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[Gavel]

>> Mayor Reed: Good afternoon. I'd like to call the City of San José city council meeting to order. First item on the agenda is our invocation. Councilmember Kalra will introduce the invocator.

>> Councilmember Kalra: Thank you, Mayor Reed. I'm pleased to have here with us today pastor Bill Buchholz, the senior pastor with family community church. That many, I know many, if not everyone up here, has been there for some purpose or the other. Pastor Bill is the founding pastor of family community church, in 1983, a nondenominational church in south San José, now with over 5500 attendees. In 2005, Outreach magazine listed Family Community Church as one of the 100 fastest growing congregations in the United States. In 2006, Dr. Rick Warren, who made the inauguration prayer for president Obama, presented family community church with the church help award an award that Dr. Warren gives to 47 congregations internationally, that excel in providing ministry, that promotes positive life change and substantial community development. Family community church has a large campus that is used by many Silicon Valley civic groups such as the San José police department for its graduation and promotion ceremonies, and the annual Oak Grove school district's Hispanic student achievement award celebration. So I want to take the opportunity to thank pastor Buchholz and family community church for all they do for the community. Please, pastor Bill.

>> Thank you. I would like to just before I pray say thank you to each of you. Sometimes we pray and you don't recognize the work that you do and I know several of you from appearing before you for different matters over the years, and I think it's safe to say that you're underappreciated, probably undercompensated and overly criticized from time to time, but I know from our congregation we would say thank you for the work that you do. We appreciate each and every one of you, even though we don't agree with all the issues in these chambers with the people that come before you I can honestly say that there is not a one of you who serve here because you don't want to serve the people. On behalf of us here in these chambers we say thank you. You can go ahead and clap, that's not a bad thing. Now we'll take the offering. Just kidding. [Laughter]

>> Let's pray. Father, we thank you for this chance to be in these chambers today. We have people that are hurting. We have a nation that is struggling. Economies are reeling. But yet there's hope, there's hope because there are people that sit down in meetings like this all across our country on days like this, and it might be cloudy outside, but you can give us acuity of mind and sharp thoughts and thinking to come up with solutions that will make this place a better place to live. We're grateful that this city is a great city. It is one of the greatest in the nation. We're thankful God for the leaders on this council. So as we begin to deliberate today we pray for wisdom beyond our experience, we pray for an appreciation of the diversity of the different people that live in the community so that solutions can come forward in meetings like this and others that follow, that bring us all closer together. Bless this time, bless this day, and bless each of the councilmembers, and our mayor, for the service that they provide to us. We ask this in Christ's name amen.

>> Mayor Reed: Thank you. We'll now do the pledge of allegiance. I'd like to invite our guests in the back of the room to stand up and help us in the pledge of allegiance. What school are you from? District 1. Thank you for coming. [pledge of allegiance]

>> Mayor Reed: Thank you, good job, thank you for helping us out. Our first item of business are the orders of the day. I have a couple of items that need to be changed from the printed agenda. Item 2.3A, rules report of January 13th, and 2.3 D, transportation and environment committee report of January 11th need to be deferred one week. Item 3.4 the fiscal year 09-10 first quarter revenues collection strategic plan collection report delayed one week. Any other changes to the printed agenda? Motion is to approve the orders of the day. All in favor? Opposed? None opposed, those are approved. Closed session report, City Attorney.

>> City Attorney Doyle: Mr. Mayor the council met in closed session pursuant to notice this morning, no report.

>> Mayor Reed: We'll now take up the ceremonial items. I'd like to invite Councilmembers Campos and Kalra and all the women on our council, along with representatives of the American heart association, to join me at the podium, as we proclaim go red day for women in the city of San José. Today we have a proclamation to issue declaring February 5th, 2010 as national wear red day in the City of San José. Councilmember Campos has some of the details.

>> Councilmember Campos: Thank you, mayor. We are here today to proclaim Friday, February 5th, national wear red day in the City of San José. National wear red day is part of the American heart association go red for women campaign. And for many years, I, along with my colleagues on the city

council and the mayor, have participated in increasing awareness about heart health. Diseases of the heart are the leading cause of death in the United States and claim the lives of 450,000 American women each year. Let me say that number again. 450,000 American women each year. It is essential that we all take responsibility for our own heart health and make smart choices relating to the proper nutrition and physical activity. As elected officials we have a unique opportunity to bring public attention to the importance of leading a healthy life. I am proud to say that like last year, the rotunda will be lit up in red on Friday evening, in an effort to bring attention to the importance of taking charge of our own heart health. With that I'd like to ask the mayor to present the proclamation to the executive director of the American heart association. And I'm going to ask Councilmember Kalra if he wants to say a few words and then we will ask Carey to say a few words.

>> Councilmember Kalra: Thank you, Councilmember Campos. You know, this is an issue that is extremely important to all of us. I think we all have women in our lives who are very important to us. I know as someone of south Asian descent, south Asians are four times more likely to suffer from heart disease, and that's why that is something that is particularly important to me. And so I just want to thank like Councilmember Campos for making sure that we're all aware of this important issue and how it affects women and thank the mayor as well for presenting the proclamation.

>> On behalf of the American heart association, I would like to thank the City of San José for the continued support of the go red for women movement, thank you. [applause]

>> Mayor Reed: And one last word for all you guys out there. Your wives, your mothers, your spouses, your friends, tell them to take a minute and think about their health. They're all busy, working hard but at least on Friday, February 5th, remind them to take care of themselves. Thank you all. Next I'd like to invite Councilmember Kalra and Rajesh Burma, president of the Federated Indian Association, to join me at the podium. Today we are recognizing India's republic day, a celebration of the date when the constitution of India came into force. Councilmember Kalra has the details.

>> Councilmember Kalra: Thank you, mayor. I'm very honored to have the opportunity today to recognize India's republic day, and I'm honored as well to have with me Rajesh Burma, who is the president of the Federated Indian Association of Northern California, and my very own father who is here in the audience as well, Satia Kalra. This country, the United States of America, was founded over 200 years ago, and although there is much more prominence given to July 4th and the nation's independence the reality is that the true aspect of our nation that's remarkable is the constitution.

That's really what was the historical significance of this country has really -- what really created a domino affect around the world that changed the course of human history. So I'm very proud to have my country come from a country that followed in the footsteps of the United States of America that adopted a constitution January 5th, 1950. Celebrated in much celebration in India and the capital and many places around the country. I'm very proud to have taken part in different republic day celebrations over the past week, here throughout the Bay area, in particular Sunday evening, FIA of Northern California, in Newark, had a great celebration. Councilmembers Herrera and Chu were there along with me in celebrating Republic Day. And I'm very happy and proud to say that the president of FIA, which recognized Republic Day, as well as Indian independence, is Rajesh Burma, who is one of our own, he works here in the City of San José in the Public Works department. So it's great to be able to recognize this day with one of our family members here at the City of San José. So mayor, I'd ask if you could present the proclamation to Mr. Burma and ask Mr. Burma to say a few words as well.

>> Thank you, councilperson Ash Kalra. Last Sunday at the Newark pavilion we celebrate 61st republic day of India. That day there were 500, 600 people. Today I don't see anybody. But there are many Indo-Americans in the city who are contributing to the development of the city and providing services. So on behalf of all the members of the Federation of Indo-American associations, and members and board members, I accept this proclamation and thank this distinguished body over here who has given us so much support. And especially thanks go to councilperson ash Kalra and councilperson Rose Herrera and councilperson Kansen Chu who made time available and came to our event last Sunday in the evening. And just I'll conclude by inviting all of you including the City of San José city council we're going to have a federation of Indo-American Association Festival of India program August 14 and 15. Official invitation will of course come. Thank you so much. [applause]

>> Mayor Reed: Our next item is the consent calendar. Are there items councilmembers would like to pull for discussion? Item 2.5 the agreement with the Team San José for management of the convention center and cultural facilities. Other requests? Motion is to approve the balance, all in favor opposed, none

opposed, that's approved. I have one request from the public to speak on item 2.5, the Team San José arrangement, Mr. Wall.

>> David Wall: Good afternoon. Commentary at this late stage to the negative would not be helpful. However, it would be very prudent to communicate the following concern. This is the last time that excuse-making should be tendered from this entity. Whatever those excuses are, for nonperformance, market indicators are known to professionals, and to assert that is an umbrella for protection for other misdeeds, is not acceptable. I would also voice concern, I'm tired of seeing third party entities in charge of city employees and their livelihoods. The city employees of the convention center, et al., should not have to be subjected to the substandard management decisions and practices of a third party. That is not in keeping with civil service rules. Lastly I would like to add a possible entertainment venue or item for them to consider that I put forth several times before the Community and Economic Development committee. Try blue grass music festival. There's a lot of money in that. Thank you.

>> Mayor Reed: That concludes the public testimony. I had one question on this. This provides for an annual performance audit which due to the way the calendar works we get them six, eight months after the end of the year, and I don't know if there's any way to speed up the process so that we're finished with the year and we're talking about the year somewhat before the time period we're in right now. If we can improve on that cycle some way, if we need something in this agreement to allow us to do that?

>> Sharon Erickson: Sharon Erickson, City Auditor. Actually, the agreement does call for a quicker auditing, and what we'll have to do is use unaudited figures for some of the -- potentially for some of the performance measures that we calculate. What that means is, in the past and for example later on your agenda, you'll see our review of last year's performance measures. Those were based on the audited financials coming out from the external auditor which doesn't generally happen until December-January time frame. So we'll speed that up next year is the expectation.

>> Mayor Reed: This particular contract doesn't have to be modified in order to allow to you do that?

>> Sharon Erickson: No.

>> Mayor Reed: Okay, good. Any further questions? Is there a motion? There is a motion to approve. All in favor, opposed, none opposed, that's approved. That concludes the centering. Item 3.1. Report of the City Manager.

>> City Manager Figone: (inaudible) paper the county assessor's office has released information (inaudible) the drop as a result of the decline in California's consumer price index which limits the amount of increase allowed to assessed values. Since prop 13, was passed in 1978, the CPI has exceeded the 2% limit in all but six years and this is the first time it has been negative. The City's budget office works closely with the county assessor's office and a drop in the property tax receipts was already projected in the 2010-11 General Fund forecast. We will however continue to monitor assessment information to determine whether further adjustments may be necessary, as the forecast is finalized. The final General Fund forecast is scheduled to be released at the end of this month. And that concludes my report.

>> Mayor Reed: We'll now turn to item 3.2, ocommunity satisfaction survey. This is something we do every two years I believe. Tom Manheim will take over the presentation.

>> Tom Manheim: Thank you very much. I'll just do a brief introduction. This is the sixth time we have conducted the community satisfaction survey. This year, we actually did include cell phone users, the council raised that issue I believe the last time we came forward with the council and we now came forward with a survey, we have now developed a methodology which does include them. Another change in this year's survey is for the first time we've always asked for residents to rate various service areas. This time we've added a question, that actually gets to the importance that the residents place on those same services. Overall Dave Metz, partner in Fairbanks Mullin Maslin Mullin and metz will do the if you presentation but just two things I'll call to your attention now. In general satisfaction levels remain high, although we've seen some slight slippage. We've also seen some slippage in the area where residents are rating very specific services. And that's really the first time we've seen that kind of slippage which we surmise reflects the fact that over the last few years we have in fact had to do some significant reductions, budget reductions and we're now seeing signs that residents are seeing the effects of those budget reductions. So that I will turn this over to Mr. Metz for a more detailed presentation.

>> Thank you very much, Mr. Mayor, members of the council, members of the public it's a pleasure to be with you today. I am David Metz with FM 3 research and I'm going to walk through a very brief presentation of some of the highlights of the community satisfaction survey. We've submitted a detailed report to the city as well as a full set of cross tabulated survey results that go into much depth. After I go over the overview I'll be happy to answer any questions any of you might have. First, just to briefly note

the methodology of the survey, we conducted 909 telephone interviews with adult residents of San José. As Mr. Manheim mentioned, this year we changed the methodology of the survey to include interviews conducted on cell phones. 101 of the interviews were done with residents who were not only on a cell phone at the time of the interview or said they solely or mostly use cell phones for their telephone calls. As in prior years the survey was conducted in English, Spanish and Vietnamese and for the overall results I'm going to show you there is a margin of error of plus or minus 3.3%. One consistent finding that we've seen over the decade that we've been doing the survey is residents of the city continue to believe that it's a very good place to live. The initial question or one of the initial questions in the survey has asked the respondents to indicate whether they view San José as an excellent, good, just average, poor, or extremely poor place to live. And as you'll see since 2000 we've had consistent majorities, usually more than three quarters of local residents rating the City's quality of life as excellent or good. And it's particularly noteworthy that over the past decade the portion that rate it as excellent has risen consistently high over the last couple of years. This is not to say that there are not some issues that they identify as concerns and every survey has included a question where we ask the respondents to tell us in their own words what they view as the most serious issue facing San José that city government should do something about. You'll see here the proportions that volunteered a variety of issues over the course of the ten years we've been doing the survey, and there's been a striking change since the initial survey in 2000 in their responses. In 2000 housing costs and traffic congestion dominated the concerns the residents expressed. The level of concern about both of those issues has reached a ten year low in this year's survey. Only 7% mentioning traffic, 5% mentioning housing costs as their top concern. Obviously economic changes explain a great deal of that shift. In their place the issues that have risen to become more prominent concerns for local residents is first of all crime, when in the initial survey only 9% mentioned that, that has now more than doubled to over 22%. General economic concerns at 11%. We also have another 3% that mentioned the cost of living specifically as a concern. So those two factors reflect heightened concern about the economy. As I mentioned this is an open ended question, so residents were able to tell us anything that was on their minds, the most serious issue facing the city and this slide shows some of the other diverse issues that were mentioned. Each of these were only mentioned by about 1% of those shared, they are not wide concerns but give you an idea that residents do see that they would like the city to address. Given the focus on crime as the top concern for local residents it's worth looking at the results they question which asked the respondents to indicate how safe they feel in various parts of the city. We asked them whether they feel safe in their own neighborhood, in the park closest to their home and in the downtown area. We asked them separately how they feel during the day and during the evening. You'll see an evolution of people's feelings over the decade that they've been done, relatively little change overall, in their own residents, only a little over a third saying that they feel safe in the downtown area at night, but there's been a significant increase in the proportion who say they feel safe in the downtown in a day, that's risen from 62% in 2000 up to 71% in this year's survey. Now we also have a series of questions stepping away from the quality of life generally where we focus specifically on city services and ask the respondents to evaluate them. And we begin with a broad question in which we ask them to tell us whether they are generally satisfied or dissatisfied with the services that the city provides. And as you'll see, again we've had very consistent results over the course of the last few years. Currently, 74% of residents indicate they're satisfied with city services, that's a number that's roughly the same as it's been over the course of the last few years but it's particularly striking that the portion that say they are very satisfied has gone up. In fact in this year's survey, at 23% hit a high point. As Mr. Manheim noted this year we did see, the portion that rated the quality of variety of specific services as being excellent or good, not huge declines, but noteworthy, and perhaps what these numbers reflect is an awareness that the city's resources are constrained, that there is not the same ability to provide services that there was when the economy was stronger and therefore, you may be seeing some appreciation from residents about the overall job did city's doing in that environment. The next three slides highlight the reactions that residents offered for some of these specific service areas. And they were asked to rate each of these services as either excellent, good, just average, poor or extremely poor. This slide highlights the services they tended to rate most highly, and as we have seen in most of our past surveys, library services were at the top of the list, with 74% rating them excellent or good. Those numbers have moved up significantly since 2000. Police protection, operation of the airport, park maintenance and enforcement of traffic laws also score very highly. This is the middle tier of services. Almost all of these are rated positively by a majority of residents and none of them are rated negatively, are yellow bars begin to grow and these are services where there are significant numbers of

residents who say they don't know enough to offer an opinion. For services like animal control, for example, again overall very positive ratings. This final slide highlights the services that got the lowest overall positive ratings. And in most cases this was simply these services were ones with which the residents were least familiar. At the bottom of the slide, helping seniors live on their own. About half of the residents said they didn't know enough of an opinion, Woo were more than three times the proportion who offered a negative rating at 9%. So while there may be varying degrees of awareness, the city services in virtually every case, those who do offer and opinion rate them positively by fairly wide margins. Now, as Mr. Manheim mentioned, we did introduce a new question in this year's survey, where as well as walking through the list of services that I just showed you, and asking the respondents to indicate -- give a rating for the quality of those services, we also asked them to indicate how important they thought each of those services was to them personally. And that allows us to put together a grid where we can take each service and rate its importance and residents satisfaction with that service simultaneously. You will see some detailed analysis of these two questions in the survey report but it's worth highlighting briefly here how services break out into four quadrants, if you look at did responses to these questions. The upper right-hand slide of this slide is a category for services where a majority of those offering an opinion expressed satisfaction and a majority also rated them as extremely or very important. The vast majority of services that we asked about fell into this category. Residents see them as high priorities and are generally satisfied with the job the city is doing in that area. On the lower right we see services that they rate as being of lower importance but still express high satisfaction. And public art was the one service that fell into that category. In the upper left we see services that they view as having high importance but where there's satisfaction amongst those expressing an opinion is less than half and the two services that fell into this category were providing after school programs an area where we have seen some deterioration in satisfaction over the course of the last few years, most likely reflecting budget cuts and then also planning for the city's future growth, which consistently has been an area that residents have offered lower ratings for. Now, we also, in closing, had a couple of questions about the interaction that residents had with city employees directly. And as we've consistently seen, about a third of residents tell us in the prior two years before each survey is conducted they had direct contact either in person or by telephone with a city employee. And when that subgroup was then asked to rate the satisfaction that they felt with their interaction with the city employees, we see very, very high satisfaction scores overall. Total of 81% say they were satisfied with the courtesy of the employee they interacted with, 77% with the competence that the employee showed in handling their issue, and 74% with the timeliness of the response. These strong positive ratings again have been very consistent every year that we've done the survey and they reflect a very high and widely shared degree of satisfaction among local residents. One final question to note is one that we introduced in the 2007 survey for the first time. And it deals with the openness and accountability of city government. We asked the residents to indicate how constant they were that San José operates in an open and accountable way and in this year's survey 73% indicated that they were at least somewhat confident in the openness and accountability of city government. Now, that represents an 8% decline, since 2007, in the proportion who express that degree of confidence. But there's a couple of caveats that I want to attach to that shift over time. The first is that all of it came in that last category, of somewhat confident. So those who feel strong -- there is just as many today as two years ago who feel strongly confident in the openness and accountability of government, those who were a little bit shaky perhaps two years ago may have less confidence today. But the other thing that I would note is that these changes over the last two years come in an environment where the public's confidence in all levels of government certainly state government here in California and increasingly in recent months the federal government as well, public confidence in those levels of government has dropped dramatically. So some of the numbers we're seeing here for San José may not be a reflection of residents specific evaluation of the city's performance in this area but may reflect some of their more broad and general feeling of government. Those are a key areas and overview, and I would be happy to answer any questions you all have.

>> Mayor Reed: Couple of questions. First, could you distribute copies of your PowerPoint presentation, because I like the color so much better than the black-and-white version that I have in the hard copy.

>> Tom Manheim: We did not, but we can certainly do that. I'm actually trying to find out -- we thought they would be distributed online in color. I'm not sure what happened. My apologies on that.

>> Mayor Reed: Maybe they have. I just don't know about it. But having the color slides that you presented today are very helpful, and if you could get those to us, that would be helpful to all of us. One comment I want to thank all of our city employees. If you look at the satisfaction with the services that are

provided by the city, we have 6600 employees who provide those services. They don't happen by accident. And if you look since 2001 to date, we have 800 less people providing services and yet, we still have very good satisfaction by the people of San José for the services that are provided. So you just got to thank the employees. There is no way around that fact that they've done a great job. We've asked them to do more with less, they've done that, and they've done a great job delivering the services even though there's a lot less employees. Another question I had had to do with the open ended question about what are the most important issues that you think the city should do something about. That, that slide when you get down into the 1% category one of those in there is police issues/excessive force. That has gotten a lot of media coverage over the last few months so I'm curious as to, it's 1% across the city. What is it in Latino community?

>> I'd have to go back and look at the numbers. I believe it was also 1% in the Latino community.

>> Mayor Reed: And how about the younger 18 to 30 category?

>> I'd have to take a look back to get the exact number but on that issue there was not significant variation by demographic or geographic group within the city. It was mentioned by relatively few respondents across the board.

>> Mayor Reed: And what about the Asian?

>> By ethnicity there was very little difference in response to that question.

>> Mayor Reed: Okay. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor and I'd sort of like to second your introductory comments in that I'm very proud of the city employees we do have to get these kinds of numbers and knowing that we've had to cut back on the resources they have in order to provide services I think that says a lot about the quality of services, and most importantly, the quality of employees we have here with the city. I have a question regarding one of the graphs here, and I read more about it in the report, regarding how people feel, how safe people feel both in the downtown or in their parks. And the question I have is, you know, was that cross-referenced, I know it was cross-referenced by age, ethnicity, and what have you. People that are younger tend to feel more safe whether it's the parks or downtown. Was there also a cross-reference with how often, and I saw that existed with the park visits, but I didn't -- I don't know if it was done specifically for downtown as to how often people go downtown and then cross-reference what their feelings are. So if someone hasn't gone downtown in the last year and feels it's safe, while someone goes every week and feels it's safe, do we have a way of gauging that? So basically what the numbers are, folks that actually go to the park in their neighborhood or go downtown?

>> Sure. And that's a very good question. In prior years to address that issue we had a separate question where we asked people how often they visited the downtown area and what we saw consistently was that there was an inverse relationship. The more often you visited downtown the more likely you were to say you felt safe there, the less often you visited the less likely you would say you felt safe. Because they were consistent over time, we deleted that question from this year's survey in order to make room for some of the other new questions we explored. But that relationship was something we saw steadily from year to year.

>> Councilmember Kalra: And I get that you're going to get that inverse relationship and maybe in the future, I'm not an expert in creating these kinds of surveys but a thought is once you determine a population that does regularly go to the park or does regularly go downtown, finding some kind of questioning that allows them to gauge whether there's been improvement or not. So they can say? You know, if you've gone X amount of times pass here you can ask those people their experience. Do you feel it's safer this year than last, to gauge people going downtown rather than -- it's not helpful to just get a number of 37% feel it's safe downtown, how many of those are actually going downtown? Now the ones going downtown they obviously people it's safer, do they feel safer than it was two years ago or last year or do they see an improvement or not? And so something that gives you a little bit more to go on but I understand that's a tricky, it's tricky to get meaningful information out of that line of questioning and I would say the same thing about the parks. If someone is not using the parks and they don't feel safe there that's not necessarily meaningful. It is to some extent if you want to make sure everyone feel safe, that the downtown is safe too, that it's safe to come downtown maybe what this will help us with is looking at the numbers trying to figure out which demographic groups that we may want to think about the targeting in terms of letting them know the parks are safe, downtown is safe or finding ways to reach out to them. But anyway, thank you very much for the report.

>> Thank you.

>> Mayor Reed: Other questions or comments? Councilmember Constant.

>> Councilmember Constant: Just a quick question. Are the cross tabs available to us?

>> Tom Manheim: Yes, they are. I'll be happy to distribute those electronically. Are it's a fairly thick book.

>> Councilmember Constant: Thank you, I'd just be interested in seeing that.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I'd like to know what next steps are from the information gleaned from the report.

>> Tom Manheim: The information is used in reporting performance measures in the departments in the budget documents. That is actually the core purpose of this survey and the information has been distributed out to the department so they can start using that information.

>> Councilmember Pyle: And this will help us help guide us with the budget process as well, I'm sure.

>> Tom Manheim: It helps guide the budget process. It tells you the effects of your -- the budget, previous budget decisions. It begins -- it allows you to see how there is a direct connection between the performance of the organization and the resources we have.

>> Councilmember Pyle: I'd like to just echo the mayor's sentiments in reference to the fantastic job our employees are doing. I'm very proud of them as well. Thank you.

>> Mayor Reed: On that point we will also, on next week's agenda be talking about another poll that we completed more specifically on some -- on budget issues but both that poll and this poll are part of ultimately us getting to a budget in May, both in setting priorities and understanding what's important to our community. Any more questions? I think not. Do we need to take action on this? Just a report. It is what it is.

>> Tom Manheim: Just accept the report. Motion is to accept the report. All in favor opposed, none opposed, that's approved. Thank you very much.

>> Thank you.

>> Mayor Reed: Our next item 3.3, candidate screening criteria and interview panel composition for independent police auditor executive recruitment.

>> Good afternoon, Mr. Mayor, members of council. Mark Danaj, director of human resources, and I'm joined by our deputy director, Heather Ruiz, and Bill Avery, of Avery and Associates, the search firm that you selected to conduct the research. We have a short presentation today to just provide some context on what you're being asked to do today. We begin by providing you just a -- again brief update and context of what has been done, what you're being asked to do today and the next steps related to the search. As item 1 begins we start by selecting a search firm, Avery and associates. We were then back at council in the month of November to get your approval on the recruitment time line. The actual profile that would guide the recruitment as well as a conflict of interest form. Since then, the recruitment has been underway, advertised, outreached to the applicants as well as receiving applicants. And then there's been a variety of efforts to engage stakeholders and the community in the search itself. Today's item listed as number 5 we're here to get your approval on the ideal candidate screening criteria as well as providing a recommendation for the selection panels in interviews. Just a bit more of context, the next step will be for the search consultant to present to you the candidates themselves, followed by panel community interviews, and the council selecting finalists to interview yourself and then ultimately background checks and an offer, all scheduled to end at the end of March. In addition, given the interest on the outreach that's been conducted to date, we're taking a few moments to provide you with some background on that outreach. The outreach began with one on one meetings with a variety of stakeholders including councilmembers, POA and other organizational individuals. There was a special meeting held of the IPAC, the independent police auditor advisory committee. There was a special e-mail account set up on the search consultant's Website in which individuals were invited to provide additional feedback, and that e-mail was sent out to 16 different stakeholders, 16 different stakeholder groups, to request feedback. In addition to that, a flier was presented at the La Raza round table in Spanish. Individual contacts were made via e-mail and telephone by the consultants. An additional community meeting at the direction of the council was held this past January. This community meeting had a limited turnout, but e-mail invitations were sent out to over 250 different individuals, representing 50-some different stakeholder groups. And then lastly, the consultant was invited to attend a meeting of the coalition of justice and accountability, and that was held on January 19th. Lastly, the actual items that are a part of the agenda item for you today are to ask you to approve the criteria for the consultant to take into account in doing their final screening, and lastly to provide direction on the composition of community interview panels. With that we're here to take your questions on this item.

>> Mayor Reed: Thank you. Councilmember Nguyen I do have some cards from the public, who want to speak on this item. You want to take that first or --

>> Councilmember Nguyen: That would be fine.

>> Mayor Reed: Why don't we have that, that way we'll have the input from the community before we get into discussion. Betsy Wolf Graves, Kathleen Flynn, Ross Signorino. Please come on down so you're close to the microphone. We'll cut the commute time when it's your turn. Ross you're closest. Why don't you go ahead and start out.

>> Ross Signorino: Thank you, Mr. Mayor on this particular subject of auditing. I won't dwell too long on it. I'm sure you think it's a good thing and you know what has to be done. Checks and balances in our system of government is excellent. But I also think there should be another type of audit, civilian audit, where the police department or people in law enforcement can go to and issue their issues, to them as well. What about the neighborhood? What type of neighborhoods, what they don't like about the neighborhoods, what they don't like maybe about certain ethnic groups and so on that they should be able to voice their opinion and whether their hours are good, what hours and whether it's the downtown area that they have to be in, it's unsafe or whether -- so they, too, must have someplace to go where they can air their grievances the same as the civilian population go to, and give their grievance about the police department and the police department law enforcement people can go and give their grievance how they feel about the population of the people in San José. Whether it's easy to take care of them or not. That, too, must be considered. I think it would be a great help if nothing else but psychologically, they can go and at least air my opinion there. Thank you. I think that should be considered. Thank you.

>> Mayor Reed: Betsy Wolf Graves, Kathleen Flynn, Timon norimoto.

>> Hi. I think you mentioned that a representative from Avery associates met with the coalition for justice and accountability at the end of January and at that time I was shocked to find out that they had held two meetings and at one meeting no one showed up. And at the other meeting, three people showed up. They had put out a request for e-mail responses to which I responded, but I was one of four or five people only who responded. So what I want to focus on is, lack of outreach. It seems to me that Avery is very well meaning and the representative was very nice and very courteous. But I think they stuck to City Hall too much, forgetting that City Hall represents the community. So what I'm asking is that there be an extension so we can have more community outreach for specific groups, ethnic, racial, which were not particularly covered. Because after all, City Hall does represent the citizens of San José. So this is my request, that there be an extension, that Avery and associates be held accountable by HR to do what they intend to do, because after all, we are looking at the banks, and we did not want the banks overseen by the fed that goes into work for the banks, it's like a revolving door. Well, we don't want the police department overseen by somebody who's closely connected with the police department. So we think a representative of the community is more likely to be more objective and neutral. So what I'm asking for --

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

>> Is community outreach and --

>> Mayor Reed: I'm sorry your time is up. Kathleen Flynn is our next speaker followed by Timon norimoto and Socorro McCord.

>> Good afternoon. I'm here to support Councilmember Chu and Kalra's request for an extension. I also want to thank the IPA on writing a blog on protect San José that's wonderful new outreach and as the former speaker said, I really do think the lack of inclusion is a real serious issue. And I did write you my commentary, my thoughts, hopefully your aides passed them on. Thank you, Kansen and ash, I appreciate it, thank you.

>> Mayor Reed: Timon Norimoto, Socorro McCord, Marissa Saito.

>> Good afternoon, my name is Timon Norimoto, and I represent AACI, Asian Americans for Community Involvement. I am here to also support Councilmember Kalra and Councilmember Chu's memo for an extension. Unfortunately, the community outreach to date has not been stellar. Yes, they have done -- made efforts to reach out to the community but because they did not partner with community organizations such as AACI or work with the different council offices I believe those are the results, that's what caused the dismal results of poor attendance. For example I came here in November, and showed interest in this issue and spoke before you, however I was not notified of January 6th meeting. Other members of my organization, also expressed interest and our openness to work with the selection process with the community outreach but we were never contacted. For a position like the independent police auditor which requires so much trust by the community I think it's important also that the community has a voice and feel that the government is open to them and receptive to their input, and we would need

to make the best effort. The extension calls for two weeks. I don't think that that is something that is excessive and I believe we should give this so the community has an opportunity. Just to know, I'm having an event on February 4th, this coming Thursday, I already have 85 people RSVPed, the community does care, the community does want to give input, let's give them a chance, thank you.

>> Mayor Reed: Socorro McCord, Marissa Saito, Christian Hemingway.

>> Good afternoon. I was also here in support of the extension that was requested by councilmembers Chu and Kalra. I thank them so much. Community outreach has been so skimp. On the screen they showed there was outreach to IPAC and I'm a member of that group. We got a two-day notice for the October 15th meeting, and because we're busy people, none of us could have attended that. And I'm afraid that that is what has happened, perhaps in the rest of their outreach. Yesterday, the coalition for justice and accountability met, and we feel that the council needs to set some specific deliverables for Avery's future work, how many forums they have, how many people you hope to have attend attend. Having three people attend a meeting and five people respond to e-mail is not community input. In extending the community outreach our coalition is going to extend names of community people, contact information so the people we know like the 185 that are coming to Thursday's meeting are going to be able to attend. We want community to be able to make recommendations for who gets appointed to the panel. There was so little opportunity for input on the profile, now for the screening, how the community panel is going to be chosen, and the role of the community panel, there has been no opportunity for input. And we need the transparency. We keep coming, you know, in May we sent a letter, we were here in November. We sent another letter in January. We're here again today. Community is here reaching out to you. We would like to see all of you reaching back to us.

>> Mayor Reed: Your time is up.

>> Thank you.

>> Mayor Reed: Marissa Saito, Christian Hemingway, Anu mandavilli.

>> Good afternoon, I'm here representing Mr. Alfredo villa Senor. He is an affiliate of national council of La Raza NCLR of Washington, D.C. Unfortunately, he was unable to attend today due to a previous engagement. Mr. Villa Senor has been quite disappointed and angry on how the past independent auditors have been disrespected because they've brought important police matters to your attention. Mr. Villa Senor would like you to know that the selection of this candidate must be transparent and not be plea selected as many members of the community feel it was. Most importantly, this person must have oversight experience. Thank you.

>> Mayor Reed: Christian Hemingway, Anu mandavilli and alofa Talivaa.

>> First of all I did forward on an e-mail with all my comments, I hope you all received it. I want to support Councilmember Chu and Councilmember Kalra's motion for an extension and I want to make it that simple. Thank you very much for your time and I hope we get an extension of this issue. Thank you.

>> Mayor Reed: Anu mandavilli, and Alofa Talivaa.

>> Good afternoon. I'm here on behalf of the coalition for justice and accountability. And I'm here to comment on the selection of the IPA. Speakers have commented four e-mails and three people hardly in the vicinity of San José I'm sure you all agreed to so I think that clearly underlines the fact that we need more time for more public outreach and this also means that I don't know if the city's already done this but clearly the city needs to in this case and in the future define what they mean by public outreach. What would constitute good outreach and who the -- what this public opinion means, I think there should be more clear definition coming out in the first place. I also want to thank councilmembers Kalra and Chu for responding to concerns by the community and I thank them for this again and finally I want to repeat the request by Socorro McCord where she requested the council to include members of the public in the selection process including giving them the opportunity to ask specific questions that are not set out by them for other people but they are able to ask independent questions. Thank you.

>> Mayor Reed: Alofa Talivaa, that's the last card I have.

>> Good afternoon, mayor, councilmembers. I'm here representing the Sierra neighborhood absorbs, and as a community leader and activist. I'm here to speak about the candidate screening that is very important, you know, to let the community groups to be aware of this process and to include a diverse panel to review and interview candidates. To include ethnic backgrounds, I do believe in that. Everyone should play a role and a part in this. And we're talking about a community outreach a lot, but I want you to know, from my experience, community outreach is not really, really working. We really need to do something about community outreach. You know, informing somebody about a meeting that is very important you know in the morning and the meeting is supposed to be happening in the night, that is not a

community outreach. We will really need to look at it and do something about community outreach. And you know, and that's what I -- you know I want you all to know, that we need to work, you know, on the community outreach. You know, most of the people in the community would love to attend you know these very important meetings that matters to everybody but if you don't have any advance notice of these meetings, therefore, you know, it's going to be empty. They're not going to be here speaking on behalf of everybody. Thank you very much.

>> Mayor Reed: That concludes the public comment on this matter. Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, mayor Reed. First of all I want to thank Mark Danaj and his staff and Avery associates for all the work that you've done thus far, and also, the community members who have participated in some of these community meetings is worth coming out here and speak today. We are acknowledged that the City of San José has been without an independent police auditor for a little bit over a year now, and there are problems going on within our city that it's in really series need of the IPA involvement and that's a big concern for me. I appreciate Councilmember Kalra and Chu's memo because they perceptively agreed that more community outreach needs to be done in order to solicit input from the neighborhood. I support the recommendation of holding one more community meeting at the end of this month in order to ensure proper community input into the IPA recruitment efforts. However in the interests of moving forward with the process I would suggest that staff issue an information memo discussing the outcome of the community meeting instead of coming back to us to report on the outreach meeting. I also believe that the consultant's proposed composition of the interview panel which allows each councilmember to nominate a panelist of their choice will bring forth a total of 11 community members from their own neighborhoods thus creating increasing the much needed community input regarding the IPA selection. I'm hopeful that these 11 community members represent to a certain extent the sentiment and perspective of the communities in which they live as it relates to the role of the IPA. Having said that, I'd like to make a motion to approve staff's recommendation with the following amendments and additions. One, staff should conduct one more community meeting at the end of the month and ask Avery and associates to ask staff to issue an information memo about the community meeting. Two, require that all interview panelists live in the City of San José. Three, allow panelists to develop questions to ask candidates, these are in addition to the questions that the consultant might pose beforehand. Number 4, there should be one interview panel with 19 members rather than three panels with seven members each. There's no need for a councilmember to sit on the interview panel at this point because any decisions that the community panel will come up with that councilmember has the final vote on that. And finally, the full panelists from the independent police auditor advisory commission or committee should be randomly selected, and we'll leave that up to the interim IPA to decide. So that would be the motion.

>> Councilmember Pyle: Second.

>> Councilmember Nguyen: And if you could put that up.

>> Mayor Reed: The motion then a second. We'll get it up on the screen. Other comments or questions on the motion? Councilmember Nguyen, were you --

>> Councilmember Nguyen: I'm sorry, Mayor Reed, I wanted to share something in regard to why I think it's important to have 19 members sit together in one room rather than having three separate panels. I was involved, I was one of the panelists sitting on a panel more than five years ago when we selected Rob Davis as our chief of the police department and at that point there were a lot of issues raised from the community members after the aftermath of the Bic Cal tran shooting. We were able to bring community members that's why city staff and other leaders throughout our city we were able to ask questions we were able to ask and hear the answers that we heard from the different candidates. So I think by having this forum, and this framework, I think it's -- we're doing a huge service to the community as well as to ourself to really learn from one another and hear all the questions and answers in one room rather than dividing up three different panels. That's the rationale behind what I thought the -- having one panel is definitely more effective than having three separate panels. Thank you.

>> Mayor Reed: I'm going to support Councilmember Nguyen's motion. I think all of her ideas are excellent to have in this process having one panel so that everybody hears the same questions, everybody hears the same answers will be helpful, I think, in their deliberation and making recommendations. Having a panelist from San José, I kind of assumed it would be from San José, but I think it's important that we get people from San José to sit on that. And I am going to support the motion. I'm going to keep this moving, it's taking us a long time to get here. I don't think that having some additional outreach will slow us down and prevent us from moving relatively quickly now that we're close

to the end. I think that's important. I am interested in finding what happens as a result of community outreach so getting an information memo back to you quickly is important so we get the feedback, not just talking to the community but getting the comments back to us that's also very important so I will support the motion. Councilmember Campos.

>> Councilmember Campos: Thank you very much. First of all Councilmember Nguyen I will be supporting the motion. I think that it's a very precise recommendation, and I just want to ask you one question regarding item number 5. Where you talk about the four panelists, is your intent also for them to live in the City of San José as well?

>> Councilmember Nguyen: Yes, all 19 panelists should live in the City of San José.

>> Councilmember Campos: Just wanted to clarify that because that was one of my questions and I think the fact that you were able to capture that is very encouraging. I have just a few questions and I think it's appropriate for them to have some answer, whether you can give it to us now or in a detailed info memo before this comes back to the council. We heard a lot of discussion about community outreach from the speakers, and I think that for the council to understand, as well as the community, when we talk about openness and transparency, is to understand, was there a particular reason why community members and organizations were notified -- we're not notified in a timely manner for meetings?

>> Councilmember, the -- as it relates to the first meeting of the IPAC which was a discussion at the last council meeting we had, that did have a very short turn around, so that is just a matter of fact. As it relates to the community panel that was held earlier in January, that actually did have a good lead-time, if you will, more than a week, even before perhaps the holiday furlough announcing that meeting for January 6th. I hope that answers your question, if not I'd be happy to try again.

>> Councilmember Campos: Well, I think that when we think -- when we're trying to be respectful of the whole process, I think there are some valid concerns that were addressed to us. And I know that there weren't a lot of people that are here to speak on this but I think that the people that were here to speak on it represent a huge constituency. And so what I would ask, and I don't know if this is something that could be directed to city staff, is that was the definition of community outreach? And is there an internal or external process that you go through? Is there a checklist? I mean I think it's important because as I think about the nine years that I've been on the council, I know at one time we were very good at this. And it seems that there have been quite a few community members that have expressed concern about what we're doing for community outreach. And if it's a money issue or if it's a staff issue, then I think the council needs to understand that, as well as the community, and how do we address that so that we can meet the needs of the community when we think about outreach.

>> Mayor Reed: I think the City Manager wants to comment on that.

>> City Manager Figone: Yes, I think that question is a very good one, councilmember and it's probably best that we respond to it in an info memo. Because you're absolutely right, we do a lot of community outreach. It is challenging, it is resource intensive, it's not a reason to you know not do as much as we think is needed but it does take many different forms. And so I think that we will be able to put our heads together and respond to you framing up what we have in policy and what we kind of use as a case-by-case set of guidelines on outreach.

>> Councilmember Campos: And City Manager just one other thing. If you prepare that info memo, if there's a way to get that info memo out to the groups that are concerned about the community outreach that would be greatly appreciated so that they know that their issues are being addressed.

>> City Manager Figone: I'd be happy to.

>> Councilmember Campos: Thank you.

>> Mayor Reed: Vice Mayor Chirco.

>> Councilmember Chirco: Councilmember Campos touched on one of my concerns. Another one is, when you have a meeting January 6th and it was noticed adequately before, does that tell you that maybe Christmas might have interfered with that? I think we need to be real about what we're asking our community to do, so to notice a meeting over Christmas and new year doesn't seem like we're doing our job in the proper manner. In addition to what Councilmember Campos talked about, of notifying the organizations, also, to send out each of us have e-mail lists that we send things out to. Just let the council office, know, that's another way of getting information out to a broader community than just targeted audiences, we want the targeted but we also want representation of the community as large.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And you know, there's a memo that was referred to by some folks in the audience that Councilmember Chu and myself put out and I just want to give some

background on it as to why we did it and I did have the opportunity I wanted to thank Mark, Heather and also Mr. Kimura from Avery and associates that they had an opportunity to sit down with me and go over the efforts that they did put forth. And I really don't believe there was a lack of desire for outreach. I just don't think that all the tools that are available, that we have in City Hall and in the neighborhoods, were taken advantage of. And as one of those speakers mentioned, there were not efforts or efforts were not taken to partner with organizations and I believe as well, that there was not a -- that there was not a partnership with our council offices or with the IPA office, the January 6th meeting as was indicated January 6th first of all, by any estimation, not a good time to have the meeting, if you expect people to be there. Additionally without our council offices knowing we couldn't even send a flier out and we couldn't even you know inform our neighborhood associations that there's a meeting. And that's the area there was certainly a good turnout at one of the meetings that was put together with collaboration of associations and looks like it was going to be a good turn out in the meetings this Thursday again put forth by community organizations but what has not been done, and doesn't appear will be done, is outreach to the neighborhoods. And the reason why the memo requests in exactly four weeks of an extension is that gives one month of neighborhood association meetings and other meetings that ordinarily meet on a monthly basis to allow all of us to go out to our community, there are excellent fliers that Avery put together in different languages that we can provide to the community. So even if we can have meetings out in the neighborhoods that are formally presented by Avery or by city staff we as representatives of the community can at least inform the community look we're soliciting input, here's how you give input. I don't necessarily think that there last to be a certain number in order to determine that there's an appropriate amount of outreach. We've all been involved with meetings sometimes where you have a lot of people show up and sometimes you don't and it doesn't always reflect the degree of outreach that's been done. However I think given the fact that our offices weren't engaged IPA wasn't engaged, neighborhood groups weren't engaged, having three people does reflect on at least not taking advantage of all tools available to do appropriate outreach. And so that's why there was -- that's why we made a request for an extension of the outreach period. And I -- although I do agree with some of the comments made including by the mayor that you can still do outreach, it's not going to limit -- it's not going to devalue the outreach that will continue to be done over the next month including having an additional meeting, including the meeting this Thursday that's going to offer I think valuable input, but I think it does minimize it, I think that when we're already pushing forward with the process without having that -- without having that additional outreach done, we are in one sense saying yes, we welcome more outreach but in another sense we're not really allowing for meaningful input. And so, you know, that's where the requests came from. I did have a question, as well, on -- in regards to number 5 in the recommendation -- or the motion put forward by Councilmember Nguyen as to why the IPAC members should be randomly selected but that same requirement is not put on any other membership.

>> Councilmember Nguyen: Are you referring to the 11 community members of the councilmember have an opportunity to choose?

>> Councilmember Kalra: Number 5 in the -- number 5, recommendation number 5 where it says four panelists from IPAC should be randomly selected, rather than having IPAC meet and they can decide who they want as long as they're San José residents.

>> Councilmember Nguyen: I guess that's fine too, I just didn't want to make the decision, that the interim IPA has to make that decision. I don't think it's fair for her to have to select who she wants to serve on this panel. So among how many members there are they can select that or she can randomly select each person. There's really no quorum behind what why I recommended this, I just don't want to put a lot of pressure on the interim IPA to select each panelist.

>> Councilmember Kalra: The committee itself could select, that would be okay.

>> Councilmember Nguyen: That would be okay.

>> Councilmember Kalra: As long as they lived in San José.

>> Councilmember Nguyen: Right.

>> Councilmember Kalra: That's a question I had, I can understand why you wouldn't want to put the interim IPA in that position. But is that something you would be comfortable changing on the motion?

>> Councilmember Nguyen: That would be fine.

>> Mayor Reed: That would be in a friendly amendment accepted by the maker of the motion? I don't know about the seconder.

>> Councilmember Pyle: Yes.

>> Mayor Reed: It's okay with the seconder.

>> Councilmember Kalra: I just bring that up as to one component of the motion. I still think that -- I still think that in the whole scheme of things with the -- over a year, this has been going on and I know that many of you have been going on, dealing with this longer than I have. But I still think that it's pretty -- it's quite evident that despite the desire to have -- to commit appropriate outreach, I don't think that has been achieved. And so, you know, I -- I do appreciate and agree with much of what Councilmember Nguyen has put forward. And I think that, you know, if we're going to go forward some of the suggestion including having the one panel seems appropriate. And allowing for questions to be put together seems appropriate as well as having panels put in San José so I don't disagree with any of that but rather than putting forward my memo as a substitute motion I may just vote against this memo but -- against the current motion rather than putting a substitute forward just to hope that folks under -- I think folks understand where I stand on this issue and that I do not think the outreach was adequate.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I too support Madison's motion. I just want to go back to the outreach. It seems like we've had this exact same discussion on outreach probably a dozen times at the dais on a dozen different issues. So what I would really like to do is maybe -- and maybe we can incorporate this as part of specific direction. What I would like to see, a very structured, specific outreach methodology, so we don't keep going through the same thing over and over again. It happened as far back as I remember with the animal ordinance we had it, we had it with all these different things over a period of the three years I've been here. And we still can't seem to get it right. So I would ask the maker of the motion if you would incorporate that direction that we can get a structured outreach methodology that we know we can count on because I think it will make things easier for staff too. Take out the list, check the boxes, because I know I've asked repeatedly, over and over and over again, just let me know so I can put it out in my e-mail blast that goes out on a regular basis. I can tell you today what the deadline's going to be for the next June or July or August's newsletter. Because we have it very structured. I think there's multiple ways we can get things out but we need to come to a consensus on this is what it is and everybody should be following the same process so things stop falling through the cracks.

>> Councilmember Nguyen: That's accepted, I think that's a good suggestion, Councilmember Constant.

>> Mayor Reed: Was that in addition to the motion by friendly amendment acceptable to both the maker and the second, all right. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor, I just have a question for Councilmember Nguyen. Reducing the panel from 21 to 19, is there any reason behind it?

>> Councilmember Nguyen: Yes. If you look at the memo, look at the language in the staff memo, it talks about -- let me see if I can find the page. But they're recommending each pantist from the city attorney's office and other departments, that made up four panelists, which I think that isn't a good idea, that is five, if you eliminate a councilmember, that leaves us four panelists, so just lower it from 21 to 19.

>> Councilmember Chu: Okay, would I support your motion if you can include the recommendation that put forward by Councilmember Kalra and myself, because our recommendation is just another thorough outreach effort to include the neighborhood commissions and the council office. To make sure that we reach out to people that have -- may have the different languages, like Vietnamese and Spanish. So would you consider including our recommendation into your medication motion?

>> Councilmember Nguyen: I think that's part of the structure outreach effort that Councilmember Kalra made reference to earlier and so that is accepted and that is in the motion.

>> Councilmember Chu: All right.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. In terms of outreach City Manager innocent the neighborhoods commission part of their workload to discuss what is appropriate outreach?

>> City Manager Figone: I'm not recalling actually if that's on their work plan. I mean clearly the neighborhoods commission would provide some very good feedback on a structure and a framework.

>> Councilmember Oliverio: Okay. I was speaking to some members of the neighborhood commission committee and they had mentioned that's on their discussion.

>> City Manager Figone: Yes, it very well could be councilmember.

>> Councilmember Oliverio: Because to the topic by the end of the day, do it consistently and no one can say yea or nay on the topic. Thank you.

>> Mayor Reed: Any further discussion on the motion? As discussed by Councilmember Nguyen with the friendly amendments? Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor sorry for the last second, just had a last qualifier on the motion. My understanding is the motion seeks to add one more community meeting but it's not seeking to extend the outreach period to February 26th, is that correct?

>> Councilmember Nguyen: Not the recruitment outreach, just the community outreach.

>> Councilmember Kalra: So it would -- so essentially with the exception of with authority to extend the recruitment period, is the rest of the text in the memo that Councilmember Chu and I put together, would you find that appropriate in what you're aiming to do?

>> Councilmember Nguyen: Absolutely.

>> Councilmember Kalra: Okay well with that I'll support the motion if it's -- if it's formally extending the outreach period.

>> Mayor Reed: Further questions or discussion? On the motion, all in favor, opposed, none opposed, that's approved. I have one question. When do you want the names from us to be submitted, the 11 members of the community panel?

>> Mr. Mayor, two weeks would be sufficient.

>> Mayor Reed: Two weeks from today?

>> Yes.

>> Mayor Reed: Okay. I think that concludes that item. The next item is 3.5, the 2008-9 annual performance audit of Team San José.

>> Sharon Erickson: Sharon Erickson City Auditor. The 2004 management agreement between the city and Team San José outlines four key performance measures for Team San José. We reviewed those performance measures for 2008-'09, 2008-'09 was the last year of that agreement. Last January, the city council did approve a new five year agreement that will have new performance measures. We found that -- briefly, we found that Team San José met three of its four performance measures targets for FY2008-2009. First Team San José met and exceeded its target of gross revenue. Gross revenue of \$12.4 million was 2.8% over the prior year. Team San José did not meet its target for net loss, the second performance measures. Team San José experienced a net loss of \$5.4 million. Team San José the continues to or at least the fund continues to rely on operating contributions, from the transient occupancy tax and parking funds and that's the fund balance continues to grow in spite of these losses. Third, Team San José exceeded its economic performance target for total number of attendees, in spite of the fact that overall attendance decreased 29.3% from the prior year. Fourth, Team San José met its customer service target 97% of event planners who responded rated their overall experience good to excellent. Our report includes graphs showing Team San José's performance over the five years of the agreement. We have no new recommendations in this report. Team San José's written response is attached and they're also here to answer any questions about their performance.

>> Mayor Reed: Thank you. I want to see if Dan Fenton wants to respond or just take questions if you have something specific you want to say, Dan, do that now.

>> Dan Fenton: Thank you, Mr. Mayor and council, Dan Fenton, C.O.O. with Team San José. Really our comments are to thank the City Auditor for their work. We think this is always a good process every year to really go through and not only look at contract compliance but also look at areas that we can continue to work together on. Also, as you remember in the beginning of the-d in the beginning of the meeting at the consent item we're pleased that we all came to agreement to continue this on annual basis and have the City Auditor's on an annual basis and frankly during the year continue to work with us on continuous improvement. So I'll wait for questions.

>> Mayor Reed: Thank you. I have a question for somebody, we'll let the two of you decide how to answer the questions. On page 11, exhibit 5 of the auditors report there is a whole page of spreadsheet of comparing operating expenses incurred from one year, year 1 to year 5. The total operating expenses between '07-'08 jumped almost \$3 million but operating revenues were flat. There was a very large jump, variance year 4 to 5 with 18.7% with almost nothing in operating r. So why are expenses going up so dramatically 20% in one year with no additional revenue?

>> Dan Fenton: Mr. Mayor, if you look at that entire spreadsheet and really actually go back, I think it would be three pages, that will also show you the year-over-year revenue trends. And I think the key areas to look at there when you look at those are really the top two or three lines here, where you see building rental, food and beverage services, event electrical, utility services, you see those trends that due to the economy and really due to the condition of the convention center, have been on the decline from 2008 and 2009. What we did in one strategic move that we've been making over the last couple of years is to continue to drive revenue through being able to act as a provider, if you will or a payroll

provider of labor to our clients. However, that revenue does not have the same margin as building rental or food and beverage services do in this model. So the reason why expenses are higher, on a higher revenue, is we're really essentially dealing with lower margin revenue that we've been able to continue to gain. But the key revenue areas that really speak to economic trends as well as condition of our facilities are, the building rental revenue and the food and beverage services.

>> Mayor Reed: I'm not sure I really understood that. Expenses up \$3 million, reference were flat.

>> Dan Fenton: Right. If you look under page 8 you'll see under labor revenues from year 4 year 5 you'll see a jump there of almost \$1.9 million. If you look at that revenue line item. Which is really a big key area as to where the revenues were achieved in this last fiscal year. Because of working on this as a new revenue opportunity. However if you also look on page 11 there is a corresponding expense that the auditor has called out here on what's called cost of event production labor. And if you look at those two numbers, that really is essentially the margin on us continuing to work closer with our clients on providing labor as opposed to them using a third party to provide that service for them however that revenue as you can see the margin on that revenue is lower. And at the same time, we saw declining -- we saw declining building rental of about \$600,000 and we saw a decline in our food and beverage commissions of about 700,000. And that's an indication of the shift between the revenue mix for 2008-2009 versus 2007-2008 and therefore the corresponding expense associated with it.

>> Mayor Reed: Are you saying that on page 11, the full page spreadsheet cost of event production labor at \$1.9 million --

>> Dan Fenton: Right, directly correlates --

>> Mayor Reed: Was a wash with the revenues?

>> Dan Fenton: No, the good news is there is margin there. If you see the 2.3 million on page 8 under labor event production, labor revenues --

>> Mayor Reed: I see that except the year before it's \$474,000 so there's only 1.9 million delta in the year 4 to 5.

>> Dan Fenton: Right. The difference in the 2.3 revenue and the 1.9 is for lack of a better term, the margin on the activity. Does that make sense?

>> Mayor Reed: That's beginning to make sense.

>> Dan Fenton: Okay.

>> Mayor Reed: So if all of these other revenues are going down dramatically --

>> Dan Fenton: Yes.

>> Mayor Reed: 27%, 26%, 32%, 11%, what is within your power to do to make sure that you adjust appropriately? We used to have that trouble with the city. When the city managed it things would go bad and we could never be nimble enough to make any adjustments. So Team San José model is supposed to be more nimble, able to adjust to the market up and down, and it looks like we're way behind the power curve with revenues going down before we make some kind of an adjustment.

>> Dan Fenton: Well, couple of things you'll notice too under the city of San José management administrative charges, you'll notice that that line item actually goes down, even though year over year there was an actual increase -- cost of living increase in the labor contracts as well as there was an increase in overhead. So our head count and our labor counts went down year over year. We reduced staff, laid off people, that's one thing we've done. And going into this year we're continuing to make proposals on how we continue to reduce our expense. So part of it is how do we continue to service the groups that we have, you mentioned the term in your control, one of the things that aren't in our control is the business that we either lose or have to discount due to the condition of the facilities, or the current economy. So one thing the current economy does is it causes us to create different deals, if you will, to keep the groups here, so the amount of revenue in terms of the rental revenue and some of these other areas that we're getting on a per-group basis is significantly down. So you still need labor to be able to service that level of volume. So that's another issue that's tied to that. However, part of the work that we're doing with the office of economic development in this fiscal year is to continue to look at this issue of now that we're seeing the economic trends where they are, how do we continue to look at issues like you're talking about and continue to, which it's something that we hate to talk about but continue to reduce the staffing levels that we have going forward and those conversations are ongoing.

>> Mayor Reed: Okay, other questions, Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. Dan, I appreciate you taking the time to talk to me yesterday, I know Megan has been very helpful also in sending some responses that are helpful. As I understand it, in the retail business or in restaurants they tend to look at sales figures based on what

stores, what retail outlets existed, the prior year compared to the current year. And you tend to throw out the new stores. And so if you did the same thing in terms of the revenues and the revenue picture in exhibit 3 page 8 --

>> Dan Fenton: Sorry --

>> Councilmember Liccardo: Exhibit 3 page 8, the revenues exhibit The reality is revenue on sort of the same issues have dropped by a couple million roughly from 12 and change to roughly 10 million. So that reflects certainly the economy, I'm sure that we all expect that to happen in a bad economy. What I guess I'm -- I either expected was that Team San José would shrink accordingly. And I understand, Megan indicated that there has been, since this time, a reduction in staffing somewhere on the order of 18 or 19 positions, is that right? Team San José yeah, that's, and it's fluid so there's actually even -- there's more in this fiscal year that we're continuing to propose so yes, that's a fluid number.

>> Councilmember Liccardo: So in other words there may be some more shrinkage there?

>> Dan Fenton: Yes.

>> Councilmember Liccardo: That's helpful to know. Obviously we don't want to encourage anybody to be laid off, obviously you know we're running big deficits that we somehow need to find money for. The question I had posed on Monday related to page 11 on exhibit 5 where we look at the large expenses chart. And that third item, administrative and general salaries, Team San José, you see that number's tripled between year 1 and year five.

>> Dan Fenton: Right.

>> Councilmember Liccardo: Were you able to drill down Da to see why that number has expanded so much?

>> Dan Fenton: Couple of areas there. One, there actually has been a shift of some positions that now fall into Team San José's area that used to actually be civil service positions so there was a move in the event management area in particular of positions from lack of a better word civil service classifications to Team San José classifications, that was part of that. We also in year 5 began looking at the issue which now in this fiscal year we've completed, of operating the food and beverage services ourselves which has proven to be a good move in terms of the margins we're able to deliver on the food and beverage side, and as part of the whole work we did with American musical theater, part of what we also did towards towards the end of year five is also began working in the ticketing area as a way to support our theaters. So those are different areas that added cost to that. We believe in all those areas, we were able to deliver either more services to the theaters or be able to look at this concept that is now, we're now half way through the fiscal year and really problem of to be successful which is direct oversight of our food and beverage operation.

>> Councilmember Liccardo: Okay. So as I understand it, then, this line item has grown so much because of shifts, in one case you said civil service jobs have gone team San José classification, another from food and beverages going in house and a third from ticketing. Do we see a resulting downward trend in line items as a result of those shifts?

>> Dan Fenton: If you were to look at the city of San José management administrative charges, and you were to look at the year four to year five, what the cost of living increases were, what the increase was sort of in charm sort Wednesday what that was, stayed flat or decreased a little bit, there is a little delta right there of what would have happened had we not reduced positions in this area and may the changes that we made?

>> Councilmember Liccardo: although that number grew from year 1 to 5, you're saying it would have grown much faster?

>> Dan Fenton: That's correct, yeah.

>> Councilmember Liccardo: I understand where the bad debt expense came in American music theater and the cost of event production labor, I know that's a significant jump, you explained that earlier as well with the new revenue. The last item that just sort of glares out at you in an increase in expenses relates to professional expenses, the roughly half million dollars that is the second to the last item there. Have you gained any more specific sense as to where that --

>> Dan Fenton: Couple things there. This is an area that speaks to at times us bringing in consultants to help us with certain issues. One of the areas that we have consultants that are helping us with relates to the renovation of civic auditorium. Some of those areas we actually have had as an expense here under professional services. So in some cases there was also a consultant that was brought in to help us with the food and beverage transition. On that line, these are experts that we bring in to help us on strategic

decisions we are making, related to the conversion, the work that's been going on with the civic and we can further break it down. There are some areas that fall into that as well as legal fees and others.

>> Councilmember Liccardo: Okay. And when I'm -- I know those are broken out separately with a different color there in the audit as new line items. I'm just wondering, I know we must have relied on consultants and attorneys and so forth in prior years. Were those in a different line item before they --

>> Dan Fenton: I was talking to Scott Johnson earlier about this. These actually in the -- when you look at our normal weekly or monthly statement that you see, we're under the other category before, so in this audit they were broken out this way to make sure this was clear. I think we can have Sharon come back up. I think this was meant to illustrate some of these expenses specifically the cost of an event production which of course is a new -- for lack of a better term, it's a new business initiative, rather than what the auditors wanted to call out also.

>> Councilmember Liccardo: When you refer to the other category, is that -- I mean, I know -- are you referring to one specific line item here or --

>> Dan Fenton: On the original P&L, not the way there specific one is broken out, we can go over and review that further if you want.

>> Councilmember Liccardo: Thanks Dan.

>> Mayor Reed: Before we move off this topic I'd like Sharon to give us some of the anxious regarding the revenues and expenses issues issue. I just remembered since we were talking about last year, which was eight months ago now, and this year that we're already in we're lacking for a \$6 million gap, I believe. So the operating loss is growing, continues to grow, I'm curious if Sharon has any comments on what additional actions might be taken.

>> Sharon Erickson: Let me just respond first to an earlier question. You were correct in assuming that the event production was a wash. So without event production showing up as a revenue, that was the thing that struck us. It shows up as an expense, an additional \$1.9 million in expense. There is a corresponding revenue. Without that revenue there would have been a very significant decline in revenue over the previous year. So 2.8% in this kind of economic environment given the other revenues was actually, it was inflated by that new line of business that technology got in there this year.

>> Mayor Reed: Okay, I know it's not necessarily within the scope of this audit because you're just auditing the performance measures. But I know that auditors look around when they're there. How can we deal with the growing operating loss, and are they moving enough to respond to the fact that revenues are going down and we need to add this to your work plan to you know come back with a report or what can we do here with this facing growing losses?

>> Sharon Erickson: I'm certainly hearing the concern from the council, and I think we'll take that into account as we scope next year's review. The status are that we did insert was the status of the fund itself. So we were concerned with these losses, how did the fund look? The fund is actually doing okay, on page 12 -- I mean, it could be better. But on page 12, exhibit 6, it does show that the fund balance actually grew from 8.3 to 10.3 million. It is being sustained by transfers from the transient occupancy tax and the parking fund. That was the concern that we had, was how long could we sustain losses like this?

>> Dan Fenton: Can I have one comment?

>> Mayor Reed: Sure.

>> Dan Fenton: I just wanted to add a couple of things, and I'm not going to try to put Lee Wilcox on the spot, but he's here, and he can certainly come down. We, on a monthly basis, with the City Manager's Office and the Office of Economic Development, review the sort of pace if you will monthly, and we are about to come back with midyear recommendations that really do speak specifically to this issue of how are we looking at continuing to reduce expenses. There is very intense work going on around this issue.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Just had a few questions. In addition to the new line of business, food and beverage, contained in here are there any one-time expenses, refresh my memory, how many months was food and beverage done, how was the balance of expenses that were related to one time versus actual operating expenses?

>> Dan Fenton: It speaks to councilmember Liccardo's question related to professional services. There were some one-time expenses in there that tied to our conversion if you will, of using a third party to provide the food and beverage services versus doing it ourselves. So there are some one time expenses there. And it really, the benefit of that really was only realized for about the last week or two of the fiscal year. In this fiscal year for the first six months the margins we've been able to deliver on our foot and beverage is constantly higher that what you see in terms of the commission answer.

>> Councilmember Constant: So is it safe to say that that will have a positive impact on the bottom line?

>> Dan Fenton: Yeah, it really has in the first six months, yeah.

>> Councilmember Constant: Okay, and on the overhead issue from the city, I know last time we talked, I don't know if it was last year or 18 months ago when we talk about the city overhead number, I see it went down just a bit, but overall, in the five-year period it's gone up probably 40% or so. Are you feeling more clarity on where that number's coming from?

>> Dan Fenton: We're continuing to work on the issue of -- as we've been working with Lee Wilcox and Paul Krutko in this fiscal year, the issues of what are the needs in terms of supporting the organization. And so that's an ongoing discussion that we're working on. As you remember, we clearly were concerned with the increase in overhead as it related to monitoring the performance of Fund 536. We understand if it's a conscious strategic decision that we all make together, but it impacts ultimately a sense of how Team San José is performing because as the City Auditor reported we're pleased with the fact that there's over 10 million in that fund balance that when we started, it actually had a negative amount, that we actually owed money to the General Fund, and so we're proud of that fact, and we think that that needs to be part of how we make decisions going forward around the convention center and its economic impact and its fiscal results.

>> Councilmember Constant: I asked because I still don't feel like I have clarity on that overhead number. What issue that hasn't been discussed, I meant to call you and ask you ahead of time, and I didn't, so I apologize for catching you by surprise. But in the area of workmen's compensation, that saw a 25% increase. Is there a specific reason for that?

>> Dan Fenton: We work very closely with the risk management team at the city on any claims that we have, and no. We have not seen any inordinate amount of activity there. That may be an overall increase, but not something related to our particular safety activity.

>> Councilmember Constant: And I had a question I can't remember so maybe it will come back to me and then I just wanted to make sure that there's some clarity on that ending fund balance reserve. It's over \$10 million. How does that compare historically I know it's much better than it was in the past but are we average, above average, is it continuing to grow, can you explain that trend?

>> Dan Fenton: You know Councilmember Constant, I don't know the history of that fund preteam San José. But I do know that's a key factor in us going forward on the convention center and the expansion of the convention center. Had that fund balance not being what it was, we would have had different decisions remitted to the 23rd of February around the renovation and expansion of the convention center. Because that provides us the opportunity that during the construction period, if there is an impact, in operations, that we're able to sustain that because of that fund balance.

>> Councilmember Constant: And then I remembered my other question. We have the new business area of the food and beverage but we also have the Broadway. Was the implementation of starting the Broadway programming, how did that affect these numbers in a one-time aspect versus an ongoing?

>> Dan Fenton: On the Broadway side, there was minor cost involved. What really -- the biggest one-time issue related to Broadway Councilmember Liccardo really noted that was and this is an unfortunate situation certainly not happy about that, was the \$500 writeoff related to American musical theater. We're pleased to report, it is a little premature to report that because we have one more show, but the activity around the Broadway series has been very good and the revenues that we are deriving as well as the economic impact we are deriving are significant, from the economic standpoint so we're pleased with what that has done for us this fiscal year.

>> Councilmember Constant: Thank you. That's all of my questions. If you are ready for a motion, I'll make a motion unless we still have more discussion to go.

>> Mayor Reed: I still have a few more councilmembers who wish to speak. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you mayor I thank all of my colleagues for all the questions, because you asked whatever I was thinking. We have what we have, the only thing that's going to mix margin is more sales, so I wish the team could book more events.

>> Dan Fenton: Absolutely.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor, I certainly agree with that sentiment, so continue the outreach and the good work, and I see that the survey numbers are in fact very good with customer satisfaction, and this is through the ends of the last fiscal year, in the past few months, has there been consistent good reviews from the customers?

>> Dan Fenton: Yes, we continue to hear good reviews, as a matter of fact if you remember we talked about the concept of really trying to separate looking at the customer experience as it relates to our internal leaders as well as the physical plant and how do you separate those so you can keep looking at this issue? Just one anecdotal comment that speaks to Councilmember Oliverio's comments and that is on revenue. We're working with the mayor's office right now on a major corporate client that's talking about relocating from San José, they've been a very consistent user of our facility and they're talking about relocating absolutely because of the condition, current condition of the convention center. So it has become something that is paramount to us moving forward and to Councilmember Oliverio's comment, and Councilmember Kalra, yours also, we're out there every day continuing to hustle so it's all about not trying to be aggressive on the sales side but as we work together to improve our product I'm convinced that it will improve margin, it will improve revenue and it will improve our ability to go out and essentially deliver revenue because of what we're able to sell so it's a big part of our future.

>> Councilmember Kalra: And the decline in terms of being able to attract conventions, I'm assuming that's consistent in what we're seeing in the industry in general in terms of these types of events?

>> Dan Fenton: There is an absolute industry trend. There's also trends related to specific destinations based on who some of their target markets are in Silicon Valley of course one of our big areas is the corporate sector, is the technology sector. And I would argue that when they are interested in using a facility, the bar is high in terms of what they are looking for. And let me give you one other example and that I can say now because now it's past. Everybody remembers the announcement of the I-pad which just occurred. They announced the I-pad at the Yerba Buena center in San Francisco. You go need to know they looked at us also. They looked at us as the place to announce the product, chose not to certainly part of the fact was the condition of the facility.

>> Councilmember Kalra: I think going forward by differentiating in the survey, facilities versus customer service and particularly looking at future audits as well as our future evaluation, will certainly help us to get a sense of how we're damaging our prospects, events like that, business in general or some of the San José companies that we know would probably like to hold some of their major events here but don't because we just don't have the facilities for it, I appreciate the fact that we'll get further information into the future about facilities versus management and staff, quality of staff because that will really give us a better insight on what we can do to better improve the condition of the facilities. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I like the good news in this that customers are satisfied with us and we have the potential going forward. I do think we need to look at the expense side and see how we can work with that. But having gone recently to a couple of events at our new airport and Dan, having seen you make a presentation there, it just highlighted for me how these projects go together and that we really need that convention center to match the airport, if we're asking people to fly in here and do business and have a convention, so I really, I really think we need to make sure that we make that happen so we can really make this service something that we can sell at its highest value instead of the incremental business. And I can understand what you're trying to do with making sure labor's working. And I don't know, I know in private sector sometimes you want to keep those folks working because then you know that you're going to need them when you have other business opportunities. So even if you can sort of break even you want to keep them working so there's that thought too. I'm wondering, are we going to see projections going forward in years out from here to see how the food and beverage new business -- where we see that going, how we see expenses, being handled, and kind of projecting some of the newest things that you're talking about to see how we get from here to there?

>> Dan Fenton: Absolutely. One of the things that we're doing as part of the analysis tied to the convention center expansion and did renovation on an ongoing basis is continuing to look at where we see the T.O.T. trends, where we see our operating trends and again, this is not necessarily projections in terms of hard projections but where do we see the trends and what are our actions to try to essentially advance the trends if it's on the revenue side or look at controlling trends on the expense side so yeah we are looking at that.

>> Councilmember Herrera: And when would we see that?

>> Dan Fenton: You'll hear a little bit about it as it relates to the 23rd on the expansion and renovation. Because one of the things we're making sure we have a clear plan on is the ability to make sure fund 536 stays stable, if you will, during this period. Because that becomes the for lack of better term

the operating reserve as it relates to getting us through this construction period and making sure that we're -- that we have that ability. So that's something you're going to hear about and working very closely with again the City Manager's office and others and our consultants on those projections.

>> Councilmember Herrera: And in terms of construction one of the exciting things about the new proposal in terms of convention center renovation was the ability for us to continue to do business since we're not going to be doing, taking down some of the major portion of the convention center. So I'm hoping that we still would be able to continue with whatever level of business we can during construction. That's still planned?

>> Dan Fenton: Absolutely and again we're working with combinations of people whether it's Public Works or redevelopment agency or others to talk through that issue, we're really going to know more when those design build teams come back with their thoughts. Primarily we believe this plan is significantly less intrusive if you will than the original plan was and therefore it gives us opportunity to maintain revenues and continue operations during it.

>> Mayor Reed: I want to go back to the fund 536 discussion and the chart exhibit 6 on page 12, that shows the ending fund balance all the way across for 2004 and 5. I'm really happy that the bottom right-hand corner is positive by \$10 million. That's a good thing. And I want to keep it there. But it also is interesting that \$3 million of that \$10 million came from the General Fund where a transfer in 2004 and 2006 from the General Fund. That's something I want to avoid because the General Fund has enough troubles of its own without having to come back here and backfill. So my concern about the net operating loss which this year, did year we're talking about is 45% of revenues. Net operating loss is 45% next year it's going to be more than 50% of revenues and by next year I mean the year we're in. So we're already halfway through a year in which net operating losses is going to be more than 50% of revenues. If you keep that up you'll burn up this fund 536 at some point. So I'm really concerned that while the staff may be looking at this monthly, we're only hearing about it once a year or twice a year and I think we need to get more information to the council on a more regular basis. And so if Pete Constant wants to make a motion I'd just ask you to include in there a more regular report to the council through CED committee or finance committee at least on a quarterly basis on what's happening with the net operating losses so that we get that information so we can hit the panic button earlier rather than later.

>> Councilmember Constant: So I will make the motion, to accept the report, including your comments, Mr. Mayor, and I think the appropriate place would be the Public Safety, finance and strategic support committee that already hears it on a different interval, just to keep it a little more --

>> Mayor Reed: Okay, that's the motion and second. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. Dan I've been noodling a little about the information you've been able to provide during the course of our hearing today. Here is the question still outstanding in my mind. When you look at the management agreement targets that were set for 2008-2009, for revenues, net loss, all those numbers, those were set during the most recent negotiation is that right or were those set a long time ago?

>> Dan Fenton: Yes, those were, let me sure I'm clear where you are.

>> Councilmember Liccardo: Maybe I'm confusing things. Let's see you look at page -- look at page 6 there you see management agreement targets in the chart on exhibit 1, the performance summary, you see gross revenues net loss economic impact and customer service.

>> Dan Fenton: Right. Those projections were made six years ago.

>> Councilmember Liccardo: That's part of the original contract that's not --

>> Dan Fenton: Right.

>> Councilmember Liccardo: Okay, understood. What -- what has dawned on me is I look at this and I look at the different targets and so forth particularly understanding the fluctuations of the economy and how that can affect your numbers, is it really seems like it would be helpful to have some comparison to peers, peer cities, peer --

>> Dan Fenton: Peer cities.

>> Councilmember Liccardo: Convention centers, I understand there's an apples to oranges problem with regard to what the realm of their responsibilities might be versus ours, et cetera, but even to be able to see changes in revenues and net loss figures and so forth, among those peers that we can fairly compare ourselves to, the Seattles, the Portlands, cities with a similar size of facilities and so forth, it would be really helpful I think for us. Because when we see this number, and particularly, the operating expense number which really ballooned, you know my real concern is I look around and I see what the

companies in our valley are doing and revenues are dropping and their expenses are dropping, too, and that's how they're staying solvent.

>> Dan Fenton: Right.

>> Councilmember Liccardo: And so I was very concerned about the size of that number.

>> Dan Fenton: Sure.

>> Councilmember Liccardo: And the extraordinary change in that number.

>> Dan Fenton: Right.

>> Councilmember Liccardo: Knowing what's going on in peer cities would be really helpful in my context.

>> Dan Fenton: This is three years ago.

>> Councilmember Liccardo: I remember seeing that.

>> Dan Fenton: We could go back to the competitive set and see if there is a way to do it. And the answer is yes we'll work with that. The challenge you just mentioned account apples to oranges. Because people will call something one thing and for us it's something else. Interest going the industry is because the models and cities are so different there isn't a good sort of standard if you will practice for how you can analyze one versus the other but we'll do some work on that certainly.

>> Councilmember Liccardo: Okay, it would just be helpful for us. Thank you Dan.

>> Dan Fenton: Uh-huh.

>> Mayor Reed: I think that was it on the discussion. We have a motion to approve with a report back to the finance committee. All in favor opposed, none opposed. That's approved. I'll take up another audit item 8.1. Audit of civilianization opportunities in the police department.

>> Sharon Erickson: Same auditor, completely different subject. This one I was hoping to take a few more minutes of your time because this one is a complex area. Ensuring the right mix of civilian and sworn staff is an issue facing police departments across the country. Properly handled, civilianization, that is, the use of civilian support staff in a police department, can be a powerful tool to be efficient, to be efficient and effective delivery of police services. Our objective was to assess the efficiency and effectiveness of those services, the current deployment of sworn versus nonsworn employees in San José. After dozens of interviews and numerous meetings with police command staff, we identified duties and roles in the San José police department, currently performed by sworn employees, that could be performed by civilians, and where there could be potential benefits from additional civilian support and expertise in those areas. The situation of having sworn personnel in civilian functions has developed over a number of years in San José, over the last ten years, the number of authorized sworn positions in the City's operating budget grew from 1343 to 1392, whereby 49 positions but at the same time the number of civilian positions decreased from 496 to 438, or by 58 positions. Over time sworn personnel have stepped in to fill critical administrative duties that could otherwise have been performed by civilians. Last year, the San José police department identified 29 positions currently being filled by sworn personnel that they felt could be civilianized with the officers in those positions being redeployed to the field. Our review confirmed that assessment and identified another 59 positions that could be civilianized for a total of 88 positions. They include 20 positions in the bureau of administration, in places like the permits unit, property and evidence and training administration, there were 38 positions in the bureau of field operations, including administration in the main lobby, preprocessing, in air support, with the police activities league, and at the airport, there were 29 positions in the bureau of investigations, in the court liaison office, administrative support and potentially crime scene investigators, there was one in the bureau of technical services, a network engineer, there were eight in fleet facilities management and gaming control. The total difference in cost between staffing these positions with civilians instead of sworn personnel is about \$5.1 million a year. Our approach in this review was based on prior civilianization studies in the cities of Los Angeles, Vancouver, and Kansas City, with the assistance of police command staff in San José, we tailored the approach to San José. Our report includes flowcharts that walk the reared through the criteria and rationale for civilianizing each of the positions that I've mentioned. For each position we reviewed we asked four questions. First, are law enforcement powers required to perform these job duties? Second, are sworn skills training or experience required to perform these job duties? Third, could the position be filled by a specially trained civilian, and fourth, the catch all, would assigning special staff be helpful for other reasons? The report includes all of those flowcharts. The report also includes a detailed discussion on the constraints on the department's able to civilianize, including limitations in the MOA with the San José Police Officers Association, problems with the assignment of modified duty personnel including 30 positions who are in the court mandated exempt officers program,

and the presence of Brady officers whose credibility could be challenged in court leading the department to assign them to desk duty. Our report again identifies at least 88 positions that could be filled by civilians. There are several possible scenarios for using this to help make staffing positions. Let me say there are real people in these jobs. There are many options as to what would happen with these positions. Some include redeploying sworn personnel to positions in patrol or to other positions in the department that clearly requires sworn knowledge and competencies, and then back filling critical administrative duties with civilian personnel and/or potentially eliminating or outsourcing some of those civilian duties. Our report contains a total of 14 recommends foremost of which that the police department develop short medium and long term plans to civilianize the positions in this document and/or other positions identified by the police department. We further recommend that the police department develop a civilianization policy, civilianize job classifications, potentially including community service officers and investigative aides, answer increase the number of officers allowed to be civilianized in the memorandum of agreement with the POA. We also recommend the department propose removing positions that could be civilianized from the exempt officers program reassigning those officers to positions that require the skills, knowledge of a sworn -- of sworn personnel. And we also recommend the department analyze its assignment options regarding Brady officers. A report focused on whole positions, and we're recommending the department consider other parts of positions for civilianization as well, we also recommend the department consider outsourcing air support positions on an hourly basis, those are helicopter and fixed wing pilot positions, reassess its staffing of the police activities league, and reevaluate the mix of sworn and civilian security staff at the San José airport. In summary, the department has the opportunity to civilianize a significant number of sworn positions, freeing up sworn resources for the critical Public Safety functions that only sworn personnel can perform. This is a situation that's developed over time and the cure is complicated, but the benefits include estimated cost savings of \$5.1 million per year, while achieving basically this same level of service for our residents. As shown in the response to the audit which is in the back of audit report, the administration is prepared to proceed with the development and implementation of a civilianization work plan and to proceed with the rest of our recommendations. With that I'm happy to answer any questions, and I don't know if there are any other comments from the police personnel.

>> Mayor Reed: All right, let's see if captain Kirby wants to respond to anything or comment before we get into questions. I assume you got the lead here Captain Kirby.

>> Yes, thank you for the opportunity to speak to you today. The only thing that I'd like to add just before we open discussion is to talk about the degree of cooperation that I think that went forward in this audit in that the auditor recommended and stated that we jointly came up with a program to analyze the police department that was satisfactory to her directive and our needs as an organization. So I think that needs to be footnoted, that hopefully this is a process that the auditor appreciated in working with the police department, and we had a lot of input and she had almost unfettered access to any aspect of the department. With that I'll just open for questions.

>> Mayor Reed: I think I have a question for captain Kirby. I want to make sure I got my data right because I know we talk about having over 400,000 calls for service and the auditor has emergency calls received of 360,000 so I'm guessing there's another 40 or 50,000 nonemergency calls for service.

>> When we use those calls in the report those include telephone calls, believe it or not people still call us on the telephone, cell phone calls, those are all telephone calls asked for help or direction, including 911 dispatch of an officer.

>> Mayor Reed: So the auditor's number here is just the 911 calls, I think if I'm reading the chart right on page 2. It says emergency calls received and then underneath EX.911. So I want to make sure I've got it right.

>> Sharon Erickson: We are getting you the answer.

>> Mayor Reed: That's a number that I use a lot when I'm talking to the media.

>> Sharon Erickson: So Roy is telling me this is the adjustment from our SEA report. You'll hear our service efforts and accomplishments report next week I believe. In the course of preparing that report we did realize that the police department has been double counting cell phone calls for many years, so the calls for service about 1.2 million per year are actually more like 900,000 per year. You'll see the full details of that in the service efforts and accomplishments report. We did pull that data forward and you were correct to point it out.

>> So where we did have the breakout available in the SEIU report we broke out the corrected number of emergency calls which are reflected in this report.

>> Mayor Reed: 360,000 emergency calls for service every year. That's a lot of calls. Another interesting observation versus all the warnings not to compare city to city, about staffing, that everybody says no city's the same, crimes are different, staffing is different, the models are different, so you can't say that we're understaffed or overstaffed based on a per capita basis. But I am looking -- I always like to look at the people that are doing something better than we are. And since we're fourth on the list of the safest big cities I always go look at people in front of us and see if there's something I could learn. And looking at these numbers in here, it would be nice to be staffed at the level of New York City per capita. They're number one on the list. All we would need to hire is about 4,000 more police officers to be at that per capita. I don't know how they do it. Even if we were only staffed at a level of Honolulu and El Paso which are also ahead of us on the list we'd have to hire quite a few more police officers. I don't know if that tells us about -- or appropriate staffing levels and the one question I had was whether you compared calls for service in these cities, it's not in these charts and is that a way to do a fairer comparison of relative staffing levels?

>> Sharon Erickson: I should let Roy answer this. He just whispered in my ear that the problem is calls for service are not also comparable across jurisdictions. Every time we try and do these comparisons, and that's why the FBI when they put out these crime statistics puts out pages and pages of disclaimers. Every time you try compare there's some reason why somebody is including something else in emergency calls for service that we don't include, or vice versa.

>> Mayor Reed: That's what I meant by all of the reasons why we shouldn't try to compare cities to cities, that's what we do, try to figure out a way to compare other cities to ourselves. But I do know we are the fourth safest big city in the country, and if we had as many police officers as some of these other cities, we'd be a lot safer I think. But that's really not the point of this report. I think it's important to note that there are some opportunities to civilianize some of these positions and if I got my numbers right in our memorandum of understanding with the POA, they have agreed we have agreed that we would start with 15 positions. And so that's part of the work plan I assume that you referred to Sharon that the department is going to do.

>> Sharon Erickson: That's correct. The memorandum of agreement which expires in June, allows the city so civilianize up to 15 positions, the issue there is that there can be no decrease in sworn positions. So it goes hand in hand.

>> Mayor Reed: Okay. Let's see if there are other questions. I believe there are. Councilmember Constant.

>> Councilmember Constant: Thank you. Mostly comments more than questions. I agree with this report, I think it's a great report, Sharon, I think your team did an excellent report of going through what's undoubtedly a large and complex organization and digging through the data. There's a lot of these positions that I know when I was at the police department and wondered why we had cops doing these things, and I think it's important given the resources that we have that we really take a critical look at these things. And the timing, given that negotiation times here is a very good time for us to be talking about this, I think one of the biggest concerns that I have is not whether or not we civilianize but what we do post civilianization. I know we had discussions last year in budget study sessions and the previous years as well that it does no good to civilianize a position if you don't staff it or you staff it for a short amount of time and that staffing goes away. We had examples of police officers answering phones instead of investigating homicides and things of that nature. I think as we go forward it's going to be critically important for the council to really make a commitment that if we're going to civilianize, we are going to put those people in the positions and so those that are freed up go into the patrol duties and the other duties where we need them and we don't look at it as a replacement to reduce the number of officers that we look at it as a way to get existing officers caught on parole. And that the civilians we not only maintain the staffing in these civilian positions but we can't forget about the 60 or 70 other civilian positions that have been cut over the years that have never been replaced so we have officers kind of not official assigned to that position but doing that work while they're being detectives or whatever the case is. So I just want to make sure that we continually look at that and remember that because I don't want to go through this and go through all the pain implementation and then two years from now not be staffing and be right back where we are.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. I just wanted to thank Sharon and your team for this outstanding work. You know, this document presented variation of different types of duties that our police officers conduct on a daily basis but also want to extend my appreciation to the police department for your

cooperation with this audit. We heard this issue extensively at the committee level, and so it's just great for the full council to hear this. With that I'd like to move for approval of the staff recommendation.

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

>> Councilmember Kalra: Thank you, mayor, I want to thank Sharon your team for this report and the police department for their -- the cooperation and although you can't make direct correlations we can clearly see that as we have all known that our sworn numbers have always been on the very low side and haven't really moved much in a very long time. If we are relative to ourselves as a city and don't even worry about other studies, we see how dramatically our population has increased, and we have the same number of sworn employees now for I think a decade now, or at least with the same number we had a decade and a half ago. So that by itself says that our police department is doing something right by continually providing services and our city is always considered a safe city and yet we haven't increased the numbers. So we're doing things well and the civilian employees, it's no dint. We see the numbers are very low. And I know the chief has made reference on occasions, on several occasions on the fact that when we have to make difficult choices we're not going to cut, if we had to choose we're going to cut some of the civilian employees rather than officers that are doing investigative work, or investigating violent crimes. That work doesn't go away. You tend to get detectives or sergeants answering phones, at the same time doing that important work. So I think that's a really good step in the right direction, and it will -- one thing to note in terms of looking at you know, you can look at all different rankings of where we stand, third, fourth, what have you but I think the critical number that we see here is that we're still very low, very low number in terms of violent crime and I think only Honolulu has a lower number. And at the end of the day, obviously we want all of our crimes to be low, property crimes and so on. But the reality is that we are seeing the most significant and impactful types of crimes in our community we still have a very low number and I think that we owe the police department, as well as the activism in the community as well, for that because we certainly have not given the same A resources that many other cities give. And so when we look at the types of positions, though, and I appreciate it because it is reflected in the report as well, but sometimes it's not intuitive the kinds of positions that need to be sworn I mean that legally that has to be sworn because of chain of custody issues and being able to testify and so on or the skills required of a law enforcement officers that's where I think it's going to tie lot of work with the police department to determine those positions that may not be -- that some of us may look at and say why isn't that being done by a civilian individual but there maybe reasons beyond what we can see on the surface. So I think going forward I think it's good that we're taking one small chunk of the time look at 15 employees and go there and find the most obvious low hanging fruit and as we go forward I agree with Councilmember Constant that we shouldn't move back, but recognize during difficult economic times ultimately we're going to be faced with the same decision if we don't. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you. I just have a couple of very quick questions and they're basically central to the memo that chief Davis sent out. And the first question is, if we -- you know, obviously the most qualified people be retired San José police department employees, we don't have to retrain them or spend a lot of time bringing them up to speed. By the same token part time employment on the part of retired police officers, does that -- how does that work? Do we save money or are we going backwards doing that? What would be your impression? And I think Mr.-- Sharon, whomever would like to answer that. Mr. Kirby.

>> The thought for part time employment as I think we've discussed before we had a lengthy discussion in Rules and possibly here in council, about the qualifications of sworn staff when you retire. All the legal standing of fair employment act and so on so forth, so it doesn't give us an opportunity to just cherry pick retired people, we have to open it up to everyone oops but if we found a position that would be able to be filled part time, in fact we did find one in this audit, we talked about a person for lack of better term does mechanic work on weapons, the -- range, armor. And we had the idea of people splitting that task 20 hours at a time if that was available and people of that skill set could fill it. So there are a couple of positions that part time would work but it would be a part time shared or full time position, not a part time position.

>> Councilmember Pyle: Okay and then the other thing is then, we would -- do you have any idea what other cities do or have we made any comparisons with surrounding cities and what they might have done? Are there any examples of this?

>> Specific to part time or specific to just civilianization?

>> Councilmember Pyle: Civilianization.

>> I think I'd let the auditor answer that one and I'd chime in if I had anything else.

>> Sharon Erickson: We did study what other jurisdictions had done. We looked at now I'm blanking on the cities, I had written them down because I knew I would forget. Los Angeles, Vancouver and Kansen City, so those are all cities that have looked at this issue so we are benchmarking to what other folks are doing.

>> Councilmember Pyle: Appreciate it. That's basically it, just wanted to be sure to do that.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Great report, great cooperation those have all been said, three things that determine the success one is the discussions with the POA, what people want to deal with and I hope they would be wanting to get more police officers on the street and I think they will be. The consent decree that determines how many positions we have to have as desk jobs and finally money. Are it's pretty clear that you gave us the road map, we don't need a new report, we don't need to update this report ever again, it says exactly what we could do and what we could civilianize. It is a price tag on that and it's dependent on us to allocate those funds during the budget process so we can do those jobs and get more officers on the street which means we have to make some tough choices of what we choose to take that money from to fund this. So I'm supportive of this report and the City Manager's and the police chief's view on this but it's going to take us to put that money forward. And then finally on the question fo retirement, we sort of talked about that question of public safety, and Councilmember Constant thought of some creative ways for that to work. I see he's going to talk to I'll give him the show, thank you.

>> Mayor Reed: Councilmember Constant, with that kind of lead-in.

>> Councilmember Constant: How can I resist speaking then. I think one of the things we have to look at, I brought this up in the Public Safety committee is the use of reserves. Many large departments like LAPD, L.A. county sheriff's department, almost all of our surrounding cities here in this county, including Los Gatos, Los Altos, Campbell, just to name a few, the sheriff's department here in our county, use reserves in limited part time status. And one of the advantages we have in our reserve unit here we have over 100 reserve officers. I think if you compared us to other departments we have a higher percentage of retired full time San José police officers who have become reserves than virtually any other reserve unit. And I think it offers us an opportunity to look at some of the things like the backgrounding or some of the other ones where especially backgrounding where it's a short duration of time but it is full time during that 12 or 14-week period, where I think we could utilize reserves and by making it a job where we craft the experience requirement to X number of years in law enforcement, experienced in investigations, and a reserve with our police department, you could create something that would be legally acceptable from an employment law standpoint and comparable to what other departments around us are doing. It's important to note that in some agencies like Los Angeles in particular, they have entire traffic units that are made out of police reserves, motor scam units, horse units, it's also interesting to note that in our city, a lot of people don't realize this but our helicopter unit originated out of the reserve unit as a program out of the reserve unit as did the horse mounted unit. We need to look at it critically, we need to discuss this obviously with the POA and the implications that it has through our meet and confer process but we really should be looking at what these other organizations are doing and how we can benefit. I was a reserve officer for a number of years so I really -- I think it's a great organization. And I think the way it has evolved to a postretirement volunteer program for our own officers shows the success of our program and also the commitment our officers have once they retire to stay involved in our city. So I just hope that we can continue to look along those lines.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. This is an excellent report, I want to thank the auditor and the police department, as has been said I think it's great the cooperation and working together to come up with this. I would absolutely support moving forward so that we can hopefully get some more officers on the street and I think we said that with our questionnaires to the public that law enforcement having more police out there crime is the biggest issue so I think this coincides with what the public wants as well. I get concerned, you know, even though we do a fantastic job and we're among the safest cities how much pressure we put on our police department because of the relatively few numbers of police we have per capita compared to other major cities so I know we can do it but in the back of my mind sometimes I wonder how many times they go to work sick when they should be calling in sick because of the numbers, and just all kinds of issues around the fact that we do a lot with a very small force. So I think getting more folks out there, I would -- I definitely want to see that. And I just want to say what an

excellent job our police department does. Any time I get a chance to say that and I know I speak for the majority of people in the City of San José. We have an incredible police department. I had one question. As I sit on -- I sit on the police and fire retirement board. It's a random thought that I was thinking about, in terms of positions available for officers who become disabled. Would this civilianization impact that at all? Sometimes -- we have officers come before us if they are awarded disability, one of the things we look at is was there a position available for them at the police department, where they could work with the disability. So would this affect those kind of positions that would be available?

>> Sharon Erickson: Yes, it absolutely could and that's why I spoke about the constraints and the complexity of actually trying to implement something like this. There are currently 30 positions that we're required to have. There are more officers on modified duty than that in the department at any given time. We decided to look through these 88 positions, purely from the sense of could a civilian perform this work, with the idea that that is our first and foremost obligation to the taxpayer who's funding footing the bill for this. At this same time, we absolutely have to keep in mind that some of these officers have been placed in positions for a variety of reasons. Not only because they're modified duty or Brady officers but for example, the police artist who has been a member of the department in long standing. The agreement that, as we talked through that position, was that that's a position that potentially could be civilianized but for now the cost savings wouldn't be that significant for the quality of the person that we have in that position. That's why together with the police department we were recommending a short, medium and long term view at this as the department shifts its focus as there are more civilians in the department it will be a constant rejiggering of where those positions fall.

>> Councilmember Herrera: I'm just wondering because I was thinking of unintended consequences, if we end up having more folks having to go on disability, and not being able to find a position I think then that increases other kinds of costs so just some things to think about.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Sharon, I agree, it's an excellent report. I appreciate your team's diligent work on this. I had a couple of questions focused on recommendations starting with the recommendations relating to P.A.L, police athletic league. Page 34. I'm trying to make sure I understand the numbers here. I was surprised to know there were five sworn officers work with the police activities league. The recommendation is to civilianize three officers. Is that three -- has there been a reduction in that five or are you just recommending that you only civilianize three of the five?

>> Sharon Erickson: Again we were looking at the duties currently being performed so we weren't assessing whether or not those duties should be performed. Of the five we felt three were doing civilian work. So they were scheduling coaches, they were doing the administration of the organization. So of those three, that's why we recommended three of the five. The department felt strongly about having a sworn presence in with the police activities league, and that was the compromise position that we came to. But generally it was because at least full time three people were really spending their time doing administration.

>> Councilmember Liccardo: Perhaps Gary do you want to comment as to why the importance of having sworn presence there? In the context of all the other very important responsibilities police have.

>> Yes, if we look at the original mission of the P.A.L. program it was to have not only a safe interaction with the police officers outside an enforcement environment, so the presence of police officers in and about football games, baseball games and scheduling types of things, the program has grown over the years, was quite good popularity, and so some of those face to face contacts were naturally moved into administrative needs because of the demands for scheduling meeting with coaches, giving guidance and not as much emphasis with actually officer on the field there helping to move the ball down the field so to speak. So that is where we were able to concede to those positions and maybe a different type sworn person or nonsworn person could work in that position and still gain the public outreach and support by the remaining uniformed people because we do sit and hold board meetings, we're out fundraising and things like that so that would still take the uniformed presence.

>> Councilmember Liccardo: I agree P.A.L. is a wonderful program and I'm grateful that it exists. I assume that there's significant A volunteer effort also involved about with P.A.L. is that true?

>> There's a lot of coaching that goes on with our existing officers in and around the communities that aren't directly associated with P.A.L. but they may be helping a neighborhood or a team and P.A.L. may be helping them with funding uniforms places to play games and stuff like that.

>> Councilmember Liccardo: Knowing that it seems to me this is a very important valuable program nobody would deny that. I'm just wondering if having the officers involved in the paperwork is really as important as all the other things we demand of our officers which are quite a lot.

>> I think that's why we agreed to those three positions because through the appropriate analysis they were showing a lot more paperwork and very minimal face to face contact with the public which is what started the program years and years ago.

>> Sharon Erickson: Councilmember Liccardo if I could also add in addition to civilianizing these positions, three out of the five we did recommend the department and the city reconsider our support of the police activities league. It is our understanding that that is the only 501 C 3 that the city has direct city staff participating in. That was a concern of mine and we did recommend, the rest of the recommendation here is to reconsider that whole relationship.

>> Councilmember Liccardo: Thank you, Sharon. I had another question about the airport staffing. I wasn't aware that we had 50 sworn until I read this report, over there at the airport. And I know that there was no -- correct me if I'm wrong Sharon, there was no hard recommendation with regard to numbers on that. Is that something we expect to be forthcoming, or --

>> Sharon Erickson: Well, we did make one recommendation, so there was one position we did recommend be civilianized, because it really was primarily administrative, it was scheduling everyone else. We did make this recommendation broader, I believe there has been some movement in this area in the mid year budget proposal that's coming through to you, and I expect that you would see further -- you may see further developments in this area later on.

>> Councilmember Liccardo: Okay.

>> Sharon Erickson: Many airports use a mix of sworn and civilian security staff and that's the conversation. Again, it wasn't a clear cut conversation that we felt we could have in assessing the security of our airport. They were performing duties that seemed consistent with sworn personnel.

>> Councilmember Liccardo: Sure.

>> Sharon Erickson: So that it wasn't that they were pushing paper but that it was something that we needed to consider as another way that other airports have reduced expenditures.

>> Councilmember Liccardo: Okay. And I did see that at mid year we are obviously reducing positions there. And hopefully we can maybe look at best practices in other airports as well, look forward to that. The last area I had some questions about related to the Brady officers. Because I know this is a very delicate area and it's very challenging. I know, because I've been in the position on several occasions of being the prosecutor on the case and seeing an officer who's got a file, and then there's the challenge obviously as to, you know, decisions you need to make about going forward with the case and about prosecuting and so forth. The question I have is, is the way we're doing it and I guess really more for you Gary, I'm sure you've looked at this issue many times because I know it's challenging dealing with particularly in a situation where you've dismissed the officer and you've got a commission that decides that the officer is going to continue to work for San José PD even though San José PD can't put them out on the line because they're concerned about these Brady issues, has any department figured this out in terms of how you can employ these officers without obviously sacrificing the integrity of the police department?

>> As you know everything in the police department is pretty much covered under our MOU and operating procedures and in that regards. You are correct that the civil service commission has forced several officers onto the chief for him to find positions for within the department he's done his best to do that, to keep them out of line of having to testify in court or having anything that would come under suspicion of activity. I think this is one of the areas of the audit recommendation that we will be looking at with the POA and HR and the City Attorney as far as where we can go with the comparison on what we want to do with this position. Some of the positions sometimes are temporary depending on what the allegation is that put you on that list so we have to be mindful of the duration of time you might be and the severity for which you were put on that list and how does civil service treat the final disposition of that employee.

>> Councilmember Liccardo: I agree with you there are certainly varying decrease here that we should be -- degrees here that we should be mindful of. I hope that is in final negotiations with POA that POA will show some flexibility on because that impairs the ability of the department to function effectively.

>> Yes, especially when we've identified a very long term individual versus a short term duration that we're waiting to clarify a certain time frame on.

>> Councilmember Liccardo: Councilmember Campos.

>> Councilmember Campos: First of all I appreciate the report, the audit excuse me it was very thorough, and I wanted to just comment on your ability to be able to strike a balance between the five positions on the P.A.L. organization and group. I think that one of the things that, as someone who has served on the board for many years, I've always looked at the officers that have a presence there as also part of our prevention, with youth when we think about it, building community relationships, and their ability to be able to create a safe place when you have that many individuals in a very dense piece of property. And if you've been out there on any given day, when there's a game or several games going on, it's a lot of people out there. And I also have always appreciated the fact that at the end of the day, when we have events for youth out there, and these are just little comments they've made, is that -- and these are teenagers, isn't this great that we're in partnership with officers, versus some of the other experiences that some our friends may have had? And I always remember that comment, because now they're seeing them in a different light. So what I see, I look at them also from the prevention because they're having a dialogue with a lot of the kids that may be at high risk. So I'm happy that you were able to strike a balance in those five positions. Thank you.

>> Mayor Reed: Thank you. I'd like to get back to money. Just because that ultimately is how we hire and pay our officers and I'm really interested in a chart you have on page 6, exhibit 6. Which tracks over the last ten years the authorizes staffing, city population, and the police department operating budget. And just going to check my conclusion here, see if the auditor thinks I'm in the ballpark. According to this chart, the operating budget has gone up by 61%. That's right, I know because I got it off the chart. That's about \$108 million over the ten years of increase in budget. I think the consumer price index is about 20% over that time period. If we had just held to the consumer price index I think we could have hired somewhere near fined additional officers with that -- 500 additional officers during that sometime period with that extra money. We collectively decided not to do that, we increased the pay and benefits for our officers but we could have hired a lot more officers. And I think the magnitude is 500 plus or minus that we could have done with that and still been able to give raises and benefits equal to the consumer price index. So am I drawing a -- am I too far out of the ballpark there City Auditor?

>> Sharon Erickson: Sounds about right to us.

>> Mayor Reed: I can't do exactly the math because I don't know exactly what the officers cost. But that's a lot of years, a lot of councilmembers have made that decision, collectively, that we wanted to have really high-quality officers, a really top-quality department, and it's clear that we have one and we put money into that to ensure the quality of our officers and that's one of the reasons we're a safe city and the officers are to be commended for the safety but there is a tradeoff in terms of the number of officers we can put on the street and that's something we'll have to continue to wrestle with as a council as we go through the budget process. I have one request from the public to speak, I'd like to take that now, Ross Signorino.

>> Ross Signorino: Thank you, Mr. Mayor, members of the council. Obviously, I don't think, without saying too much, that this is a good idea of civilianizing these particular jobs. But I'm afraid, I'm afraid what's happening right now is that we're rhetoricking this to death. It is a simple thing really as far as I can see. Any time you could take officers and put them in key positions, these are highly skilled people, police officers, takes a lot to train them, a lot to bring them on line and they are skilled and we need that skill in the field where they are most needed. Chief of Police Rob Davis said this on KLIV one time when he was being interviewed on this monthly radio program, said that he likes to rotate his police officers to do detective work, regular patrolling work, so this way he can get the best skills he can out of his people on the police force. And this is what I think this particular bill, this particular civilianization of this 8.1 will do, is to put skilled people out there. The people that we have on hand, right now, without going any further. Of course we will have in time more policemen coming online. But right now, we have to work with what we have, and I think if you can get civilians to do some of these jobs which are not critical as far as policing is concerned and get policemen out there where they're needed to solve crimes like we just had here, crimes we even forget about and all of a sudden the police come up and say they have solved that crime. I think that is commendable and I think we need to keep that quality up, thank you.

>> Mayor Reed: That concludes the public testimony. Is there any additional council comment or question? I think we have a motion, do we have a motion? We do have a motion. What was the motion?

>> Accept if report.

>> Mayor Reed: Accept the report, I believe. Okay. All in favor? Opposed, none opposed, that's approved. Thank you very much that takes us to the sign code ordinance update, which we started a

couple of weeks ago. Got a couple of section of it done. And now we're back to continue to work through the rest of the top.

>> Joe Horwedel: Thank you, Mr. Mayor. Joe Horwedel director of Planning, Building, and Code Enforcement. We are back from about four weeks ago and today we wanted to start with the issue of electronic and digital signs. In the supplemental staff report we had broken around the different topic areas and this one is topic number four in that list. So the first piece of this discussion we wanted to talk about electronic display signs for ground floor uses in the downtown, so as the council may remember we have revised the code in about the last year to allow these types of signs in the downtown. We currently have two of them that exist and so the question is should we revise those regulations to allow them broader use in the downtown than what is currently allowed, are the sizes allowed appropriate, the one that's closest here to City Hall on the flames is 17 square feet, currently the code allows a 35 square foot programmable sign. We do allow one sign on a ground floor with a 150 feet of street frontage. We do have some prohibitions dealing with residential proximity, some of the concerns were raised about how this might shine into residential units at nighttime. Here is the other one that exists in downtown on the market, Safeway's grocery store downtown and that's 32 square feet. We did go and test this concept with the community through our community outreach process and there was fairly strong support for including this in our sign repertoire. That most participants felt that downtown was a very appropriate place for programmable signs for retail businesses. There was some concern about the light and glare for those in residential uses and this is a picture from another city of at nighttime with one of the signs of how that operates. And so that was the concern the community was talking through. And some of their experience with that technology in other places. We did look at what other cities allow for programmable signs here in the region, which you see here about half of the cities don't allow this technology. Gilroy and Palo Alto allow it really broadly throughout their zoning and use areas. You can see a couple other cities do allow them mostly for assembly type uses which we'll talk about in a little bit. Staff has put together a couple different options on this that we'd like the council to talk about today. The first and this is the one that staff is recommending is that we continue to allow these on ground floor uses. We put a little bit more flexibility in the criteria of what businesses would qualify for these. We wanted to be able to do them on more businesses and so we were looking at instead of 100 feet of -- 150 feet of frontage was to go through and allow it only or smaller frontage of 100 feet or combined 150 feet recognizing on a corner business you may have two-75 foot frontages but you have a good presence. We also wanted to increase the size up to 50 square feet, we wanted to retain a max on 50% of the sign area. We think that is important, about how the design of the sign comes out. We did think it might be appropriate to allow more than one on some businesses that, if it's a really large frontage that it would allow that business especially on a corner site to take full advantage of those street frontages. We think it's important about the issue we've talked about before about on premise advertising and noncommercial messaging versus turning these into essentially mini billboards that are doing off premise advertising. We do still need to put together some regulations around the operations of these signs. We talked about the issues in the staff report. There is work going on at the state level about traffic safety and programmable signs and we haven't had any issues with the two signs we have here in San Fernando street but there has been some concerns raised that if we were to see three or four of these on a given block face that that might create some issues. So we are looking at the work as well as the work going on at the state level so I think I went over the most of the pros of this, the cons, there is some concerns that just with larger signs and more of them occurring, that we might not see as creative design as we've seen with the first two signs. That we think is a minor concern but it is something we wanted you to be aware of. We also looked at an option to increase instead of 50 square feet going from 35 to 100. So that would allow businesses to have a larger presence with the programmable technology. Just as a frame of revenues the sign on the rep, the programmable portion of that is about 75 square feet so it would be a third bigger than what you see there. We do think that that size is too big for the scale of our downtown, that at a pedestrian level, those signs predominantly would be mounted on the face of the building. It would be very difficult to do that in an attractive manner. Staff is look at that to see if it made sense or not. So the questions that we have for the council for your discussion this afternoon is one is the option 1 staff proposed, does that feel comfortable for the council, is it something have we gone too far, or is option 2 something that you're feeling comfortable that 100 square feet is maybe a more appropriate direction to go. So we'll open it to council discussion.

>> Mayor Reed: All right, I'm sure we'll have a few questions and start with Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. Thank you for the report and on the development parameters to address sensitivity and traffic safety and so on, even if we come up with, even if it's a very important component, even if we come up with what are important parameters and so on. What degree to we have to enforce it if, you know, it's challenged, in other words, if we have a couple of businesses that have it and we say you know what because of traffic issues we already have two on this street we think one more will be too much, and the business says you know what that's not fair to us. What legally and otherwise kind of around what authority would we have to have that type of consideration?

>> Thank you. That is an important point and so I think the parameters we would be looking at wouldn't be so much to limit separation requirements but rather to come up with the appropriate frontage requirements so that so long as you have a minimum amount of frontage on the street, you could have one on that frontage and then it would be the larger parcels that would be allowed to have it. But the thought is, is that given the intensity, given the size, that it is more appropriate for the larger frontages in any event. So we wouldn't be saying, only two on a street such that the first two businesses in would get it. Because I think you're right, that would raise some concerns.

>> Councilmember Kalra: And as you say frontage and you have the 100 linear or 150 around the corner, is that for a single business or a single owner? In other words if someone owns a city block and they might have six or seven different businesses on it would that allow them then to have it, to have this type of sign?

>> The code identifies an occupancy frontage which is a space that's occupied by a single user.

>> Councilmember Kalra: Okay.

>> That has frontage on the street.

>> Councilmember Kalra: Okay so then that wouldn't apply, it's not relevant who the other than is if you're leasing out several properties that you can't -- it's not cumulative?

>> Joe Horwedel: Correct.

>> Councilmember Kalra: It has to be one user, right? And then the final comments is you show a picture of the rep, and I think option 1 is appropriate. However, I think we'll get later on to assembly type uses which I think is a different situation.

>> Joe Horwedel: Right.

>> Councilmember Kalra: So there might -- even though I agree with option 1 it doesn't necessarily mean I think the rep or buildings like that should be held to that standard.

>> Joe Horwedel: Right.

>> Councilmember Kalra: Because you showed the rep, I understand you're doing demonstration purposes how big a sign would be.

>> Joe Horwedel: Correct.

>> Councilmember Kalra: At least my sense that option 1 is appropriate doesn't mean there can't be certain types of businesses that can -- that we can allow for larger signs. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I'm curious, John, how many square feet is the sign by Safeway?

>> Joe Horwedel: There we go, it is 32 square feet. That's only the programmable portion of that sign. The sign itself, what you see in this picture, the white background is much larger than that, it's probably about 70 square feet total.

>> Councilmember Pyle: Okay, so it's probably closer to your first option. That seems tiny to me.

>> Joe Horwedel: Under our proposal, that is one of the reasons why we came back to change that, is we felt that that sign actually should be bigger. And so that's why we're recommending the 50 square feet, we think it would have helped. I think the other challenge is that the technology they used in that sign and what we've seen with the flames is really a first generation technology with the programmable display signs. So the resolution is a little bit less than possible.

>> Councilmember Pyle: And the part of sign that's white, whose idea was that?

>> Joe Horwedel: That is Safeway's corporate logo for the market.

>> Councilmember Pyle: Never a good background color.

>> Joe Horwedel: I have no opinion.

>> Councilmember Pyle: Wise remark. So that's it, I just wanted to go with that. I think we've discussed this almost to death, so I'm eager to go ahead and approve. And I would like to make a motion that we accept your first recommendation.

>> Mayor Reed: Okay, we have a motion to accept option number 1. Before we vote on it we will take public testimony on this and everything else we're going to talk about today. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Joe, when this issue about 50% of the total sign area being PDS and thereby at least 50% being something else other than PDS, when that's been raised in the past I know it appeared in the report the response generally from planning staff has been we want to do that to encourage more creativity in the signs. Which I think I understand, you believe that for instance by going to 100% all they're going to give you is a big square PDS display and it's going to be uninteresting. But it seems to me that we don't know exactly what someone's going to propose until they propose it, especially the world in which graphics artists and other folks are creatively thinking about new ideas and I wonder are there circumstances where you can imagine somebody submitting something, where the PDS is greater than 50% of the sign area and you say well that seems like a pretty acceptable sign and something we might want to have in the downtown.

>> Joe Horwedel: Theoretically yes. I think the other part of the equation that goes along with this is, one of the analyses that Carol did in look at signage downtown was dealing with the concern that we often hear is that there's not enough signage downtown and what we found is that we had one retail business that we used 100% of their allowed signage. Most were at 50% of their allowed signage. So I think it's a question of what is an appropriate size for a programmable display sign, and then what goes around that. And we didn't want to get a situation where somebody just put a 50 square foot programmable display sign or 35 foot, we wanted them to build something more. It's been our experience that we're not getting people that are taking advantage of what they can do.

>> Councilmember Liccardo: Sure.

>> Joe Horwedel: And the other piece, the expense of doing the sign is they are very expensive signs that we didn't want to get in a spot where the sign got so expensive then really forced the pressure to go through and turn them into billboards as a way to get the revenue to pay for the sign which is what we've seen in a number of other cities is that they allow a really large sign but they allow off premise advertising because it's so expensive to build the sign. They kind of -- it's a self-fulfilling circle. We thought the scale of the streets the scale of the buildings that the 50 square feet we felt was a good fit for that technology and that the amount of signage that's already allowed, you know, that 50% would allow a really creative sign to happen and from what we've seen. And like I said we haven't run into that being a problem even when we did the first one with Safeway they stayed well under the 50%, the flames is well under 50%, we have some pictures later on that we're going to show that are in excess of 50%, so it's just in the research we've seen we think the better looking signs that have been done and that was a really important message we heard through the community process was, it's an exciting technology but do it well. Don't go through and kind of just do the cheap noncreative.

>> Councilmember Liccardo: Yeah, I agree with the sentiment. I guess my concern is I know Safeway came through before we even had an ordinance because I remember we were racing to get something on the books because we didn't want to let this commercial opportunity pass us by and so I can understand why they might be more conservative not knowing exactly where the rules were going to be. I guess the concern I have is like in a sense, we believe that we are going to enhance the creativity of the sign by imposing the restrictions on it. And I may be the case that you do provide some incentive for folks to do some creative things but maybe a really creative idea that doesn't fit in the tight box that was just described and then we're passing it by and I guess when we talked about the sign code last time in the context of some signage we talk about the possibility in which staff would create sort of the safe harbor where you have sort of a buy right approval if you submit something that fits within these confines and anything larger than that say it's larger than 50% of the surface area for instance maybe there would be a presumption against granting the permit but someone could satisfy a certain set of factors and go to planning director and get an approval.

>> Joe Horwedel: And that is something that is you know we can take that back as a part of crafting code, is there something that put some larger percentage to it? That has some higher review to it? As we take a look at it, what makes sense in the really of running a realm of a permit center, what's going to spend time with people, will deliver a pretty consistent result that people will be happy with, that isn't going to take tens of hours of staff time.

>> Councilmember Liccardo: Sure. It's permissible for us to charge one fee for someone who wants a buy-right approval or if they want something larger or different they have to pay a larger fee in order to pay for the service?

>> Joe Horwedel: Depending how the Mercury News will report that.

>> Councilmember Liccardo: Yes, understood. The last piece of that, I put the flames sign up again. I think it's important to talk about this sign is the owner wanted to do something on the end of this building and the original proposal was to put four or five rectangles on the end of this building internally lit no programmable, no neon. He really didn't like that sign that was -- he was being forced to do. He wanted to do something like this. But his solution was to come in with a programmable sign a rectangle that ran vertical up the building that would have what you see there but done with essentially a TV screen. We worked with him to go through and integrate the programmable sign into it but I think creating a really striking sign in that corner which I think most people would say is a much better looking sign than had we just allowed 100% programmable sign to happen. So that's how we've tried to look at it is to build a big box that allows them, their designer to be creative that gives them incentives to take advantage of that and then have them work with them on that.

>> Councilmember Liccardo: I appreciate the sentiment, I know we're often dealing with companies to have logos and so forth and I know you want to encourage them to be creative. But if they say that my creativity says that 65% is going to be the right ratio because of this logo and everything else we're trying to do, I'd hate to believe we're going to get in the way because we believe that 50% is the magic number. So I guess what I would ask is the America of the motion would consider a friend -- maker of the motion would consider a friendly amendment that would allow the Planning Department to come back with an option that would enable us to exceed these specific restrictions that are listed here, at the discretion of the Planning director, with a set of factors that the Planning director would consider.

>> Joe Horwedel: Right, we would come up with some criteria that would lay out those circumstances to essentially grant an exception to the rules for flexibility.

>> Councilmember Pyle: Absolutely I'd agree, otherwise you'd have to come back every time and that would be very nonfunctionality.

>> Mayor Reed: That is acceptable to maker of the motion, I don't know who has the section, Councilmember Herrera calls the second and that's okay? So we have a friendly amendment to the option, option 1.

>> Joe Horwedel: Yes.

>> Mayor Reed: Anything else Councilmember Liccardo? Vice Mayor Chirco.

>> Councilmember Chirco: You know, I really am troubled by arbitrarily changing and creating percentages from the dais. This is a whole new strategy for the City of San José, and I think approaching it cautiously is a good strategy. You know, to ask for it to come back in a year with a report on how it has unfolded I think would be a better strategy. I remember a time when signs weren't as regulated as they are and just how unattractive they could become very quickly. And this is how I'm feeling about this, I mean, you know, I'd rather not act in haste and repent at leisure. But to be thoughtful, as we unfold new technologies and new ordinances, on what is our city going to look like? I can't support the friendly amendment. I really want to see how this unfolds, how do we implement it, how is it received, what are the consequences, you know the pros and cons of actually putting this on our structures. The two that you use as examples I think are attractive signages. But both of them fall well below the parameters that are recommended in the staff memo. So I get increasingly troubled as the council changes the staff recommendation without any evaluation of criteria. I know we went from 25 acres to 15 acres. I understand it's all for the good purpose of promoting business but with all of the free speech rights and what happens to signs, signs stay long after the business is gone and if we're lucky it turns into a Santana Row and if we're not it looks like the rest of the signs. So I can't support the motion with the amendment. I just really want us to be -- you know think twice and vote once. So I can support the original motion but I can't support it with the amendment.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. I can support both the motion and the amendment. And I think if anything they don't go far enough. You know Nancy mentioned that she'd like to see them bigger. I agree. I smile every time I drive down San Fernando Street and if we had those kind of streets, those signs on Santa Clara and on Market, downtown is a place that we need to light up and enliven. I may agree with Judy if we were saying do this throughout the whole city. Then I would say you know maybe we don't want to, you know, go too crazy. But this is downtown! This is a place we want to light up and enliven. I think every time I see the flames sign, I think the only thing could make it better if the flames were real instead of neon, but you know we really have the opportunity to make a striking difference in our downtown and in our businesses, and where Judy is right is you know, the business may leave and the sign remains and that's a wonderful asset for the next tenant. And those are the type of things when

people are looking to establish businesses, those are the assets they look for in retail spaces because they know that if they're going into this building and they're inheriting a sign that cost however many thousands, tens of thousands of dollars that that's one more attractive feature for them to go in and just modify that sign and get in business. I think that while there are some bad signs in the city, I think overwhelmingly we've got really good signs especially in our business districts and downtown. So I'll support this. I would have loved to see it more towards 75 square feet. I think 100 square feet might be a little big but we are talking downtown. We are talking especially about the downtown core. These are areas where we really want especially during the evening hours we really want to enliven it. I hope that you would consider maybe changing to 75 square feet. I think we should pump it up and I think Sam's recommendations of having a form of an exception where people can come in, because Sam mentioned last time when we were talking about the freeway signs, the signs over at the Mercado center I think it's called over in Santa Clara, after that I drove over and took a look at them, you're right Sam we need to encourage that kind of activity. We need to get away from the square box. We need to do things like the flames, which is a unique shape, unique box, it's memorable for people to think about. If you remember the sign with the Stevens meat company the dancing pig, people remember that for years. That is the kind of thing we need in our downtown. This is the time we should be pushing the envelope, we should be getting sign requirements to the point where people are thinking wow, it's an asset to go to the City of San José.

>> Mayor Reed: I'd like some clarification to the friendly amendment to the motion. I took it to mean that we would approve option 1 so we have some certainty. And then have some sort of a different process, more discretionary process that is yet to be defined for beyond option 1.

>> Councilmember Liccardo: That's exactly the motion and my suggestion would be that we could even create a presumption against granting larger signs until the applicant establishes whatever factors that the planning director would establish in advance along the sign -- that focus on sight lines to residential properties and things of that nature.

>> And again, we would want to come up with objective criteria that could be applied. So I think I'm hearing really all the councilmembers sharing in -- to some degree the concern that was articulated by Councilmember Chirco. But our goal is that the flood gates wouldn't open and that you know I think your idea of incorporating presumption against it but coming up with objective criteria that could be considered is probable something we could work with.

>> Joe Horwedel: I think the other part from when we bring some stuff back some ideas around for the council on this, I think staff would still want to have some sort of upper limit so it wasn't a -- you know that somebody couldn't argue 100% and I don't know what that would be but we'd come back with something along those lines.

>> Mayor Reed: I think my point is it's important to continue to move and not go back into analysis mode. It's pretty clear so far from the comments that option 1, the council will support, so we at least want to get there and while we do further analysis about other parameters, so I can support the motion. Vice Mayor Chirco.

>> Councilmember Chirco: Well, Sam, you did alleviate some of my concerns when you used the presumption of not approving. But that there be guidelines. I just -- you know, I almost get to the point where I want to apologize to planning for all the time they spent on this because it seems like we create it up here. So I wonder are we spending our staff time wisely? If we're going to create policy without, you know -- and I don't believe we should just rubber stamp what staff says, but when we start changing sizes and we start changing locations, I like to know that there is a reason. And I don't always vote staff position. But I want to know what it is. I want to know that there's been a staff analysis that we can rely on. I am comforted by the fact that you -- that it is not presumed that you will get it. And I don't like to be a naysayer so with that assumption, I can support it and I think Joe would be eternally grateful that he's not going to have to sit in front of a developer and say yes or no but that there be criteria because that's not a place I want to put our staff in. Because the council said it should be 60% or whatever, that they automatically get that by applying. So I do believe in signage and I do believe telling the story and I do believe in promoting business but I am troubled when, without any memos or justifications we come up with new criteria. So I will support the motion but with a degree of reluctance.

>> Mayor Reed: I'd like to take public testimony now, and looking at the rest of the agenda, I think we're going to be able to conclude this section, and then the electronic digital sign for assemblage uses section and perhaps electronic digital signs for commercial areas today. It's now a quarter 'til 5:00. So if folks want to give their testimony in any of those three areas, that would be useful. Because we're not going to

get, I'm sure we're not going to get over to supergraphics inside and outside of downtown would be my guess, we'll not have the time to get to that but people are welcome to comment on whatever they want to speak in this whole sign ordinance. Ben Daniel, David Wall Robert Atkinson. Please come down close to the microphone so you're close to the front when it's your turn.

>> Good afternoon, my name is Ben Daniel. I'm the pastor of Foothill Presbyterian Church in East San José. First I want to thank you for taking on this issue. I think vibrant cities have vibrant and well regulated signs, so thank you for doing that. My concern is how sign ordinances might affect places of worship. Worship churches synagogues mosques are often turning to various kind of electronic signage to welcome people get their message out and my concern is that with regulations, regulations based on the physical size of the structure or the amount of people which might fit inside a sanctuary, might in a sense favor large churches, and synagogues and modification, large houses of worship over small houses of worship. I'm the pastor of a congregation of 200. That puts me right on the cusp of being a small to medium house of worship. I personally believe that small and medium sizes houses of worship have a lot to offer our community. One a city doesn't do well to favor large highways of worship over small houses of worship. It would be like favoring Barnes and Noble over Hicklebee's in your district. And I think there's something really to be said for promoting and supporting the work and the mission and the outreach of small houses of worship. And so my urging to you is that you consider as you write these owners a way of creating a sense of balance and a sense of parity which allow small houses of worship the freedom and the benefits that go along with having the kinds of signs we're talking about. Thank you so much.

>> Mayor Reed: David Wall, Robert Atkinson, David Polziger.

>> David Wall: I would like to say that I think this ordinance is a little incomplete. Because there seems to be an absence from the corporate sector, the professionals know how to deal with signs specifically clear channel and CBS outdoor, to the defense of Mr. Director, he did ask for consultant funding at CED last year. There was also an absence of a reference sector for all the information that was tendered to you, even though there was cursory reference to federal and state statutes, even though disclosures and a reference section should be put forth. Of a materials sense there is a an absence of political signage sector, in lieu of the recent outrageous decision by the Supreme Court, every election cycle the citizens are hoisted, you folks hoist all sorts of signs on us all over the place, it is in violation of existing sign ordinances and it is done so without any detriment or deterrence. And that needs to be changed, I guess with the exception of reelect mayor Reed signs which I hope I get at least two of them.

>> Mayor Reed: I'll make sure they're LEDs.

>> David Wall: Yeah. In conclusion as to the dancing pig sign which I knew very well for Stevens meat, I think it is a very nice exhibit. Although I think it's nowadays a very happy dancing pig. Actually, a multimillion dollar dancing pig. For a baseball project that really, you know, didn't have the vote of the public yet to go forward to purchase such a happy multimillion dollar dancing pig which perhaps is away the A's stadium downtown is in all reality. Thank you.

>> Mayor Reed: Robert Atkinson, Paul Zeger, Ross Signorino.

>> Good afternoon, Mr. Mayor and council, my name is Robert Atkinson, I represent Si West development and Siufi enterprise. Throughout the City of San José oops and I'd like to complement the city and staff for the efforts that have taken place in the drafting of the sign ordinance update. I recognize that on January 12th the council approved a modification to the freeway sign proposal to reduce the acreage from 25 to 15 acres and we recently submitted a letter to staff with comments relative to that approval. We had suggested that staff give additional consideration to recommending to council that a graduated or a tiered approach be taken with these freeway signs and that they also consider expressways and highways as freeways in the sign ordinance. Many of your local neighborhood and community shopping centers are based on parcels of less than 15 acres. It's sort of a case of, as the gentleman mentioned, the local bookstore versus the national bookstore. As it's currently drafted your major mall owners and tenants would benefit from the change, and anyone that's less tha 15 acres, 14.99, fits on a community and neighborhood center is subject to the same size freeway sign that a 7Eleven on a half an acre would receive which is 20 feet and 120 square feet. So the thought is that a graduated approach based on the acreage bracing ten to 15 and five to ten and below five it would put them on some type of a comparable or equal footing with the major national properties, would potentially benefit local retailers, merchants and property owners of these smaller commercial centers. We had a --

>> Mayor Reed: Sorry your time is up.

>> Okay, thank you very much. Appreciate the opportunity to speak today.

>> Mayor Reed: Our next speaker, Paul Zeger and then Ross Signorino.

>> Good afternoon Mayor Reed, city council members and staff members. I want to thank you for your efforts on this particular issue. My name is Paul Zeger and I run a company called Pacific marketing so we're responsible of urban marketing and sales of new home developments and over the last 20 years I've been coming to San José and working with developers in the city organizations to try to promote the vitality of downtown and I believe that this particular issue will have a great deal of influence on the success of that particular objective of the city. We need to encourage people to come downtown and I want to salute you, and congratulate you on taking on this issue in a very aggressive way, because everyone wants to see beautiful creative and artistic signage and everybody also wants to receive the information you get from that and people also feel very strongly that they don't want it to be unsightly and detract from the city itself. We want to create art, we want to make an urban center that feels vital and we want to attract people to downtown. I want to make a few quick colts. I think the work done is excellent but I don't think it goes far enough in many respects. As it relates to residential housing and the onset of high rise development in downtown I believe that we need to kind of set aside that category of signage because it's a very different use than the commercial uses, it's a temporary signage program and it's something that really is important to generate the traffic and the activity that is filling up the buildings that we see around town, and when I say it's a more temporary program, there's really four things that I think specifically need to be dealt with. The first is I think we need to allow graphics over windows and doors. The technology has changed tremendously, where the new signage that's available basically is a sticker that covers portion of the building, and the look and feel of it is critical to having a contiguous feel across the building. So much can be done to work that so I encourage that. We feel that the time limits that have been set which are specified by days and the period of time aren't relevant --

>> Mayor Reed: Sorry your time is up.

>> I'm so sorry, I thank you for your time and I encourage you to consider the proposal.

>> Mayor Reed: Ross Signorino is our last speaker.

>> Ross Signorino: Thank you, Mr. Mayor members of the council. Can you imagine Broadway without signs? Can you imagine State Street in Chicago without these signs? Can you imagine Tokyo without these signs? This would help Downtown San Jose a great deal if you had this type of sign not that big but modest as these signs are as some of the examples that I've seen will help the downtown greatly, I think, that would invite people, gives it a warmth down there and it gives them a familiarity that they could walk the streets and feel comfortable, safe and secure when you have that kind of lighting. So I think what I've seen here except for that other photo where I saw a fire truck on the side there, I think you could do without a fire truck. But nonetheless I 30 this would be great if you could come up with a sign that had taste to it and it would help your downtown a great deal. Thank you.

>> Mayor Reed: Thank you, that concludes the public testimony on this item for today. I had a couple of comments first of anybody who has comments on things we haven't taken up please feel free to send them to us in writing because it's going to be a while before we get done with this entire topic. Secondly staff could you talk about political signs, and whether or not they're regulated, and expressway signs as compared to freeway signs.

>> Joe Horwedel: I'll take the second piece while Renee is pulling up the code here on political signs. Expressway signs, I think the issue that the speaker was talking to is that staff has proposed and staff has concurred for allowing for large retail centers that are adjacent to freeway to put up a detached sign adjacent to the freeway itself, in some cases that might be in the back of the building where you would normally not have a detached sign. We are also recommending allowing to change the code to allow buildings that are adjacent to freeways and expressways to have attached signage on the building. Currently they are not allowed to do that. So the comment about comparing to a 7Eleven and versus a mid size retail center we think we are addressing that with the sign code the difference is we're not allowing a 60 foot tall sign adjacent to an expressway and because those -- most of the expressways in the city, the buildings actually front to the expressway rather than back up, we felt that how we've addressed that is more appropriate. But obviously -- something for the council to consider.

>> Mayor Reed: The difference is every time I've been on the expressway, I can see the shopping center.

>> Joe Horwedel: Correct.

>> Mayor Reed: On the freeway, it's not always clear what it is you're looking at, like a Valley Fair or something like that. There is a difference in terms of the visual messages. That was the thought processes that we had.

>> Mayor Reed: Anything else on that you wanted to speak?

>> Joe Horwedel: No.

>> I was going to address the political signs. Currently the city code does have a separate chapter, for the elections signs, which recognizes for a brief period of time there will be elections signs, allowed on private property not on public property and it is allowed for a temporary period of time which begins the first day after the opening of the nomination period and ten days after the election period, it allows for a period of time to get the signs down. I believe that the code enforcement division does send a courtesy notice to anyone who is participating in an election to let them know what the general parameters are and the general rules and the time period in which the signs can be erected on private property.

>> Mayor Reed: And I don't think there are any changes to the election earring signs section of this?

>> Not at the present time.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Just to follow up in terms of process, follow up on the mayor's comment I know we've talked a little bit about this idea of this discretionary portion of various provisions, may take some considerable amount of thought and Joe I just wanted to know you think it's possible for you to return to council with the straightforward portion of the ordinance, that is the one that covers what everyone gets by right very soon and allow us to debate that other issue a month in the future?

>> Joe Horwedel: Right, staff is proceeding as the council is giving direction, and on each of these topics, then we would start working on the code piece of actually crafting that code, and we are -- our goal is to be back before the council before the July recess with those sections. There are things that the council talked about in the last meeting such as billboard relocations. That will not be in that packet. Doing the some sort of exception type process, I would not commit to at this point that we would put that on that schedule. So we're work for -- our goal is to get as much of the code done and then come back with -- behind that will other things that you've asked us to work on that we might need to do additional outreach or research on.

>> Councilmember Liccardo: Okay, thank you, happy to know that the low hanging fruit will be picked first.

>> Mayor Reed: I thought you were coming back in May.

>> Joe Horwedel: Yeah, it's looking at Carol and Renee, I know that it's just -- we are asking a lot of them as a part of going through and bolding this together. So as a part of kind of getting them through this is helping them set that schedule that we were assuming that we would have been done with this a couple of weeks ago. So we know it's a big topic. So we will get where it's Carol's project.

>> Mayor Reed: And we know we're not done yet and we're not going to finish it up today. That does extend the time period somewhat. But we do need to value engineer the work so that we can do the work that you're capable of doing getting it to us at a timely manner and some of these other things will have to trail and come back to us later.

>> Joe Horwedel: Right.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. Along those lines, I was just wondering when are we going to have an opportunity to talk about temporary signage?

>> Joe Horwedel: That is the large banner topic that we got the supergraphics topic is really intended to be temporary signage. We have not programmed into this to talk about smaller temporary signs. We did do some changes to our code about a year or two -- about two years ago now I think it is, on cleaning up some of the provisions about temporary signage. So we did not put anything more about essentially the small banner type temporary signs. We focused on the large ones that seemed to be an unmet -- we didn't have the ability to problem of those in the code so that's what we focused there.

>> Councilmember Nguyen: So if we have input in regards to the current provisions that we have do we have an opportunity to talk to that at some point?

>> Joe Horwedel: Yeah I would say as we talk about the supergraphics if there are other things going on with temporary signs, that would be the time to talk about that. It's really scale that's different.

>> Councilmember Nguyen: Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: First of all Councilmember Nguyen thank you for bringing that up. I remember two years ago I remembered some of my colleagues were just new on the council and one of the provisions as I looked at this ordinance in relationship to the supergraphics is who's going to monitor the signs within 60 days. So I would be very grateful if we could have that conversation, because I'm sure

my colleague would agree with me, within our business districts, we have a lot of temporary signs. And that was the reason why my office brought it forward. We have not been able to control that blight, and so I really think that it's important for us to have that dialogue around the temporary signs not only in downtown but also in our other business districts throughout the city. But my question is Reneé just for the audience out there when we talked about political science, it's ten days after the general election, is that correct?

>> It begins around the nomination time. Let's see but ten days after the general election, for them, right.

>> Councilmember Campos: To remove them, we have the primary and the general, thank you.

>> Oh, actually I'm reading it here, it actually says ten days after the election. So whichever election is at issue. The signs can go up pertaining to that election and they need to come down ten days afterwards.

>> City Attorney Doyle: But if you survive the primary going into the general, it cons.

>> Joe Horwedel: How we enforce that is if you made it into the general then it keeps running.

>> We monitor that.

>> Councilmember Campos: Code enforcement monitors that okay thank you.

>> Mayor Reed: We have a motion on the floor regarding the first order here the electronic digital signs for large ground spaces downtown, option 1 as modified by Councilmember Liccardo's friendly amendment. I think we're prepared to vote on that and we'll take up the next topic. So on that item only all in favor, opposed, none opposed, that action is approved. Now we can move to electronic digital signs for assembly uses.

>> Joe Horwedel: Thank you. So the next one deals with the large assembly uses in the city and I think it's really important to talk about what are assembly uses. That it is the religious institution we heard one of the speakers talk about, it's things like theaters, but it's also things like stadiums and ball parks and bars that those are all considered assembly type uses. So it's a part of how we look at this section, that's a good starting point with it. Today, the digital signs for large assembly uses are not allowed outside of downtown and we do have special provisions in our code already for some certain types of very large assembly uses such as the arena, the convention center meet those criteria, theater marquees also receive special provisions in the sign code on a citywide basis but in downtown they are allowed to use a programmable display sign. And so what we're looking at is how those current regulations should be expanded. When we talked with the community about this concept, again, there was really strong support for the technology for large assembly uses, again we heard some of the concerns about proximity so to extend assembly uses where near residential thinking a religious institution in the middle of a neighborhood there was more concern about that as opposed to on a theater in a commercial area. Same chart that we showed you before, again assembly is where most cities have allowed this type of signage to allow, you see that Sunday, Palo Alto, Mountain View, Gilroy and Campbell all allow those for assembly uses or other uses with it. What staff has put forward is several different options, the recommendation of staff is that we allow assembly uses citywide, to have technology, the programmable display signs if they have a building occupancy of more than five hundred, we think it is important to link the signage technology to the occupancy and we'll talk about that as we go through some of the options. We do think that it should be related to onsite messaging and noncommercial message again as we've talked about previously. Here's some examples of assembly uses that have a greater than 500 person occupancy so you see the rep, the agenda night club, St. Joseph's Cathedral and Bethel church that is over my back fence, staff is recommending as we said we do think these do provide an important amenity for the assembly uses that because of the activities that occur in these uses are very -- they vary, there is usually a lot of program type activities that change week to week that this type of technology really is an important part for them to connect with the community and let them know what's going on that might not otherwise be available to them. We think with what's going on with downtown signage it certainly is complementary to that but in downtown we think by scaling it with the 500 limitation on occupancy it encourages it at the larger venues that do have a lot of activities going on without putting right immediately into a neighborhood. Typically those are on major streets rather than two lane residential streets. We do have to be concerned about how those signs operate especially that might be near residential, about the hours that those signs operate, and as we said we do have concerns that with smaller venues that it does create some challenges with discretion interface. One of the things we looked at is if we took it down to 250 person occupancy, we would certainly allow much more both businesses as well as religious institutions to take advantage of the technology. Here's a church that is in the Willow Glen area that has a 350 person occupancy and you can see in the photos it is in the middle of a residential neighborhood. So that is one of the concerns that were hearing from the community that it

might be too much too fast into the neighborhood and so that is why staff did not recommend that. We also -- some other examples of mid size facilities that are in residential areas. And then the other issue that we've looked at is, should we allow offsite messaging on assembly uses, and this is an issue as we deal with the ballpark we will need to think about. I think where the council was going to on the whole issue of relocation of billboards, still -- there is still a strategy that will not necessarily adding new billboards around the city but it is something that left by itself and putting off premise advertising on the large assembly uses essentially is a billboard and if it was near a CalTrans right-of-way would not meet the CalTrans criteria prohibiting off premise advertising. So there are some concerns and that's why we've continued to express concern about doing off premise advertising for the programmable display signs. It is something that is the ballpark around stadium moves forward we are looking at that we're talking through of what might be a rationale to accomplish that but it is something that staff does have a real concern about not unleashing something that we cannot kind of turn off. So it is something that we would recommend proceeding very cautiously, in this realm. It is something that Reneé and Rick can talk about when we look at off-premise advertising, that is the least protected of all the speech that can occur on a sign. Noncommercial message is the most protected, so whether it's political, whether it's basic free speech of people's opinions or businesses' opinions that is the highest level of protection that is granted on any type of signage and then on-premise advertising is given a higher level of deference than off premise so we've been very deliberate in how we've structured the sign code and how we've structured the issues before the council in these two sessions. And so it is one that, again, there may be some possibilities of how to deal with this but at this point staff is not recommending to open off premise advertising on the programmable display signs. And there we go. I think I went too far. All righty. So that concludes the staff discussion on signs. I'm looking for my -- there we go. The -- so the three options that we're presenting to the council is one is to allow assembly uses of fined or more occupancy, to have a digital sign, staff would come back with some criteria based on the scale of the facilities that we don't think one size fits all, we think that the size of the programmable sign should be commensurate with the size of the assembly use that we should retain the onsite and commercial messaging. We also do have an option that the council could look at about smaller occupancies, essentially allowing those for more venues and then the question of whether off site off premise advertising is appropriate or not. So interesting conversation.

>> Mayor Reed: Had a question about the digital signs in the neighborhoods, because I think all the schools in various school districts now have digital signs, at least the middle schools do, they're all in residential areas but they're not very big and they're not very bright and those I don't think anybody would even notice particularly except going in the street. So question of size and brightness perhaps or maybe just size because if it's the size of this monitor I'm looking at it probably doesn't matter how bright it is. And is there some way to size that so that we can look to smaller assembly uses such as churches?

>> Joe Horwedel: That's part of what we're trying to do some research on about how you can control and regulate some of the technology because there is a lot of different technology that's out there. We do actually get complaints from residents about those signs to code enforcement and because they're school district and not subject to the City's jurisdiction we you know basically just tell the residents that it's out of their control and they need to talk to the school district about it. I would agree that most of them are typically single color, either a yellow or red type lettering that they're not doing the full motion type technology with so it's usually more of just the basic letters moving across on the screen. But as the cost of that technology is dropping we're seeing you know more schools looking at that. We also do have it in some city community centers, has integrated in the same sort of thing and that's partly looking at how to allow assembly uses that would include city community centers to use this technology.

>> Mayor Reed: The other question I had was with regard to the potential baseball stadium, the soccer stadium, other really big users. The amount of signage, the size of signage, and all of those is totally different than some of the things that we're talking about. How do you size that in either quantity or square footage, or is that something we're prepared to deal with, because I don't want to have you judging a baseball stadium by the standards used for a thousand person occupancy.

>> Joe Horwedel: Correct and that's why in the staff report we've suggested we're going to come back with some criteria about sizing and that's one of the things we're taking into account and I would assume it's not going to be a straight linear line, it would be potentially more logarithmic. The different activity that goes on, and how the community feels about signage for those types of facilities and scales of facilities is radically different. So that is one of the things that we've been looking at and researching other cities and

how they've dealt with those types of facilities and then looking at you know how those relates to the sites here. And Renee's got some information.

>> Well I was just going to add to date I don't think the challenge will be sizing it. I think we're very well equipped based on you know having the arena and having other very large venues. I don't think the challenge will be sizing, I think the challenge will be that they will want billboards essentially. We now have a billboard ban and I think the challenge will be coming up with the relocation criteria or somehow leaving if the council so desires an avenue for those signs to have offsite advertising. That's going to be -- that to date I think that's been the critical issue that's posed some issues for us.

>> Joe Horwedel: And that's the conversation we have had with the Wolffs, for both facilities, is that we do have the current relocation provisions in the billboard rules that probably would need to be modified. But that's from staff standpoint we would see the path of how to do ultimately what they would be building into their financial models to do that, I think the biggest challenge is going to be when we showed the picture of the Oracle reason here, that is on the Oracle property and it just happens to be adjacent to 880. The ballpark is not near 87. And so it is clearly off premise even if it is advertising only you know ball stadium type activity and CalTrans regulations prohibit that. And from research we've done is that we think even in this case because they do have off premise advertising going on in this sign that Oakland had to go to the state legislature to get the legislature to change the rules regulating billboards along the landscaped freeways and so that's one of the things we also have been talking with the Wolffs about, to do the expectation for both stadiums would require changes at that time legislative level rather than the city level and the challenges go along with that.

>> Mayor Reed: Are those changes at the airport ?

>> Joe Horwedel: The airport would be to the extent that they are advertising airport activities it is on premise activities, to the extent they are advertising high speed rail then that has nothing to do with running an airport. And that would run afoul of the CalTrans regulations on off premise advertising on a landscape freeway.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thanks. Before I make my comments Nancy we have something to add to our legislative advocacy trips to Sacramento, keep in mind as we're planning that. First to ask the basic question should we allow these digital signs for large assembly, I know you're going to be shocked that my answer is yes. I think it's important that we again provide these tools we know as a city how well they work. We have them on our facilities, we're using them for parking downtown to tell people where the space are available, we see them now at the different shopping areas, like inside Santana Row you can know right when to go to what level of the parking structure. I think they're great assets, to facilities. The only question I have is, when you look at the 500 people which I think is probably a good break point, have we looked to see if there's any venues that would be the appropriate kind of venues that would be just under that versus dropping the all the way down to 250, I don't know what the seating is at the stage company or some of the other theaters that are not big theaters, have we capacity, have we looked at that?

>> Joe Horwedel: We have not looked at that. It is something we have to go through one by one and pull up every one of those records through the building plans because it is not tracked separately that way though the theater company San José stage company, theater uses we're allowed to do marquees with programmable display signs so we actually have a lot of flexibility with theaters. Staff uses that as a part of even you know of what we consider true theater type uses in order to be able to do a little bit more creative sign approvals on that.

>> Councilmember Constant: I do think 500 is a good break but I wonder if there are some 490 occupancies that we might want to know about before we do it. I think that's it, I think we really should do this and I'd like to make a motion to approve staff recommendation, option 1.

>> Mayor Reed: Motion is to approve staff recommendation option number 1 and I have no idea who got the second. Vice Mayor Chirco got it. Councilmember Liccardo.

>> Councilmember Liccardo: Renee, question about the offsale I understand the argument that this essentially makes this a billboard. Question I have is if you create a special category of assembly uses, clearly we're talking about stadiums and you allow offsite messages for those venues only and I can think of four off the top of my head, they all happen to be somewhere near the downtown, if you include a soccer stadium and a baseball stadium that were to get built, the question is, do you create any kind of equal protection or First Amendment issue if you allow offsite messages to company a very large assembly use within that category and not any other?

>> Well, we can look at that. I know one of the rationales that the city council has articulated for the reason that we regulate at all is the desire to regulate visual clutter, visual blight.

>> Councilmember Liccardo: Right.

>> And the community outreach suggest that persons do consider billboards offsite advertising to fall within more visual clutter visual blight than onsite advertising. But in terms of the City's rationale of wanting to control it and limit it I suppose we could look at very, very very, very large venues, but again, that's something that I'd want to research. But we probably could look at, in terms of limiting and severely cutting back on proliferation of visual clutter visual blight --

>> Councilmember Liccardo: You're not going to have a lot of uses at this size.

>> Right, that the size of the facilities need to be so you know so -- and again, I think it falls within the rationale of, controlling visual clutter and visual blight. I know the recent metro lights case that was decided where the city of L.A. decided one way to do it is to just give the city control and that was recently upheld or I should say that the Supreme Court denied a review of that. That's one way of controlling it, possibly making the size of the venue so large that by virtue of the definition you could only have four, you know that might be another way to do it that we could look at.

>> Councilmember Liccardo: Okay. I -- my concern is, is that, and I understand Joe that you indicated look we may have a path to this if we allow relocation of billboards. What I'm worried about is, if we get caught up in okay, we remove a billboard from 10th street, does that mean all they get is a billboard at the stadium or can they actually get a programmable display? Is there an equivalency or not? I'm more worried about the mental gymnastics that we could end up in. And the reality of the picture is by no means a forgone conclusion that we have a soccer stadium in the numbers don't pencil out. And from everything I've understood and in terms of what I've read publicly is that for the most part, folks are relying on I mean Lew Wolff and his team is relying on the advertising ability to generate revenue, television rights and other kinds of advertising, I don't know of any other municipal area in the country that's getting two stadiums entirely privately financed. So I'm not sure we should be completely shutting the door the idea that you get offsite messaging, at major stadiums in very restricted areas, if we have a very clear economic development goal around the construction of those stadiums. That's where I'm hesitant. I support the intent of the motion but I'm hesitant to completely shut off offsite messaging from those locations. If the maker of the motion is interested in considering some flexibility around that, I'd certainly be happy to support it.

>> Joe Horwedel: And that's part of actually let the --

>> Councilmember Constant: I was going to say I would -- I made the motion with the assumption that we were going to be still looking at the very large assembly usage. So in my -- just to make sure staff thinks the same way my thought was, this was going to capture what we have now, we were going to continue to look at what we could do and come back for the extra large assembly uses is that correct?

>> Joe Horwedel: We're coming back with the specifics of the size of programmable display signs for assembly uses so the scale of the seating would affect the size of what's going on. Separate of that as we're working through on the stadium, both of the stadiums is that we are working through a -- trying to figure out the path of dealing with the need for those venues to have presence and to be able to tell what's going on, and that the state of the industry, of these types of venues typically do have off premise advertising included as a part of that. So still wanting to stay true to the ban on new billboards is that that's how staff has been looking at, not that we're not going to say no. As counsel said, you're open to relocation how those get reconfigured, that's the path, we're looking at that as the way to solve the issue.

>> Councilmember Liccardo: I hear flexibility. The important thing out of it is from staff's standpoint is that we're not saying yes to off premise advertising on programmable display signs citywide.

>> Councilmember Liccardo: Right.

>> Joe Horwedel: On any of them.

>> Councilmember Liccardo: And I think it's easy for us to draw the line and you guys are thinking about that more than we are. Thank you.

>> Councilmember Constant: Same I'm willing to add that to the motion, that's everybody's intent so we can make it explicit.

>> Councilmember Liccardo: That would be helpful thanks.

>> Mayor Reed: The maker of the motion is all right, the seconder isn't?

>> Councilmember Chirco: My concern is when you start talking billboards I would rather see that come back as a separate item because of the free speech. As we were talking billboards it's a whole different conversation. I know you've clearly drawn a picture where we have to be very cautious, and so to link

that, I like coming back with your very large assembly areas which would be a very unique category. Is that an intention that you had?

>> Joe Horwedel: Yes.

>> Councilmember Chirco: Rather than link it to this one. So I can't support that friendly amendment. But I would ask that staff come back with that, what Sam was talking about.

>> Councilmember Liccardo: That was actually contemplating an exception for very large assembly uses.

>> Joe Horwedel: That was what I was understanding.

>> Councilmember Chirco: I want to defer to the attorney for clarification on that.

>> City Attorney Doyle: That's how I understood the direction or at least the conversation is that staff was going to come back with that. The concern that we've talked about is the billboard concern, it's offsite, it's advertising, can you distinguish the L.A. case deals with large billboards on public property, that seems to be okay. This isn't all public property, these large assembly uses but we need to sort of vet that through and then see what we can do. We need to look at this. The big concern is opening it up and losing the billboard ban.

>> Mayor Reed: Let me suggest that we take this in two pieces. First is to vote on option 1, which I don't think there is a lot of argument about and then come back for very large assembly uses we're willing to consider 3, you guys have to figure out all the problems but we can say to our prospective stadium builders that we're at least willing to consider that.

>> Councilmember Constant: I'm okay with that.

>> Mayor Reed: The motion is not amended but we'll come back and take a second option. The motion is on the floor, Councilmember Kalra.

>> Councilmember Kalra: Thank you mayor. I think it's appropriate to separate out, we're talking about two different things. I appreciate the conversation that's been started on the superlarge assembly I guess you could say 10,000 plus because there is a tremendous amount of private investment that's being put potentially into our city. And we certainly want to make sure going forward that we allow those investments to thrive as much as -- do whatever we can to help those investments thrive and I think we're talking about two different things here, off site advertising and off premise advertising. Both of which I think would require analysis of but I think both of which I agree with Councilmember Liccardo I think we could craft something that's unique to these types of facilities that could allow and should allow for both and Joe, you indicated the state of the industry and I've been you know to stadiums, reasons around the country and you certainly see plenty of occasions where there is off premise advertising to draw folks to a stadium or arena that doesn't happen to be right next to a freeway offramp. And so you know as part of the analysis, I think that it -- as part of the legal analysis I certainly think it's important to see what the industry is doing around the country. And to determine early, earlier rather than later whether there is a need for any legislative lobbying at the state level to make sure that if we are going to get the -- this investment for a soccer stadium, or a baseball stadium that the folks that are making the investment know exactly what they're going to get from that investment and so that we, as a community, and certainly as a council but as a community, make sure that these private investments have every opportunity to succeed. And so I would certainly support looking as the mayor put it looking at option 3 not just in terms of allowing offsite messages but also off-premise messages for these very, very unique, these very, very unique structures. And assembly uses. So I don't know if that's -- that was -- that was what was being contemplated because I know off premise and off site have been used during the course of this conversation but if that was the intention then I'd certainly like to encourage looking at the off premise option off premise and or off site messages for these extremely large assembly uses.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I just wanted to state that I support more flexibility for assembly uses, for more than 10,000 more people and I also want to disclose that I me, my staff and I have talked with Keith Wolff of San José earthquakes and Jim Kineen of California strategy.

>> Mayor Reed: All right, I think that's it on the comments on this item. So we have a motion on the floor to approve option 1 and then we'll come back and discuss option 3 and we might look at the very large scale. Councilmember Liccardo.

>> Councilmember Liccardo: Mayor could I also disclose a conversation with Jim Kineen.

>> Mayor Reed: Okay. Talked to a whole bunch of people but not about signs, so -- all right. On the motion, option number 1, all in favor, opposed, none opposed, Councilmember Constant you want to make on option 3 now.

>> Councilmember Constant: Yes, so I'd like to make a motion as it relates to option 3, but coupled with the extra large assembly uses and you guys can come back with what number you feel is the appropriate break point number on that. And it includes both off side off premise to come back with the full analysis of that. And I'm assuming that that would probably come back at the same time as we talk about the other billboard things because they are so closely related.

>> Joe Horwedel: That would be our expectation.

>> Mayor Reed: We have a motion and second for extra large assembly uses. Councilmember Pyle.

>> Councilmember Pyle: I just had one question. Would that include the interior of stadiums as well?

>> Joe Horwedel: No.

>> Councilmember Pyle: Yes?

>> Joe Horwedel: No.

>> The city regulates signage that's visible from a public area so what a private individual does on the inside is not regulated.

>> Councilmember Pyle: Okay, thank you.

>> Mayor Reed: Anybody else on the motion regarding option 3? All in favor? Opposed, none opposed, that's approved. All right. It is 5:30. Do you think we can get through the electronic digital signs for commercial in a half an hour? I think we can. All right. Let's do that one, that's the next section and then we'll quit before supergraphics.

>> Joe Horwedel: All right. So the question is should we allow programmable display signs to be used outside of downtown and outside of assembly uses and staff has proposed, has looked at this question. We went through and again, went out to the community through the focus groups, asked them. This one we got a mixed reaction on. That there were some folks in the community that were very concerned about that participated, others that were not so concerned about it. The big concerns that we were hearing were about traffic safety, the brightness of signs, were they a distraction to drivers. Again, chart you've seen previously, of what the other cities around us do, Gilroy and Palo Alto being the ones that really allow it for commercial uses. Currently our regulations do not allow programmable display signs, even when they advertise my restaurant here, there are other communities that tell what's going on in the businesses but we are recommending that we look at programmable display signs as a proportion or percentage of currently allowed signage. In three areas, that we're suggesting that Stevens Creek area, Stevens Creek auto row, and we also looked at what are the other major commercial areas of the city that really had that large scaled retail occurring and so we looked at Oakridge mall area, is potentially another place that large retail businesses could integrate this into their currently allowed signage, and so recognizing we really didn't want to allow every business or restaurant to have this type of signage going on, is that frontage parcels with 350 feet, we felt restricted to the major businesses, in those areas. That the current signage allowed we felt was an envelope to work within since we've increased the signage in those areas, again the 50% cap on digital to the total signing area and the onsite and noncommercial message as being the limitation. To look at what that boundary would be, the area in red is what we were proposing, is where the subarea on Stevens Creek, these are the areas that are predominantly oriented for car dealerships, that that would be an area that would allow the type of signage to occur. There is a larger sign area that goes essentially on all of San José frontage on Stevens Creek that has some additional signage provisions already to mirror with the City of Santa Clara. Currently the City of Santa Clara does not allow programmable signs that we have heard that they are looking at that question. We also hear is the current boundary of the capitol expressway auto mall, different signs for the different name plates and then for the Blossom Hill road that we are suggesting that the essentially Santa Teresa boulevard to the river area be considered for this sign area on both sides of Blossom Hill road where the major retailers are. So our recommendation for this would be to allow the businesses to participate in this area, there is some of the concern about how that changes the character of signage in those areas. We've heard from focus groups. One option is to two through and only allow this on Stevens Creek boulevard in that sign area. Staff did not recommend this as if we really haven't found a rationale that would limit it just to this area versus other commercial areas in the street. We still are open to that type of concept but at this point we haven't identified that to date. Another idea that has been talked about is to go through and treat this as a pilot project and again allow us to assess how the technology works in a more general retail area. Stevens Creek is a mix of car dealerships and it does have some larger retailers on the street. It gives us a chance to turn it out not turning it loose citywide it does mean that fewer businesses would benefit from that, it does create a difference between the capital auto row and Stevens Creek auto row, and this is amortization of signs would be needed, our assumption really would be they

would become legal nonconforming signs and would continue to operate unless the council built in an amortization, one thing we would need to talk about if we did a pilot. Staff did review each of those sign areas and you see on the far right-hand side the total number of parcels that front onto the street with the staff proposal at 350 feet of frontage you can see what number of the parcels qualify. Under those different frontages, capital very much you see is large parcels and our proposal captures over half of the signs, Blossom Hill road we pick up the four largest parcels but as you see even going down to 250 feet we only pick up one more parcel.

Stevens Creek is pretty fragmented also at 350 feet we pick up four parcels at 400 feet it goes up to 8. So it is one of the options that I was looking at on narrower frontages. And there we go. So the one option would be is to go through and allow a smaller frontage. Staff is not recommending this as we do think it does undermine the rationale for putting this on larger sites and businesses just like we did with the assembly uses. And then option 5, as I alluded to the 100% programmable sign, we do have concerns about that as we think that all you will get is a -- essentially a TV on a pole and so we do not recommend this as the solution. No happy hour is always appreciated.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. This is the whole part I'm been waiting for for a couple of years so I'm glad we're here. First of all I think electronic digital signs for the auto rows are essential. We know the auto industry continues to evolve and it becomes more and more dealers that they represent, often for the franchisers to get the name plate they have to be able to have a minimum amount of signage. Digital electronic signs allow them to advertise multiple brands, it allows them to advertise their onsite services, which all generate sale taxes and I think they are really important. Stevens Creek and Capital Auto Mall are really unique in the fact that they are wide, they have no residential mixed in with them. They have large outdoor display spaces and I think this is what really allows us to set them apart. I know have extensive conversations with Joe and Laurel and Renee about what we might be able to do, to really increase the odds that the most number of car dealerships can participate. Quite frankly I don't think Blossom Hill even I don't think I'm not sure if we're ready for Blossom Hill yet. So I never thought I'd say no to signs but I think we need to look at these in the context of the auto dealerships. I do -- I would like to know, if there is a way, and I know we've talked about this that we can combine the narrower frontages with a specific amount of outdoor display space so that the narrow car dealers that are -- that maybe have as much acreage or square footage of their lots could still be able to take advantage of this. I don't know if that's a question for Joe or Renee.

>> Joe Horwedel: Well certainly to the extent we could also use acreage just like we did for the freeway signs so that is one criteria that we could use. That if it was under a single, you know, parcel, single site permit that we could take that into account.

>> Councilmember Constant: I keep going back to oak tree Mazda because I've had several people, I've taken people from the media on tours of my district and they've been in my car and I just say tell me when you see oak tree Mazda. We can drive by it every single time, without seeing it. I look potential customer is to go look at one of your closest competitors. So I think that's important, and I think that I'm going to make a motion here in a moment and I think that's something we really need to look at so that we can really reach out to some of those dealers. The question of whether we should if we go with a pilot program if we should look at an amortization period versus legal nonconforming status, I think that if there is an amortization period in there we're not going to get anyone to take advantage of the pilot and we'll have no opportunity to evaluate these. These signs cost an incredible amount of money and I don't think any reasonable business person is going to invest all that money just to break even. They really need to know that they have some certainty that they're just going to go forward. So what I would like to propose is, kind of a combination here so hopefully I can keep you all with me as I do this. It's a combination of option 3 and 4, with some extra research in it. So I'd like to propose that we initiate a pilot program in the Stevens Creek signage area, for the free standing digital signs, but we look at how we can accommodate the large dealerships that have narrow frontages, and I think what's important here is we concentrate on acreage or square feet, whatever it happens to work out, and outdoor display space, because I think that's what really makes the car dealerships unique, is the outdoor display space. I can't say that. And that the ratio of the sign be up to 60% because I think that's important because of the name plate branding that the dealerships have to be able to show the manufacturers that they can have a large, significant brand image up there. Two more minor tweaks. One, that the border of the subarea be extended on Kiely boulevard like we did for the Stevens Creek signage area and I'll explain why in a

moment and that it be at a three-year pilot program. If I get a second I'll explain kind of some of those subareas. Okay, so Nancy, thank you.

>> Mayor Reed: I have a motion on the floor which I'm not going to repeat because Councilmember Constant is going to explain it.

>> Councilmember Constant: Yes, so first of all the car dealerships are important to our city. We have vacancies, we just lost another dealership on Stevens Creek recently. Fortunately I think Santa Clara has more vacancies than we do. We're maintaining them, but we want to make sure that people have the opportunity to select our side of the street if we're doing a pilot program there is the place to do it just because of the relationship with the auto row with Santa Clara and we need to be and continue to be competitive and outdo them every step of the game. The reason for extending this border, if you look at your-d the map up here it's right where that curve is by Saratoga avenue. I think it's really important to include that area, because Stevens Creek Toyota, which used to be a Santa Clara dealer and came to our side of the road, is expanding, right not contained within the boundary and I think it's important that we give them the tools so they can have it at both their dealerships. I think the three year pilot program is important because it takes time. First of all, for a dealership to look at investing, I don't even know how much these cost. But it's over 100,000, it's a lot of money. To look at investing that sum of money they're going to take time to do it right the first time, the planning on their end, their internal planning is going to take a while, they'll also look at economic indicators that are going to be favorable for them, which I don't know if they're comfortable with doing that quite yet and then allow for our internal planning process and what that's going to take. And we might not even see a sign actually come up in two years. I hope we do. I hope we see plans in two weeks coming to us saying will this fit, can we do it. But I really think we need to provide that time and I think we should be open if the economy doesn't do what we think it's going to do and nobody can bite you on this that we have the opportunity to revisit and extend it if we don't get the participation.

But I do think this is important to the city and really important to the dealerships in my district and I think that if it works well, we should have capital and everyone else right behind it. Thank you.

>> Mayor Reed: Vice Mayor Chirco.

>> Councilmember Chirco: You have a lot more in your motion. I got the Stevens Creek but what was the other part?

>> Councilmember Constant: To slightly expand the border that's on this map.

>> Councilmember Chirco: I got that. But you were talking about smaller --

>> Councilmember Constant: Okay, smaller frontage not necessarily smaller parcels, there's some dealerships that because of the configuration of Stevens Creek, ended up with lots that are very, very narrow but very, very deep, so they sell -- they inventory as many vehicles and sell as many vehicles as the guy next door but their frontage may be half as wide.

>> Councilmember Chirco: Okay so it's all on Stevens Creek?

>> Councilmember Constant: Yes, only within Stevens Creek boulevard within the parameters of this red line and the slight amendment.

>> Councilmember Chirco: Okay, no, I thank you for doing the pilot area because these are almost billboard size signs so I thank you and I will be supporting the motion.

>> Councilmember Constant: Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thanks. I just had a quick question. Of the Henry avenue component and the richfield are those single family homes or are they park spaces or what might those be?

>> Councilmember Constant: They're both different. If you are looking at the right side of your map where you see Henry avenue, those smaller parcels where the single family homes, the dealerships are those large square parcels on Stevens Creek. When you go over to Richfield those are a higher density apartments and there are some du plexes mixed in but four plexes and duplexes and apartments.

>> Councilmember Pyle: so the light wouldn't necessarily affect the residents?

>> Councilmember Constant: Correct.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you. I'm going to support the motion. I had a question, I guess, in once we have finished the pilot project, what other areas might be contemplated for these type of signs, and Joe I just wanted you to address capital expressway an Evergreen area where we have a very large Eastridge shopping center which borders capitol expressway and we have Beshoff motors and a infiniti and another application there.

>> Joe Horwedel: So to answer that, that certainly could be one of the areas to go as the bounds like with Blossom Hill road is to capitol expressway where you do have a large retail presence there. In how we go through and look at ultimately where the sign goes, it's not so much the use as opposed to the criteria it meets so even on the Stevens Creek frontage, or area here that we're talking about, the old circuit city would qualify for one of these signs, and probably some car dealers wouldn't because I can't distinguish between a car dealership and somebody who sells eight track tapes. If they meet the depth or acreage those types things they would qualify. And we don't have a requirement in our zoning code for outside display so that's one of the places where Renee and I were talking about is that one of the places to come up with something that acknowledges how car dealers operate that distinguishes them? We're not certain there is one so really how we would look at it is that whatever dealers we would get at all the retailers that meet that same criteria would also get it. But you know in case of your district, whether it was for a pilot area or creating permanent rules that said capitol expressway between you know X and X is a new sign area. And that this was a type of signage to allow any property owner that met those criteria would be able to build that sign.

>> Councilmember Herrera: Is there some way I don't know if this could be included in the motion, just to look at this area because I don't know if it has been considered. And it's an extremely important area in East San José and there's no way to we've talked about this before with Eastridge is not close enough to the freeway to benefit from it but it is close to capitol expressway is on capitol expressway. I think we need to look at it, I'm not -- there's a lot of things to consider, there is residential around there, I don't know if it would work or not but I would like it to be considered because it's a very significant area.

>> Joe Horwedel: Okay.

>> Mayor Reed: Any other questions or comments?

>> Councilmember Herrera: Would it be appropriate to I guess I'm asking Pete if there's any way we could amend the motion.

>> Councilmember Constant: We did Joe and we did ask about this is that an analysis you're already planning on doing?

>> Joe Horwedel: Well it's one of the things that would be in the bucket for us to start, once we get the things where there's the clear consensus running through on those we would be doing more research after that. So it goes kind of into the issue bin so that's where I would put the Eastridge capitol expressway discussion is, our focus would be to get through the code change to do what the council's deciding tonight, and then if there's other things that you want us to look at that we would also go through and look at those kind of as we're chunking through. But I'm not going to guarantee that we would bring it back at the same time as, say, doing Stevens Creek. Because we've done a lot of community outreach and review on this segment, we haven't looked at all on capitol.

>> Councilmember Constant: May I suggest we do the same thing as on the two previous ones, do two separate motions and then do a secondary motion that I think will answer your questions?

>> Councilmember Herrera: Okay.

>> Mayor Reed: City Attorney.

>> City Attorney Doyle: I just want to note I think it's important on this proposed pilot we're not limiting it to just car dealers. It may be that car dealers take advantage of it but we're talking about frontage of parcels we're going to look at, narrowing the frontage requirement but we'll be bringing that back.

>> Councilmember Constant: I agree with the exception that if we look at outdoor display space as part of the component to justify the narrower frontages, very few businesses use outdoor display space in this day and age. But I agree with what you're saying.

>> City Attorney Doyle: And I don't know Joe if there's any way to look at interior display space as well and if the council would want to consider that as a factor as well. I'm just concerned about singling out one particular use and to the exclusion of others.

>> Mayor Reed: That's why we're so nervous about this is we're trying not to have everybody in the city doing these signs so that's a pilot. So -- it's clear we're not doing this just for the auto dealers because it's going to be structured that other people can take advantage of it. On the motion? Councilmember Constant's first motion which he outlined, all in favor opposed, none opposed. On the capitol avenue Eastridge Tully Road intersection question?

>> Councilmember Constant: So my motion would simply be directing staff to continue exploration of the capitol auto row other areas perhaps like Blossom Hill, specifically the capitol corridor by Eastridge and any other areas that you feel would be appropriate for similar type of programs, but to come back after we deal with the sign code here.

>> Mayor Reed: We have a motion to refer there to staff to bring us back after we get these other things tied down. All in favor? Opposed, none opposed, that's approved. I think we're done with the electronic digital sign section.

>> Joe Horwedel: I think so.

>> Mayor Reed: We don't have time to do supergraphics unless you guys wants to work for another hour or two. When could we take this up again?

>> Joe Horwedel: We will look at through our agenda review process to see for another agenda today where we could set aside another hour or two.

>> Mayor Reed: So probably would be --

>> Joe Horwedel: In the next couple of weeks would be our goal.

>> Mayor Reed: February 23rd, City Clerk, probably works, that is the RDA budget return.

>> We'd look at the 23rd or the week following, we'll work will manager's office and cock up with a schedule.

>> Mayor Reed: We'll refer this to the Rules committee at a time that this comes back as soon as we can. Anything else today? I have no cards under open forum which was the -- I do. I stand corrected. I sit corrected. Be more precise. You're going to be surprised, it's Ross Signorino and David Wall.

>> Ross Signorino: Thank you, Mr. Mayor members of the council. A little bit on the sad note I hate to bring this up about this bicycle accident that just happened where the father was bringing his daughter to school and he was killed, it is tragic that that the effects of a bicycle accident. But I think what you should try to do is educate kids in school how to wear bright clothes when they're on the bicycle and make sure at night they have reflecters on lights on their bicycle. This is a question of education that you must go through. Now I'm sorry to bring up such a bad note at the end of an interesting meeting like this but now I just want to wish everyone here a happy St. Super Bowl day coming up on Sunday and I know a lot of you are going to be watching it and as far as I'm concerned I'm going to take the colts. I don't know if anybody is going to be opposite and be contrary, but that's where I'm going anyway, they're going to win and after the playoffs they did a superb job. If aftermath is going to be a Boston butt roast, baked potatoes, sweet potatoes and sweet potato pie at the time. That will be the menu for St. Super Bowl day.

>> Mayor Reed: David Wall.

>> David Wall: This is not going to be humorous. This 15 page memorandum was unfortunately put forth to the transportation and environment committee today, the regional analytical descriptors herein will not be under the code of conduct so I'm not accurately allowed to portray what's in the document. However there is one poignant question that has to be asked to those empowered to the regional water quality control board insofar as volunteering certain requirements to be incorporated into a permit, and then, coming back to you folks and saying hey, it's in our permit, we have to staff up. So it's a round about empowerment of empire. The committee members that were in attendance, they asked very poignant questions and didn't receive correct answers. Or any answers, in some cases. But this empowerment business for longevity in empire has not been, well has been done in the past in environmental services, with these NPDES permits, staff has been increased only later to be found out. Now as this happened here, I do not know. But when you read this document it is a very, very poor document. There is many, many cost implications that can go into the tens of millions of dollars. And I don't support it one single bit. And I would look into it very closely. Thank you.

>> Mayor Reed: That concludes the open forum, that concludes our meeting. We are adjourned.