of the risk of recapture? Is that \$12.4 million or is that something more?

>> It's the dollars that the -- it's the \$9 million of equity that the new markets tax credit investor invested in the investment funds. Plus, any additional costs they would have in the recapture process.

>> Councilmember Liccardo: Okay. So \$9 million and change.

>> Correct.

>> Councilmember Liccardo: And then --

>> City Attorney Doyle: Councilmember I wanted to clarify something. I think John was referring to payments along the way, in terms of the rent, no General Fund risk. In the event of a recapture I can't give you that same assurance because if the IRS comes in and says there is money due and owing, that is something I'm going to have to work out. I'm going to have to look to our outside counsel or Reventionsa. I any the General Fund might be at risk in the event of a recapture.

>> For nextion purposes, ratepayer benefit, one-third AB 9 39 and one-third unrestricted.

>> City Attorney Doyle: Okay.

>> Councilmember Liccardo: In terms of recapture rate to the extent we're working for ratepayers, we do have prop 218 don't we? Can we show there's benefit to ratepayers that would gofer them being the back stop for any portion?

>> City Attorney Doyle: I think it's the cost of the operation, it's the cost of the program. You know typically it's the good and the bad, the benefits and the burden that they get with whatever the cost.is, that you set rates accordingly I don't see difficulty with that. My only concern that the IRS if the event they were to come in and somehow you face that problem what -- it may not be all special funds at risk. It sounds like at least a third of it could be General Fund.

>> John Stufflebean: And I guess I would like to discuss not a second what are the probabilities of recapture, a recapture event and would I like to ask our consultant it's an extremely small possibility. I'd like you to discuss that please.

>> If new tax structure some members of the council may be familiar with, it is designed to provide capital to projects that may not be able to attract capital otherwise. Because they're in low income communities or because there's some other risk associated with it. So the idea is to pool dollars that will come into an investor, a CDE and then a CDE then moves those dollars down to the project. The purpose of this is, that if the risk is going to be borne by the investor in the CDE, because they have the expertise to evaluate whether a project should receive these funds or not, and whether prudent steps have been taken. Once we close this project, the risk is moved to these parties, because they made this evaluation that this is an appropriate project to put it into and things will happen, at the project level, for projects that are in low income communities that can't underwrite otherwise.

>> Councilmember Liccardo: That's provided that they have a reasonable expectation.

>> That's correct.

>> Councilmember Liccardo: At the time that the transactions close that the project is tax wise is that right?

>> That's right. For the two and a half months preceding closing there will be extreme diligence and review and analysis of what is going to occur. There will be full panel of due diligence. The parties will do projections to determine what the economic impact is going to be to each participant. Not only through the seven year compliance period but thereafter. All parties are going to evaluate these projections in great detail and then at the time we close yes, there is a reasonable expectation that this is all going to happen because we have done thorough evaluation of the information that's out there, it's by parties that are experienced in doing this, this is their job. And they will make an evaluation of whether this seems reasonable. If you close with that, then you would have that safe harbor. Unless the money is used for something unintended. So instead of using the money for the

environmental center, we went out and you know created a strip mall then the risk to the project should be covered by the safe harbor. That's what the safe harbor is there for.

>> And I'd just like to add that the events that trigger recapture are not unlimited. They are very specific. Specifically there are three events that trigger recapture of new markets certification as a CDE. Number 2, is if the CDE does not invest substantially all of its allocation into qualified projects. And then number 3 is, if we allow any redemption of capital during the seven year period, meaning if we repay any of the funds of the principal amount that was funneled through the tax credit structure. So the instances of recapture are very specific and for the most part contained within the CDE. And that's why it's extremely important for us to partner with very experienced CDEs where there is no risk that they will lose their certification as a CDE. Because the threshold to maintain your status is actually very low. And we have structured the transaction so that there will be no redemption of capital during the seven year period and that there will -- and the city playing every single role in the transaction, means that they're controlling every key potential risk in the transaction, meaning whether rental payments get made, whether debt service payments get made. It would be a very different story if we had a third party or a conventional lender involved in the transaction. That's not the case here.

>> Councilmember Liccardo: Who are they syndicators what do they do ?

>> They are marketing associations they are banks, a lot of the investors are CDEs with allocation but primarily there is nonprofit organizations, CDFIs, financial institutions and about 10% are now municipally sponsored organizations, city of L.A.

>> Councilmember Liccardo: If we look at that recapture, whether or not they are a qualified C. D. E, what would make them not a qualified CDE?

>> If you have mission of providing capital or providing services to low income communities. The second part is you have to maintained accountability to those low income CDEs through representation of your government or advisory board of low income persons. Those are pretty much the two main conditions required of a

CDE. Maintaining a board composition that includes at least 60% low income community represents, and in your articles of incorporation you have your mission spelled out and you make sure everything you do fits in within that mission. I don't know Tom if you want to --

>> John Stufflebean: How long does that risk exist? Hello, can you explain how long that risk exists, could you explain that as well?

>> There's a recapture risk over the seven years. But just to add onto that comment, if the CDE fails to perform its responsibilities and fails to projects, you will not be liable for that risk, the CDE is and that's solely between the investor and the CDE. Part of the reason why the program is structured as it is, is to buffer the business itself from other investment risks. They want to keep that between investor and CDE.

>> Councilmember Liccardo: Okay, I appreciate all your responses. I had one last question, it relates to page 11 discussing the unwinding of the financing structure. As I understand, when this whole thing unwinds, essentially the investor's interest is put to the city. How exactly does the city acquire it? Does the city have to come up with some cash?

>> There will be a put-price. It will be \$1,000.

>> Councilmember Liccardo: It will be in there?

>> Yes, it is structured so the investor's return is through tax attributes credits. It's dollar per dollar set off against tax liability.

>> Councilmember Liccardo: They have no right to additional return beyond 39%?

>> That's right, that's their entire return.

>> Councilmember Liccardo: Okay, thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you mayor. I do have a few questions and I won't be offended if your answers are short. the former ETDC what's their role in this, they're same partners, same participants?

>> Kim Walesh: You're referring to the electronic transportation development center? There are many potential partners on this. Clearly the opportunity to work on green transportation and green fleet is there. There's been no commitments any partner has made at this point.

>> Councilmember Rocha: In our past experience with that organization, or that effort, wasn't very fruitful from my recollection and our interest in continuing to have a partnership on this level with an investment like this, can I ask why we would be considering that?

>> Kim Walesh: I wasn't personally involved with that, so all I can say at this point, they are one of potential investors that have been identified. But there's been no commitment made to any partners and the partners that would be worked out over the next 18 months we would bring forward to the committee for review.

>> Councilmember Rocha: Okay, tenant improvements on the building, past, present, future let's try and tie that up I guess. Can you give me a rough estimate on what we expect to spend on future tenant improvements?

>> Tenant improvements are in the current construction bid that will go to council next Tuesday. They -- the house hold hazardous waste facility will include a fully finished facilities. The CTD would include a fully finished facility. Habitat we're giving them a warm shell and they're going to use their volunteers to finish the interior of the facility. That's included in the bid price. The bid price or the bid that's going to council next week inform consideration is \$11.1 million. Tenant improvements on the engineer's estimate were about \$1.5 million. I'd have

to recalculate that based on the reduced price. So they would be something less than \$1.5 million for the two parts of this facility we're delivering at fully finished.

>> Councilmember Rocha: Okay. So looking at the total on page 2, last paragraph, where you kind of go over the whole expenditures on this project, I'm looking at about almost \$30 million, if I add all that up. But I understand there's a lot of different financing and we don't need to go into that, but if I did ask for a total investment in this site are we looking at somewhere around \$30 million at the end of the day?

>> It's 23.5 million, that's the 12 million the City's already put into this project. The 11.5 million cash the city has for the construction, and the 9 million from the new markets taxes.

>> Councilmember Rocha: And the facility is going to be 50 something, 56,000 square feet?

>> It will be about 40, 43,000 square foot finished for the CTDC and the habitat portion and then the household hazardous waste facility is a separate building that will be 10,000 square feet.

>> Councilmember Rocha: Okay, it's a little jaw-dropping to have a \$30 million investment in a 56,000 square feet. I'm sorry, go on.

>> If we do get net zero energy building with a lot of places that were specially designed to demonstrate new technology. Like I said it would be net zero technology, a lot of cutting edge features to the building to fulfill its mission and attract partners. So it's not a typical building. And just to clarify that amount is cash. We have no financed debt on the building.

>> John Stufflebean: And would I also, on the household hazardous waste portion, there are specific requirements because you're handling hazardous materials inside. There are fire materials, extra features because of that nature of the building.

>> Councilmember Rocha: So I'm trying to get in my head, I'm thinking of another past investment and the biocenter comes to mind and I'm thinking of the investment on that site and I know we don't own that site and we didn't land value as it stands right now to take a look at our investment where we're at? Has there been a recent appraisal?

>> No, the appraisal we used for the new markets tax credit purpose was the one we did when we purchased the property from housing at 4.6 million that's the value we are leveraging.

>> Councilmember Rocha: How long ago was this?

>> 2006.

>> Councilmember Rocha: 2006.

>> Ed Shikada: Also councilmember, it might be helpful to note this was formerly a city warehouse, it's actually transferred among a few separate parties including the fire department along the way.

>> Councilmember Rocha: Thank you. You may have touched on this and it may be in the memo but I'm going to ask a real direct question. What partners do we have locked in right now on the tenant? Do we have any locked in?

>> The two -- the two --

>> Councilmember Rocha: Outside the habitat.

>> Kim Walesh: No, we haven't locked any tenants in because we don't have the commitment to build the facility. But like I said earlier that will be our next step. It will be a combination of tenants, grants and demonstration projects. So it won't all be traditional leases or tenants like you might see in an incubator facility.

>> Councilmember Rocha: Okay, so help me with the finished product. So it's complete, and how -- what do you expect to generate out of this outside of the demonstration turf, in terms of sales tax, jobs, all those issues or all those factors that we sometimes measure in a cost-benefit analysis which I'm understanding we're not going to do on this project at least now or are you considering that for the future?

>> Kim Walesh: We did an initial estimate of jobs, which you know is always challenging to do, and so we associate about a thousand clean tech jobs associated one way or another with this center. We haven't done a full cost-benefit analysis on that, on the center yet. It's not our intention to do that, though we could clearly consider looking at the cost, and then quantifying the benefits. It wouldn't jet -- this restore will generate sales tax and we can certainly come up with a more robust estimate of the sales tax that store would throw up.

>> Habitat's already completed a full business plan for the facility. Been working on it for a year and a half, that we can circulate to you all. It's been circulated in the community already.

>> Councilmember Rocha: Again I'll jump ahead to the finished product. What authority do we maintain over the management of this city and its operations, its maintenance, terminating, shifting direction if costs go skyrocketing and everything foamings port, what do apart master tenant and we're the developer of the construction. So we manage the construction day-to-day. We manage the agreement with our architect firm who will do part of the construction management. We do approve all the requests for payment from the contractor. We manage the contractor's agreement and put together any change requests that come up, as they do the construction. But we are the construction manager for the project.

>> Councilmember Rocha: And then upon completion, management of the facility?

>> We'll be the pull manager. We will manage the tenant and the subtenant leases.

>> Councilmember Rocha: And we can terminate as long as the lease would allow us that but we would maintain that authority?

>> Yes, the new markets program the project is building the facility. The operation of the facility is not part of the new markets program. So as long as we build the facility we put the new market proceeds into the facility construction. We've met the requirements of the program. The daily operations is not part of the compliance to the new market tax program.

>> Councilmember Rocha: And have we thought that far ahead as far as who would be the we manage the foundation and our other partnerships are we expecting to continue that type model?

>> Kim Walesh: So if you are referring to who would manage the demonstration part of the building there's a couple of options there and that is one of the things we would work out. One would be to have a management agreement similar to what the incubators have with the San José State research foundation. That is one option. Another option would be to form a nonprofit which the city would maned control of, and that ooms demonstration center.

>> One. We retain thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor Reed, I appreciate all the questions you gave earlier and certainly no risk toll General Fund i'm sure this question got answered, Julia Cooper is in the audience, is this property a noncollateralized, she's nodding, there is no debt. I appreciate that. part of the.

>> Industry experts, banking and business, but I only identified one out of five. Would there be a better benefit of having more than one?

>> There's two different entities in play. The nonprofit that we're asking the council to consider establish now, the sole purpose of that nonprofit is to ensure that we're complying with the new markets tax credit program. Building the facility, making sure the proceeds go back into the facility and we don't do anything amiss with the new markets tax credit during the seven year compliance period. That's all they're going to do. Apart from that we will be management of the facility that would have potentially a board with influential people and tech and that sort of thing. But that's a separate and very distinct from the mission and the responsibilities for the QALIT B board.

>> Councilmember Oliverio: Fair enough. What I think I'm feeling more comfortable is two out of the five are board of five?

>> This real interest on the board, we will have one from Silicon Valley bank is being able to deliver capital projects on budget and that's why it is some of the city staff participating in the project have significant deep expertise in doing that because that's really what we need to do to comply with the program. And then we will have Silicon Valley bank representative to help us with the financial issues. But we'll also have a specialised accounting name will provide the accounting statements and compliance with the program but the most important function of the board is to make sure we build the project within budget and make sure all the proceeds go back into project construction.

>> Councilmember Oliverio: Well I would run the analogy that it's like a bond oversight committee and I could go grab someone from the community but they don't have a financial background. And then would I have difficulty with that so I would prefer that if we're going to have two people outside that they both have financial credentials. I think that's fair, would make me feel better about it if we're taking that level of Rick. And then the mayor cechtd bringing up the question of the IRS, has the IRS ever changed a rule or done something that's been negative to the city in some way that we've lost, because you've mentioned that? Can anyone think of that?

>> City Attorney Doyle: Not to my knowledge. I'm looking at Julia. We've never had an issue with the IRS on a bond to my knowledge. We've been audited.

>> Councilmember Oliverio: We have never --

>> City Attorney Doyle: We have an excellent finance department.

>> Mayor Reed: And a lot of paranoid lawyers.

>> Councilmember Oliverio: A lot of paranoid lawyers, thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I really think this is a great idea. First of all I want to get something clear. You mentioned something john about \$185,000 a month, and what's that in reference to?

>> John Stufflebean: It's a year.

>> Councilmember Pyle: Oh, a year.

>> John Stufflebean: That's the current amount we're paying to just maintain the existing building.

>> Councilmember Pyle: Over a period of ten years you're into almost \$2 million. Basically for \$1,000 we're getting a new facility, that's well over how many thousand square feet total? With all the 25,000 square feet?

>> John Stufflebean: Well, altogether, 55,000 square feet.

>> Councilmember Pyle: And then we get to pick the crew that's going to be there. Just as if you would if you were landlord or what have you. And you'll come back in June with some ideas on who that crew would be? When I say crew, I mean the people that would be a part of this. Is that too soon?

>> John Stufflebean: Well, as far as the household hazardous waste program that's currently managed by the county. Habitat for humanity is established and I'll let Kim the other part of it. Can.

>> Kim Walesh: The other partners and revenue sources for the demonstration center.

>> Councilmember Pyle: And we would be creating a thousand clean tech jobs which brings in, so much needed space to our local economy. And then we would probably engender a lot of visits from other cities, other states, other other other who would also bring with them dollars that would go into our local economy. So I think it's got some really good components and I think that I am with the mayor, I don't want any General Fund obligations, we're already up to here. So thank you for this. This is a lot of work and I appreciate what you've done to get it.

>> Mayor Reed: May not believe this but I think we're getting down to the end of this. I'm going to take some pibility on this. Mr. Wall. I think it's safe for you to sit down again.

>> This project has so many structural flaws in it Mr. Mayor, that it basically doesn't waste -- doesn't require my breath. With the exception of a letter to chief counsel of the EDA. If you want to turn to page 11 of this agreement and we'll put this issue of General Fund to rest. Quote: The city does assume a potential risk that their net benefit from the transaction of \$6 million will be diminished by the need to pay fair market value for the put. Moreover, since the city would have already expended the development funds the city would need to identify additional funds before it can exercise the call. Staff proposes to use late fees and, if necessary, General Fund, to pay for the call. Close quote. Now, the put-call scam, or scenario, whatever you want to call it, is referenced earlier. Ladies and gentlemen, I've stood before you many times on this project. This is one of the worst boondoggles I've ever seen since reclaimed water. This is a loser, because there's too many reliance issues on outside economic factors. The new credit trademark or whatever that is, the new market text credits is in a state of flux. The United States government, defer paying its bills, all of this is subject to change. As far as the goofy assertion of a thousand jobs, hmm, I've got some property to sell you on north San Pedro street, got gold, diamonds this is a cause for a regime change, Mr. Mayor, you get rid of people who come one these hair brained ideas, you fire them outright. Thank you.

>> Mayor Reed: That concludes public testimony, we have a motion to come up on the floor, bringing this back to the CED committee in addition. Opposed, one opposed Oliverio, that's it, one opposed, motion carries, that's approved. Good luck. That was the last business on the agenda, we now have open forum. If anybody wants to speak. I see some cards coming forward. So we'll take Mr. Wall and Michael McDuffy.

>> David Wall: Over the weekend, I think it was Saturday, the Mercury News came out with a story about the public emergency, fiscal emergency, Public Safety emergency. What bothers me about that, Mr. Mayor, is the fact that if we go back to February 14th of this year, 2011, at the budget study session, there was nothing really new outside of a couple million dollars extra for the deficit. But the actual number of San José police officers and firefighters were about the same. So I asked the question and you know, the firefighters are very cognizant about politics being played here. And I think they have a very strong argument. Because why didn't you communicate everything in that budget study session back in February? About the loss of 350 police officers, San José police officers? Now, I know it's tough being a mayor, you know, well, I don't know because I've never been mayor. But you talk very well for yourself. I saw you do an excellent job with the questioning, even though those people evaded your questions left and right. You're very expert about that, very good, I'm very proud of you. But you even have a senior policy advisor for communication. So why did it take three months to alert the public that we're going to lose 350 San José firefighters and police officers or police officers or firefighters? It boggles my mind because you all know I carry a book. It doesn't record public -- or conversations but it did record 350 San José police officers going to be fired. So there's a problem in communication, and I think we need to work with it and I think you need to downsize your senior policy advisors and shift that money to the police and fire department. Thank you.

>> Mayor Reed: Mr. McDuffy.

>> Mr. Mayor, council, basically, it's the same issue, my name is Michael McDuffy with the Seven Trees shopping center and their street sweeping operations that go on in their parking lot, anywhere between 2:00 and, say, 6:00 in the morning. I've called the law pretty much every night that I've heard them in operating. And the law has then

-- has never, except Sergeant carr came by my house last -- couple nights ago and told me that I'd called 80 times in the past year, to the police department. So basically, he said he was going to file something with the city attorney's office and I also contacted the city attorney's office and talked to an analyst there who is going to find out what the status is of this process of trying to eliminate this noise by the enforcement of San José Municipal Code 1016. Which is disturbing the peace. And so I'm going to be waiting on that for tomorrow. Mike Hannon and Don Lindsey and all them, they have failed to come back in contact with me after they were assigned to take care of this thing. All the sergeants on the police department on that beat at that time of night basically they're -- what they said you know, you could move, you could basically get ear plugs, you could do all kind of things. Go to these other mobile home parks out here in Morgan hill. Yeah, I could do all that but I'm not. I'm going to continue. And I've got one more other topic that I --

>> Mayor Reed: Sorry sir your time is up. But I'm going to ask the City Manager to have Mike Hannon get in contact with you. This is a code compliance issue. He'll follow up with you after the meeting.

>> Okay.

>> Mayor Reed: That concludes the public comments on the open forum. We'll be back here at 7:00 p.m. for the evening session.

>> Mayor Reed: Good evening, I'd like to call the San José city council meeting back to order. Please everybody take a seat. This is a continuation of a meeting we started earlier this morning. Just to let everybody know where we are in the agenda and how we'll handle things, we have three ceremonial items we'll take up first, including the swearing-in of new youth commissioners, and we have a couple of land use items, 11.4 is an administrative hearing on an appeal of a planning commissioners' decision on a determination of public convenience or necessity, and Councilmember Campos is going to request that be deferred, so we'll take that up in a minute, and we have one rezoning on Foxworthy and Almaden Expressway, and then we will have the joint council redevelopment agency hearing on operating and capital budgets for 11-12 including proposed fees and charges. That is really the bulk of the evening but we'll get the ceremonials done first and two land use items. If you wish to speak please fill out a yellow card. You can see, there's a lot of folks here, a lot that are going to speak. So we'll be limiting the testimony into one minute. Choose your words so they fit into one minute. We'll get to that but start first our ceremonial items, I'd like to invite Councilmember Chu and friends helping friends to join me at the podium. All right we're going to try to bring the friends helping friends, we've got to help them get in here. We're commending friends helping friends with special needs for their dedication in helping children with special needs. We'll get them in here.

>> Councilmember Chu: Good evening. I want to thank friends helping friends with special need for their excellent special needs provide support friendship and life skill training to disabled individuals, and their families. I commend friends helping friends with special needs, for their dedication, to aid those with special needs. It is important for those with special needs to know that the City of San José, promotes an environment that is accepting, to allow for special needs children to interact with their parents or with their peers, as a matter of fact in District 4 we have all access playground next to our school, in the Berryessa creek park. This is a volunteer program, consisting of students and parents, facing the South Bay, they strife every day to provide valuable aid and instill essential life skills training to contribute towards an independent lifestyle. Many friends in this program have moved on to live productive lives and even return to contribute back to the community. Through this integrated community involvement program, the volunteers maintain the activities throughout the whole

year. Such as annual picnic, fun trips, hiking trips, and in the spring, and swimming classes in the summer. So here today, to accept this commendation on behalf of friends helping friends with special need is Julia Ya. So mayor if you would please present the commendation to Julia Ya. Is Julia here? Oh, there she is! [applause]

>> Mayor Reed: Thank you all. As you can see up here we have a younger generation. Certainly younger than me. But I know there are a lot of friends and family members that are here that support these young people and what they're doing so I want to thank the friends and family members who are here. Will you all stand up and wave to the audience so we can acknowledge your help, too. [applause] Okay, thank you. And it's okay to leave. Our next item Councilmember Chu is going to stay down here with me and we'd like to invite the junior sharks 12 and under girls team to join us at the podium. They're probably the ones that are wearing the sharks uniform, right? [Cheering]

>> Mayor Reed: Tonight we're commending the junior sharks 12 and under girls team for capturing the United States hockey's tear II girls national championship as the first national title for the junior sharks program. Congratulations.

>> Councilmember Chu: Well I wanted to make the announcement again, the sharks won the national championship. Well, it's the junior shark, 12 and under team. I'd definitely like to thank my colleagues and the mayor, and sharkie, there we go, to congratulate the junior shark 12 and under team for capturing the U.S.A. hockey tear 2 girls national championship. With such a great hockey team in our town, there's no surprise that equally wonderful program is in place to inspire youth to excel at this great sport. Players learn that discipline, competition, and needs in each other, competing at a local, state and national level, this one is the first national title in the history of junior sharks program in the City of San José! Also nice to be first and hope this is not the last one. The junior sharks 12 under team gained momentum this year after demonstrating their opponents during the regular season by winning 20 of -- out of 22 games. Yes. The team went on to sweep the division tournament, before securing the national title by defeating the Massachusetts East Coast wizards in overtime by the score of 1-0 to capture the championship. [cheering and applause]

>> Councilmember Chu: We're honored to have the players and their family with us and sharkie too, their commitment to the junior sharks program has prepared themselves to develop, promote and competing in the game of hockey, and their every day life. Here to accept the prize on behalf of the sharks 12 and under team is coach Rick Burke.

>> Thank you very much. I want to say thank you to the City of San José of providing us with a great facility, sharks ice, without that young girls like this and young boys wouldn't have the opportunity to skate whether it's figure skating or ice hockey. Thank you very much City of San José. As you can see, we have a very diverse group of girls here, that have a diverse set of hockey skills but they also have a diverse group of personalities. But together, we made it work. And these girls learned what it means to be a team. They've learned about what it takes to be a champion and that takes a lot of hard work and really in the end, believing in each other. Trusting each other. And really working as a team to achieve something great. And we did just that. We stepped out on that ice and we made history with a national championship. I hope that our NHL sharks have that same luck coming up soon, and go sharks! [applause]

>> Mayor Reed: This wouldn't be possible without a lot of parents putting in a lot of effort and sweat. So parents, please stand up! [applause]

>> Mayor Reed: Thank you, thank you very much. Next we're going to do the swearing-in of newly appointed youth commissioners. So I want City Clerk Dennis Hawkins to join me at the podium. District councilmembers are going to join me I think as we do the oath. District 1 youth commissioner, district 2 youth Commissioner, district 4, district 5, district 6, district 7 and district 10 youth commissioner. Looks like just about every councilmember is going to stand behind their youth commissioner.

>> Dennis Hawkins: All the youth commissioners please raise your right hand and repeat after me. I, state your name.

>> (repeating).

>> Do solemnly swear.

>>> do solemnly swear.

>> To support and defend.

>>> To support and defend.

>> The constitution of the United States.

>>> The constitution of the United States.

>> And the constitution of the State of California.

>>> And the constitution of the State of California.

>> Against all enemies.

>>> Against all enemies.

>> Foreign and domestic.

>>> Foreign and domestic.

>> That I will bear true faith.

>>> That I will bear true faith.

>> And allegiance to.

>>> And allegiance to.

>> The constitution of the United States.

>>>The constitution of the United States.

>> And the constitution of the state of California.

>>> And the constitution of the state of California.

>> That I take this obligation freely.

>>> that I take this obligation freely.

>> Without any mental reservation.

>> Without any mental reservation.

>> Or purpose of evasion.

>>> Or purpose of evasion.

>> And I will well and faithfully discharge.

>>> And I will well and faithfully discharge.

>> The duties for which I'm about to enter.

>>> The duties for which I'm about to enter. Congratulations.

>> Mayor Reed: We now have a couple of land use items to take up. 11.4 is an administrative hearing and consideration of an appeal of the Planning Commission's decision to deny a conditional use permit and determination of public convenience or necessity. Councilmember Campos.

>> Councilmember Campos: Thank you mayor. I'm requesting this be deferred for 30 days so more general outreach can be made to the community.

>> Mayor Reed: The request is for 30 days deferred. Is there a council meeting date?

>> Dennis Hawkins: I think we'll be June 14th or June 21st.

>> Mayor Reed: Does this have to be heard in the evening and do we have to figure out which of those are evening meetings or are they all evening meetings that time of the year?

>> Joe Horwedel: I would recommend, our preference would be to the evening meeting.

>> Mayor Reed: Okay, that is the motion to defer it 30 days to the evening meeting in June. All in favor, opposed, none opposed, that's deferred. 11.2, rezoning real property located at the southwest corner of Foxworthy avenue and Almaden expressway.

>> Joe Horwedel: Staff in putting the approved zoning district, made a mistake in using the CP rather than CN district which prohibited a drive-through. Our design included a drive through so we are bring the correction forward to rectify that problem.

>> Mayor Reed: We have a motion to approve. Do we have anybody who wants to speak on this rezoning item? Councilmember Rocha? Okay, we have a motion to approve. All in favor, opposed, none opposed, that's approved. We'll now take up in joint session between City Council and Redevelopment Agency board the hearing on the proposed operating budgets on the fiscal year 2011-2012, including the proposed fees and charges of the City of San José. We've had a series of study session and we're not done. This is a particular hearing to have it in the evening, it is not the only time that people can get engaged and testify. We've had a lot of people already testify but we're here this evening for the purpose of hearing from the community. We'll have a short staff presentation and then we will just start on the testimony. We will not be taking action tonight. Action on the budget will be taken later, as we go through the rest of the process. Jen.

>> Jennifer Maguire: Good evening mayor and members of the city council. My name is Jennifer Maguire, I'm the City's budget director. I just want to give you a few slides just to set the context for this budget, for the members of the audience. The City of San José is entering the 10th year of General Fund budget deficits. As we've discussed in the City Manager's five year forecast that was released late February escalating costs are expected to far outpace modest revenue growth in 2011-2012. This has resulted in a General Fund shortfall of \$115 million next year. These cost increases are driven in large part by increases in retirement cost which are expected to be \$57 million higher next year or about half of the City's deficit. In addition, the budget shortfall has increased due to the loss of Redevelopment Agency reimbursements of approximately \$25 million year-over-year due to the fiscal challenges facing the Redevelopment Agency. It is important to know that of the City's 2011-12 proposed General Fund budget, a total of \$192 million or 23% of the \$819 million will be going to pay for retirement benefits. Just three short years ago we were spending about 13% of the City's budget on retirement costs. For context, \$192 million is 40 million dollars more than we spend on the entire fire department's General Fund budget is also \$50 million more than the entire budget for our Parks, Recreation, and Neighborhood Services, transportation, library and Public Works department combined. Unfortunately due to the size of our shortfall and the fact that we are in year 10 unprecedented budget actions are proposed with unavoidable significant service level impacts. This budget contains the loss of almost 600 positions from the 2010-2011 budget level and represents a decline of approximately 10%. As directed by the city council the 2011-2012 proposed

budget was built on the assumption the concessions would be achieved from all of the City's employees groups. This included a 10% reduction in total compensation and the roll-back of any wage increases received in 2010-2011. If those concessions are not realized additional budget reductions will be necessary and will be brought forward as a tier 2 as a proposal later in the budget process. For anyone who is interested in more detailed information you can visit our Website. The Website is available online. The URL is on the slide above you. This slide shows the history of our General Fund shortfalls and the impact of our citywide position changes for the last ten years. In total with this budget we will resolve \$680 million in General Fund shortfalls and eliminate 2200 positions since 2002-2003, this is why the impact of this budget can be described as nothing short of severe after the years of budget balancing actions. The elimination of 22 positions represents a 30% decline in the workforce over a ten year period and leaves the city at a staffing level from 25 years ago, 1986-1987, when the population was 740,000. Almost 80% of the position reductions have been necessary over the last three years resulting in a 25% reduction in the City's workforce during that time. These reductions have been spread equally across both nonmanagement and management positions. The City Manager has issued a manager's budget addendum, number 7 that can be found on the City's Website address shown on the previous slide that provides additional detail by employee group. This last chart that I want to leave you with displays our updated five year forecast excluding our development fee program and shows our projected shortfalls in the general fund year by year and shows it totals \$193 million by year five. This forecast does assume modest growth in our revenues but also includes the estimate growth in the City's pension cost that are projected to grow from 192 million in 11-12 to 305 million in 2015-16. It is important to note that the 201112 proposed budget does use \$35 million in one time solutions. This amount will carry over to 2012-2013 and add to the \$43 million shortfall shown in that square up there in the 12-13. Which will result in a projected shortfall of \$78 million to be resolved that year. With that, I will conclude my remarks.

>> Mayor Reed: Thank you, Jennifer, appreciate the update. I have a couple of slides here, I hope, that I want to put up. Those of you that have been to the community budget hearings that we hold in districts and we had 11 of those have seen this chart. And while we are focused tonight on this next fiscal year's budget, in which we have a \$115 million shortfall, as Jennifer said, it's going to continue to grow. And it is being driven primarily by skyrocketing retirement contributions. So ten years ago, it was \$63 million is what we spent on retirement

cost. This year, it's \$155 million. And that's in part because our employees helped pay extra this year, it would have been more than that. Next year it's going to be \$250 million and then in five years, \$400 million. If we're fortunate, it is be \$400 million because it could be more. So that is driving our cost, extending out into the future and it makes it all the more difficult to solve this year's problems because we know that next year will be as bad or worse that a year from now we'll be having this same conversation about layoffs and concessions and cuts in order to try to balance the budget again. But if you translate this into jobs, and the impact on jobs, you can see that today we have 4200 people working for the city that are paid out of the General Fund. Police officers, firefighters, librarians, community service, community workers, are all paid out of the General Fund. If we hit that \$400 million number on retirement cost and cut our way out of it by reducing jobs we'll be down to 3,000 jobs in five years. Now that may seem like a lot except we'll hear when you see the numbers for this budget that we'll probably be at 3600 come July 1st. And next year is not going to be much better, might even be worse. If we hit the \$650 million number in five years we'll be down to 1600 people who are paid out of the General Fund. Today we have 2400 just in the police departments and fire departments alone. 1600, that's crazy, that's impossible. We can't go there, we can't allow that to happen, because we'll be unable to deliver services to the people of San José. That's the backdrop for the difficulties we're facing this year we're not out of the woods. We have to balance the budget, we will balance the budget, it's our job, it's required by law, we don't have a printing press like they do in Washington and we can't do the same borrowing like they do in Sacramento. We have to do it the same way, with real cuts, real people, affecting real jobs. But that's the terrible thing to have to do but the 11 of us have to figure out the best way we can to save as many jobs as we can, as many services as we can but there's not enough money to continue doing what we're doing today and there will undoubtedly be severe impacts on community services, police, fire as well as libraries and community centers will all be impacted. So that's the backdrop. Anything else Jennifer in terms of staff presentation? If not we're going to turn to the public testimony.

>> Jennifer Maguire: Ready for the public testimony. Thank you.

>> Mayor Reed: When I call your name please come down. There will be lots of people in overflow that will be coming down later. I'll allow one minute of testimony and come on down to the front when I call your name so you're close to the microphone that will save a little time. Amelio Sandoval, Bill Brooks, Allison Lasser.

>> Go ahead sir.

>> My name is Emilio Sandoval and I have a statement I've prepared. Grace community center means friends and family with people who can relate to each other. Serving lunches six days a week, over 300 meals. With programs that we can do such as weight lifting, haircuts, art and therapy. Our friendships in the community which we can belong with, people who care about us, and each other. Our home away from home, with staff, and clients, loving and caring about each other. A place for our concerns is a safe place for all of us. You don't only come here to help, to receive help, you end up helping others, and that is truly what helps yourself. One huge collaboration. Thank you.

>> Mayor Reed: Bill Brooks and then Allison Lasser and then some youth commissioners.

>> I am here as a representative of the friends of grace. In 1971 following the passage of the landerman act, thousands of our citizens with mental illnesses were released from institutions like Agnews state hospital were released into the community. Most California cities had a few if any services for their new population, some relied on police intervention and jail for those who couldn't make the transition on their own. San José took a more compassionate enlightened and as it turned out more cost effective approach. It partnered with the Santa Clara County's mental health department and created the grace community center, with supervised daily activities, communities, a few days ago we celebrated our 40th anniversary and as a part of our celebration we wanted to recognize and to thank the leaders of San José who, in thinking outside the box 40 years ago, created a unique program that gives thousands of our San José citizens with mental illness who have no other support system a crack at joining us and leading productive lives in our mainstream community. Thank you.

>> Mayor Reed: Allison Lasser and then Amanda Aldama Laya Ferugi.

>> On behalf of sacred heart community service, I'm Allison Lasser, the policy director. We've stayed true to a set of principles and values. One of the most important has always been a commitment to supporting people efforts at

self-sufficiency. Basic are right to self-sufficiency and collectively to workers most favorable tool. We strongly urge you that follow an exhaustive process to identify upon alternatives. Cuts to neighborhood services do not impact all residents the same. They disproportionately affect the families served by our agency. The approached cuts to senior services community centers and agencies that serve them we support solutions that raise revenues, such as the neighborhood first proposal and that do not erode workers retirement contracts. We urge you to protect critical services such as community centers and get creative. Thank you. [applause]

>> Mayor Reed: Amanda Aldama, will be followed by Leila Ferugi and madam Khan.

>> Hello councilmembers and fellow commissioners. It would be very difficult to do my job if staff wasn't there to help me along the way. As you know, seven commissioners are sworn in tonight six of which are brand-new dedicated and motivated to make a difference in our community, but they're going to need support and guidance which can only be provided by full time staff. I urge you to consider providing full time staff for the commission, thank you.

>> Mayor Reed: Aya Forooghi. Civically engaged and how too many of them are not. That's where the youth commission accommodation in. As each year goes by the youth commission gets stronger and stronger. This year probably being its strongest with the nationally recognized fourth annual youth conference. Unfortunately the reality of this year's budget has put our staff support in great jeopardy. I would like to take this moment to express how much we need them. I know how you have heard a lot about how much people need certain things lately but I'm going to tell you why you need us to have the support staff. We represent the civic and governmental connection to the youth of San José, that is directly related to the City of San José. The only one. If the commission is to have absolutely no staff support, we will have no direct connection to the City Hall. Therefore, making it much harder to get the things that the youth commission needs to get done, finished. Thank you.

>> Mayor Reed: Madam Khan, Peter tang and then Rose Daliwahl.

>> My name is Miriam Khan, the San José youth commissioner. I'm aware of the severe budget crisis facing the city. However I hope the city council understands that by eliminating commission support you are effectively setting up the youth of this city for failure. As youth it is difficult for us to make informed policy recommendations without staff attending meetings for city government during the day and carrying out other administrative duties. The annual citywide youth conference would not be possible to conduct without staff support. Please think, what kinds of message are you sending the youth? Our youth are already underrepresented in this city as it is. How are we to advocate for ourselves if you are cutting our resources? The City's priority to be preparing the youth to become future leaders and the youth commission staff is one such component that trains us so that one day, we, too, can fill your seats. Please do not give up on our youth. Thank you.

>> Mayor Reed: Peter tang, rose Dahliwal and Amy Heng.

>> My name is Peter Tang, the current youth commissioner of San José district 1. I would like to thank the mayor and the councilmembers for their ongoing support throughout these years whether it be verbal encouragement or providing us the money we need for projects such as the fourth annual youth conference. We had a White House representative attend the youth conference as well to observe and see how it goes on. We also extended invitations to each of you to attend the youth conference and also show the youth what it is like to be in your role. Would I ask that you continue to support the youth commission and one way to do this is to give us the full time staff that we need. This is crucial in order to allow us to do what we are doing now. We are giving youth a voice, we are helping youth connect to the city and most of all we are helping you to accomplish what you need for the youth of the city. Thank you.

>> Mayor Reed: Rose Dahliwal.

>> I would as you all know and as our fellow commissioners have previously stated our responsibility is to allow the youth to have their voice heard. And to provide important valuable resources to all youth throughout San José. And we have -- would not be able to do what we have in the past without our staff support. Which is why we

plead you for full time support, taking into consideration I know the budget has greatly affected all of us and staff may not be given to us. But I plead you to take it into consideration. Thank you.

>> Mayor Reed: Amy Heng, Brendon Ku Diana Lee.

>> As a youth commissioner I want to remind you of the importance of the youth commission. For -- since the 1969, the youth commission has been around, and has recently only made a really important contribution with the youth bill of rights and the youth bill of responsibilities, which will eventually be approved. And I want to remind you that without staff support, that the future of the youth commission cannot survive without the guidance. And I want to come back to San José in a couple of years and look back fondly and to see that the youth commission has progressed. So please, take into consideration staff support for the youth commission. Thank you.

>> Mayor Reed: Brendan Ku, Diana Lee, Sandeep Peddada.

>> I'm newly commissioned for District 6 and I have looked at the budget balancing strategy. This is crucial. If we are to make sure that we do not follow even further than we are now we must take this plan. We have to take it because if we don't, clearly, we will only be able to dig our own graves even further. This is not a panacea.

>> Mayor Reed: (saying names).

>> Incoming years of the youth commission will not have staff support. We need our staff as the youth organization with the staff support provided all these years. Outreach the youth of San José. The youth commission is building us up to become leaders of tomorrow's future and without staff that would become much harder. Thank you.

>> Mayor Reed: Sandeep. Peddada, I'm not sure of the last name because the handwriting I have trouble reading, Casey Ong and Michelle Simmons.

>> Respective mayor, I took oath half an hour ago, less than that, already I'm excited to get right in and address the issues we have in our city. One issue we have is the budget and on the budget I realize that the positions are the youth commission staff are now in jeopardy. I would like to emphasize now and really plead to you see that we really need these staff to -- for all the help and support that they provide us throughout the entire process and also the fact that they are the only link between us and you that will allow us to work as a team and allow us to succeed. Thank you. [applause]

>> Mayor Reed: Casey Ong, Michelle Simmons, Judy purrington.

>> I am Casey Ong, district 4 youth commissioner. I would like to thank you for giving us support, all the councilmembers are willing to help us with any events we have and support us morally and with monetary funds. I'd just like to share that I've been on the youth commission since 2009 and this will be my last month as a youth commissioner, and since then the youth commission has accomplished so many things and opened my eyes so much to local government. I'm actually going to be a political science major. So we've had two annual youth conferences with over 200 students from all over the city. We have created the youth bill of rights and currently finishing the youth bill of responsibilities. We're continuing to make more differences and we're even becoming a model to other city youths commissions. I can't see this happening without our staff. They continually help us morally, they continually help us while we're in school. We can't go to meetings during the day because we're at school. They help us with that and they help us --

>> Mayor Reed: Sorry your time is up.

>> Okay, thank you.

>> Mayor Reed: Okay, I took the youth commissioners first, I know they probably did their homework before they got here about. But in case they haven't done their homework, it's okay to go home and do your homework, in fact you should do your homework, it's okay to leave. Michelle Simmons,.

>> I'm not with the youth commission, even though I'm short. I apologize in advance, I'm from Texas. I tend to put in a few more syllables. I apologize for the dialect. I've been a dispatcher for 13 years. Well during those years but at a cost to our own health and welfare. The constant par an of dealing with emergencies and the physical damage to our job have caused damage to our bodies. Many of us have had work related surgeries myself included. Now you're considering extend being our retirement by ten years, any one of which would cause a mass exodus in our department. Gain control of emergency situations. If you couple all of these proposed cuts you will lose the experience people who can and do think outside the box and you will leave our police officers and citizens with a dreadfully degraded support structure. Already, security and protection offered to our citizens are falling to the level of other cities where crime and violence are rampant and have become a waive life. Please listen to our union, the one consistent voice of reason that protects the workers and the city from litigation. Thank you.

>> Mayor Reed: Judy purrington followed by Sandy Perry and Rita Espinosa.

>> Good evening, councilmembers, Judy purrington, I don't think those folks ever envisioned decimating the services to the degree you're considering. Yesterday I met with my councilmember, Ash Kalra. I delivered to him over 500 cards with notes from my neighbors who use the Edenvale library. Their need for this essential service is considerable. I urge you to look for alternatives. Please consider the \$17 million neighborhoods first proposal, and extending the retirement obligations by a couple of years. Thank you.

>> Mayor Reed: Sandy Perry. Rita Espinosa, Pat Saucedo.

>> Good evening, mayor and councilmembers, my name is Sandy Perry. I'm from CHAM deliverance ministry, I'm an outreach minister there. We have served the area of San José for about 20 years, based on the teaching of Jesus and we're followers in the tradition of Martin Luther King. Martin Luther King often called for what he called a revolution of values. He said a revolution of values lookseesly on glaring contrast of the one that we live in the Silicon Valley 150 I'm sure you're all aware made \$85 billion, with a B, \$85 billion last year, and we have got to find as a city, we have got to find a way to persuade some of that wealth to come in to be used to provide for

services for the poor. Service for the neighborhoods. For compensation for our employees. We've elected you to be leaders of our city and what we need are some proposals to increase revenues. Leadership means cooperating with unions not confronting them.

>> Mayor Reed: Sorry your time is up.

>> Okay. [applause]

>> Buenos Tardes.

>> Good afternoon, I'm here because I'm worried about the community centers and the libraries. [Spanish] I live for 12 years on Lotus Street here in San José. [Spanish] and I'm worried about these cuts because these are some of the services that me and my children use the most. [Spanish] and I'm worried about all of the cuts. [Spanish] and also I'm worried about the cuts to the elderly as well. [Spanish] and I'm also supporting the solution here tonight, the proposal from working partnerships. Thank you for listening, very kind of you to listen to me.

>> Mayor Reed: Pat Saucedo is our next speaker. Pat will be followed by Carol Garvey and Melanie Helmke.

>> Pat Saucedo: Mayor, Pat Saucedo, to quantify the city's true fiscal position. Two, the chamber fully supports adopting a budget that builds in the expectation of the 10% total compensation reduction for all employees. This will provide the greatest latitude to maintain core public services for the community. Three, fully support and recommend a continued expansion, of the option to contract-out noncore city services, to the private and nonprofit sectors. And four, fully support continued efforts to implement cost containment for employee and retiree health care and pension benefit programs, elimination of sick leave payouts and the elimination of automatic step increases. Closing the \$115 million deficit for 11-12 with existing resources while implementing reforms must be the priority for all stakeholders in San José. Thank you, we recognize this is a difficult year budget-wise. Thank you.

>> Mayor Reed: Carol Garvey, Melanie helmke, be polite now everybody will have a chance to speak and then Will Bick.

>> Hi, Carol Garvey lived in San José most of my life. I wanted to give a shout-out to the Piedmont hills football team, they just won their division championship, that's my alma mater, class of something. Anyway, city budgets must be priorities first, preservation of services, for those most in need and enabling them to provide useful lives. The city son the hook to pay the debt bonds for the convention summer. This year it paid \$15 million with the expectation that the Redevelopment Agency would pay it back. So far the Redevelopment Agency has only paid back \$5 million leaving the city out just out another \$10 million. That's \$10 million that could save libraries, public safety and critical services. Neighborhoods come first. Thank you.

>> Mayor Reed: Melanie helmke. Melanie will be followed by Will Bick and Teresa Chickles.

>> I stand before you tonight to say that I'm disappointed that I voted for some you. How can you start to build a soccer stadium speak of the baseball stadium.

>> Mayor Reed: Please don't interrupt the speakers, let them speak.

>> How can you speak of a soccer stadium, a baseball stadium or a central hub while you're taking away from the poor of this city? What we need are park rangers, and parks where children can bask in the sun. Community centers, where children can grow, or libraries where children can learn when they don't own a computer or Internet service. As a mother I support these services, I don't know how you would think that would change now. How can you care for the poor as much as you care for the rich? Thank you. [cheering and applause]

>> Mayor Reed: Will Bick, after Will we'll have Teresa Chickles.

>> Good evening, Will Bick, San José park ranger. I also want to express my concern about the cuts to the ranger program. We'd be throwing away decades of work from our past and current San José park rangers. We'd be throwing away San José's Green Vision. All these miles of trail, all of these great parks. Nobody to take care of them, keep them safe, fun places to play. We'd also be throwing away valuable partnerships and relationships that we've formed with nonprofits and friends groups. Things that you can't replace. And time that has been put in, there's no way you can do it. And the few little scraps, skeleton of people that you would leave to perform all these services, they would be burnt out so fast it's ridiculous. We have to find a better solution.

>> Mayor Reed: Teresa chuckles, Bud Courtney. And then Paul Gonzales and Dorsa Sequeshi.

>> My name is Bud Courtney, I've been an antigraffiti litter volunteer for the past ten years for the City of San José. For both mayors Ron Gonzales and Chuck Reed. I covered ten square miles and volunteer also for valley transit, CalTrans and CalTrain, and average cleaning up 1900 tags per month. I'm concerned that the present -- that a proposed regulation, reduction in force, of the city's staff will not only affect my ability to obtain antigraffiti materials, in a timely manner, but also, when I observe filthy language around schools that I personally cannot remove and report them, the proposed reduction in force would mean that such tags would remain in view to our young students for a much longer time. I urge you to reconsider the proposal for contractor-provided services. Thank you.

>> Mayor Reed: Paul Gonzales. Followed by Dorsa Sequeshi and Sasha Stewart.

>> If this approval is -- proposal is approved the contractor will have to learn about the graffiti culture again and how it affects the different neighborhoods. Training will take at least nine months as stated in the proposal. Meanwhile graffiti that is only up for two week will only attract greater graffiti. Vandalism loitering, car thefts, home and business owners will need twice as many supplies for the youth to remove graffiti. The proposal is based on numbers so why not consider the number of community thank yous and number of states and the success of antigraffiti program. Internationally recognized that is keeping neighborhoods safe for residents. Thank you. [applause]

>> Mayor Reed: Dorsh, C Pacheco, Israel Pacheco.

>> My name is Dorsa Siovoshi, I want to say please don't cut the schools, because people want to learn and be smart like their mom and dad, but even smarter. And when they grow up, they want to be smart. Thank you. [applause] Sasha Stuart and Pacheco together.

>> My name is Sasha Stewart, doing voluntary work. The very first send a message to the nation that we are not a divided nation but United. That we have positive solutions, instead to be cut cut cut to bring back the deficit of the city. We must generate money and all the social problems that capitalism created for the case won't disappear. Therefore by laying off 300 police firemen, the target once and the barrios, where the Nenos and Sutainos, we the people are not defeated, not conquered. The people are broke therefore, we must generate money. The mighty force descended throughout me a marvelous idea.

>> Mayor Reed: Sorry your time is up.

>> Okay.

>> Mayor Reed: C. Pacheco, Israel Pacheco and Rosa gross.

>> Good evening, my name is Chris Pacheco, a member of the community group ace. Here because of the neighborhood vacant homes. Today confronted by abandoned homes. These are houses posing a number of problems in the neighborhoods. They're often unmaintained with broken windows, peeling paint, tall dry grass and yards filled with garbage. These vacant foreclosed homes drag down prices in neighborhoods, increased services like policing, one recent study showed that one foreclosed home can cost city government up to \$35,000.

>> Hello, my name is Israel Pacheco. We need to hold these banks accountable for this mess. The state law SB 1137 allows cities to fine banks \$1100 a day, if they allow homes to be vacant and cause blight. Other cities are

using their blight ordinances as a convey of holding the banks accountable for damages they have done to our communities. The city of Riverside enforcement program became self-sustaining within two or three months after its foreclosure ordinance went into effect. In fiscal year 2010-2011 the city is projecting that it will earn around \$3.5 million in revenues from its foreclosure program.

>> Mayor Reed: After Rosa we'll have Ben Field and Debra basher.

>> Good evening council. The city's generating \$112,000 from registration fees and issuing \$1.4 million in fines. In relation the program's first year staffing cost were \$175,000. The City of Richmond issued almost \$1 million on just 35 fines. San José gives the banks too many chances and lets them off the hook. Why are we going after our libraries, community centers, firefighters and police officers, when we could be targeting the banks and holding the banks accountable for causing this financial mess, and foreclosure crisis? We urge the City of San José to begin implementing SB 1137 and fine the banks \$1,000 per day if they are allowing vacant homes to cause blight in our neighborhoods. We also support our union brothers and sisters and believe that the enforcement of SB 1137 would help save jobs and vital services. Thank you.

>> Mayor Reed: Ben Field, Debra basher, Ben Field, Sally Zarnowitz.

>> Good evening, mayor and city council. I'm Debbie basher, a proud member of MEF. I'm willing to give my fair share to reduce the deficit. I respectfully request that the council accept a true 10% reduction of salary and benefits as you have accepted for other bargaining units. I advocate the same benefit cuts across all bargaining units.

>> Mayor Reed: Ben Field.

>> I work for the South Bay labor council. In the course of this year's budget debate it is often been said that you have choice but to take certain actions but you do have choices. You chose to require a 10% cut for workers' pay, so far you have not chosen to require a similar reduction in the nonpersonnel part of the budget. So far you have

not chosen to require the RDA to repay the millions that it owes the city. Ironically saying that you have no choice has become a way of justifying the most indefensible choices. How can you justify the failure to do everything possible to put our neighborhoods first just say you didn't have a choice. We're not buying it. [cheering and applause]

>> Hi.

>> Mayor Reed: Okay, after Sally we'll have Shirley Hanson and then Mike hashimoto.

>> Sally Zarnowitz, San José resident. I have over 20 years experience with the development, design, entitlements and permitting and I've watched the planning division to be cut by 78% alone. Let's manage the resources that we have and let's invest in the people that provides services to this city. These are services that allow businesses to start, houses fob built, cities to be built, they're very important. We believe it is fiscally conservative to find ways to limit spending and to defer speculative liability. Until the economy can recover. Rather than dismantle the entire ship in the wake of a storm. As an example we've also identified that the plan to prefund retiree health care should not be included in the overall pension liability projections. This plan is akin to paying for future generations health care today.

>> Mayor Reed: Sorry your time is up.

>> Thank you very much.

>> Mayor Reed: Shirley Hanson, Bob Brownstein.

>> My name is Shirley Hanson and I'm a city employee. I'm here because I'm very troubled and I speak of my colleagues -- for my colleagues as well and I'm very tired too. I've been here since 7:00 but this is very important. I implore you, as a big city of faces that you have to yield a minute to but not necessarily listen to. Please I ask that you listen and know that we are individuals, we have stories and families and obligations like

you. When we chose to employ with the City of San José, we took an oath, to commit to loyalty. And we have kept our pledge. We get up every day and we come to work and with pride, we work as a team, and our goal is to provide excellent service to our customers. We care about the people that we serve. After years of service and commitment.

>> Mayor Reed: I'm sorry your time is up.

>> Thank you.

>> Mayor Reed: Mike Yoshimoto, Bob Brownstein. And then Lindsay Dow.

>> Honorable mayor and city council persons. My name is Mike Yoshimoto and I've been a true loyal employee for the City of San José for 13 years trying to make San José a better place to live and work for the citizens. I wish to speak in behalf of the labor negotiations which have abruptly stopped in the middle of the negotiations which have to this point primarily been one-sided. Please direct employee relations to be open minded to come to a win win solution so that the city, the taxpayers of city government, city employees can all become winners in this situation. Our proposals and that of the city are almost identical. I request that those be directed to look carefully and see that there isn't that much difference. Thank you. [applause]

>> Mayor Reed: Bob Brownstein, Lindsay Dow and then Pat Dandoo.

>> Mayor Reed and councilmembers. By shifting five to \$15 million to neighborhood services from supplies and equipment, from redevelopment, from senior management reductions and from banks that own blighted foreclosures. Last year, discuss and supplies in other nonpersonal areas. The city administration said no reductions were possible. Six months later, the city discovered, \$150,000 in nonpersonal and equipment could be saved from the city attorney's office by monitoring and prioritizing expenditures. Plus \$80,000 in I.T. Plus \$125,000 in HR plus \$85,000 in finance and more and more and more. I'm not saying the city administration

hasn't tried to preserve services. They have. But the community is absolutely right to say they need to try harder. The city council needs them -- needs to give them the direction to do so. Thank you.

>> Mayor Reed: Lindsay Dow. Followed by Pat Dando and Jessie Ysinieus.

>> There is so much evidence that gang activity, since Santa Cruz contracted out their antigraffiti services they've had a 600% increase in gang homicide and gang violence. The program works and we don't want to see the gang activity increase, we don't want to see an increase the homicide. Please please consider contracting in things that keep our city safe and that works. Patting Dando.

>> Good evening, mayor and council, Pat Dando, San José Silicon Valley chamber of commerce. The right deficit structural, deficit spending this isn't about trying to get rid of poor employees or bad programs. This is simply about not having enough money. After ten years, of councilmembers and mayors trying to resolve this problem, it's time to do something different. It's time to address the real root of the issue. And it appears that that has a great basis around pensions and benefits. I'd like to say that the goal of business is to look long term, find solutions that we don't see ourselves back here next year or for the next ten years. Let's make San José a place to do business, raise families, and to enjoy the quality of life that we are used to. I encourage you to stay with this budgets, stay with the tough decisions and bold leadership that's necessary to make these services. Thank you.

>> Mayor Reed: Jesse Insinius.

>> My name is Jesse insenius. I've been in the program for ten years. I'm not here because I'm reassigned or laid off or bumped. I'm here for the well-being of the children of the city I've lived in for over 35 years. They deserve a place to play with no blight or gang related graffiti, vulgar pictures up there and it just brings town the community and also the value of the homes. It's part of a big picture that that program needs to stay because actually we're almost hitting 100% of our goals. We're not here for the money. We're here because we care and we take pride in our work and we respond to everything, outside of our agencies, you know outside the city almost or the borders, CalTrans, CalTrain. I also wanted to say that outsourcing is a very bad idea, because it's not broke so why fix it?

>> Mayor Reed: Mark Ruffing (saying names)

>> Mr. Mayor and councilmembers, you have consistently displayed a lack of respect for our residents. It's really disappointing, to have to continually read in the paper about how everything is blamed on the employees. You need to provide real leadership. You need to find additional resources and revenue. We have the City Hall that there's a number of floors that could be rent out. It's like my situation at home. If I'm under water in my mortgage, I'm not going to blame my son and say well that's it, you know, you're kicked out. We're looking at options such as we may need to rent out rooms or if we can no longer afford the house, we have to sell it, to pay our bills. That's what we have with City Hall, this beautiful \$1 billion complex. Thank you.

>> Mayor Reed: Rita Tobaldo, then Mary Guzman and Paul. rang.

>> Good evening, mayor and city council members. I wanted to start by saying you had previously stated the well is dry for the city. But I will tell you, the wise man will dig another well to find water. We need to rise up to this occasion and find real solutions for our city. Cutting city services is not the answer and blaming city employees is not the answer. Thank you. [applause]

>> Mayor Reed: Mary Guzman followed by Paul Prange. And Max Reger.

>> Good evening, Chuck, the bear is back and the bear is roaring. We used to be number one, my husband there he's got Alzheimer's, he used to be doing antigraffiti but he can't anymore. I fight for the unions and all the people getting laid off. Get your scissors, throw them away. Community centers, we need you. I'm a senior. I work with the after school kids. I teach them how to make tortillas, biscuits, you know what Bandullas are, that's Puerto Rican food. And I teach them how to dry bananas, that's Cuban food. [Spanish] okay? And I'm well educated.

>> Mayor Reed: Sorry, no Mas. Your time is up. [Cheering]

>> Mayor Reed: Paul Prange, John Max Reger.

>> My name is John Max Reger, city employee for neighbor years, member of OE 3, steward, member of the negotiation team. It's a frustrating process being a negotiation administering. It is my third year I should say attempted negotiations. From the get-go my impression was that the city was not interested in true negotiations, give-and-take, creative solutions. It was your way or the highway. That's what it came down to. With respect to OE 3 you say, it's \$76 million for our benefits and all that. But for our members, 64% are funded out of the enterprise fund. So even if you got rid of everyone in OE 3 and those would be rangers, mechanics, HV mechanics, environmental, utter parking control sisters, water pollution control operators, electricians and painters only 27 million out of that \$78 million would go to the end. So at 10% across the board is not adequate. Thank you for your time.

>> Mayor Reed: Sorry, your time is up. Tia tran. Followed by Julie Lam and then Sylvia Lo.

>> Good evening, my name is Tim Tran. First of all, we need more hours for our rangers at Overfelt gardens for the last few years I've been medicating myself Chinese moon festival, and basically I've experienced myself grow tremendously. I've experienced myself become a better public speaker because I ax seated at the event. Also having rangers is a vital part of these young leaders like myself, and the volunteers for security oversight and beyond. Having Chinese moon festival is a great place for children showing their culture, rangers need hours, extend the hours for rangers at Overfelt garden, thank you very much.

>> Mayor Reed: Julie Lam, Sylvia lo and then Corazon Tomalinas.

>> Overfelt gardens is home to the Chinese cultural garden where all priceless and irreplaceable artifacts are gift to the citizens of San José. Graffiti has recently spiked due to the loss of ranger hours. Just last week there were 30 incidents of graffiti. It will only be a matter of time that it will hit our priceless treasures. Preserve the treasures in the Chinese cultural gardens. Thank you.

>> Mayor Reed: Sylvia Lo followed by Cora Tomalinas and John Chew.

>> Good evening, I'd like to first of all thank you for not having eliminated the entire ranger program. But I am here to support my team leaders on the Chinese moon festival by supporting the parks and supporting the rangers. I'm here to ask that Overfelt gardens, I just learned that at the end of June our ranger hours will be eliminated. And I'm here to ask that we be able to retain some of our hours for the security of the park, and also, for the many hours of moon festival volunteer over the summer. We need the rangers for protection and oversight. I have seen that gang members have begun to come in, and Julie just mentioned that last week, we had 30 -- about 30 incidences of graffiti.

>> Mayor Reed: I'm sorry, your time is up.

>> Thank you so much.

>> Mayor Reed: Cora Tomalinas, followed by John true and Joyce Wong.

>> Mayor Reed, honorable members of the city council and Ms. Figone. First of all, thank you so much for you all your work on the budget so far. My family and I our priority is public safety. But public safety is not only the police and the firefighters. It's the mayor's gang prevention task force, it is the graffiti clean justify crew. It is the strong neighborhood initiative. I know you need to cut services but please, let's think about it some more. I think that you said something about declaring emergency. Does emergency mean we now can use reserve, or borrow from Peter to pay Paul? Let's get back to the table first before June 17th. Thank you so much.

>> Mayor Reed: John true, Joyce Wong,.

>> I'm John true, I'm a student at independence high school. I came to speak in behalf of our city park rangers, I request that please do not decrease our park rangers hours because we need our park for families and friends to bond and recreate. There will be increase in violence. I really want our annual Chinese moon festival to continue,

that inspired me when I was little and I became a big leader when when the Chinese moon festival has happened. Please again, I addressed that, please do not cut our park rangers. Thank you.

>> Mayor Reed: Joyce Fong.

>> Good evening, councilmembers, my name is Joyce Fong and I also go to independence high school. First of all I would like to emphasize the importance of our park rangers, San José needs our park rangers because they help maintain and protected our natural parks and resources and without the rangers there will be no one to keep our parks clean and nobody will have the luxury of enjoying a beautiful place to spend their time in. And then also, the rangers are the ones who keep the parks safe from crime and like they said before, from graffiti. And for example, at Overfelt park, there's a lot of natural, like there's a lot of natural artifacts there and then the rangers will help -- if we have rangers we can help protect it. Also another specific thing like for independence high school, a lot of students are involved in the Chinese moon festival and without the rangers we can't have the festival. It's really important to us because I think -- because it gives a lot of the students leadership skills. Because they organize this all by themselves --

>> Mayor Reed: Your time is up. Sal Ventura, followed by Emilyence.

>> I'm Sol Ventura, I participated in contract negotiations with the City of San José for about the last 14 years. And up until about the last year and a half I've always had a sense of trust and mutual respect when deal with the City of San José. Last Friday I was contacted about the mayor's statement regarding this fiscal emergency and I tried to process that information with the sense of calm and rational thought, but I failed. I failed to remain calm and I failed to see any rationality. Let me say this to the members of the council who were part of that statement. Shame on you. Shame on you for taking a political stance against city employees and their unions. Shame on you for using a political ploy at a critical time in negotiations and shame on you for hiding behind a lame statement of hoping to bring resolution to negotiations as a reason for your support. All you've done is publicly declare war on city employees, the faithful and hardworking servants of our community and again I say shame on you.

>> Mayor Reed: Sorry your time is up. John Evans. After John, Emily Gatfield and Tina Wong.

>> Good evening, Chuck Reed. According to the second slide I've seen up here since you've been in the office, the budget has really grown. That's a good job. My suggestion is to leave, this is not the place, the well has run dry, you're better off having services or employment somewhere else.

>> Mayor Reed: Emily Gatfield, Tina Huan, followed by Blithia Williams.

>> Hi, thank you for your time. What I'm hearing are a lot of ideas for fixing the pension problem by reducing pensions. Tonight I've heard a lot of ideas for increasing revenue. And I think the people who have worked in good faith for the benefits they were promised, deserve your support. They deserve your efforts to preserve that for them. Mayor Reed, I volunteered on your compare, and I think you're a good man. I hope will fight for people who really aren't making a lot of money. Thank you. And Sam, you know I like yah and I'd really would rather see you fighting for the city employees. Thank you very much for your time.

>> Mayor Reed: Tina Huan then Blenthia Williams and Paula Wolk.

>> Good evening, my name is Tina Huan and I'm a student at independence high school. I must begin to say that I'm disappointed that for me as a committee member of the Chinese moon festival I've learned to organize events through collaboration with groups and officials in the community. Taking away the rangers means taking away the programs that fosters leadership skills and youth. In addition taking away rangers hours means taking away a sense of community. On a day of the festival I've actually spoken to members, who have confided in me of how wonderful the Chinese moon festival was, please, do not lower the rangers' hours. Otherwise, you're taking educational leadership opportunities for youth, to develop and events for the community to come together. Thank you.

>> Mayor Reed: Blinthia Williams, Paula Wolk. Paula Martinez. RichardZepelli. Patricia Romas, I don't think there's anybody left in the overflow rooms. If there are we got plenty of room in here, come on in.

>> Good evening, Mayor Reed, councilmembers, we, I'm here tonight for the Willow Glen neighborhood association letting you know that last week I asked for three to six months. I've already talked to leaders in the industry that are willing to step forward, they have grants available to help support the San José youth commission and I know this is dear to your hearts. Please work with us, give us a time to work together and work with the city and save this program. Thank you very much. [applause]

>> Mayor Reed: Keeping track of where we are. Give me your name.

>> Paula Martinez.

>> Mayor Reed: Patricia Ramos and Gary Sandoval.

>> I work in District 8, a city resident for 20 years and AFSCME member. We did not create this financial problem. 60% of our pension program comes from the stock market and employees own contributions. The stock market is already repounding. From what I understand mayor these numbers you have are based on 2009 market returns and remember we city workers do not get Social Security. I have seen a lot of city administrations come and go in my 20 years. One thing that remains the same, the city has always been top heavy with upper level management. Why does the city continue to pay consultants up wards of a half million or more, the city has directors and assistant directors who can do this job internally, just as you're asking for us to double our workload with less staff, mayor and council, what drastic concessions have you given up? And come reelection day we will remember which of you were there for us. Councilmember Herrera I'm counting on you.

>> Mayor Reed: Patricia Ramos, [cheering and applause] Followed by Gary Sandoval. Brett Benitez and Reginald Swilley.

>> I was a city employee for 33 years. I was a very proud city employee with experience and knowledge. In these past five years what we've seen is a reduction in field staff, people with lots of experience, knowing the job and what we see on the other hand, administration creating these new management positions that are appointed. People that have less than three years of experience maybe one year working with some of the new commissions, while we have people who have been working with these commissioners or eight or ten years of experience. Why use what you have now and don't lay them off. You are paying a person \$110,000 a year versus someone who only makes 40 to \$50,000. The math, that's the problem with this budget. We're hiring too many administrators, managers and SNI was a perfect example. Five managers who were doing my job. Each of us were only making 40% what these individuals were making. That's where things went wrong, as long as there was more money more top management we cannot blame this --

>> Mayor Reed: Sorry your time is up. [cheering and applause]

>> Mayor Reed: Gary Sandoval, Brett Benitez.

>> My name is Gary Sandoval I work for the City of San José. I'm here because I'm tired of hearing the Mercury News, Chuck Reed and his councilpeople blaming the city workers why we're in this deficit. The council spends their money foolishly. They did grand prix racing, built this Taj Mahal. You guys spent money foolishly. We're not the reason the city's in deficit. The council is. You need to spend the money more properly and stop blaming us for the deficit. You guys need to be the ones leaving, not us.

>> Mayor Reed: Brett Benitez and Reginald Swilley. That's the last card I have. If you put in a card please come on down.

>> Hi, how you doing. I don't have a solution to the problem. I work with the antigraffiti program. We all love what we do. We take pride in what we do. What you don't see is during a difficult time that we come in every morning, we set at our tables and we smile and we laugh and we figure out how we can have a solution, go out and do more and more work. We love our jobs very much. We take pride in it. I can't emphasize that enough. I treat all

your districts like they were my home. And I take care of it. We all do. But I would like to do is say thank you for providing me with pride, passion, and integrity. Because I know that you can't buy that with a contractor. You'll never get the same results that we give you every day. Thank you. [applause]

>> Thanks for the opportunity to speak to you. You know, I'm saddened that this processing very much like what's been going on around the country, we know there's been a tactical thing from the right wing, moneys coming out South, billionaires funding people like the chamber to come in and do this exact thing around the country. It hurt my heart to find out this was happening here in San José. Nobody would go and decide to run for this office, to represent the people of this city, and the chamber of commerce send one or two people, we know who they're speaking for and those two voices for the rich class, that's funding the chamber that we've been having to deal with this all across the country, they come and speak and their voices mean more than the citizens of this city. We should not do this, that there's people that work for this city are being -- are antagonistic against you. You guys come to us and ask for votes so that you can represent our city. And we hope that you can do for this city now what the people in front of you did, may the great city of San José, please don't destroy it. [applause] [applause]

>> Mayor Reed: That concludes the public testimony on this part of the budget hearings. We have more study sessions ahead of us the rest of the week. And then the council will vote on the budget in June. So it will be a couple more weeks before we get to making decisions. Thank you all for participating. Thanks for being engaged. We appreciate your effort to come out and speak to us. That concludes our meeting. We're adjourned.