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>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call the City of San José city council meeting to order for January 11, 2011. We will start with an invocation, Councilmember Constant has the invocator to introduce.

>> Councilmember Constant: Thank you mayor. It is my pleasure in the first meeting of the new years to be able to invite the invocation. Today is a special day for many of us getting sworn into office, some for our first terms, some for our second term and I'm thrilled to have my priest from my church, father Soterios here. Many of us attend the Greek orthodox church. It is my pleasure to have father Soterios here to get us started in the new year. Thank you, father.

>> If we could all please rise. Let us pray to the lord, lord have mercy. O, eternal God, supreme ruler of nations, countries, states and cities, without whom no one people can be great, it was through your mighty power that our forefathers won liberties of old and therefore, we beseech you to grant that all who reside in the great City of San José your grace maintain these liberties and righteousness and peace. Lest the leaders of San José instill wisdom in their minds and hearts. Keep them health so they can fulfill their responsibilities. We give Thanksgiving for the progress and prosperity given to the city and the countless blessings material and spiritual bestowed upon all the residents of San José. Make these leaders sensible of your goodness and of their great responsibility of stewards of the gift of governing and grant them patience, sensitivity and virtue, and by their words and deeds, they can lead our city to continue to prosper and rise, shining like the bright sun, continuously moving forward and glorifying your holy name forever, amen.

>> Mayor Reed: Please remain standing for the pledge of allegiance. We've been joined today by some third graders from country lane school who are going to help us with the pledge. [pledge of allegiance]

>> Mayor Reed: Thank you, country lane school. First item of business are the orders of the day. We will take up ceremonial item item 1.4 first that is the administration of oaths of office for newly elected councilmembers and the mayor. We need to defer item 4.1 to January 25th, that is the cultural connections plan. And item 2.3, approval of council committee reports to the 25th of January, as well. Any other changes to the printed agenda? We have a motion to approve orders of the day. All in favor? Opposed, none opposed, that's

approved. We'd like to note that we will adjourn this meeting in honor and memory of Jack Salois, retired San José firefighter, former president of local 1165 international association of firefighters, former staff to San José councilmember John Diquisto, and a passionate community activist. Jack served this community for many decades with passion, he was known personally to many of us. dedication and an earnest interest in improving the quality of life for the residents of San José. And we're all going to miss Jack Salois. Next item is closed session report. City Attorney.

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

>> Councilmember Nguyen: Mr. Mayor.

>> Mayor Reed: I'm sorry, I heard a voice. Vice Mayor.

>> Councilmember Nguyen: I would like an opportunity to say a few words about Jack Salois, if that's okay. Thank you very much. I'd like to take this opportunity to recognize David Salois, Jack Salois's son, and members of local 230, Jay Wending, Bruce Sommers, and Mike Moffitt, for joining us on behalf of the Salois family. It is with great honor that we adjourn this meeting in memory of Jack Salois. Jack was a retired San José firefighter who is also a lifetime member of local 230. One of only four people who have been granted this privilege. He is the former president of local 1165, International Organization of Firefighters, staff to San José councilmember John Diquisto, and a passionate community activist. Jack was also a father of four, grandfather of 11, and great grandfather of 2. Jack was loved by all who knew him. He retired after 36 years in the fire service with both Santa Clara County and San José fire department. Jack passed away peacefully at his home with his wife Rita and his family by his side on November 27th. Many of us on this dais knew Jack one way or another. He was energetic, dependable, and a true gentleman. He served our community with passion, dedication, and an earnest interest in improving the quality of life for all residents of San José. He will be deeply missed and I am proud to have met him and call him my friend. Thank you very much.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you mayor. Just a few memories about Jack. I probably met jack when I was eight years old. He had a business that was right down the street from where I live now. And the fact that I've known Jack for that long, I know it made me in some way a better person, throughout my life. Jack lived his life on his own terms. He fought for the little guy. Jack was just an inspiration to anybody that he came in contact with. Jack will be missed. He meant so much to his family and he meant so much to this community.

>> Mayor Reed: Thank you. We'll now turn to the ceremonial items. We will invite to start Councilmember Constant and his wife Julie Constant to join me at the podium. Of course, Councilmember Constant brings his own cheering squad. Wherever he goes, have the entire Constant family here. City Clerk. Borrow the script.

>> I, and state your name.

>> I, Pete Constant.

>> Do solemnly swear.

>>> do solemnly swear.

>> that I will support and defend.

>>> that I will support and defend.

>> The constitution of the United States.

>>> The constitution of the United States.

>> And the constitution of the State of California.

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

>> Against all enemies. Foreign and domestic.

>>> Against all enemies. Foreign and domestic.

>> That I will bear true faith.

>>> That I will bear true faith.

>> And allegiance to the constitution.

>>> Say that one more time.

>> And allegiance to the constitution of the United States.

>>> And allegiance to the constitution of the United States.

>> And the constitution of the state of California.

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

>> I take this obligation freely.

>>> I take this obligation freely.

>> Without any mental reservation.

>> Without any mental reservation.

>> Or purpose of evasion.

>>> Or purpose of evasion.

>> And I will well and faithfully discharge.

>>> And I will well and faithfully discharge.

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

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

>> Mayor Reed: Thank you, that takes care of council district number 1. Now for council district number 3 I'd like to invite Councilmember Liccardo and his father, Salvador Liccardo, to join me at the podium.

>> I.

>> Councilmember Liccardo: I Sam Liccardo.

>> Do solemnly swear.

>>> do solemnly swear.

>> To support and defend.

>>> To support and defend.

>> The constitution of the United States.

>>> The constitution of the United States.

>> And the constitution of the State of California.

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

>> Against all enemies.

>>> Against all enemies.

>> Foreign and domestic.

>>> Foreign and domestic.

>> That I will bear true faith. An allegiance

>>> That I will bear true faith. an allegiance

>> The constitution of the United States. The constitution of the United States.

>> And the constitution of the state of California.

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

>> I take this obligation freely.

>>> I take this obligation freely.

>> Without any mental reservation.

>> Without any mental reservation.

>> Or purpose of evasion.

>>> Or purpose of evasion.

>> And I will well and faithfully discharge. The duties.

>> And I will well and faithfully discharge the duties.

>> Upon which I'm about to enter.

>> Upon which I'm about to enter. [applause]

>> Mayor Reed: And now for council district number 5, I'd like to invite Councilmember Campos. And now current assembly member Nora Campos to join me for the swearing-in.

>> I state your name.

>> I Xavier Campos.

>>

>>> do solemnly swear.

>>> do solemnly swear.

>> To support and defend.

>>> To support and defend.

>> The constitution of the United States.

>>> The constitution of the United States.

>> And the constitution of the State of California.

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

>> Against all enemies.

>>> Against all enemies.

>> Foreign and domestic.

>>> Foreign and domestic.

>> That I will bear true faith. And allegiance.

>>> That I will bear true faith. An allegiance.

>> To the execution of the United States if

>> The constitution of the United States.

>> And the constitution of the state of California.

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

>> I take this obligation freely.

>>> I take this obligation freely.

>> Without any mental reservation.

>> Without any mental reservation.

>> Or purpose of evasion.

>>> Or purpose of evasion.

>> And I will well and faithfully discharge.

>>> And I will well and faithfully discharge.

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

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

>> Congratulations.

>> Thank you. [applause]

>> Mayor Reed: Now for council district number 7 I'd like to have Councilmember Nguyen and Santa Clara County superior court judge the honorable Jacqueline Juong, to join me add the podium.

>> Could we borrow Councilmember Constant's cheering squad? They were adorable. Congratulations, Councilmember Nguyen, on your reelection, and appointment as vice mayor of the City of San José.

>> Councilmember Nguyen: Thank you.

>> Please repeat after me, raise your right hand. I, Madison Nguyen.

>> Councilmember Nguyen: I Madison Nguyen.

>> Do solemnly swear.

>> Do solemnly swear.

>> That I will support and defend.

>>> That I will support and defend.

>> The constitution of the United States.

>> The constitution of the United States.

>> And the constitution of the state of California.

>> And the constitution of the state of California.

>> Against all enemies.

>> Against all enemies.

>> Foreign and domestic.

>>> Foreign and domestic.

>> That I will bear true faith.

>>> That I will bear true faith.

>> And allegiance to.

>>> And allegiance to.

>> The constitution of the United States. The constitution of the United States.

>> And the constitution of the state of California.

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

>> That I take this obligation freely.

>> Councilmember Nguyen: That I take this obligation freely.

>> Without any mental reservation.

>> Councilmember Nguyen: without any mental reservation.

>> Or purpose of evasion.

>> Or purpose of evasion.

>> That I will well and faithfully discharge.

>> That I will well and faithfully discharge.

>> The duties upon which.

>> The duties upon which.

>> I'm about to enter.

>> I'm about to enter.

>> Congratulations. [applause]

>> Mayor Reed: For council district 9 I'd like to invite Councilmember Rocha and supervisor Ken Yeager to join me at the podium.

>> Supervisor Yeager: Councilmember Rocha, let me first say what an honor it is that you've asked me to swear you in today. Everybody in your family is very proud of you and all of your friends and certainly a lot of congratulations go to the voters of district 9 who elected somebody who really represents the very best of San José. If you could please repeat after me. I, Donald Rocha.

>> I Donald Rocha.

>> Do solemnly swear.

>>> do solemnly swear.

>> To support and defend.

>>> To support and defend.

>> The constitution of the United States.

>>> The constitution of the United States.

>> And the constitution of the State of California.

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

>> Against all enemies.

>> That I take this obligation freely,

>>> Against all enemies.

>> Foreign and domestic.

>>> Foreign and domestic.

>> That I will bear true faith.

>>> That I will bear true faith.

>> And allegiance to.

>>> And allegiance to.

>> The constitution of the United States. The constitution of the United States.

>> And the constitution of the state of California.

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

>> I take this obligation freely.

>>> I take this obligation freely.

>> Without any mental reservation.

>> Without any mental reservation.

>> Or purpose of evasion.

>>> Or purpose of evasion.

>> And I will well and faithfully discharge.

>>> And I will well and faithfully discharge.

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

>>> The duties for which I'm about to enter. Thank you very much. [applause]

>> Mayor Reed: I'd like to invite acting City Clerk Nora Pimentel to join me at the podium.

>> I, please raise your right hand and repeat after me.

>> I chuck Reed. Do solemnly swear.

>>> do solemnly swear.

>> To support and defend.

>>> To support and defend.

>> The constitution of the United States.

>>> The constitution of the United States.

>> And the constitution of the State of California.

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

>> Against all enemies.

>>> Against all enemies.

>> Foreign and domestic.

>>> Foreign and domestic.

>> That I will bear true faith.

>>> That I will bear true faith.

>> And allegiance to.

>>> And allegiance to.

>> The constitution of the United States.

>>>The constitution of the United States.

>> And the constitution of the state of California.

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

>> I take this obligation freely.

>>> I take this obligation freely.

>> Without any mental reservation.

>> Without any mental reservation.

>> Or purpose of evasion.

>>> Or purpose of evasion.

>> And I will well and faithfully discharge.

>>> And I will well and faithfully discharge.

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

>> I further pledge to uphold.

>> I further pledge to uphold.

>> The San José charter.

>> The San José charter.

>> To always place community benefit.

>> To always place community benefit.

>> Before personal interest.

>> Before personal interest.

>> And to exercise the power.

>> And to exercise the power.

>> Of the mayor's office honestly.

>> Of the mayor's office honestly.

>> And ethically.

>> And ethically.

>> No lying.

>> No lying.

>> No cheating.

>> No cheating.

>> No stealing.

>> No stealing.

>> Congratulations, mayor.

>> Mayor Reed: All right, now that we have everybody officially and unofficially and ceremoniously sworn in, I would like to invite Steve Sue and Dave Corbin of the environmental hall of fame to join me at the podium, can a the City of San José will be receiving the environmental hall of fame award for San José's Green Vision. Alan Rubin will explain what this is all about.

>> Good afternoon, thank you very much for allowing us to present this award. My name is Steve Sue, president of K 2 solar based here in San José and a local representative for the national environmental hall of fame. On behalf of the organization we are very pleased and honored to present this award to the City of San José. The national environmental hall of fame has honored top environmentalists across the country for their extraordinary efforts and achievements for the environment, which include the list includes Harrison Ford, Ed Begley Jr, Pierce Brosnan, William McDonough just to name a few. Since Earth Day 2008 the organization has also awarded over 25 mayors and sustainability officers awards on behalf of their community sustainability initiatives. In addition, we've awarded over 300 students with the hero of the planets awards or hero awards. For their efforts in environmental science projects for students across the country. Following this tradition we're very proud to recognize the direction set by Mayor Reed, and the many achievements of the City of San José, just to name a few of course, the City's Green Vision that was established in 2007, really set the mark. And then the over \$4.1 billion of venture capital has been invested in clean tech here in the city. Energy efficiency measures have been installed and implemented in city facilities. Which has saved energy cost up to close to \$1 million to date. With over 15 megawatts of solar energy installed in the city. Private sector green building ordinance was adopted in 2009. And over 2.1 million square feet certified green building space has been completed. The city fleet exhaust emissions have been reduced by 5.5%. The city street inventory, tree inventory, excuse me, which will in turn form the foundation of 100,000 tree strategy for the city with the Americorps volunteers. The Mineta San José airport has achieved LEED silver certification for the new terminal B. The installation of electric vehicle charging

stations at the San José convention center and, of course, last but not least, the creation of the San José clean tech legislative agenda. So we're very proud to present this award. And -- [applause]

>> -- congratulations.

>> Mayor Reed: Thanks for the award. A couple of comments. We are also the only LEED certified platinum City Hall in the country. And second, the million dollars you referred to on energy savings, that's every year. We get to do this over and over again. Saving money is a good thing. Thank you very much for the award. We appreciate it and it reflects the tremendous work by our staff to implement the Green Vision. As I've learned as mayor, vision is the easy part, implementation is the tough part. We are making great progress. For our next item I'd like to invite Councilmember Liccardo and Anita Cruz of Martha's kitchen providing immeasurable service to feeding hungry of San José.

>> Councilmember Liccardo: Anita Cruz and two board members, Lon and Norm, these are not only board members on the board of Martha's kitchen, they work every week serving meals. I really don't need to introduce Martha's kitchen. It's so familiar to us. I've known Lon for 40 years. He was only 5 when we met. In addition to celebrating the 2 millionth meal served to the needy of our community, one extraordinary organization. This all began with a dream with a woman by the name of Louise Benson. I think she's well-known to many of us and she started serving peanut butter and jelly sandwiches out of her garage many years ago. She and her friends decided to start a little soup kitchen, and 30 years later it is an extraordinary organization, serving over 200,000 meals a year. Thank you for the extraordinary hard work of you and your team. At this time I would like to ask the mayor to present you with this award and members of your congregation.

>> Mayor Reed, members of the city council, and Councilmember Liccardo, on behalf of the 240 volunteers that we have at Martha's kitchen and on behalf of the 15,000 meals we serve every month, to the moms who could not afford food for their kids, for retirees who cannot afford food and go hungry, to the children who in some cases are starving to all these people we serve on their behalf we thank you for your commendation and we thank you for all your support for these last 30 years. God bless. Are.

>> Mayor Reed: I'd like to invite Mona helmhold from the national Red Cross, to the podium. Today we are recognizing January 2011 as national blood donor month in the City of San José. I don't think there's a member of the City of San José that hasn't had a member of the family who needs month. Every day volunteers come as donors to help ensure that blood is readily available to help save lives. And it does save lives. Whether it's accident victims, premature babies, people undergoing cancer treatment, organ recipients and many, many other reasons people need blood. Unlike medicine that can be manufactured, you can only get blood from one source. It doesn't have a very long shelf life so it's a constant effort by American Red Cross and others but the American Red Cross leads the way. To ensure adequate blood needs, we urge everybody to give a pint. That's all we ask. I've been to the blood donation services for a few times in the past few years, it's pretty easy. Encourage everybody to do that and on behalf of the people who do that I want to thank the Red Cross, not only blood donors but everything else they do in this country. I would like to present this proclamation to Mona.

>> The support is appreciated. At the present time we are down to one hour of O-negative blood which is a universal blood which everyone can use. It takes about an hour to donate, which is one of the most important thing can you do, one unit can save three lives. Organizations here in San José sponsored 74 blood drives here in 2010, producing 2,704 units. This represents 8,112 products. Every unit of blood you give is broken down to three separate components, red blood cells, platelets and plasma. Each one of those is used for a different procedure. We also collect 16,000 pints of blood at the San José blood center per year. For those of you who would like to donate, call 1-800-Red Cross, you will see blood drives in your area. One other thing, next drive is at the rotunda, on March 2nd. We'll see you there.

>> Mayor Reed: Next item of business is the calendar. I have no cards from the public to speak on the consent calendar, I would like to pull 2.11 the redistricting advisory commission for a comment.

>> Councilmember Pyle: Move to approve the balance.

>> Councilmember Herrera: Second.

>> Mayor Reed: Thank you, we have a motion to approve the balance of the consent calendar. All in favor, opposed, none opposed, that's approved. Item 2.11 is the redistricting advisory commission which is specified in the charter as to how we set it up and when we set it up and when the work has to be done. Councilmembers designate are represented for their council district, I designate the chair and we put those out in a memo. And one of the things that I'm recommending that we do is to encourage the restricting advisory commission to look at the principals that the last redistricting committee considered as they 1st through that that's a good starting point and I think that would be a good thing to do and I'm recommending that to help them focus their efforts. They are advisory to the city council. They will be back to us with a recommendation but ultimately it is a the city council's decision as to where we draw the boundaries for council districts. With that I know that Councilmember Constant wants to speak.

>> Councilmember Constant: Thank you, mayor. In the light of the recent reforms that have been voted on from the voters throughout the State of California, both with the assembly and congressional redistrictings and senate redistrictings, I think it is important that we also send a message to the commission that we think it's important that they look at those guidelines that have been approved by a significant majority of voters in two separate elections over a period of two different elections over a period of two differently years and follow those guidelines. Those are guidelines that have been very well vetted, very well thought out. They establish a very objective criteria that allows them to follow without any outside influences looking at what's best for the city and what's best for the communities of interest, and I think that should be a good reference and starting point for them. With that I would make a motion, that we approve the item with that additional direction. Or suggestion.

>> Mayor Reed: We have a motion to approve. Councilmember Kalra.

>> Councilmember Kalra: Mayor, you had indicated and I agree with your initial comments that the guiding principles these previously should be a similar guide this time around, particularly prior to the demographic data coming out that can be worked on right away. With regards to Councilmember Constant's addition, I don't know what those guiding principles, I know they were voted on by the voters at the state level and what have you but I

don't know what they are. Maybe if they could be used in addition to other -- as a reference point, and is that essentially your point they're used as a reference in addition to the San José guiding principles?

>> Councilmember Constant: We due to the language of the charter we can't tell them any guidelines whatsoever so it's merely a suggestion to look as the mayor said at what has been done in the past here in San José but also what has been done by the voters in those two ballot measures to capture the intent of the voters was.

>> Councilmember Kalra: To use that as a reference point to start those discussions?

>> Mayor Reed: That's my intention to use as a reference point. They have a lot of work to do and they won't have data for a month at least after they get started.

>> Councilmember Kalra: Okay, thanks.

>> Mayor Reed: Anything else on that motion? All in favor? Opposed, none opposed, that's approved. That concludes the consent calendar. Our next item is 3.1, report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor, members of the council I have two items to update you on today. First of all on labor very briefly. As you know we're beginning the 2011 negotiations with all of our bargaining units. We have been in communications with the fire union regarding arbitration under the new rules passed by the voters last November. In December we sent letters requesting that we begin negotiations in January with the other ten unions. At the same time, we sent our letters out, the POA sent us one, asking to begin negotiations and our first meeting will be tomorrow, fives unions that are contractually obligated to begin negotiations in January and are in the process of scheduling our first meetings and we hope to hear from the remaining two soon. Unfortunately three unions, MEF, CEO and AB MEI do not have agreements requiring negotiations to begin in January and they have have requested delays in beginning the process. And so we will keep you updated as we move forward. The second report is on the governor's budget. As you know yesterday

Governor Brown released his proposal to address the \$25.4 billion deficit projected for the 2011 considering 12 state budget and although we have more questions than answers I did want to highlight a few of the areas that we do know at least based on the releases yesterday. And point out the significance to the City of San José. The proposal would cut spending by \$12.5 billion and would transfer a number of state programs to local governments. To balance the budget the governor's asking the legislature to put a measure on the June ballot to extend hire tax rates on income as well as the vehicle license fee, and sales tax increases for another five years. If the voters were to approve the June ballot measure funding for the COPS program and booking fees subventions would continue to be funded. If the ballot measure fails the General Fund impact from these two programs alone would be four to \$4.5 million. The proposal also includes the reenactment of the gas tax swap to ensure continuation of transportation funding worth another \$9.8 million to the at this time. The governor would also eliminate all enterprise zone tax incentives which is a key business retention tool in San José. Since our executive director Harry Mavrogenes does not have a redevelopment meeting today where he could talk about these proposals under his director's report. I do want to briefly outline what we know so far about the impacts on redevelopment and housing. The governor is proposing to eliminate all redevelopment agencies. Under this proposal a constitutional amendment would go to the voters in 2012 that would set a lower threshold for voter approval of 55% for some limited tax increases and bonding for development projects. The governor's proposal would prohibit existing redevelopment agencies creating any new contracts or obligations. To replace redevelopment, local governments would be allowed to create what he is calling successor local agencies that would retire existing debt and contractual obligations. Under the governor's proposal, redevelopment fund balances that are reserved for low and moderate income housing would be shifted to the housing authorities which in San José is our housing department. This of course raises greatly concern for the impact on our Redevelopment Agency, the proposals raise great concern for future funding of the housing department and could have profound impacts on the City's General Fund. The governor's proposed budget creates great concern and additional uncertainty as the city grapples with at least a \$90 million General Fund deficit next year which alone, as you know, is an enormous challenge to overcome as we enter our tenth year of budget deficits. The governor would put many of these proposals in place quickly within 60 days, so needless to say Harry and I will be evaluating the potential impacts of these complex proposals, with the support of Rick Doyle our City Attorney, other key staff we'll coordinate closely with the mayor's office, as well as with all of you. We all need to be

engaged in this very significant challenge ahead. And I would expect that we will provide more information to you at our midyear review in February. And that concludes my report.

>> Mayor Reed: Our next item is 3.2. Airport commercial paper program letter of credit replacement. We will have a presentation from our staff on this item.

>> Good afternoon, Julia Cooper, assistant director of finance, and I have Charlene Tsun, who is the city's debt administrator with me. In the audience we have representatives from the finance department, airport and city attorney's office along with our financial advisory, public resources advisory group and bond council, Orrick Herrington and Sutcliff. With that, on the agenda is just is a brief reminder of the terms of the commercial paper program. It is short term debt. It is remarketed periodically from 1 to 270 day maturity. It is supported from letters of credit of commercial banks that provide the security for the notes for the investors and it guarantees the timely payment of principal and interest to the investors. The benefits of the CP program, includes a lower cost and greater flexibility, the city can issue those notes to pay for project costs. It increases the flexibility to prepay debt at any point in time. In the case of the airport these savings are due to lowered average interest cost than fixed rate bonds. So just as a comparison in 2007 the airport issued \$725 million of fixed rate bonds with an average interest cost of 5.3%. Over the last three years the average CP interest costs rates plus the fees have averaged 3% so the airport in interest costs over the last three years has saved a little over \$10 million. In terms of the airport commercial paper program, as you may recall on November 9th the council approved a two-month extension with Bank of America and J.P. Morgan and a temporary reduction in the airport CP program to \$423 million from \$600 million. And approximately \$417 million of notes are currently outstanding. So as you can see from the table there we have a total capacity as of today of \$423 million with two letters of credits expiring on February 2nd and the third one with Lloyd's expiring on May 7th of this year. Just kind of walking through the history of the letter of credit program, the prior letters of credit totaled just under \$600 million with the bulk of it being the \$450 million provided by B of A, J.P. Morgan and Dexia, and then the third piece, \$140 million provided by Lloyds. Given after the council action in November, which we are calling the current extension period, we have \$423 million capacity, and as you can see it's made up from three banks, Lloyd's, J.P. Morgan and B of A. Before you today is the recommended replacement letters of credit which brings the total capacity to \$523 million. So the

Lloyd's piece still stays in place. It expires in May of this year. And then we have J.P. Morgan offering -- giving us a two year letter of credit at \$109 million. Citi with one year letter of credit at 109, Bank of America, two years at 83 million, and Wells Fargo \$82 million for a three-year letter of credit. The long-term strategy of the airport commercial paper program is to issue fixed rate bonds in mid 2011, to refund the commercial paper notes that were issued to finance the consolidated rental car garage, the CP notes that were issued to refund the 2004-2005 option rate bonds and look at any other economic refundings that may exist on the outstanding long term debt and then to reduce the size of the airport commercial paper program to complete the needs of the T.A.I.P. This is consistent with the plans of the overall paper program which was implemented back in 1999 and commercial paper is really used as short term interim financing and in this case for the airport construction project. So with that I'm open to any questions.

>> Mayor Reed: I'd like to thank Bank of America, Citibank, J.P. Morgan chase bank and Wells Fargo bank, who are willing to enter into this transaction with us for \$383 million worth of letter of credit to support this commercial paper program. We appreciate the lenders and some of them have been supporting us and lending money to us for a very long time, we appreciate that and it wouldn't happen of course without the lenders. Kinds of key players in this. The other comment I had is, it's become very important, to let the council know that what we're doing around the airport and the competitiveness plan that the council's approved and the steps that we've taken to ensure that the airport remains competitive and we rebuild our traffic is really important to lenders. They appreciate the decisions that we've had to make although they're difficult. And it's important to stay the course so that we can ensure that we can meet all of our obligations, not just to our employees but to these lenders and bond holders and everybody else. So the program that the staff is carrying out, very well, very ably I think is comprehensive to the lenders. I did meet this week with some folks from J.P. Morgan who were out here meeting with the Redevelopment Agency but they also have obviously a big piece of this commercial paper program at the airport. And the work that we've done and the work that the staff has done is producing dividends in termination of our ability to manage the debt and eventually we'll be done with the construction and we'll have to do the take-out financing as it's called after we get finished with all this temporary stuff. But I want to thank the staff for a great job in putting this together, in a tough capital market. These are not the easiest days to get capital anywhere in the

country for anything. So it's taken a lot of work and a lot of effort but I'm glad to see it's successful. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. Julia I just had one question about that May 7th date that's along out here for the expiration of the Lloyd's letter. Assuming I think we've got about \$523 million now of capacity. If we have any difficulty exchanging or engaging in long term refinancing, before May 7th, are we at any risk, in other words, do -- I guess the remaining letters of credit cover about \$383 million in capacity. Do we have in excess of \$383 million in CP out there?

>> The commercial paper that's going to remain we'll have about \$417 million outstanding. So -- and we have about \$60 million in roughly about projects still to complete. So that leaves us about \$50 million in cushion in unused CP capacity. We have the deadline looming in may for Lloyd's an.

>> Councilmember Liccardo: Assuming that will go well assuming they don't give us that extension, starting May 7th we no longer have Lloyd's, seems to me we have about \$30 million in commercial paper without the letter of credit, is that right?

>> Yes, and then we would have to negotiate with the bank in terms of going out term out mode in terms of paying back some of that commercial paper. We're working through those strategies as well.

>> Councilmember Liccardo: Got it, thank you.

>> Mayor Reed: Any other questions or comments? Councilmember Rocha.

>> Councilmember Rocha: I'm going to ask a basic question here. In terms of the commercial paper, collateral, is the city required to list any items for collateral, or is that --

>> On the case of the airport, it's based on the -- it's a subordinate revenue pledge, the revenue that's out for the airport. The senior debt and then this is the second pledge.

>> Councilmember Rocha: Thank you.

>> Mayor Reed: I have no requests from the public comment to speak.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion by the Vice Mayor to approve. All in favor? Opposed? None opposed, that's approved. Congratulations, staff. Get this one over the goal line. This is really good work. Next item is item 3.3, service efforts and accomplishment report of 2009-10. We have a presentation by our City Auditor, Sharon Erickson and her staff.

>> Sharon Erickson: Thank you very much for your time this afternoon. The purpose of our report is to give you the results of operations, as of June 30th of 2010. So at this point, these numbers are a little old. Whoops as I run through too quickly, this is the third annual City of San José service efforts and accomplishments reports. It contains summary information including workload and performance results for the last fiscal year. The purpose of this report is to improve government transparency and accountability, to provide consolidated performance and workload information on city services, to allow city officials and staff members to make informed management decisions. It reports also to the public on the state of city departments, programs and services. It does include different types of information for city services, it includes five-year historical trends, where available, selected comparisons to other cities, comparisons to stated targets, and the results from the biennial residents survey. I would like to provide you a sample of some of the pages in this report. This page from chapter 1 of the report contains information on the City's overall revenues, spending and staffing. For your reference it's page 17 of the report. It shows five-year operating expenditures, by city service area. Expenditures grew in the Public Safety and environmental and utilities services, city service areas. You can see that graph on the left. Also shown are the city's General Fund expenditures broken down by city service area. It shows that currently public safety is 56% of

total General Fund operating expenditures. That compares to 52% last year. This second page shows you report from the police department on a core service. It's page 26 of our report. Core services responding of course to calls for service. The charts on the upper right and lower left show, for example, 905,000 total calls for service last year. That's in the upper right. The number of calls for service was down 3% from the previous year. Emergency calls were up 2%. There were a total of 369,000 emergency calls, or 41% of the total. The graph in the lower left shows you in the past year, wireless 911 calls have now doubled and account for the majority of all emergency calls. The chart in the lower right showings that the department has met its time target for responding to priority 1 calls. The target there is six minutes. In each of the past three years they have met that target but they did not meet the time target for priority 2 calls which is an 11 minute minimum target. This third page is a sample from the fire department. It's page 31 of your report. The map shows fire stations in San José by station number. And the chart shows emergency response times by station. In 2009-10 the fire department responded to 911 calls within eight minutes which is their goal, 83% of the time. And that meets the timeliness goal of the department of 80% within eight minutes. Individually, 23 out of 34 fire stations met their goal of 911 response times within eight minutes, 80% of the time. I did want to point out station 20 on the chart is assigned to the airport, station 33 is Communications Hill. Those seem to be anomalies in this chart. In addition we wanted to point out that 97% of all emergency calls were handled by the units in their assigned districts compared to a target of 85%. Another page in the report, page 37, shows the results of garbage and recycling services provided by the environmental services department. The main graph in the upper right shows the increases in the last five years in residential recycling and the decreases in waste sent to landfills. These are the actual tons graphed of tons recycled and tons landfilled. And you can see the divergence. And that's a positive thing. The state requires that at least 50% of all solid waste generated in San José be diverted from landfills, and San José has achieved that, achieved a 60% rate in the last five years, including 70% in 2009. The graphs along the bottom of the page show a variety of other performance indicators for the department and for this service. More than 300,000 residential households were served by residential recycling and garbage services. That's the chart on the left. About 294,000 tons of residential solid waste was diverted from landfills, that's an increasing trend which is a good thing. Recycling and garbage services, operating expenditures totaled 92 million. Those expenditures have been climbing. The City's annual cost the final graph on the right per household to provide recycling and garbage services was about \$330 which is a 2% increase over the prior year up 9% over five years there was a change in contractors and shorter

term contracts that caused part of that increase. This page, which is page 46 from the report, gives you results of operations for transportation department, specifically pavement maintenance. D.O.T, the Department of Transportation, is responsible for maintaining and repairing about 2365 miles of street pavement in the City of San José. The key facts in the upper right give you the number of -- number of street trees and other items of interest, street landscape, parking meters and park spaces that give those key facts about the services that this department provides. The chart on the right shows that San José in 29 had a pavement condition index rating of 63 out of a possible of 100, which is considered to be fair. This ranked San José 80th out of 109 Bay Area jurisdictions. This did generate some news over the past year. The graph at the bottom of the page shows pothole repairs increased by 52% in 2009-10. According to the department this is due to increased storm activity combined with the deterioration of the pavement as shown in the pavement condition index which is a result of not being able to invest the dollars that we potentially should in pavement maintenance. Page 57 our report gives you the results of operations for the library department. The key facts here in the upper right-hand corner gives you general information about the library department. We did have 19 open libraries during the year. Gives you the total number of materials. 14.9 million total items were checked out during the year. The chart in the middle of the page compares San José to the San Francisco and Oakland library systems, while materials and expenditures per capita were lower in San José than in those two systems, San José had a higher circulation rate per capita than either of those cities. The charts on the bottom of the page give you a variety of five-year trends, department operating expenditures, which had been going up, and have since gone down in the last year, weekly visitors to the City's libraries and the annual hours open for each of the libraries. This page shows you development services. It's page 65 of your report. It shows workload and timeliness due to the combined efforts of the Planning, Building, and Code Enforcement department, the Public Works department and the fire department. In 2009-10 the permit center in City Hall saw a total of \$29,637 customers. This was about 13% fire than the previous year. Development services handled more than 1700 planning applications issued nearly 21,000 building permits, conducting more than 86,000 building inspections, it's a lot of inspections, a lot of permits. But all of these were significant decreases compared to 28-nine. The chart on the right-hand side, in the upper right-hand side, shows you the selective timeliness measures for the development services partners. Only one of the seven permitting processes met its timeliness target. In 2009-10 this was for Public Works plan checks. These numbers I need to tell you were up in the 80 to 90% range as recent as last year. Planning an of and building fee programs showed

significant decline in projected revenue associated with continuing decline of development activity in our city. Budget adjustments have helped keep programs at 100% cost recovery but here we are seeing the result which is longer performance cycle time. And finally just as one further example of the information in the report I wanted to show you page 72 which hospital some of the functions of the housing department, the chart on the upper right shows the breakdown of various rehabilitation units completed over the past several years. Single family, mobile home, and multifamily units. The chart on the left left shows the cumulative number of been homeless individuals who have again assisted in securing permanent housing, over 3200 since 2005-6. As you can see the report includes a variety of information about the broad range of services that the City of San José provides. I couldn't possibly go through all of these in a meeting like this but the information is out there and I wanted to give you a sample of the kind of information that's in this report. I want to thank the department and staff members who track this information day in and day out. The report would not be possible without their support. I'd also like to thank my staff who compiled the report to obtain coins, they're on the web. We also have hard copies available in our office. If someone would like to symptom by and get a copy. And please if you have any comments or suggestions for both councilmembers, your staff around members of the public, please contact us at the address shown on the screen. Thank you very much, we're happy to answer any questions, and I believe city staff is also here, if you have other questions about the report.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. And thank you for another great report. I say this every time we get it, and I'll say this again. This is the best report of all the reports we get. Because I remember when I first took office and trying to gather up information and to get historical information and try and figure out what's going on, throughout the city, it's very difficult. Especially when the budgets you know is this thick and a lot of it is in different areas areas and it doesn't all tie in together. This has become a resource we use quite a bit, it has everything in one spot and kind of leads you to where you need to go to get more information. So I just appreciate another really great job on it. And I want to say to whoever was the brainchild behind it, thank you very much. It's a wonderful report, keep them coming, and I'd like to make a motion to accept the report.

>> Second.

>> Mayor Reed: Motion to accept the report. City Clerk did you get that? Okay. Councilmember Rocha.

>> Councilmember Rocha: I'm going to echo that. This is fantastic information. Thank you, as a new councilmember, I will be using it for reference material. I had one simple request about generally city revenues and city operating budget pages, 16 and 17. And it's more of a question as to reserve levels. And has it ever been considered or maybe it's somewhere in this document, I didn't see it, but having that listed as well?

>> Sharon Erickson: That is a very good suggestion. We have not included it in the past and that is a good suggestion to include it.

>> Mayor Reed: Vice Mayor.

>> Councilmember Nguyen: Thank you. I just wanted to echo the sentiment that's been expressed. This is a very comprehensive and thorough report. It's not just a great resource for us, for councilmembers just to look at the riffle context of where -- how we spends our money but it's also great resource for contaminate collars, how it's being used to what extent and what percentage is that being used to the various service that the San José provides. I just wanted to thank you and your team and also all the departments that were part of this process to make this wonderful comprehensive report before us today so thank you very much.

>> Mayor Reed: Have no cards from the public on this I assume. If none we have a motion to approve. All in favor? Opposed, none opposed, that's approved. Great work. One thing this report demonstrates is how big this city is and how complicated the work that all our people do. It's great to have it summarized some place. Number 3.4. Statement of policy and city council requests for the selection of a new Chief of Police. City Manager.

>> City Manager Figone: Thank you, mayor and council. This is a recommendation that the council adopt a statement of policy and city council questions related to the selection of -- of a new police chief. This is a regular

and required step in the process of council department head appointments in compliance with the city charter section 411.1. The process requires that the council, prior to meeting with the city manager's recommended candidate for department head positions that are subject to the charter's requirements adopt a statement of policy, for the department involved, along with the proposed questions from the council that will be presented to the prospective candidate who would be brought forward for appointment. Please note that I added a question to my original recommendation through a supplemental memo. It focuses on a question about the working relationship with the IPA which we all know is very important. Also, is a memo before you from Councilmember Constant, regarding police -- the policing reserve program which he may want to address after. I encourage the council to view the list of questions as a manageable number that a candidate could respond to in writing prior to being presented to council for consideration. Many of the questions before you have been used in previous processes, but also, we have questions that ensure that the very extensive feedback that we received through our unprecedented community dialogue are also included for this very important topic. And also please know that many of the questions that are before you, as well as many more, will be asked of the candidates as they progress through the panel interview process. So in closing the recommended list is yours, you may add or modify to it as you see fit. And also, remember that this list does not limit the number nor the Times types of questions that you may ask the recommended candidate when you interview them in person. And that concludes my comments, mayor. We're open to any council feed impact.

>> Mayor Reed: Okay, I sigh in addition to the request from Councilmember Constant that we would have 21 questions which reminds me much a game I used to play with kids. Seemed impossible, you only had 21 questions but eventually you could think what they were thinking about. It seems impossible, I'm sure we will have stellar candidates who can do that and it is very thorough and helpful to the council. I want to thank the City Clerk for putting this together and I appreciate the addition of the two additional questions. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I was worried when you said you were playing 21 with your kids when they were young but I'm glad you clarified that. So the police reserve unit has been in existence for a number of decades and it has not only provided excellent supplemental resources to our police department during normal patrol times, but also in times of emergency and departmental relief. But a lot of times people don't recall

the fact that our reserve unit is actually what started our helicopter unit, our horse mounted unit, our bicycle patrol unit. We've had a history of being innovative in our police department. So I think it's important as we look for a new chief that we ensure that the chief can at least demonstrate some understanding of the reserves and have an opportunity to really think about them as an important stakeholder, not only in the process for the chief in operating the department, but also a very important stakeholder for the community. With that I would like to make a motion to approve the recommendation with the supplemental memo and my additional memo.

>> Mayor Reed: We have a motion. Vice Mayor got the second. Further discussion on the motion? All in favor, I'm sorry I got one request I missed, Councilmember Rocha.

>> Councilmember Rocha: I have a question on statement of policy. Is that appropriate at this time? Looking at the current statement of policy, and I compared it to the last one. From the previous time we did a search for a police chief. I noticed there was a bit of a difference in terms of strategic services. And I left a message for you just recently, I'm sorry if you didn't get it, as to why that changing and new could maybe speak to that, please.

>> City Manager Figone: And I can take a shot at this. If either Mark or Deanna want to come down, my assumption, councilmember, is that the statement of policy is lifted out of the budget document core services and probably, at the time of the last chief recruitment, strategic support played a more prominent role in the core services listing of the department. That's a guess on my part, given the staff time to get to the microphone. Being but is that case, staff? Strategic support is more of a centralized function in other departments such as HR and finance.

>> Deanna Santana: Mark and I are talking here. What I would recommend is I go back and refer to the message, what you're indicating is you left me a detailed message. We would get an info memo, out to the full council.

>> Councilmember Rocha: In looking at in I of course thought first, this is like a job description for the police chief but it is not. This is more of a statement of policy for the department itself. But kind of I guess stuck out a

little bit for me was really no mention of work force, workforce development training and maybe I missed it looking in here. But it seemed to me strategic services and the previous one had listed that specifically. So thank you. That's just an observation. Thank you.

>> City Manager Figone: That's a good observation, and we will pull the last statement of policy and respond to that. But again my gut sense is it's probably lifted out of the budget document.

>> Mayor Reed: Anyone else? We have a motion on the floor to approve. All in favor, opposed, none opposed, that's approved. Good luck, City Manager. Next item is 4.2, actions related to the 2010-11 hazardous vegetation commencement report. We have a motion to approve by the Vice Mayor, seconded by Councilmember Herrera I think got the second. Any discussion? All in favor? Opposed, none opposed, that's approved. Item 4.3, actions related to the environmental impacts of the Montague expressway widening improvement project. Councilmember Chu.

>> Councilmember Chu: Just wanted to move to approve, adopt the resolution.

>> Mayor Reed: We have a second from -- I think it was Councilmember Kalra second. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you. I just had a quick question about CEQA clearance on this. As we look future, my understanding is the reason why we went back of course is because the new requirements, statewide requirements on greenhouse gas emissions, Joe. And my concern is that we be spending a lot of money, and energy, doing this on lots of previously cleared projects. And the question is, are we able to somehow insert in our EIR for the general plan 2040 sufficient detail that would enable us to clear all projects going forward under the new greenhouse gas emission requirements?

>> Joe Horwedel: With the EIR we're e-working on the general plan update and all EIRs we're doing currently and negative declarations we do deal with greenhouse gases pursuant to the new state law. This is an

environmental document that was prepared by the County of Santa Clara roads and airports department, did not deal with greenhouse gasses. Because we are doing a city project we do need to update them. So that's why the report on it today. This is pretty unique.

>> Councilmember Liccardo: So we will not be seeing in again?

>> Joe Horwedel: I would not expect to see this much more in front of you.

>> Councilmember Liccardo: Great, thanks Joe.

>> Mayor Reed: Councilmember Rocha. one more question.

>> Councilmember Rocha: Joe, looking through the memo, I got to admit I didn't look through the environmental document completely, but on my past work with North San José envision project, I didn't see the relationship between the two. There were improvements listed on Montague, maybe this wasn't the place for it but I thought maybe I might see some reference to it.

>> Joe Horwedel: Councilmember Rocha, that, I don't know how the two mesh up. That if transportation staff can talk about that. We were just working on the environmental piece on behalf transportation.

>> Hans Larsen: Councilmember Rocha, Hans Larsen from the Department of Transportation. Could you repeat the question that you had?

>> Councilmember Rocha: Looking at the memo and then I did not look at the environment document, my experience with envision North San José, there were improvements as part of that, the infrastructure improvements. And I thought there might be some reference to that work with this work. But again, maybe they are completely separate projects. Well, they are separate projects but no relationship I guess in terms of timing improvements funding and anything.

>> Hans Larsen: As part of the North San José development plan, one of the first phase, priority projects is improvements to Montague express basis point so we are working with the county on that and that's part of the purpose for updating this environmental clearance to be able to allow the first phase project to actually go forward. We have a project we're developing with the Public Works department to improve a section of the Montague expressway using revenues we have received from development in North San José. So there is a connection between them.

>> Councilmember Rocha: Thank you.

>> Mayor Reed: No other questions, we have a motion on the floor to approve. All in favor, opposed, none opposed, that's approved. Item 6.1 is a public hearing and election on the formation of maintenance district number 23. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. Just wanted to recuse myself.

>> Mayor Reed: Okay. Councilmember Chu lives pretty close to this maintenance district. We have several things that we need to do. A couple of resolutions to adopt and a formal hearing to conduct, I've got a script that we'll follow to make sure we do this all correctly. And the City Attorney will be watching my script to make sure I don't skip something. Because we are setting up this maintenance district, so this item is continued public hearing and special election and the levy of special assessments within maintenance district 23, in Berryessa, along Berryessa road. We already held a public meeting on September 28th, 2010 regarding the formation of the district and opened the public hearing for the formation of the district on September 16th, 2010, which we continued to today. Today we will continue the opportunity for the public to participate in a public hearing, and then proceed with an election process on the formation of the district. So at this point in the meeting we are opening the, officially opening the continued public hearing or to hear all testimony, related to the formation of the district. We'll also collect any ballots, that we have, anybody wants to submit at this time, but all ballots must be

submitted by the close of the public hearing. So at this point, we will take any public testimony, of folks that want to speak about this. I do have some cards. And please come on down when I call your name.

>> Hans Larsen: Mr. Mayor, if we might, we had just a brief presentation to set the context for this, if we --

>> Mayor Reed: Okay.

>> Hans Larsen: -- do that prior to the first speakers.

>> Mayor Reed: Good, go ahead, take it.

>> Hans Larsen: Mr. Mayor, members of the council, I'm Hans Larsen, acting director of the Department of Transportation. Joining me with this item is Dave Sykes, acting director of Public Works, and Kevin O'Connor, deputy director for transportation infrastructure maintenance. The item before you is specifically related to the formation of a new landscape maintenance district along Berryessa road. We wanted to provide the full council a little bit of context on why we have this here before you today and it is one of what will likely be several similar activities as we deal with the City's budget issues regarding our resource levels related to maintaining city landscape properties. First I'd like to talk a little bit about the design standards that we have. We have two types, type 1 is a basic landscaping with trees. And a bare surface mulch or rock. Shrubs ground covers and flowers in some instances. Our policy is that if there's an interest in that, it needs to be funded by alternative funding sources. The type 2 landscaping is about three or four times more expensive than maintaining the type 1 because of the irrigation, that's a little more difficult to clear it for litter, the trimming, and weed abatement activities. Where we are right anonymous is that if you look at all the City's street landscape properties, we have 549 acres total. And they divide up as shown on this pie chart. We have about 57% of our landscape areas, so a majority of them are enhanced landscapes that are funded through special districts. We do have some type 2 enhanced landscaping that are that is city funded and these are landscape areas that have been established prior to the policy that was set in 1994, or busy some exceptions we've allowed some of them to come in that are city-funded enhanced landscaping. In 2009, based on direction from council, we decided that we couldn't afford to provide the

enhanced maintenance for city-funded properties and so we are on a program whereby we are offering opportunities for the creation of landscaping districts, so that the type 2 can be maintained but through a special district funding, or if there's not interest, or opportunities to do that, we will then renovate it by eliminating the enhanced materials, and reverting them to type 2 basic landscaping. So since council took the budget action on this direction in 2009, a little less than two years ago, the progress that we've made is that we've converted city funded type 2 from 29% to 20%, so we've -- the goal here is to reduce the amount of red that's on the chart and put it into the type 1 yellow or the type 2 green. So we've made some transition. With the action here today is to look at creating a district so that we can reduce the amount of city funded type 2 and put it into a special district. The other thing I wanted to highlight is the significant amount of volunteer adoption of city landscape properties. Two years ago, we had four properties that were maintained by volunteers. Over the last two years that has increased dramatically up to 63 which we have today. As you can see on the chart it is a small amount of it primarily the ones that are adopted by volunteers are within neighborhoods and represent traffic calming islands or backup landscaping next to sound walls. But it's important to note that the community has stepped up and assisted in this. We do have a number of other areas in which we are considering forming special districts to further address this issue over time, and you can see the list there. That's a little bit of background. Kevin and I are here to answer any questions you have in the background. I'll turn it over to Dave Sykes who will address the specific item for you here today.

>> Thanks, Hans. As I outline the item today, I want to stress the formation of the district is an alternative we are offering the community, the alternative to letting the landscape revert to type 1. We have not advocated for the passage of the district but presented facts to the community. We have adjusted the scope of the district based on input from the community. Today we are going to conduct a public hearing, approve the engineer's report tabulate the vote and if the vote passes we will be opposing the assessment. The engineer's report is important because it really provides the rationale for the special benefit and keeping in mind that the only cost we're passing on to the residents and the property owners is the cost difference in maintaining type 1 and type 2 landscaping. We establish the formula of appropriation of the apportionment of the special benefits. Today we are also requesting authority to negotiate agreement with the county to pay for the assessments for the county parcels for which we have a city park and a city community center located on those parcels. Regarding the county today we received a

letter from the county. They may be in the audience and may speak on this item. They are contesting the engineer's report and are requesting we reconsider the benefits to the county parcels. Our evaluation at this point is that the engineer's report does evaluate the benefit of the various uses and provides a reasonable rationale for making the assessments. In summary public lands are subject to assessments and that's been our history. Land with the community center on it, we're proposing to get a full assessment, and then the land with the city park on it we are proposing that it gets an 80% reduction of assessments, since it only has some occupancy scattered on the property. So we think the engineer's report does provide a reasonable rationale for assessing the public lands. This rationale is what we used when we believed we owned the parcels, as if the council, some of the council may remember that we determined that the county owned some of this land and that's why we postponed and lengthened the public process. We are comfortable continuing to pay this assessment on behalf of the county for our purposes on that land. And I'll close with those comments and we're available for questions.

>> Mayor Reed: I think we'll take the public testimony before we do questions from staff so at least we get the questions on the floor that we have. I expect we have something from the county of Santa Clara because there are a couple of folks from them to speak. Katherine Harris, Ian Champony and then Ellen Perry.

>> Thank you, mayor, city council members, my name is Ian Champony, I'm with the county of Santa Clara parks and recreation department. I came to the last meeting stating that we had opposed apportionment on the county parcels, I just want to reiterate that. We sent over official correspondence now yesterday, I don't know if you've had time to review it. So basically the apportionment on the county park land we feel is really inaccurate. It is apportioned at .8 and .2 depending on the improvements. The problem is, is that this is tied to the parcels, it is not tied to the improvements. And while the city is willing to pay for this, during their tenancy, if there was a budget shortfall and you no longer ran that community center, it goes back to the county and we don't feel that it was apportioned correctly to begin with. It's a park. And a decorated median is of no value to a park which is supposed to remain open space and provide a respite to the community. So we really tried hard with staff to work and I just want to say that we are just respectfully disagreeing. We hope to come to an agreement before today but we were not -- we wanted it -- if the engineer's report had incorporated that for the life of the district the city would pay for the county's apportionment then we probably could have lived with that. But short of that, you know I think that

this exposes us to have what we feel is an undue liability on those county parcels. I'm here to take any questions if you have any.

>> Mayor Reed: Okay. We'll take the rest of the testimony before we do questions. Katherine.

>> Good afternoon. On behalf of the county of Santa Clara we wanted to register our objection to the assessment as detailed in our letter to you we are of the opinion that the engineer's report is legally insufficient in demonstrating a special benefit that maintenance of a lavishly landscaped median offers to the county's property absent the community center use. In addition we believe the engineer's report is legally insufficient in its rationale and apportionment of asserted benefits to the county's property. If the council is inclined to approve the district we respectfully request that you authorize to City Attorney to negotiate and execute a tolling agreement with the county to expire three days after the conclusion of this agreement that your staff is asking for. So we avoid the public expense of litigation and consider our obligations in a timelier fashion. Thank you.

>> Mayor Reed: Allen Perry.

>> Good afternoon. I came here at the last session, I made two statements. One was that the engineering report is not in full compliance with proposition 218. And the reason I say that is that parcel number 1 is out of the zone and parcels 10, 11, 12 and 13 the subparcels are also out of this zone. And these are located on north capitol avenue. And the second question was, I thought that the -- if the county of Santa Clara has a vote on the park lands, okay, this is a conflict of interest with the city. If the city is going to pay their assessment fees. That question has not been answered. These are my two complaints and I was wondering if I could get the answers or have the vote postponed until we get the answers, thank you very much.

>> Mayor Reed: Thank you. That concludes the public testimony. I believe those are all the cards I have of people who wish to speak. I think there were some questions asked, the staff may want to respond to. I'm going to give staff the opportunity to respond before we take any comments from the councilmembers.

>> Thank you, Mr. Mayor. With regard to the statements made by the county representatives, the approach that the city's taken is that we believe we have a reasonable rationale behind making the assessments. We've got many districts that have public properties in those districts including city parcels, and city park land. And we've been very reluctant to go to a point of excluding public parcels and public lands from any type of special benefit assessment. In this case we have made a significant credit to the vast majority of the park land and only are apportioning 20%. That amounts to approximately total around \$6,300 of the total assessment. I won't disagree that there are other ways and other rationale to come up and come to a conclusion but we do believe this is a reasonable rationale. With regard to the second gentleman I'm not sure I understood the boundary issue. I don't believe that it is a conflict of interest. All property owners are entitled to vote. In this particular case the city is not a property owner so we are not voting. We have offered to pay the assessment of another governmental agency given the fact that it is our use on that property that is for the most part generating the assessment. If the land was fallow and unused most likely we could come to a conclusion that there would be no assessment due.

>> Mayor Reed: Okay, that's the end of the staff presentation. I do need to official close the public hearing so the clerk can count the ballots. Is there anybody here that wishes to submit a ballot to the clerk before we close the public hearing? Because if so you've got to do that now. I see none so we're going to close the public hearing at this time. Let the clerk tabulate the ballots and she'll return whenever that's done, however long that takes and if we get done with what we're doing here and we need to we'll go on and take up the next item in the middle. We're not accepting any other ballots, the ballots are in. I assume you'll need some additional time.

>> Yes, that would be helpful. I was told it would take about 15 to 20 minutes.

>> Mayor Reed: Okay, so I would like to continue with this discussion here while they're doing that if that's okay with the City Attorney. Even though it might be a moot point if the ballots don't come back right. We'll go ahead and invest the time in the discussion. I'll let councilmembers get their questions answered, et cetera. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. I was hoping I could ask the question of Ian or I guess it was Kathleen, the question about the land. My understanding is the county's beef is what happens when the city no longer occupies the community center on that parcel, is that right?

>> Yes, that's one issue, I guess fundamentally it should be institutional and unoccupied, which would have a multiplier of zero because it is park land. So we disagree with the way the multiplier was assigned. And certainly if we would be liable for that at some time in the future we wouldn't want --

>> Councilmember Liccardo: If you knew the city was going to continue to occupy it and pay the bill you probably wouldn't be here is that fair?

>> Yes.

>> Councilmember Liccardo: Okay.

>> We tried to do that. We could have -- I think there was a noticing issue here, if we did change the notice period that would be changing the noticing issues.

>> Councilmember Liccardo: With regard to the county's use of that land, is there a similar issue in the charter, if it's park land it's forever park land?

>> Yes.

>> Councilmember Liccardo: There's no economic use the city is going to get from that lands beyond the public benefit?

>> That's correct.

>> Councilmember Liccardo: Guess I was honing -- thank you, I appreciate it. Ian and I spoke earlier, I just wanted to understand fully exactly what the county's worried about. I guess from the city perspective is there any willingness to engage in agreement that would sort of keep us paying the bill, even if we're not using the community center?

>> City Attorney Doyle: Councilmember, there would be a gift of public funds issue if we weren't a tenant, and that's an issue that we'd have to explore further. I think the logic, I just wanted to touch upon the logic on the benefit spread. And Dave has done a very good job. The reduced rate, the .20 benefit is for the park land. The .1 - or the 1.0 benefit for the community center is because the community center is used for private use. So it was given a commercial rate. And reasonable people can differ as to whether that's appropriate or not. The reality is since 218 public entities have to pay assessments, they aren't exempt. Usually, park lands were exempt. As long as the city is a tenant, it can agree to pay the assessment once we're no longer using it, we have a gift of public funds issue.

>> Mayor Reed: Rick, let me probe a little bit. The gift of public funds I understand in the traditional coming text where you've got a private party you're dealing with, here we've got a public party that's bound by law to continue to provide a public benefit to our old residents, in relation to maintaining that park. In other words San José residents are the ones that are going to use that park. Is there a difference?

>> City Attorney Doyle: If we might explore various options that we might utilize that could accomplish the same point. As totally mentioned, that would be a conversation would I want to have.

>> Councilmember Liccardo: Okay, I'd hate to see litigation over something small like this, and lord knows we've got enough to discuss with the county these days.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I agree that we should try to avoid litigation on the relatively small issue like this. In regards to the comment from the county representative, in terms of lodging a formal objection, what does that mean for practical purposes from the city's side, in terms of either delay in terms of how we would respond, in terms of what impact it would have going forward?

>> City Attorney Doyle: If you can -- I'm not quite sure. A delay in if a formal response or a formal objection is filed?

>> Councilmember Kalra: Became of what if any impact does that have?

>> City Attorney Doyle: It doesn't. We would -- it's up to the council. The council if the ballots come in and it's in favor of the district, the majorities in favor of the district the council then has the option to establish a district and go forward or not go forward. If you do move forward with it then we would I assume engage in discussion with the county to try and work out any and all problems. If -- but we can't readjust the amounts, the benefit per the engineer's report once it's adopted without renoticing and going through a different analysis. And I don't know if that would take some time.

>> Councilmember Kalra: And I imagine regardless whether there was a formal objection or not, we would still try to work with the county and try to resolve some --

>> City Attorney Doyle: Yes, as Councilmember Liccardo indicated we have some other issues and we're in discussions all the time.

>> Councilmember Kalra: Thank you.

>> Mayor Reed: I'm a little bit confused about the issue between the city and the county. Is -- because I'm looking at agenda item number A which is to adopt the resolution authorizing the City Manager, et cetera, to negotiate with the county to pay the annual maintenance assessment. So is it because everything we do is

subject too appropriation? We can't really agree to pay for it forever? And does the City Attorney have any options available to us, that we might be able to work things out with the county as we move ahead?

>> Mr. Mayor, that was the point of contention. The city was unable to commit to paying the assessment for the life of the district. All we could commit to is paying for the assessment for the life of our involvement with those two properties and Rick has mentioned the gift of funds issue, if we could get through that I believe we could resolve our differences.

>> City Attorney Doyle: Mayor, your point is accurate, although we do usually commit that at a staff level, we would include it in any proposed budget, and then the council would have to take it out affirmatively. So we would include it, but it is subject to annual budgets.

>> Mayor Reed: As we move past today, if the votes come in and we have enough votes, we don't necessarily have to initiate the assessment today. We could say no, we're not going to do it, it's up to the council or can we say go figure it out with the county, work out something, try to negotiate something, within the parameters of the district, not changing them but trying to figure out how to solve this problem of, well, we can only promise you to do it for one year?

>> Mr. Mayor, there is time to continue the discussion. If the council gave that direction that the assessments don't need to get on the roll until really August. So there is time to work out a plan.

>> Mayor Reed: And we could have a tolling agreement so the county doesn't see theism pair tiff to do whatever is necessary under litigation. I just think that there must be some way to resolve this. It is certainly in the City's interest and the county's interest to figure it out and we enter into long term agreements lots of different places and lots of different ways and somehow we usually manage to get past the fact that.

>>> We do is subject to council appropriations.

>> City Attorney Doyle: Around that's very true in many lease -- revenue Bonds bond situations and a whole host of agreements we have.

>> Mayor Reed: Okay. Any other questions from the council on this? Any further discussion? I don't think the City Clerk is done with the tabulation, so why don't we move on to the next item on the agenda and the clerk will let us know when they've finished the tabulation work and then we can take action or not as may be appropriate. So the next action would be looks like open forum is the next action. I have no cards under open forum. We will take a brief recess, I think, let the clerk finish the work. Don't go very far because it could only be a couple of minutes. [Recess]

>> Mayor Reed: I'd like to call everybody back to the dais. The recess is over even though we didn't ring the bell. City Clerk has finished with the tabulation of the results I believe. City Clerk.

>> Yes, I have the results of the tabulation of the property owner ballots for maintenance district number 23. The results are the tabulation are as follows: There were 203 landowners, there were 98 votes. There were 23 votes in support of. 75 votes in opposition. 29.6% was in support. 70.4% was in opposition.

>> Mayor Reed: Okay. City Attorney what does that mean?

>> City Attorney Doyle: Sounds like the item fails and therefore the council can't take any further action.

>> Mayor Reed: So we cannot move ahead with creation, formation of the maintenance district. The resolution we needed to do we don't need to do. We may want to refer this to staff for, I don't know, you were thinking about doing this in other areas. But I think at least we want staff to take a look at it and try to figure out what works or didn't work. If we're going to be able to do it in other areas we need to do a little better than 29%. Anything else, Councilmember Liccardo?

>> Councilmember Liccardo: Just a quick question. I 92 that hindsight is always 20-20 but I was just curious, did we engage in any contractors to NPR or not to say campaign consultant but somebody who would actually get engaged in outreach in any way with the parcel owners?

>> Councilmember, we tend not to advocate for the district. We do meet with the community and try to gauge the pulse of the community in support of it. And in the meetings that we had there did seem to be some general support and that's what the basis for moving forward on these other districts, some of that work's been done in areas where there's not general support we won't even move forward with the formation and if it looks like there is support we might bring that item forward.

>> Councilmember Liccardo: I don't know Rick are we legally prohibited from advocating?

>> City Attorney Doyle: No, this is not a political campaign. It's a service enhancement but I think the staff position is, they are neutral and they make the -- you know, basically educational, provide information.

>> Councilmember Liccardo: Right, okay, thank you.

>> Mayor Reed: Well, this is the kind of thing if there are people who are enthusiastic about it, just like volunteers at the park, usually there's a few people that are enthusiastic. They walk the neighborhoods and they get people engaged. And we may need to have that kind of a strategy if we're going to try that, to get this. Identity of 203 land owners, we had 98 that voted, that's less than half. So I think there's some opportunities there to rethink this, so would I ask staff to do that and bring it back to us when you think it's appropriate. Anything else? We still have no cards under open forum. We have one card under open forum. Sir, you want to speak? Come on down. To the dais, to the podium.

>> My name's Michael McDuffy and I live at 4210 Monterey road, space No. 32, which is sleepy hollow trailer park. It's located in I guess -- the councilwoman Nguyen's district. So the problem is, is the capitol flea market, they're open four days a week, Thursday through Sunday. And 9:00 in the morning on Sunday, not that they

weren't running their potholes all during Thursday, Friday and Saturday and Sunday, they started in at 9:00 in the morning, trying to hawk vee the PA system, which is, I can hear from a half a mile away. They're at on hillcap avenue, which is like Snell goes right into it, and then they're -- I've got like the capitol expressway, overpass, all that stuff in between me and them. But I can hear them like they are right outside my door. And they're talking about their stinking chocolate, hot chocolate and then their stinking five tacos for a dollar, for about four or five times around noon and all their raffles going on at four or clock and 3:00, and this is all the time, four days a week. And I had a time -- I contacted the zoning people yesterday, or Monday, I talked to sergeant Unger of the particularly. He told me to contact the zoning commission or the zoning people and I talked to the officer of the day, his name was James, he didn't give me his last name. And he's basically trying to establish law that does not exist in the City of San José Municipal Code.

>> Mayor Reed: Sir, your time is up but what I want to you do is after the meeting, Ed Shikada over there is our -
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>> Sir --

>> Mayor Reed: Will talk to you about making sure you can get to the right place for the people who do have authority over these kinds of matters.

>> Okay, thank you.

>> Mayor Reed: Anybody else under open forum? No other takers, we're done so we're adjourned.