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>> Mayor Reed: ... I'd like to call to order the committee meeting for September 15th, 2010. Do we have any changes to our agenda order we need to discuss? No, all right. Then we'll start with the September 21st council meeting agenda. Anything on page 1? Page 2 or 3? Page 4 or 5? Page 6 or 7? We have item 9.1, joint items related to major league baseball. I think I'd like to have that in the evening, first thing on the evening agenda. It is a relatively short evening agenda as well as afternoon agenda.

>> The other issue on 9.1 is the memo on the resolutions might be posted today. (inaudible) so we would like the waiver. Since we didn't have the opportunity to do before.

>> Mayor Reed: Well, I don't think that's an issue because council's already approved the changes for this, just bringing back in final form, so I don't have any problem waiving sunshine on it. We did it back in August I think it was in a memo that council approved but we'll need to include the sunshine waiver in the motion. Any other changes or additions? I have a couple of requests. Presentation of commendation to achieve kids, and Councilmember Chu, presentation of commendation to Adobe Foundation for support of the airport art program, at my request. And then an addition of an amendment to the existing second amended restated agreement for the San José Convention and Visitors Bureau to be added, Section 4, and then agreements for the former FMC property on Coleman avenue also to be added to Section 4. I see we need sunshine waivers on both of those. But we have agreements that are going to expire if we don't take action, is that what it is?

>> They both expire on September 30th I believe.

>> Mayor Reed: Any other changes or requests for modifications?

>> Councilmember Constant: I'll make a motion to approve with the adds, as amended, with the three sunshine waivers, as necessary.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approve as amended with the waivers. All in favor? Opposed, none opposed. That's approved. Next item is the 28th. September agenda. Anything on page 1? Page 2 or 3? Page 4 or 5? Page 6 or 7? Any other requests for changes? None?

>> Councilmember Pyle: Move to approve.

>> Councilmember Chirco: Second.

>> Mayor Reed: We have a motion to approve. All in favor, opposed, none opposed, that's approved. Redevelopment agency agenda for September 21st. Looks like we can cancel that.

>> That's correct, Mr. Mayor, and we will cancel the afternoon session but we'd be available if there's a closed session in the morning and of course the evening session the joint item on the baseball we'd certainly be there also.

>> Mayor Reed: Okay.

>> It would just be the afternoon session to cancel.

>> Mayor Reed: We need a motion.

>> Councilmember Constant: Motion to cancel.

>> Councilmember Chirco: Second.

>> Mayor Reed: Motion to cancel the afternoon agenda piece of this day. All in favor? Opposed? None opposed, that's approved. September 28th, redevelopment agency agenda.

>> Mr. Mayor, if we -- the September 28th has the single, some routine committee reports but 3.1 the progress report on the implementation plan for the strong neighborhoods initiative redevelopment project area. That's not a major action but it is a California redevelopment law required report between the three and four year mark of the five year plan. And this is the time for that report. So it will be a presentation on the 28th.

>> Mayor Reed: You say it's between three and four years?

>> Between the -- it's a five year plan and this report's required between the third and the fourth with year of that five year plan.

>> Mayor Reed: So we need it on this agenda?

>> That's correct.

>> Mayor Reed: As opposed to the other 52 agendas still in the year three and four period?

>> As opposed to the 52 prior to this because this is in fact the last available date for that.

>> Mayor Reed: Well I'm a little bit concerned about it preceding our discussion on the budget. This should not be a budget discussion, nor a budget presentation because council won't have had a chance to look at that time redevelopment budget. I guess it will be out. We certainly have discussed it.

>> Abi Magamfar: Mr. Mayor members of the committee this is more of a routine. We do it every year. Unfortunately, as Gary mentioned, we've waited a little too long so we are at the end of the time that we can bring this to the council. But normally it doesn't require much discussion as a part of the process.

>> Mayor Reed: Okay. Anything else on that agenda, any additions?

>> No other ideas to be added.

>> Councilmember Constant: Motion to approve.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed, that's approved. Item C, upcoming study session agendas. We have a memo here on the schedule. But that's I think on item E-1 so we'll come back to that. Legislative update anything on state and federal? Nothing. Meeting schedules, revised study session schedule for September-December, set topics for each session included and cancel the November 18th Public Safety committee meeting. Recommendation from City Manager. Councilmember Constant.

>> Councilmember Constant: Yeah, on the 18th of November, public safety, finance and strategic support committee, I'm actually not in favor canceling the committee meeting. I really think we should be looking for a reschedule of the meeting. The workload of the committee has been pretty heavy this year and there's been a number of items that have been deferred multiple times, and some items that, quite frankly, are going to necessitate some timely discussion. So I would like to move approval of the memo with direction to staff to reschedule that meeting based on availability of at least three of the four committee members.

>> We're in the process of looking for an alternative date but do intend to not have the meeting on the 18th but we'll bring back when the meeting should be added in November.

>> Councilmember Constant: Okay. So that was -- thank you.

>> Mayor Reed: The budget study session, November 18th. We've got that scheduled for all day. Just so people will note, anything, City Manager?

>> City Manager Figone: Yes Mr. Mayor, and the agenda will certainly come together as we get close to there. But I wanted to make sure the committee knew that right now the label "budget preparation" is kind of an overarching label. We could very well be reporting out from the retirement task force which will have concluded by then, the community task force, as well as perhaps bringing in the initial stages of the annual labor relations discussions. So depending on how the content shapes up as we move forward, you might see a fuller list of topics to be discussed that day.

>> Mayor Reed: Okay. Anything else on study sessions? And the cancellation of the -- rescheduling of the committee meeting, anything else on that? Is there a motion?

>> Yes, there is.

>> Mayor Reed: We do have a motion, sorry. All in favor? Opposed, none opposed, that's approved. Public record, anything the committee would like to pull from the public record to discuss?

>> Councilmember Chirco: I would move to note and file.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to note and file, all in favor, opposed, none opposed, that's approved. We have nothing under boards commissions committee appointments. We have, under the workload assessment, council requests and referrals, memorandum to consider, from a couple of councilmembers, Campos and Kalra. Asking to direct the City Manager to terminate her internal investigation of the fire department's deputy director Geoff Cady's oral presentation regarding resource planning and development, San José fire department, and authorize an immediate and independent investigation to determine the accuracy of Mr. Cady's statements in regard to specific decreases to emergency response times, ability of the fire department to contain fires in room of origin and other statements made during this presentation. So I think City Manager has some comments on that. Start there.

>> City Manager Figone: Thank you, Mr. Mayor, members of the committee, actually I do have a presentation for you, and a request in terms of how much further you would like staff to go today. So let me get you to some suggestions in terms of your delving into this issue. First of all I do want to thank you for giving me the opportunity to share information regarding the status of my review into this important matter. Before I do begin my formal presentation let me just say that I do respect and acknowledge the role of the city council to initiate an independent investigation, if you so choose on the matter. And I do want to express to the city council the workforce and the public that I take these claims very seriously. And because of the serious nature ever the allegations and good request before you I do want to provide you with a clear understanding of the areas that I am able to discuss today, the charter authority afforded to the city council to further inform the options that you have with respect to initiating an independent investigation, and the attorney can certainly add to this as we move along. First of all, there are city employees involved in this review and their rights must be protected at all times. Given that this is a personnel matter I will not be commenting today on any issues related to comments that employees may or may not have made or any details of what I have recently learned. Because these employees fall into the administrative structure of the organization and report to me, it is important for our discussion and any subsequent action taken by the city council be informed by the charter authority afforded to the City Manager and the city council. And while I recognize that there may be limitations to the scope of our discussion today, I am prepared to share information that my staff has reviewed specifically related to councilmembers Campos and Kalra's request to determine, quote, specific and detailed impacts of proposed service cuts to the fire department and how much of that information they disclosed to the public and the city council, end quote. This in my view is the heart of the matter before you today. So before I go into detail I do want to put our conversation into context. As we all know the city resolved an unprecedented short fall of \$118 million with the fiscal year 2010-11 budget and for 2009-10 the city resolved a budget shortfall of \$84.2 million. For the past years the fiscal condition has caused the administration to evaluate various options available to minimize the impact of service restriction or eliminations as you went about resolving these very difficult fiscal challenges. Although undesirable after almost ten years of budget shortfalls and service reductions it became very clear, specifically over the past two fiscal years, that these budget shortfalls could not be resolved without cuts to public safety departments. While fire station closures have been proposed over the past couple of budgets, our staff always explored alternatives such

as rolling brownouts, permanent closures and the greater use of the live move-up module which we referred to as dynamic deployment. Unfortunately local 230 has caused much focus on individuals, and who said what. And while I will not go into the details of those claims, it is appropriate for me to address what the administration knew, what we made clear publicly and available in the way of materials and public presentations and more importantly how we engaged in the discussion on the proposed budget reductions over the past two years and where the department made budget proposals to reduce services, and specifically, most recently, through the elimination of engines, trucks, and the closure of fire station 33. With all that said I think that a discussion on the materials will demonstrate that the administration did not and would not withhold or manipulate information about dynamic deployment or the fire department's proposed budget reductions or suggest that anyone else should. The information that I can share today establishes a clear record that was no intent to mislead the public or city council about the impacts of the proposed fire department budget reduction. If the Rules Committee desires, and I and my staff are here and are prepared to share and discuss today several things with you. First of all, the city council one-on-one meeting schedule talking points that we used in briefing you, handouts on dynamic deployment, incident count summer reports, discussions about mitigation strategies to offset the reductions and other fire department metrics. We also prepared to share the actual text provided in the proposed 2010-11 operating budget which discusses the impacts of the proposed reductions and the mitigation strategies that we present to you, along with the policy alternatives that we discussed. In our budget document you will see very clearly that we acknowledged the need to monitor and analyze response times and it discusses very clearly dynamic deployment. We are also prepared to share the dynamic deployment fact sheet which was shared with the city council and was developed specifically for neighborhood outreach and shared through our public outreach contacts. The fact sheet is very clear about the outcomes of implementing dynamic deployment, both in terms of what it would accomplish and its limitations. And then finally and I think very importantly for today we are pair to discuss with you the city council budget study session closed captioning notes and video of clips of significance from 2009 and 2010 where we discussed room of origin, both in 2009 and 10 and the impact of proposed reductions in 2010 and let me just stop a moment and let you know because we do have the clips, if you are interested, and I'll comment on that in a minute, in the 2009 clips from May 8th you'll see questioning from Councilmember Nguyen, responses from then fire chief Darryl Von Raesfeld, responses from Geoff Cady and questioning from Councilmember Liccardo about the room of origin and relationship to response times. Also we

reviewed much more video than we would recommend showing daw, from May 14th, 2010, we have a series of clips of councilmembers engaging in very thoughtful questions of staff, both Darryl Von Raesfeld and Geoff Cady over the myriad of issues which have been presented as subject of the allegations that we withheld information from council. So again we are prepared to share these clips with you if you feel that it is good use of your time. It would amount to about 12 to 15 minutes. By reviewing of this information I think that the Rules Committee will find that the administration proactively disclosed a significant amount of information to the public and the city council that did inform your difficult policy decisions during the budget process. We did not shy away from any of the tough questions whether they were asked out in the public forum as we met with the community and supported some of you as you had to confront these changes in service delivery and certainly did not shy away from them as we presented during your budget deliberations and I think the video clips will demonstrate that. It's also important to recognize all that we went through to proactively communicate with you. Because the budget proposals were very significant. We had a lot of discussion, as we thought about what we would bring to you, the related tradeoffs, how we would mitigate service levels given the many years of service reductions leading up to this, things such as response time, mutual aid and other strategies to address fire resources. I'm confident those were all thoroughly discussed by the city council. In addition to the thorough discussion and presentation about the public safety budget reduction proposals, my review of the conference that was referenced in the materials that you all received a couple of weeks ago, you know, my review of those materials really believe that much of what has now emerged as allegations were taken out of context. But that is now the reality that we're dealing with. And so there are really three key topics again that we're prepared to address, response times, dynamic deployment and mitigation strategies, and room of origin. Again, I think it's very important to note that the source of this concern was a presentation at a conference which focused on tactics, performance objectives, technical detail related to the firefighting profession as a whole. And some of these comments, are very much reflected in the material that we shared with you, and how we went about presenting to you the very difficult decisions that you had to make in order to resolve the 10-11 budget. So with that said, Mr. Mayor, I will pause and see how you'd like to proceed.

>> Mayor Reed: Thank you. I would like to see the video clips if you have them available. Because that will refresh my memory. I did sit through many, many, many hours of budget hearings and I can remember some of the topics. But I think if we have those clips available and they're not too long we can show them.

>> City Manager Figone: Okay. Ross is here, and they're about 12 to 15 minutes.

>> Mayor Reed: In whatever sequence you want to do them. I mean, it is -- [clip proceeds]

>> Councilmember Nguyen: {NIK7} What is the average response time for a fire truck to be on location if a fire is to occur on the Communications Hill?

>> Darryl Von Raesfeld: The standard that we have citywide is to respond within 8 minutes 80% of the time for fire or EMS emergencies, that's the standard we have across the city. Up on Communications Hill it runs between 72 to 80% at this time right now, but Communications Hill includes the units that are on top of the hill as well as those down at the base of the hill.

>> Councilmember Nguyen: So if we were to deactivate this fire station the closest one would be fire station 13 which would be on pearl avenue?

>> Darryl Von Raesfeld: Right, Pearl near Branham.

>> Councilmember Nguyen: How long would it take for a fire truck or engine from station 13 to drive up to Communications Hill?

>> Darryl Von Raesfeld: We've run some basic tests on that. Basically the response times go from about a 72 to 80 percentile, down to about a 60 to 64 percentile getting there in the 8 minutes. So it's going to increase it somewhere from 30 to 60 seconds probably to get further up from the base of the hill to the top of the hill, for them. So it's going to be an increased response time up there. If you remember the maps that we showed in the

community meeting, we talked about the 80 percentile, the 70 percentile, and then the 50 to 70 percentile, and the top of Communications Hill falls into that 50 to 70 percentile. [Clip over.] [Next clip.]

>> When we did in fact include the adjacent stations we thought impacts in the range of anywhere between four and ten second increases like in the second two engines how quickly we can put together what we call an initial response for us and those kinds of things. So this is where we really start to struggle in terms of our ability to truly forecast what's going to happen when we eliminate a company like that. And one of the things that we have as a vision within the department is to implement this comprehensive records management system that we've been talking about. And then to be able to measure when those resources will arrive on scene and then truly understand the impact. When I talk about time to impact. And as the chief mentioned we have performance measures one of which is response time. The other happens to be something called confinement of fire spread to room of origin. And that's where we really start talking about where the rubber meets the road. Because we know there's data out there that suggests when it extends beyond that room of origin we start to have significant increases in loss of life and property. So that's one of those places where I wish I could sit up here and say here's the map this is what it's going to say but quite frankly we're just not there yet. So we're putting the best information we have available right now to try to bring forward what we believe will have the least impact but in fact as the fire chief has said and the police chief has said, these cuts will have impact, there's no doubt about it, we just don't have the definitive answer for you yet. Maybe in the future we will.

>> Councilmember Liccardo: Is there reason to believe that when you look at that measure, that is, the fire spreading beyond the room of origin, does that tend to correlate fairly closely with response time data? Or is there something else that would tell us if there's relationships won't be linear?

>> It does, it does very closely correlate with response time. The quicker we could get inside the structure, to knock down the fire, the less it's going to spread. Fire grows exponentially in terms of its creation of heat and therefore it gets to a point where the heat gets great enough for all contents in the room to suddenly flash over, you probably heard that term before. What that means is anyone laying on the floor, who is essentially unconscious maybe from smoke inhalation, the carbon monoxide that builds up in the room, will have no chance

of survival. It also means if our own firefighters happen to be in that environment when it flashes over, there is also the probability that they will also expire. Contra Costa County had that same event occur, I think it was last year. So that's why it's important to get a combination of resources on scene. For a typical single-family structure fire we're talking about three engines, two trucks and two battalion chiefs. And there are some support resources that arrive there. And they need to arrive there, and this is the thing the public often doesn't realize. They need to be choreographed in such a way that they arrive there in a certain time sequence. So we have three time stamps to our engine companies, we have two time stamps for our truck companies, and then our battalion chiefs. And the trucks have certain jobs cutting holes in the roof which is to allow heat and the gas to go out of the structure that frees up the environment so we can see potential victims and at the same time releases heat so we don't have potential flashover. So that's why my job when I put on the research hat I feel I'm have invested in terms of what I'm working with here because we really are as everyone has pointed out talking about emotional loves love if we don't really possible loss of life if we don't understand some of these reductions. [Next clip]

>> Darryl Von Raesfeld: But the four-minute travel time is a criteria that we measure. Currently San José fire is meeting that at 63% of the time and the NFPA standard's to meet it 90% of the time. So we are well below that standard, but it's hard for any city to really meet that standard based on the travel time is unique to time of day and what could be going on in the streets. But we hit it at 63% of the time right now. We are exploring our turnout time now to reduce it from two minutes down right now, and we're starting to provide data to the battalion chiefs. But it will take some time to work on that to get that number down, but we believe that can be brought down.

>> Councilmember Nguyen: So with 63% of the time, out of the standard 90, and with the current proposal that's on the table, I just find it very hard to believe that we can actually increase that -- that percentage. Can you elaborate more on how we can do that?

>> Darryl Von Raesfeld: I think with reductions we won't see it increase. What our predictions look at, we meet -- currently in this fiscal year we're meeting our 8 minutes travel time 83% of the time right now, so we're a little bit over the 80%. That is due to the fact that we have added three stations since 2007. We've also done the Southside redeployment strategy where we've relocated a couple of stations. We are in the process of doing the

Eastside redeployment strategy with Station 19, Station 21, and when 24 moves, and we'll see some improvements with that. So while we're meeting it with 83% of the time what the modeling shows us with the restriction that we have proposed right now is we probably see about a three to 4% decrease in that 80% travel time that we're looking at right now and that would -- I'm sorry response time total response time. The travel time would probably go down equivalent but I don't know if we've run that number yet and I can check with staff but I don't think we've run to see what the four minute travel time will be. [End of clip]

>> Darryl Von Raesfeld: And we've actually had this live move-up module bought for a while. We just haven't had the time or the resources to put it in place. This is given us the impetus to put it in place, and if these reductions do go to the degree they are, we would deploy the people to be watching that on a realtime basis and making those realtime moveups so that the impacts are mitigated of this -- we're not going to eliminate it. You can't take five engines away and say we're going to respond it the same, but it will definitely mitigate it and take care of any gap coverage that would exist if we didn't have this program in place. [End of clip]

>> Darryl Von Raesfeld: We would prefer to do it without having these reductions take place but if these reductions take place it's really the only two we have to mitigate the impacts that would be from this because if you take five stations completely out of the mix that 80% that goal that we're shooting for is going to drop down quite a bit. With this we believe it will be about a 3% or less reduction, without it it would probably be much greater than that.

>> Councilmember Nguyen: Thank you. And then just a final question about dynamic deployment. Thank you for the fact sheet, by the way. I notice that in the fact sheet that you mentioned that we will have to rely more or mutual aid to handle some of the incidents that's going to occur. I was wondering if you have had any conversation with some of these mutual aid partners in terms of how we can work together collaboratively as we move forward?

>> Darryl Von Raesfeld: Yes, the county fire chiefs meet on a monthly basis, and this is a topic we've talked about when these budget reductions were starting to come forward and more cities are even experiencing, in fact

at our last meeting Santa Clara was -- chief was telling me he was proposing a 10 or 15% cut whereas before he thought he had to cut nothing. So we've had lots of discussions, especially with the south cities, Morgan Hill and Gilroy, and we talk about on a regular basis with Cal Fire and the rest as to how we can support each other during these difficult times. So the dynamic deployment will help us with our response times, but it won't make up for the resources that are gone. That's why I predict mutual aid be used more by us and by other cities. Gilroy is going to cut a fire station and others. So we will rely more on mutual aid. [End of clip]

>> Councilmember Campos: So how does this dynamic deployment make sure that the people that live around there are receiving the adequate response time that they deserve to have?

>> Well, there are certainly areas that are going to struggle because of the distance. And that is clearly the problem we have on top of Communications Hill. But to your point, as we deploy resources and look at underlying risk, that's an area that we would identify now as having higher risk because we don't have a resource that can get there as quickly. So part of strategy would include in the business rules of the application trying to keep at least one resource available to respond like something out of station 18, something out of station 13, that has the quickest response time to the top of the hill. So ways that we can try and mitigate that, and again it is a mitigation strategy to try to be sure that we don't allow a hole to be created in coverage that might even more adversely impact the top of the hill.

>> Councilmember Campos: And what's your quickest response time? I mean you said quickest response time. That can mean a lot of things to me.

>> Right, engine 18 or any of the resources out of station 18 and station 13 get to the bottom of the hill in just about eight minutes in the 70% range. So just in the surrounding contiguous stations, is what do we have for contiguous station coverage, what circles it. The real challenge with Communications Hill is the fact that you have this very small number of units on the very top of the hill. And then what happens is then if we're getting to the bottom of the hill in eight minutes we have to add about an additional three minutes 45 seconds to get to the top of the hill. So it makes the response time in the neighborhood of 11 to 12 minutes to the top of the hill and that is

the challenge. There is no doubt about it and because of the geography we can't surmount that right now. [End of clip]

>> Councilmember Herrera: And I highly support getting new technology and looking at ways to do things. So I think if dynamic deployment is looked at in new kinds of software and GPS and understanding where trucks are and learning how to work with those resources I don't have any problem with looking at that as a strategy and looking eighth you know Kim was going to ask the same question, have we done a pilot project? Because certainly to augment or to help our -- help us do better I don't have a problem with it. I'm a little bit concerned about thinking of it as a strategy to replace how many -- we're talking about many --

>> Darryl Von Raesfeld: Five engines and one truck.

>> Councilmember Herrera: Five engines and one truck, over 80 firefighters is it fewer.

>> Darryl Von Raesfeld: Yes.

>> Councilmember Herrera: I get concerned if we -- you know I need to understand how that would you know actually replace those you know those firefighters. Those engines --

>> Darryl Von Raesfeld: It definitely wouldn't replace them but it would help us with our response times with the remaining resources. But you're not going to replace them. Those difficulties, we talked about mutual aid and things will come into play. [End of clip]

>> Councilmember Herrera: Help me out with a scenario where you have a structure fire. I mean what I'm interested in is a fire where we've got a lot of you know fire engine companies responding to this, when would we be in a critical situation? In terms of the staffing that we're talking about now?

>> Darryl Von Raesfeld: Currently when we hit about three alarms we start looking at mutual aids to backfill our stations or to come to the call. We would be looking at that at the second or third alarm phase now with five less resources in the system that we have. And again, we also need to look at how we dispatch our responses. To give you one example that we're discussing at the senior staff level now, we changed a while ago for a vehicle accident on the freeway from one engine and a truck to two engines and a truck. We'll probably ratchet that back to one engine and a truck again so that resources stay in service better. So it's going to be managing our resources differently than we do right now also. [end of clip]

>> Councilmember Kalra: Budget issue, as you -- obviously are driving a lot of the tough decisions that we're going to have to make. It's just a little more, it's a little more -- harder to swallow when it comes to public safety. Because of a reduction, we can already assume it's going to be a reduction in response time. Regardless of what strategy is taken if we have to lose resources and if there's the prospect of losing firefighters there's going to be a drop in the fund cycle and we know that already being far below the national average, that everybody, you know, every -- every second, I mean every minute, every two minutes you know that we delay, especially if 85% of our calls are medical calls, people are going to lose their lives. And you know it doesn't make it any easier I think to make these budget decisions but, you know, at the end of the day, we know that's going to be the reality regardless of what direction we go in terms of having to reconcile the budget deficit. In regards to the mutual aid unit that's been touched upon a little bit, with this new model, has there been contact and communication with other agencies with this new model in mind, in terms of how we're going to make sure the incidents in San José are appropriately responded to?

>> Darryl Von Raesfeld: I shared the strategy at our monthly county chiefs meetings for the last few months as well as their sharing their strategies what they're looking with their budget reductions coming forward so we have that discussion going on at that level. [End of clip]

>> Councilmember Kalra: How are we going to respond if there is a two alarm or more incident in an area that kind of had resources taken away from it because of the statistics, the data?

>> Darryl Von Raesfeld: The hope would be with dynamic deployment or the plan with dynamic deployment is we would have resources distributed so that at least the first alarm and second alarm would get there, and when we get to third, you might be looking at mutual aid to come in to assist us or filling in at our stations. We may also have to look at going defensive on fires more often than we do now rather than our current response goal is to confine it to room of origin 90% of the time. We may not be able to achieve that goal anymore and have to look at different ways of fighting fire. Those are things that may have to factor in as we start implementing the program.

>> Councilmember Kalra: Elaborate on that room of -- those current standards we have in this department, confining it to room of origin 90% of the time?

>> Darryl Von Raesfeld: Correct, that's our current standard for fires in residential structures is confine it to room of origin 90% of the time. And I believe, Geoff, we're meeting that -- we're off by whatever the percentages are. But that is our goal, and while we're not even meeting that now, that is what we attain to. But that means we try to do interior structure firefighting. When we go to a different model and depending what these cuts do and what surrounding jurisdictions do. Places like Fresno and others go defensive almost on every fire they have rather than interior attack and try to save part of the structure. So we'll change our tactics of what we do on the fire scene possibly as we start to integrate this and see how it impacts our responses. [end of clip]

>> Councilmember Liccardo: So as we look at dynamic deployment then, chief, question that comes to my mind and forgive me if you may have answered this question earlier, I know I came in late to the hearing but what's the second best alternative look like to dynamic deployment?

>> Darryl Von Raesfeld: Without dynamic deployment, if we didn't implement something to fill the gaps that are going to be created by companies being -- by having less companies, so when they respond we are already down six units than we are right now, there's really no other way to fill the gap. We'd see a real gap in response time at that point in time. The dynamic deployment will allow us to at least look at those gaps, this very -- the cuts, while we do move some companies to stations 34 and 35, it will impact those stations response a little bit too because those companies are there to backfill behind the engine when it goes out on a call. So we take -- try factor all

those into play. Without a dynamic deployment strategy we see the call volume or the response times increase more than we would like to see. [end of all clips]

>> City Manager Figone: I think that's the extent of the clips. So just in closing, Mr. Mayor, members of the committee I think you have a good sense for how far I've taken my review. And we can get into many of the written materials that I mentioned to you, certainly if you don't have them, supply you with them. Many of them you've already received over time. I believe we've established a clear record for demonstrating that the administration actions are not at all consistent with any of the allegations that we withheld information or what staff members may or may not have said with respect to withholding information from the public or the council. I do think that we have proactively and professionally conveyed and engaged all of you in the community with sufficient awareness, the most awareness, the most that we could about the reductions that you had to decide on the available policy alternatives, the potential impacts, and to the extent that we were able to analyze them. During the context, again in the context of resolving a \$118 million shortfall with a whole host of undesirable service eliminations and reductions and very few good options for you to consider. So given the significance of the fire department's reductions and our desire to monitor performance I did request Chief McDonald to develop a monthly performance report upon the implementation of dynamic deployment and our reduced resources and I know he has done that. The first report was issued yesterday and he is here to be able to respond to any questions that you might have. Again in closing as I've stated at the beginning I fully respect your ability to initiate an investigation on this matter. However, if one is initiated, it will have to be done so with consideration to the charter boundaries of the mayor and council as well as the City Manager. My goal today was to assist you in further assessing this request, and we're here to answer any questions that you might have. Thank you.

>> Mayor Reed: Thank you. City Manager, you mentioned a custom points in there, the written materials. Could you just go through and summarize the written materials, some of which we got in our packets and you know the audience may not be aware of the packet information. There's the dynamic deployment fact sheet, there's some budget documents. If we can just let everybody know what we have, and give them the references.

>> City Manager Figone: I'm going to ask Deanna Santana to help recap those.

>> Deanna Santana: In your packet today, that was distributed on Friday, you have the dynamic deployment fact sheet, and this is the fact sheet that was developed after a Saturday conference with United neighborhoods where it became clear that neighborhoods wanted additional information about the impacts of dynamic deployment. We worked with neighborhood leaders as well as circulated this throughout our SNI, NACs and contacts we have in our neighbor to get the word out and to provide this fact sheet. It was also MBA number 3 as part of the budget deliberation process. There is some reference in there that we've well documented them in the Rules Committee report as well as an info memo about what the limitations are of dynamic deployment. Also in your Rules packet we have included two documents that are referenced specifically but there are additional no less than 12 references related to the need for evaluation and monitoring or what the impacts are of the service level reduction. But what we included in the rules packet is page 96 which specifically references the projected citywide response time impact.

>> Mayor Reed: That's page 96 from the budget --

>> Deanna Santana: From the proposed operating budget. It's attachment B to your Rules Committee report. And there is an arrow focused on the bottom part of the report. And then we also included the performance objective. There is a performance measure specifically tracked on room of origin, where there was a reference to it, and there is a specific reporting of it annually where we show the actual for '08-09 was 68.2%. There was a decline for '09-10 to 57.8% which is clearly reflected in written materials. The goal is 85%. That was discussed. We also have available, as because of the significance of the proposed reductions, the City Manager requested that the fire chief and the assistant chief at the time, fire chief at the time and the assistant chief and I go out and provide one on one information with each councilmember. Our records do indicate that we have a schedule of the meetings that we've made, we've validated those against the public calendars and we have our materials by way of talking points that were prepared. The dynamic deployment fact sheet at that time which later evolved into the neighborhood fact sheet, as well as some incident summary for each of the fleet equipment. So that is available for the record. It is a publicly -- the information that was shared at the time during the 101 visit is a part of the public record and that it's been provided to all of the councilmembers. There is also the proposed

operating budget and I said there's references no less than 12 times, there's the PowerPoint presentations that were provided for '09-10 as well as 10-11 and then we have closed captioning notes that we've looked through very thoroughly that could be accompanied by video if there's direction to get more video and provide that to the council.

>> Mayor Reed: Okay, thank you. I did have a question for the chief. I have read your first of the monthly reports on performance, chief. And I'm looking at the page out of the budget document, page 96, that Deanna referred to. Under performance results, where it says, average response times through fire and medical calls could register an increase in stations impacted by these proposals. And the citywide response time compliance for the first engine company eight minutes could decrease from 81% to 78%. Implementation of the dynamic deployment strategy would optimize redeployment of remaining resources on a realtime basis and would mitigate to the greatest extent possible impacts to performance levels. You just did an analysis of August, which is the first month after we've made these staffing reductions, and withdrew the engines, et cetera, from service. So we're saying could decrease from 81% to 78%, and I think you've watched that. So could you explain where we are now, after the month of August?

>> Thank you, Mr. Mayor, members of the committee. For the first full month of 31 days of August response time was 80.4% of the time that we made the eight-minute response time. Now clearly there were days during that period of time where we had multiple calls or significant incidents that required lots of companies to be tied up for periods of time. And so we did drop below in fact on one day we dropped below 70% but for the overall month it was 80.4%.

>> Mayor Reed: Deanna you've made reference to the dynamic deployment fact sheet, the early version that you passed out to councilmembers. You said that was a public document?

>> Deanna Santana: I did passion.

>> Mayor Reed: You may as well pass that out to us and then make it available to the public. Looking what you just passed out you included some of the things, the final version of the dynamic deployment fact sheet and then the other version here, also called dynamic deployment fact sheet which is all black and white, that's the one that you've distributed to councilmembers.

>> Deanna Santana: Yes.

>> Mayor Reed: Along with the -- there's a bunch of unit count data that went out. Okay. I do note that on the dynamic deployment fact sheet I'm looking at the final version. There's a question, what is the effect of dynamic deployment on current service delivery levels? The answer is it will help the city reduce response times by strategically locating fire engines and ladder trucks, however it will not fully address the impact of removing engines and trucks from service. Having looked at those clips, I do remember a lot more about the budget study sessions than I really wanted to. There was a lot of those I'd like to forget but I think there is you know quite a bit of discussion of all three of these topics, dynamic deployment and room of origin. As well as response times. And it was interesting to see that replayed. Not just from one year but two years. So I think that was helpful. Is there a way that you can make that available to the council and the public, got clips, can we post them with links or whatever it is? So anybody who may have missed this can take a look at it?

>> Deanna Santana: We certainly can.

>> Mayor Reed: Okay. Other questions? Comments from the committee? Councilmember Constant.

>> Councilmember Constant: Well, I have comments but I think I'd rather wait until after we have public testimony.

>> Mayor Reed: Okay, Vice Mayor, Nancy? Okay there are some people who want to speak on this item. We'll take that now. Joe did you want to speak on behalf of Councilmember Kalra? Okay. You lead off here.

>> Thank you very much, Mr. Mayor, members of the committee.

>> Mayor Reed: Get a little bit closer to the mic.

>> Is that better?

>> Mayor Reed: Yeah, lift it up just a little bit more unless it's at its maximum height. We haven't challenged the maximum extent. You may be at the peak.

>> Thank you very much Mr. Mayor and members of the committee for allowing me this opportunity to speak to you. Councilmember Kalra is very apologetic that he can't be here in person, so he did ask me to make a few comments in his place. First and foremost we wanted to make sure that everyone understands that the memo that was co-authored by Councilmember Kalra and Councilmember Campos is in no way any sort of indictment or assessment on the ability of the City Manager or the office of the City Manager to conduct this investigation. We are very gratified with the thoroughness of the investigation to date with the speed in which it has been undertaken, and we have no doubt as to the veracity of whatever conclusions she has reached so far and whatever conclusions will be reached in the long term. A few minutes ago the City Manager did mention what -- and I am paraphrasing but what the heart of issue is and that's whether the council and the public was provided with full and accurate information in deciding how to address the bucket shortfall as it affected the fire stations and firefighters in this city. And while we would agree that that is the heart of the matter, it is at the same time only one of the issues that is implicated in this current issue. And we believe that the other issue is the issue of process and open government. This city has repeatedly reasserted its stance that open government is something to be taken very seriously, that sunshine is an issue of the utmost importance for the city, and with an issue that is as important as this that affects literally every single citizen of San José and every single piece of property and that is a statement that I can make without hyperbole, we believe this is an issue that does warrant independent investigation. If the independent investigation ultimately concludes the same exact thing that the City Manager's investigation concludes we think that is actually a victory for all parties involved because it only furthers to support the City's commitment to open government and strengthens the nature of the investigation taken so far. But if the

principals of open government and sunshine are rooted in the idea that the citizens -- the faith of the citizenry and the decisions made by its elected officials can only be enhanced by making sure that all the decision and all the information that was made public is transparent and out in the open. And we firmly believe that an issue of this importance requires an independent investigation, not only to protect the integrity of the investigation but lust to reaffirm the city's commitment to open government. We believe that undertaking an independent investigation will only further that commitment and will only serve to protect the integrity of the investigation and whatever the outcomes of the investigation may be. Thank you.

>> Mayor Reed: Thank you. George Palma followed by David Wall.

>> Good afternoon, my name is George palma.

>> Mayor Reed: George, you can lift that back up. If you squeeze the handle, it will slide, while thing will slide. So you don't have to bend over.

>> How is that?

>> Mayor Reed: That's good.

>> My name is George palma. Independent investigation into its own policy authored by the mayor Chuck Reed, councilmember Pierluigi and eliminating the fire services. This policy was supported unanimously by the mayor chic Reed in his city council. Yet we feel that this was no -- there was no discussion of this policy while the mayor, the city council voted to close multiple fire stations across the city. This appears to be just another important piece of the information never shared with the public at a time when the critical decisions about their safety were being made. When the city officials expected to eliminate the fire companies to result in a 20% increase in response times, the residents have the right to know why specific information was withheld from the public. Thank you.

>> Mayor Reed: David wall and then Christopher Murphy.

>> David Wall: I do not concur with the previous two speakers. This goes to character of our City Manager and I believe her character is superb. She would not allow anybody to suffer needlessly and I don't like the attack on her character. As to the decision to cut the fire department, Mr. Mayor, that is your problem. You're the one who made this outlandish and irresponsible decision to lay off 49 firefighters instead of, for example, cutting your entire private staff, or other sectors of government. The primary function of government is public safety. All other things are ancillary. Let us also review how much money is left in the catalyst program fund. That money should have been instantly transferred to the fire department. Instead, a good portion of it, 25% of it, was summarily wasted. Team San José wasted another bunch of money. So let us not blame the City Manager as to character. Let us put the blame squarely upon you Mr. Mayor and the counsel for this city for not fully recognizing the effects of the lack of public safety commitment that you all are responsible for that will result unfortunately at some point in time, somebody needlessly burning to death. So I would suggest that you reinstate those 49 firefighters by the end of today, and start the necessary reductions of city government, along with instructions to the finance department, to come up with the necessary seed capital for annuities for all Public Safety employees. Thank you.

>> Mayor Reed: Christopher Murphy followed by Darren Wallace.

>> Good afternoon, Mr. Mayor, committee members, city staff, my name is Chris Murphy, San José firefighters local 230. Just three weeks ago we experienced multiple calls simultaneously, including the del Monte fire where a garage blew up testing the fire department's ability to respond to incidents occurring at the same time. Although the mayor and city officials told the public it took ten minutes for fire companies to respond, the fact is, it took 12 minutes and 35 seconds, more than 50% over the City's eight-minute goal. This puts our residents' lives and our firefighters' lives in greater danger. We believe that the city officials knew that the response times in certain areas, including areas around station 35 would drastically increase as a result of eliminating five fire companies and had produced specific data detailing what certain neighborhoods could expect. Specifically, neighborhoods were not told that there would be a 20% reduction in their neighborhoods. This specific information was not shared with the public. We insist that there be an independent investigation into who knew what prior to recommending to the

mayor and council that they make massive service cuts to the fire department and whether or not that information was ever shared with the public. Thank you very much.

>> Mayor Reed: Darren Wallace followed by Jeff Welch.

>> Good afternoon, mayor and city council, my name is Darren Wallace and I'm a local 230 member and a council District 9 resident. We stand in support of councilmembers Ash Kalra and Nora Campos in their call of independent investigation free of all conflicts of interest. We acknowledge City Manager Deb Figone's decision to launch an internal investigation detailing what city officials knew to be dire consequence for city residents associated with eliminating five fire companies. However we agree with councilmembers Kalra and Campos that the City Manager is conflicted openness we are calling on the mayor and the Rules Committee members to support an independent investigation into this matter. Thank you for your time.

>> Mayor Reed: Jeff Welch followed by Joel Phelan.

>> Good afternoon, councilmembers, mayor, committee members and staff. My name is Jeff Welch and I represent local 230. I want to make it very clear that from my standpoint, no one is arguing the city failed to inform the public that eliminating fire companies would carry with it a citywide increase in response times. We fully acknowledge that city officials inform the public that they expected a 3% citywide decrease in the fire department's ability to respond to calls for service within eight minutes. We agree with everything contained in City Manager Figone's memorandum of September 10th. However, we heard from fire department deputy director Geoff Cady state that in some neighborhoods there would be a 20% increase in response times. We believe this was the first time information was shared with the public during this year's 2010 budget negotiations. We also heard Geoff Cady say that the fire department's inability to contain a fire to room of origin would carry with it an eight to tenfold increase in the loss of life and property. That is an 800 to 1,000% increase in loss of life and property. Again we believe that this information was never shared with the public during the 2010 budget session. We understand the City Manager's desire to protect herself and her staff and defend the actions they

have taken, that is her role but it is for precisely that reason that this investigation needs to be conducted by an independent party free of all conflicts of interest. Thank you.

>> Mayor Reed: Joel Phelan and José Guerrero.

>> Good afternoon, my name is Joel Phelan, San José firefighters. Less than three weeks ago Mayor Reed went on television that ops fires as they always have. A few days later we experienced a fire in our downtown core, where engine 3 responded within three minutes and began its search and rescue. Ordinarily truck 3 would have been there to remove the roof releasing the heat from the structure protecting the firefighters conducting the initial search and rescue. Due to budget cuts truck 37 was eliminated in July of this year. As a result, the roof of the structure collapsed and one of our own City of San José firefighters was taken to the hospital with injuries to his head neck and shoulder. You have risked the lives of our residents and firefighters with the cuts to the fire department but worst of all we believe you never told the public about the true risk they were being exposed to. We support councilmembers Kalra and Campos in their call for an independent investigation in light of the new information surfacing about the specific risks now faced by the City of San José residents. And why that specific information was never shared with them prior to the mayor and the council majority voting to eliminate fire companies. Thanks for your time.

>> Mayor Reed: José Guerrero.

>> Hi, good afternoon, my name is José Guerrero. City officials never hit the fact that eliminating fire companies would likely increase response times. As you can see from the video it is clear that they expect we feel that informing the public of a 3% citywide increase in response times while failing to disclose a 20% increase in certain areas, that is being experienced by firefighters in neighborhoods of the city, clearly warrants an independent investigation. We acknowledge that the city disclose some information to the public. That is not under dispute. The question is whether or not city officials disclosed all relevant information they had, and whether or not they selectively disclosed information to the public, and at whose direction. Including citywide response times targets on a spreadsheet on page 244 of the city budget, does not meet public standard for disclosure. Including

vague information on the bottom of page 3 of the City Manager's budget addendum does not meet the public standard for disclosure. Neither of these references show where city officials disclosed detailed information on the degree of mitigation that the fire department deputy director freely shared at a conference in Orlando, Florida. Transparency in government clearly warrants an independent investigation. Thank you.

>> Mayor Reed: Thank you. I believe that concludes public testimony. Anybody else that wanted to speak, those are the cards that I have. That concludes the public testimony then. Let's bring it back for discussion among the committee. First a couple of observations. I think anybody who watches the clips and reads the information the city manager has provided, the dynamic deployment fact sheet and all the other materials that were provided to the council and the public will see that there is no need to do an investigation here. That the information that people needed to make the decision was fully disclosed. Some people may think that councilmembers don't pay attention during the budget process, don't read the documents, and are uninformed when they make the decision. And I think that is clearly the wrong impression that they should gain from the hours that we spent studying this issue in the budget study sessions. And I think you just got to call this for what it is. It's a political tactic by local 230. Either to try to get the council to close the libraries and give the money to the firefighters to bring back the laid-off firefighters. We could close ten libraries and bring back 49 firefighters. That's a \$10 million price tag. We're not going to do that. That's not what represent the values of our community or the priorities of our community. We went through that because we went through a very lengthy budget process, community based budget process, with thousands of people looking through our budget, combing through the budget trying to find money for everything and we closed a \$18 million gap in very difficult and many cases painful effort by the council who spent enormous number of hours thinking about the consequence of it. You can see from the data that the public safety issue is the top of everybody's mind, when they're going through this. \$118 million gap. I proposed back in the spring that we could avoid layoffs, all layoffs across the city if we could get 10% reduction in average compensation. We did get 10% reduction in compensation from six or seven of our bargaining units and we were able to avoid layoffs and mitigate many of the service impacts we were facing. We did not get a 10% concession from our firefighters and we ended up laying off firefighters. We don't have enough firefighters. I think we ought to have more firefighters but we can't afford them. The average cost of a firefighter is now over \$180,000 per year and I don't think it's unreasonable for us to ask for a 10% concession in order to save the jobs

of firefighters and preserve the services that the firefighters deliver. That everybody holds so dear. But we've not been able to do that. We have been negotiating with local 230 for a contract, for about 18 months. We don't have a contract. Not only have they not done concessions, we don't have a contract. And this is an effort to try to put pressure on the city council in those contract negotiations to give them more money. Or it's an effort to try to bring political pressure in the ballot measures that are on the ballot in November. Whatever the motivation, it is clearly a political gambit and we have to recognize for what it is. It is a tactic right out of the play book. You can read the international association of firefighters play book. It is right out of that play book. It is a political tactic, and that's what it is. There's no need for an investigation. The facts are here. I would like for the City Manager to make all of this information availability to the entire council and get the stuff posted so the public can look at it but I don't think we need to have any further investigation. I think we know what the facts are. We have the answers and there's really not much else that we need to do, other than move on and try to cope with the impacts the department is dealing with with less firefighters, less engines and less trucks. We know they can't continue to perform at the same level with less resources. That was very well-known to the council, and it's unfortunate. But that's the reality that we have to deal with. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I just want to be clear that I paid very careful attention throughout the budget process and the discussion, not only in the public meetings but also in my individual meetings, with the City Manager's office, the fire department, and I did that specifically to make sure that I had all the information that was available to make an informed decision. And I did that on my own, and nothing that was contained, either in the documents that we've been provided, or in the transcripts that we got from Geoff Cady's presentation, nothing was really news to me. And it was all information that I shared with my community as we went through the budget process. I agree, this is yet another publicity stunt by councilmembers to make it appear that they're more public safety friendly than the other councilmembers. They just want to support their vote on the budget and say the rest of us were wrong. It's as transparent as can be. We've talked a lot about transparency. Well, that's what clear and transparent to me. It's obvious to me that quite frankly the councilmembers submitted it but it's really a memorandum and call for investigation from local 230. And local 230 as the mayor has indicated has done everything possible to delay, frustrate, obstruct, and stall, the negotiation process with the city. Not only in this negotiation process, but in prior negotiation process. It's something they've

done for many years. This council clearly values public safety. We discuss it over and over and over again. And I wish the leadership of local 230 would walk the talk. Because they talk about it, but when it comes down to really make changes, all they do is fold their arms and say no. Now, case in point: When we were dealing with the issue of retiree health care, we had a solutions, a joint committee for solutions to retiree health care that was led by an executive board member of local 230. Who led the discussions. I sat in on every one of those meetings because I was one of the committee members and came forward to a recommendation to the city and the city council on how to deal with such an important issue and such a large hurdle in front of the city. This was a solution that was developed, presented and brought forward under the leadership of local 230. But it was local 230 who stood back and said no we are not going to participate in this. They have said it continuously. I'll be honest with you. I get frustrated so much with the inactions of local 230. All they seem to do that is any action whatsoever is pick up the phone and cancel their meetings that they've set up with our administration to try and negotiate in good faith. Over and over, it's about self interest for the members and the executive leadership of local 230. Not what's best for our community, not what's best for our budget. We have had people throughout our city that have been struggling, who have lost their jobs, who have had incredible losses of pay in the 40, 50, 60% range, and we ask for a 10% reduction and we get no. We get people with folded arms who say no. We get firefighters that show up to fires in my district, while they're fighting a fire, telling people whose house is burning down see, if you wouldn't have laid off firefighters, your house wouldn't be burning down. Which we know is false. It's tactics that are deplorable. And if you really cared about public safety, you would get back to the negotiating table, if you really cared about transparency, you would tell your membership what the city's offer for the contract really was. I've talked to firefighters directly who have told me that they weren't going to vote for a 13, 14, 15% reduction in pay, when it was clearly an 8.9% reduction in pay. And those members took a vote because -- a vote no because they didn't get accurate transparent information from their union leadership. Those in glass houses should not cast stones and that's exactly what's happening here today. We need solutions for our city. And if you're not part of the solution, you're part of the problem. And I know you guys don't want to hear it but I'm telling you local 230 is a big part of the problem. We need to fix it. Calling -- you can call for any investigations you want. And that's not going to change the fact that you're not coming to the table, and you're not trying to do what's right for the City of San José and its residents. I have every faith that the City Manager is going to do a good investigation and if at the end the conclusions are not what you think they should be, then maybe we'll take

a look at it. But we know, I can go through here, I can point out not only the things that have been pointed out today but dozens of other things and I won't just drop off an anonymous packet at your office like what was dropped off of my office to remind me the disastrous revelation that came out of Florida or wherever it came out. I'll show you, and I'll put my name to it. So as you can tell, I'm frustrated. I'm frustrated a lot. Because all I can see is people standing up, trying to get headlines, trying to negotiate in the press, trying to manipulate, trying to see how many smoke and mirrors they can put up to deceive the public so that they don't have to take a pay cut. And enough is enough. I think I've said enough.

>> Mayor Reed: Vice Mayor.

>> Councilmember Chirco: Chief McDonald, you talked about a range of response time with an average just in the month of August. You said at one time it slipped to 70% but it was overall 8.2%. And some of the data that I heard the firefighters mentioned kind of struck me that that might be the same situation, where specific incidents would have different data. But overall --

>> Right.

>> Councilmember Chirco: And I think that was made clear to the council, that you know, this -- if you want to look at each incident, the data as quoted was accurate. But if we look in overall, at all of our data, because I know chief Von Raesfeld was talking about our goal was like a 90% and we were doing -- and believe me, I, like the mayor, it was helpful to have the tapes because it did refresh a lot of the budget discussions. So I won't dispute the data that the firefighters brought forward. But I think in the aggregate, which is how we set our goals, and then looking at best practices, I think I want to support the administration to get the report. If at that time, the council should feel that there should be additional, I think that's a different conversation. But at this time, I think it's premature. And so what I would like to do is make a motion that we do not act on this -- and I don't know quite how --

>> Councilmember Constant: Second.

>> Councilmember Chirco: Quite how to phrase it. But I think it's way premature. We have no data. And to look forward to getting the report that I expect. Much to the firefighters credit and much to Councilmember Kalra's office, it's not to reduce the ethics of the City Manager. But to have a broad based. So I just want to support the City Manager with the ethics and quality that I know that all of us, including our firefighters and our councilpeople, are guided by. So that's my motion. Thank you.

>> Mayor Reed: So the motion is to take no action.

>> Councilmember Pyle: To deny the request.

>> Councilmember Chirco: Yes.

>> Councilmember Pyle: I second.

>> Mayor Reed: We have a motion and second. Among the committee members, all in favor, opposed, none opposed, that motion is approved. That concludes our work on this item. I think we have something else to talk about here. We do. Request to designate the youth job fair as a city council sponsored special event.

>> Councilmember Constant: Motion to approve.

>> Second.

>> Mayor Reed: Motion is to approve.

>> Councilmember Pyle: Thank you, Mr. Mayor.

>> Mayor Reed: And we need to get this on the September 21st council agenda so we can move ahead. All in favor, opposed, none opposed, that's approved. Next item is appeal of public records act requests, from Carey Andrew Crittenden regarding denial of information related to police chief recruitment. First hear from -- we do have a memorandum so we'll first hear what staff wants to say and then we'll hear from Mr. Crittenden.

>> Tom Manheim: Thank you, Mr. Mayor, committee members. Just very briefly, Mr. Crittenden has requested a number of items through several different public records act requests. We have actually provided him with a great deal of material. I have what we have provided him here. We communicated with Mr. Crittenden and in his, of this he noted and I just want to call out for the committee's attention, that he's aware that we're not providing certain things. And his intention I think, his goal for these -- for this appeal is really to put that on the record. Because he plans to sue the city at a future date. What we have provided him is everything that we have that he has requested to date. With the exception of anything that would reveal the -- any potential or real candidates for the position of police chief. And that is the one area where we do feel strongly that we should be withholding those records. Because this -- the public's benefit, frankly, in having that information held confidential so that we don't discourage candidates from applying for the position outweighs the public benefit of releasing the information.

>> Mayor Reed: Okay, any questions for staff before -- anything else we need to do?

>> Tom Manheim: That's what I have to say. Lisa's here and available to speak to the law if you wanted to get into it in any more detail. She has done some research in that.

>> Mayor Reed: Okay, Mr. Crittenden did you have a request for staff first? Yeah let's hear for Mr. Crittenden.

>> I actually do very much appreciate the effort that the city is making and as far as recruiting public input. As far as the you know recruitment and hiring of the new police chief. And it is not exactly a plan to sue the city. I'm keeping that as an open option. I don't remember exactly what I you know presented in the e-mail. But I think that I understand that the Brown Act does specify that it's a personnel issue or a property issue, that it can be held in confidentiality and the city charter does emphasize that it is the City Manager's responsibility and I think I

understand that. But I think in order for the public to have a lot of faith in the process that it would be beneficial to everybody including the city if this process is more open. And to be -- to be frank I don't know if there's any applicants yet. So I don't know if I'm pursuing records that don't exist or not. So yeah, my opinion may differ from a lot of other people's opinion but I think that the public interest in this does outweigh the rights for privacy of the applicants, and I mean if they can't handle having their name, you know, made public in this situation, and what's going to happen with, you know, a serious incident when -- what if we have another Rodney King incident or something in San José and how are they going to handle that, you know? So I mean I don't even know if the records exist or not. I don't know if I'm chasing ghosts here or not. If somebody could verify whether the records exist I'd know whether to pursue it or not.

>> Mayor Reed: Well, I have a staff e-mail here, to you, I believe, from Tom Norris who is signaturing here can explain it. Says the attached documents and the documents on the City's Website, constitute all the documents that I've been able to locate. Is that still the case, Tom?

>> The only exception I might have to that, if you consider certain people who have informally contacted the city and said they're interested, or when members of the public have forwarded names of those that they think the city should look at. But we have no formal applicants.

>> Mayor Reed: Okay. I think that's the answer to your question. Any anything else said Mr. Crittenden?

>> Nothing else, especially, I'll sit down and see what everybody else has to think. Thank you.

>> Mayor Reed: Anybody else here to speak on this item? I don't think so. No other cards, comments from the committee, Councilmember Constant.

>> Councilmember Constant: I just think as we discussed at the council meeting yesterday at this point in the process it's important to allow the City Manager to continue, in the recruitment efforts that she has begun. I think Councilmember Liccardo touched on the most important reasons for us to keep names confidential when we get

them. My understanding is we don't even have any yet, but once we do it's an important process for the City Manager, and just noting that discussion from yesterday I'd like to make a motion to deny the appeal.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to deny the people. Further discussion? All in favor? Opposed, none opposed, that appeal is denied. Councilmember Pyle.

>> Councilmember Pyle: There would be for Tom. Predominantly or Lisa. Isn't it common practice across the United States for people not to divulge the names for various and sundry reasons for their protection and for us to have the ability to get the very best candidate who can do so without worrying about the fact that he may -- he or she may have a job and if their name is out there they know they're looking somewhere else, it could jeopardize their financial stability and their future.

>> Lisa Herrick: I will speak to California in particular, since particularly we're dealing with the California public records act. But it is true that there is legal authority that makes the analysis that even factual records like applications for a job position may be withheld under the deliberative process principle or privilege for that very reason that you will be upsetting potentially candor that you will get in applicants. There is a nice quote from a particular case dealing with the similar situation that talks about public vetting may be appropriate when you're in the position, but you really shouldn't subject applicants to public positions to that sort of -- vetting isn't the right word, but that sort of scrutiny that when they haven't really even been appointed to a particular post. So that is the analysis.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: I had another question and maybe this is for some later meeting. I can remember Tom collecting some data about -- this was when we were working on sunshine, about how many public records act requests we get per day, per week, per month or some period of time. And the vast majority of them are just

handled on the spot, Clerk's office or across the counter or something. And a very, very small percentage of them even make it up to where we have to get the city attorney's office involved or your office involved in order to do that. And most of those are litigation related free discovery requests. And so we're seeing the very tiny tiny tip, I believe of a very large number of public records act requests that are handled by the administration, but I don't remember those numbers. If you have them I -- you know I'd like them. If they are in --

>> They've actually increased this year. My only guess is because of the budget difficulties. We've had nearly 100 since July 1st that I've been involved with. But of those, very small percentage, have I had to ask for legal advice. Get the attorney's office involved. And as you know very few have been appealed.

>> Tom Manheim: And if I could just add to that I think, beyond what we see, you're correct, Mr. Mayor, that there are untold number of requests that are routinely handled by the departments, by the City Clerk's office by the redevelopment agency. I mean, it is -- I couldn't begin to venture the count, but I know that the ones that get into our office tend to be the more interesting, more complicated ones. But we get requests on a daily basis throughout the organization.

>> Mayor Reed: Okay, well that's the way it's supposed to work, right? You're not supposed to hear about it because it just gets handled.

>> Tom Manheim: Absolutely.

>> Mayor Reed: I would be curious, of the say difficult ones, the pre-discovery prelitigation requests that are quite obviously being run by lawyers to get information. The other category I've seen are labor negotiation requests that have come through with very extensive requests, very long requests, very complicated requests. So I'm guessing that's a large piece of the ones that get to the top and have to be dealt with across departments with the lawyers and Alex Gurza and everybody else involved trying to collect it.

>> There are actually a very small percentage of the number but in terms of the work involved and the labor they're right up there. Legal issues which I do track so if we ever do need some statistics on that I can pull those out. Lately, labor negotiations, great deal of our requests were focused on controversial budget issues such as the fire station, or other controversial things such as the baseball stadium. But those, once again, lot of -- lot of work but not that -- not that many. Probably the bulk of our requests are people who want simple information about real property in the city, that we get from planning records and permit records, or they are businesses who want to see how their competitors did in the RFP process.

>> Mayor Reed: Okay, anything else on this open records item? I think that's the end of the agenda except for the open forum. I have a request at least from David Wall.

>> David Wall: First of all I want to make it clear everyone within the sound of my voice, the people who sit before me are of the utmost character and standard of our community. You have the toughest decisions on the block to make. I may not like some of them, but that doesn't detract from your character as human beings, good Americans, and good servants to the public. And that includes our dutiful City Manager. I do not approve of any attacks upon her character. I've seen her worship God in Holy Cross Roman Catholic Church. Sits in the front pew. Can't get any closer to God than that. I know, because I sit in the back of the church in the last pew with the rank and file sinners. So we will have no more of that. Now, to help matters out, I bring the garbage bill once again. Why it's being turned down is a methodology to derive free money is beyond my understanding. It's still with the HNVF fund. I thought that fund was done away with. There's three categories, one for the youth, one for the seniors and one for a combination. How about one for animal control, one for the fire department, one for the police department. It's okay to pass the plate. Spontaneous giving is a profound way KQED, all the public TV station rely on that. It's not harmful to ask people to give. The last thing I want to talk about are these speaker request cards. Two events, one yesterday, one today in which the cards were not handed to you, Mr. Mayor. This is not your fault. It is certainly not the City Clerk's fault. I'm not interested in the fault. I want it to stop. Now I can assert Americans with Disabilities Act, and go through that process, but I'm not interested in that either. I want the speaker request card business, to end. It's a terrible for the environment. You can just ask who wants to speak,

come up. And it is really easy. Thank you. And you're still a good guy and the rest of you are still great so don't worry about it.

>> Mayor Reed: That concludes the open forum, this meeting is adjourned.