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San José city council meeting. November 3, 2009.

>> Mayor Reed: [ Gavel ] Good afternoon, I'd like to call the San José city council meeting to order for November 3rd, 2009. We'll start with our invocation. Councilmember Pyle will introduce the innovators.

>> Councilmember Pyle: Thank you, mayor. Here today we have some very interesting people, Almaden seniors, and they're Roy Elkins and Doreen Buland. Currently the Almaden seniors are rehearsing an original play called "Senior Moments," written and directed by Mary Sheehan, a very talented and prolific writer in our community. The play is a series of vignettes about senior moments. The play in its entirety will be performed at the Almaden Community on Sunday, June 10th. You're more than welcome to come. In the vignette being performed for us today, Ray Elkins plays the role of God, and Doreen Buland plays the part, as you might have guessed, of an angel. In the beginning God was missing for six days. God's secretary, an angel named Celeste, finally found him resting on the seventh day. (inaudible)

>> Celeste! I made a planet and I put light on it. It's going to be a place of great balance.

>> Balance?

>> Balance. This country over here will be hot. This one will be icy cold. That one will be jungle. This one will be desert. This one will be rich. This one will be poor. Great balance.

>> What's that one?

>> Ah! My masterpiece. San José, California! [ Laughter ]

>> It has beautiful orchards, streams and hills and people there are going to be handsome, modest, intelligent, hard-working and high-achieving. And they will be known throughout the world as bringers of peace.

>> But what about balance? You said there'd be balance.

>> Oh, Celeste, wait until you see the idiot I put in Sacramento! [ Laughter ] [applause]

>> Mayor Reed: Thank you. That announcement was not necessarily approved by the management. [ Laughter ]

>> Mayor Reed: We will now do the pledge of allegiance. I'd like for the Lindhaven third graders who are here, to stand up. Thank you for joining us and you are going to lead us in the pledge of allegiance. Everybody else please stand up, as well. [ pledge of allegiance ]

>> Mayor Reed: Thank you, Lindhaven school, third graders.

>>> Any changes to the orders of the day? We have a motion to approve orders of the day. All in favor, opposed, those are approved, closed session report, City Attorney.

>> City Attorney Doyle: The council met in closed session today, no report.

>> Mayor Reed: We'll now have ceremonial items. I'd like to ask Councilmember Liccardo to join me add the podium. Today our airport, San José international, San José Norman Y. Mineta international airport, is being recognized by the airline pilots association, also known as AOPA, as the airport of the year. Here to tell us more about it is Captain Reno Morilla, a pilot for Hawaiian Airlines and a Willow Glen resident. Welcome.

>> Thank you. This award is presented by the Airline Pilots Association and its central air safety committee and engineering department. Board members reviewed several airports and this year's winner is the San José Mineta international airport. I was the airport safety liaison for the airport, and I had nominated it, the San José airport, for this award. And some of the things that I had included in my nomination were that the openness of the airport and its staff on any issues that we had concerns, and also, the willingness of the airport to call off the airline pilots association asking for pilots' perspective on certain operation and safety issues. So it's been a pleasure working with the airport staff and Bill and Dave and also, as a user of the airport, both on the runway side and on the terminal side, it's just been a great honor to be able to do this for the City of San José. Thank you. [applause]

>> Mayor Reed: I was a little bit off when I was saying this was from AOPA. It's from ALPA, the airline pilots association international. The ALPAI, whatever. The airline pilots association. Thank you.

>> You're welcome.

>> Mayor Reed: Now I'd like to invite Councilmember Constant and Karen Ketner, president of the California association for nurse practitioners, Laurie Granberry and Karen De La Questa to join us at the podium as we proclaim this week of November 8th through the 14th as nurse practitioner week in the City of San José. Councilmember Constant has some more words.

>> Councilmember Constant: Thank you. As many of you know, in our Public Health system and private health system, there is a large utilization of nurse practitioners, in fact, there is over 200,000 licensed nurse-practitioners in the United States, and more than 10,000 here in the State of California. In fact, last

week I had to see one because of the bronchitis I had. So we love having them there. Nurse practitioners have been providing high quality, cost effective, and personalized health care for more than 40 years.

Nurse practitioners have advanced education. Many people don't know this, but they range from master's degrees to doctorates and advanced clinical training that is far beyond that of their initial registered nurse preparation. In addition to clinical services, nurse practitioners focus on health promotion, disease prevention, and health education and counseling. Nurse practitioners are a vital component of our health care system and undertake important duties for their patients, guiding patients to make smarter health and lifestyle choices, providing care and diverse health care settings such as private office practice, hospitals, urgent care clinics, long term care facilities, school and state and local health departments. So today we as a council, along with the mayor, are proclaiming the week of November 8th through the 14th as nurse practitioner week in the City of San José and encourage our residents to join us in recognizing the contributions of our local nurse practitioners in providing high quality health care services, education, and counseling to our San José residents. Mayor, we have a proclamation. [applause]

>> Councilmember Constant: And Karen here is the president of the California association for nurse practitioners, and the former past president of our South Bay to Monterey chapter. I think you have a couple of words.

>> I just want to thank you so much in behalf of the local chapter of the nurse practitioners association, the California association for nurse practitioners, we're very pleased to accept this proclamation to make next week as nurse practitioner week in the City of San José. Thank you. [applause]

>> Mayor Reed: I'd like to invite Fred Castillo, president of California association of radiologic technologists, Kyle Thornton, Diane Garcia and David Poon to join Councilmember Constant and me at the podium. We're on a medical theme here. To keep with that, we're proclaiming November 8th through the 14th as national radiologic technology week in the City of San Jose. Councilmember Constant has some more information.

>> Councilmember Constant: Thank you, mayor. Radiologic science professionals focus on the health of our citizens and it continues to be their major concern and responsibility. Qualified practitioners who specialize in the use of medical radiation and imaging technology to aid in the diagnosis and treatment of disease, share a commitment to bring the people of this community a safer and more compassionate environment. Professionals and radiologic scientists are dedicated to the highest standard of professionalism and continually maintain those standards through education, lifelong learning, credentialing and personal commitment. The California Society of Radiologic Technologists have chosen the City of San José to host its 70th annual conference, where hundreds of radiologic science professionals will be convening to celebrate this 70 years of service. This convention or conference starts on the 14th of this month. So today, the city council along with the mayor would like to proclaim the week of November 8th through the 14th as national radiologic technology week in the City of San José, and we welcome the California society of radiologic technologists study on the safe medical radiation environment provided through the skilled and conscientious efforts of radiologic technologists. And that was a tongue twister, all of it. So mayor, if you could present the proclamation. [applause]

>> I want to thank everyone here, mayor, city council members, everyone in attendance. Just for your own small information, a little historical information is that X rays were discovered in 1895 by Wilhelm Roentgen. In that particular time since then, we have had a widening of our technologies. It was just limited to X rays, now as you well know there's MRI, CT, fusion studies, nuclear medicine, and we help diagnose and cure patients. I understand that the nurses and everyone else are also involved in this, but a lot of things that people don't know is that our particular profession is the second largest behind the RNs. So I want to thank everyone. I want to especially thank David Poon who is part of our student committee. He is the one who initiated this. I want to thank everybody here for having us, and we are look forward to being in San José. Thank you. [applause]

>> Mayor Reed: Want to keep Councilmember Constant here for one more time. While Diane Borson, Rebecca Mackover and Nancy Lohrer of the Pancreatic Cancer Action Network join us at the podium. Today we want to recognize November as pancreatic cancer awareness month in the City of San José. Every twelve minutes, another American is diagnosed with pancreatic cancer. It's the fourth leading cause of death from cancer in the United States. Pancreatic cancer is the highest mortality rate of all the major cancers. 95% of all patients will die within five years of diagnosis. This year, more than 35,000 Americans will die from pancreatic cancer, and 3700 of them will be Californians. Public awareness of this devastating disease will help us advance research towards developing early detection

methods, more effective treatments, and even a cure. That's why the City of San José is pleased to join 27 other Bay Area cities in declaring November to be pancreatic cancer awareness month. And Diane Borson is going to accept the proclamation. [applause]

>> Thank you, Mayor Reed and councilmembers. We appreciate this opportunity and this wonderful example that the City of San José is setting in recognizing this horrible disease. You see standing in front of you a three-year survivor. That makes me kind of unusual because most of us don't make it this long. But I'm really doing well. So when you hear about this disease you can know that people do survive, and there isn't an opportunity for so much more to be done in learning about the disease, finding new and better means of treatment, even finding out how to diagnose the disease. So thank you again. [applause]

>> Councilmember Constant: You know, I think it's really important when we have these ceremonials, to really -- we do these for a number of reasons. One is to bring awareness and the second is often to bring hope. And one of the reasons I want to be involved with this, is many of this, oknow someone who has pancreatic cancer. About a year and a half ago I lost my father-in-law to pancreatic cancer. It's wonderful to see that you can fight and work against this vicious disease because all too often people put out the symptoms and put off the treatment until the last minute and there's nothing that can be done. So I just want to thank you for your courage and congratulate you in your fight and thank you for being an inspiration to everybody. Thank you. [applause]

>> Mayor Reed: I'd like to invite Councilmember Pyle, assistant chief Dan Katz, and Jennifer Diquisto, today we're recognizing Westfield oakridge. Councilmember Pyle.

>> Councilmember Pyle: .

>> Councilmember Pyle: Good afternoon. I'd like to brag about district 10. District 10 businesses contribute 8% to San José's citywide sales tax revenue and of that, approximately \$3 million comes from the Westfield oakridge mall. Under the guidance of the Westfield oakridge management team, sales tax figures have remained consistent over the last three years and many new stores have opened despite recessionary times. The Westfield oakridge management team has been a good partner too, in supporting District 10 in the WOWW, which is Westfield Oakridge Winter Walk and Senior Research Fair and job youth fairs. Westfield Oakridge also serves the community by leasing the San José southern division community policing center at Oakridge to the San José police department for \$1 per year. If you go to Oakridge I'm sure you'll be impressed by the cleanliness that you'll see there. At oakridge it is a virtue and it is always such a pleasure to shop there. We thank the Westfield Oakridge management team for being such a good community partner and bringing much needed retail to San José. Thank you. With that, mayor, if we could have the commendation. [applause]

>> I guess I'm the voice of wellness today. I want to thank the City of San José for the partnership, they've really stepped up and helped us bring in new vendors. We just opened a Nordstrom Rack on the 15th of October, and it brought in 40,000 additional customers over the previous year on that one weekend. And so we're pretty excited. We have 17 new stores coming in for the holidays, and I really want to thank the entire city staff for helping us through the planning and permitting process to get those all open on time. Thank you. [applause]

>> Mayor Reed: We'll now take up the consent calendar. Are there any items councilmembers would like to pull for discussion? I have a request to pull 2.8 from the public. Councilmember Oliverio.

>> Councilmember Oliverio: 2.5, mayor.

>> Mayor Reed: Any others? No. Motion is to approve the balance of the consent calendar. All in favor? Opposed? None opposed, that's approved. Item 2.5, Councilmember Oliverio.

>> Councilmember Oliverio: Thank you mayor. I just wanted to thank the I.T. department and the housing department for sitting with me and walking me through the RFP, and answering my questions. I really appreciate that. And I want to do a second thank you to the housing department for allowing me to sit with the people that are actually managing the data that this software would basically provide efficiency for. My interest in this first piqued in closed session because we had a litigation with the previous software vendor that was selected for seven years. That came out of closed session, and we settled that a few months ago. And so I wanted to understand, so you know, what are you going to use the software for, how are you going to manage the data. And frankly it's much like other departments in the city where people are managing data in Excel spreadsheets. It's nothing to feel guilty about, the majority of the world uses it. With that, I wanted to understand what they were trying to gain, and part of it is, you know, being sure that the data is safe because currently it is backed up on individual hard drives, or networks, and if there is a failure the data will be lost. Second, they wanted to be able to collaborate and show information

with others in realtime and have work flow notification, things of that matter. And so with the chosen vendor it's a software as a service vendor and I'm definitely happy to see that. However, my concerns are that the RFP did not have their direct competitors quoted. And if you're in an RFP in procurement situations and your direct competitors are not quoted you're not basically stressed to give the best price possible and if that's the case I worry about setting this as the price, when other departments may adopt this software at some time down the road and you've kind of lost your chance to negotiate. And the competition is, many of its local, net suite's in San Mateo, there's a multitude of companies that offer these types of solutions. So you know I feel that if we were to rebid this, and do outreach to those competitors, and ask for a best and final, last offer, we would be better. And I don't think a delay will hurt, because they've been managing data in Excel spreadsheets for almost a decade and a two to three month delay won't cause any of those problems. And I know that the report will say that they're getting a 40% discount. Well, I don't know of any software that's not purchased with a discount and in times like this even if companies as large as Oracle, offering 70 to 75% off, again I have that concern about not paying the best price that's out there. My other concern is that you know, this software has a lot of bells and whistles but I think there are other things that could offer value that might not have all the bells and whistles but get you half-way there. Let me call out another one. Google spreadsheet. Google spreadsheet allows you to share the data globally, publish it as a web page, only allow certain people to edit it, things that they would gain with this software, also notification on changes. It's secure because the Google infrastructure is quite frankly better than any individual organization. And I think that should be looked at as well because even if we can only achieve 50% of what the software would, well, we're looking at spending almost \$300,000 and google is free. And then my other concern is, when you're procuring software, you often want to talk to a reference. It's not reference that the vendor takes out to lunch or takes out golfing. And I mention that I'm familiar with this vendor because I actually use it in my office for over the last two years. And it works. But I can't say I would buy it today if I had the option starting fresh, because there's multiple vendors that offer it at often more competitive prices. And the other point is, it's the customer support that draws me concern. About over a year ago, basically we were disconnected from the software. My staff, all our constituents, with no way to access it, by the vendor because they made a mistake. And we proceeded with an e-mail chain to where the CEO said, you know, he'd be happy to me with me and scheduled a time. Well, the problem was fixed the next day. But I've been trying to schedule that appointment for a year now and I haven't been able to meet with that person. I even offered to drive to their office in San Francisco. So my concern is, if you want to do business with San José but you don't care for the business you have now, I'm not sure if I can give you if reward where you could get even more. And each of us councilmembers are pretty busy people. We have 100,000 constituents. But if we in our office made a mistake to a constituent and then we offered to meet with them, my guess is we'd probably follow through of that commitment to meet with them after the problem was fixed. And that hasn't happened here. So my concern is awarding business to someone that hasn't done their best effort outside of the price concern I have and not looking at Google spreadsheet, which is free. So I'd like to make a motion to reject the staff recommendation, rebid with outreach to their direct competitors, and also at the same time look at Google spreadsheet to see how far it could get you.

>> Mayor Reed: We have a motion on the floor with a second from Councilmember Liccardo. Discussion on the motion? Councilmember Liccardo.

>> Councilmember Liccardo: Councilmember Oliverio, are you open to the idea, I don't see anyone here from housing. Are you open to the idea of deferring this for one week to get a response?

>> Councilmember Oliverio: We have someone here.

>> Good afternoon, mayor, members of city council, Dave Bascom, the housing department. I think the question, councilmember was-d.

>> Councilmember Liccardo: Yes, I've been interested in your perspective on we've heard several excellent reasons to think twice here. If you could respond I think it would be helpful.

>> Answer the first question regarding the service itself. We are -- actually the service provider will be MK partners. I know we mentioned that to Councilmember Oliverio, and he's aware of that. So Salesforce.com is providing the software, and we have a separate actual software implementer who we have done -- accepted references on and they all came up very favorably. So I can ask the gentleman from sales force who is here to come and address your concerns, Councilmember Oliverio. Regarding the procurement process, I guess, you know, I would-d let me ask guidance from the City Attorney since we did have a competitive process and if -- we certainly want to see the project move forward as quickly as

possible but I guess that's certainly up to city council provided there's no issue with, you know, rejecting bids from the starting.

>> City Attorney Doyle: Well I think the issue now is, look to Mark, purchasing handled it. It is a competitive process and it's up to the council to see if they wanted to.

>> Councilmember Oliverio: The direct competitor in my mind isn't truly competitive.

>> Mayor Reed: City Manager has some comments.

>> City Manager Figone: In that regard, I would like Mark Giovanetti, our purchasing officer, at least highlight the process for the council, so you can have a fully informed decision, at least from the staff's perspective, and also if you could also comment on what kind of rework would be involved. And again, at the end of the day, it is council's call, but I want to ensure that Mark has the opportunity to talk about the process.

>> Mark Giovanetti finance, purchasing. Councilmember --

>> Mayor Reed: Mark just pick the microphone up a little bit. There you go.

>> I'm sorry, it is a competitive process, we did receive five proposals which is a good number of proposals. Our outreach to the supplier company is to register to the bid-sync system. We can't know who to outreach to. These companies that you mention, it's unclear whether or not they were notified or not. They may have been notified through the bid sync system and chose not to respond for whatever reason. Really, don't know what else to say. We did have five good proposals that were evaluated.

>> Councilmember Oliverio: I really appreciate it. But not every company is aware of how to do business with every municipality. When you are procuring a system you should look at the direct competition and that hasn't been done here.

>> There's no doubt you could always do better. But again we did have a good turnout. Five proposals is above average for the number of proposals we get for many of these requirements that we put RFPs out for. They're looking at their business too. They're looking to what to prioritize and what to respond to. But again you can always second guess it. You can always look at who you should have outreached to. We can't directly outreach to the suppliers that are out there, it's not feasible.

>> One thing if I may. We did before we issued the RFP we contacted numerous other cities primarily the same size as the City of San José but also, smaller organizations as well, determine what software products they were using and we specifically sent RFPs to those companies.

Sales force was not one of those companies. There really were not any other cities that were using the software as a service model. And so that's why we did not specifically contact any of them, including sales force as well.

>> Mayor Reed: City Manager.

>> City Manager Figone: Mark, the second part of my question was if the council's inclined to want to have us go out again. Is there a reformulation of the RFP or would it be ready to hit the streets and with -- hit the streets with the more expanded outreach as has been suggested?

>> Basically it would be the same RFP unless the councilmember noticed --

>> It would be the same RFP unless the councilmember noted something in the RFP that they took issue with, that you took issue with. So it would be the same RFP, additional outreach and you're look at four to five months.

>> Councilmember Oliverio: I think that's you know from my perspective I'd like to get the -- know that it's the best and last final offer best price possible on the software than just take a marketing comment that it's 40% less when I know that competitors are doing a significant discount. The only thing would I add is that you know, look at Google spreadsheet, we're doing a pilot with Google today so might as well look to see if that could actually get us further.

>> Mayor Reed: I have a question about the outreach. The staff report says that 22 companies viewed the RFP, do we know who they were? How do we know they viewed the RFP?

>> I don't know who they were. But I can get you that information, mayor.

>> Mayor Reed: I'm just curious --

>> We know they viewed it because there was a log on the bid sync system that says who was notified and who actually viewed it and who downloaded it.

>> Mayor Reed: But we don't know whether or not we actually reached out to those competitors Councilmember Oliverio was talking about. But if we did, they would be on that list somewhere. So maybe we did outreach to them, and they chose not to participate for one reason or another.

>> Councilmember Oliverio: If we do know that definitively.

>> Netsweep was not sent, they were on our list and they did not get a copy of the RFP nor as I mentioned did we target them through our outreach.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I'm sure that the intentions are well intended. However, I see this personally as a case of micromanagement. And I'm sorry to say that it's not our job as councilmembers to interfere with what staff has put together, unless there's some egregious problem with it. It is difficult at times to know when to speak up and when to not. It is always wise to speak up of course on a one-to-one basis. But I for one cannot support this. I see this as an unintended consequence of having to wait did you say four to five months for this to go forward? There are no egregious problems that I can identify in what's been proposed. And so I'm sorry, I cannot support this.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Could I suggest that if we were to defer this item a week, allow staff an opportunity to tell us who actually viewed it, that may address concerns, it may not. At least it might save us a lot of time if we find out those companies were in fact engaged in some way. Councilmember Oliverio would you be open to that?

>> Councilmember Oliverio: I certainly would be open to that Councilmember Liccardo. We'll see what that list of 22 vendors is. Until we know it because it's not disclosed we don't know it.

>> Councilmember Liccardo: Okay, I guess I'd make that motion then.

>> Second.

>> Mayor Reed: That would be a substitute motion to defer for a week.

>> Councilmember Liccardo: Yes.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: I'm thinking along that same line as Councilmember Liccardo. I think at least let's see what the list is. But my inclination is to agree with Councilmember Pyle on this issue. However, I'm willing to wait a week, so Councilmember Oliverio can address any concerns once he has an opportunity, once we all have an opportunity to see the whole list.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I want to thank Councilmember Oliverio for taking the time to research this to bring it to our attention. I think a week deferral would be good to see if we can look at the list. I think all your points are well taken and because you have some experience in software you are able to shed maybe a little more light than others and I too came out of the software industry and I understand what you're saying. I guess my concern would be though if we try to get involved in it as councilmembers that they're bundling a lot of things together here including professional technical support and some of the companies you're talking about may not want to actually bid directly on it so -- because I'm looking at the companies they have listed here and those are probably companies that put everything together under one umbrella where they're providing software, they're providing consultant, technical support all of that. It may not be as easy to sort of tease out which factors. That's where it might go into sort of a lower level where we might not be effective. But I think it's very well to look at the 22 other competitors. I think it's important that our bidding process is competitive and we look at the opportunity to outreach. Thank you.

>> Mayor Reed: Vice Mayor Chirco.

>> Councilmember Chirco: To the purchasing did we follow all of our policies, as outlined and our protocols? Was there any deviation from any other RFP we put on the streets?

>> No, councilmember, we followed our normal process.

>> Councilmember Chirco: And that's what concerns me is, all of the responders have responded to the RFP and we followed our policies and procedures. I think if we're concerned about something we need to mention it beforehand rather than to get the RFP on the street, and then change the ground rules after. I know that's one of the things we've talked about consistently, is that our vendors know what the game plan is going into it. I would support the motion to defer it for a week, until we do see, but that is a concern of mine that we changed the graham rules at a late time. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Vice Mayor Chirco, I do read your concern. I do want to let you know that having gone and sat with the housing department well over a year ago to talk about it and how they could handle it I offered myself early on over a year ago to help and I would have been happy to have provided a full list of folks that could help. And I did meet with them prior to this council meeting. So I've been involved with it and I'd say that.

>> Councilmember Chirco: I would just like to respond that I think we as electeds need to be most cautious about reaching down into the organization, going past like the City Manager who is the direct-report to the council, that we need to be ultrasensitive to how we reach into the organization. I really feel that the appropriate strategy would have been to go to the City Manager and I'm not saying you didn't --

>> Councilmember Oliverio: I did.

>> Councilmember Chirco: So I would support the motion for the week deferral.

>> Mayor Reed: Thank you. I'm going to support the motion for the deferral. There is a policy issue here and that is how well we -- when we do our outreach for any RFP how do we reach the right people? And that's an issue with anything we do. And sometimes, we -- maybe we miss some obvious people. And our ability to reach people that are interested whether it be solar RFPs or technology RFPs and if we're not reaching tall right people then we need to look at our process. I don't know who the right people are. But if we're not reaching them I think that's a policy issue. So I'm going to support the motion to defer for one week. All in favor, opposed, none opposed, we'll take that up next week. Item 2.8. I have some requests from the public to speak on this item. Ross Signorino, Susan Bailey, Jerry Mungai, and David Wall. Please come on down. For the audience at home, this is regarding Senate Bill number 88, regarding state restrictions on ability of local governments to file bankruptcy.

>> Ross Signorino: Thank you, Mr. Mayor. As a resident of San José, I urge you to oppose this bill on bankruptcy, that we have a right to go bankrupt if we want, Sacramento wants to control that particular policy. I think the reason why they control and would like to see this bill go through is because then they would still have control over our money, but if we oppose this bill and see that it does not go through then they do not have the right to manage our money because people have a right to go bankrupt when things go bad, they have no other choice. I think the same thing as Vallejo went bankrupt because they had to get out of those expensive contracts that they had, pensions and so on. And I think that we should leave that option open. It's a good playing card for us to have. I think enough said on that and I think that oppose this particular bill. On the way up here I would like to mention that I encountered Councilmember Oliverio, and I found out that his mother's angry with me. Because I'm not enunciating his name correctly. He is Calabrese. My parents come from Sicily. I have a different enunciation. His mother is going to have to forgive me and put up with it. Good greetings to your mother.

>> Mayor Reed: Susan Bailey, Jerry Mungai and then David Wall.

>> I too am here to express my opposition to Senate Bill number 88. We need to maintain on the local level control of our money and not have it be left to another group. And I would like to know the California debt and investment advisory commission, who exactly is on this commission and who appoints these people? Because it seems to me if this went through they would have an awful lot of power and I don't even know anything about the group. So I would like more information on that also. But I do agree with the City of San José being opposed to this. We need to maintain our independence as much as possible and the state of California is not doing too well. And they keep looking at all the cities to get more money. And pretty soon there isn't going to be enough money. We have too much government and there's not enough money to pay for it. Thank you.

>> Mayor Reed: Jerry Mungai and David Wall.

>> Thank you, Mayor Reed. I also oppose this SB 88 for similar reasons. City of Vallejo has gone through a lot of pain and suffering trying to get out from underneath unsustainable employee and retiree compensation plans and we don't need any more roadblocks. However I can see where it could be difficult for the council to oppose this bill because it is strongly supported by unions and it's interesting to see that the White House list of people, guests at the White House, there were 22 of them from the president of the SEIU. So there is a lot of power on the side of the unions to put pressure on elected officials who would oppose this kind of a bill. Thank you.

>> Mayor Reed: David Wall.

>> David Wall: Good afternoon to you all. I am more concerned with the informative side, of local government in communicating the state of city finances in a very timely and efficient manner. Whether or not the City of San José is poised on the precipice of bankruptcy in relationship to disclosure of their obligations, and I believe that chastisement to this distinguished body is in order. On the issue ever this shouldn't have been on a consent calendar. This should have been a regular agenda item, preferably agendized for night-time council meeting. So more citizens could come and participate in this bankruptcy issue. Thank you and God bless all of you.

>> Mayor Reed: Thank you. That concludes the public testimony. Let me just say that City of San José is not facing bankruptcy, is not contemplating bankruptcy and is not bankrupt. This is about a state law

that would affect local governments around the state to exercise control, and request permission of the bankruptcy court to proceed in a bankruptcy proceedings. It is not about the City of San José. So anybody who got the wrong idea, please, we got our troubles. There's no doubt about that and the state's making our troubles worse, there's no doubt about that but we're not a candidate for bankruptcy and for that I'm grateful. Anything else on this? I need a motion. Motion is to approve. All in favor? Opposed? None opposed, that's approved. That concludes the consent calendar. Now have item 3.1, report of the City Manager.

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

>> Mayor Reed: That takes us to item 3.3, two reports from public safety, finance and strategic support committee, one from October 14th a special meeting and then the October 15th, regular meeting. Councilmember Nguyen chairs that committee.

>> Councilmember Nguyen: Thank you Mayor Reed. I'm delighted to provide a report on the special meeting that took place on October 14th, 2009. Over 60 residents were present to provide feedback on the following questions: What reactions do you have to the city's effort to date? What ideas do you have for addressing policing issues. What do you want to know about policing services? As the report mentioned a majority of the community members who attended the session meeting applauded the San José and the San José police department for their efforts maintaining a safe city. Cohesively with the police department towards active community policing suggestions included more community meetings, where residents can interact with members of the San José police department and voice their opinions. There were also an interesting -- an increasing our police force by hiring more officers to patrol our streets. Overall the special meeting was very successful. The public was able to provide very constructive feedback about public safety issues and policing in San José. A report on this special evening meeting will be discussed at the regular Public Safety finance and strategic support committee monthly meeting of November 19th. Yesterday Mayor Reed and I put out a memo that will be heard at the Rules and Open Government Committee that aims to provide more information about the different measures and initiatives the police department is implementing at the response raised by members of the community. This is also in light of the most recent event that involved the arrest of a San José State student. These issues along with the use of force by the police department will also be heard at the November 19th regular public safety finance and strategic committee meeting. Finally, on behalf of the Public Safety committee I would like to thank staff, especially Deanna Santana and Chief Rob Davis, for their diligent work on these complex issues. I would also like to thank members of the public who attended this special meeting and voiced their opinions and concerns. This committee looks forward to having another fruitful discussion at the next special meeting which will be held on April 14th, 2010. And I'm available for questions, as well as staff and I also wanted to thank committee members for attending that meeting and for your commitment and dedication to stay all the way to the end to listen to members of the public. Thank you.

>> Mayor Reed: Thank you, Councilmember Nguyen. Thanks for chairing that committee. Good work on that special meeting. I had one comment with regard to the memorandum that Councilmember Nguyen and I put out yesterday, asking that the Public Safety committee review all the initiatives underway within the department dealing with the use of force. Since we don't have a Rules Committee meeting scheduled for the 11th due to a holiday, tomorrow at the Rules Committee meeting I'm going to ask that we set a special Rules Committee meeting for Monday, the 9th, to get it on to the Public Safety committee meeting by November the 19th, so we can have a timely discussion at that committee meeting as we look at the several initiatives that are underway in the department and think about what additional work might need to be done. That's a good place to do it, on November 19th, and anybody who has an interest can certainly do that and then a report back from that committee meeting would be on the council agenda on December 1st. Councilmember Constant.

>> Councilmember Constant: I just wanted to point out, just a minor typo under 3.3B. That should be October 15th, not October 14th. And if the chair of the committee's going to make a motion to approve I'll second it.

>> Councilmember Nguyen: Motion to approve.

>> Mayor Reed: All right, we have a motion to approve with one modification on a date. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I just wanted to thank Councilmember Nguyen and the other committee members for the leadership in doing this. As we know probably the most important component to all these issues that are revolving around policing issues and so on is really keeping

communication open with the community. And so I appreciate the fact that there is already set the wheels in motion for having an April meeting as well and I would encourage Councilmember Nguyen and the other committee members that if they see fit to have interim meetings, more public outreach the better. I think the reality is that we all want the same end goal. Folks in our community want a safe community, want our police officers have the tools to make our community safe we also want to make sure there's open communication and trust between the community and the police department. Which in turn makes the job of the police officers a safer one. And so I do -- I just wanted to really reiterate my thanks for doing this and for the upcoming meeting as well and that I think all of us need to try our best to make sure our lines of communication are open with the community.

>> Mayor Reed: I have two cards from the public people who want to speak. I think it's on the numbering although the numbering is a little bit confusing so we'll see. Ross Signorino and then Timothy Fitzgerald. Is this the one you wanted to speak on Mr. Fitzgerald?

>> I was going to speak on Chief of Police.

>> Mayor Reed: Chief of Police is not on the agenda.

>> I was going to speak with the public.

>> Mayor Reed: Okay, Ross Signorino on this item.

>> Ross Signorino: Thank you, Mr. Mayor, members of the council. What's going on right now, the publicity, front page things in the San José mercury, Sunday, was a bad day. The way they portrayed our police department. And then, Monday again, now, we're at Tuesday again, on the front page of the San José mercury. And even last night, on KGO, the announcer in the radio station, their talk radio station was saying, what's going on in San José? What kinds of a police force do they have there? I would like to respond, and say that we have a good police force here. Responsible. Whatever the headlines may say, and here you have the front page where it says, that the Chief of Police is going to put in a committee where they can go into this, and also the article goes on to say that's the fox watching the hen house. Like they're completely dishonest and we have to keep more of a supervisory eye on them. And then here on the second page of the local news it says trick or treat, attack, a child, one 12, one 14. Police believe this is gang related. What are the police supposed to do, be careful, walk on tiptoes, let's not go after gangs because of the bad publicity they are getting? We have a good police force, there might be some that are abusing their authority. This is the case in all police departments wherever you have law enforcement in military even, yet things go on. But at the same time, we have to root that out. But for them to condemn the whole police department is wrong. I talked to a lot of people. This is not the attitude of the people here in San José, they trust their police department.

>> Your Honor, maybe I do --

>> Mayor Reed: Mr. Fitzgerald, you want to speak on this item? Come on down.

>> I apologize for the confusion, I was a little distracted. I've come before you two years ago, I think, with this complaint. So I'm going to review it with you briefly and come to some conclusions. About two years ago when I was in my apartment, the police broke in and detained me, and placed me in a hospital for psychiatric observation. This, they seemed to think, is their prerogative as I have a record of bipolar disorder which is fortunately correctable. So I want to add to the complaints coming in with my own complaint, as to the heavy-handedness of the use of police force under shield of law. I, in my own life, I came back here, four years ago, to go into semi retirement as a teacher and a writer. These are two books which are published, they're available on Amazon.com, one a book of poetry, one my memoirs which just came out this summer which are getting five star reviews. I'm entirely competent and capable of taking care of my own affairs, thank you, and I want like the police out of them. I would like the Chief of Police fired, he does not match the standards McNamara set years ago. In my opinion McNamara was an excellent police chief and we had good control of the city, and the police, from everything I have coming to me in my information, are being Draconian, and heavy handed in the use of the authority that's given them by law. And it's got to stop. And if it doesn't stop I may make an issue about it. I've been in politics for 40 years in this county. Thank you.

>> Mayor Reed: We have a motion. I want to verify that the motion covers both the special meeting and the regular meeting?

>> Councilmember Nguyen: Yes, that's correct.

>> Mayor Reed: Motion is to approve both committee reports. All in favor, opposed, none opposed, that's approved. That includes our business agenda. Open forum. I have no requests to speak on open forum. We are adjourned.