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>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call the San José city council meeting to order for November 9th, 2010. I'll start with the invocation. Councilmember Pyle will introduce the invocators.

>> Councilmember Pyle: Sorry about the delay. As we know, Thursday is Veterans Day. So today's invocation is in honor of all our veterans, past and present. And here to lead us from the San José Vietnam war memorial foundation are Dennis Fernandez, could you hold your hand up? Dennis Fernandez, Sandra Fernandez, Bill Udderly, Mike Salas and Ray Soto. Thank you very much. They have a very interesting presentation for you.

>> Mayor Reed, council, as a veteran it is an honor to lead this afternoon's meeting. Assisting me today with the invocation in honor of Veterans' Day is Mr. Ray Soto, a United States army veteran son and his magical guitar. Our many thoughts turn to those who are bravely serving our country in far-off lands. Along with these brave men and women let us also remember their families at home worrying for the safety of a father a mother a son or a daughter at war. There hospitalized or in the streets. Remember them, and our 143 KIA sons of San José who died on Vietnam soil. In the spirit of veterans of past, present and future, that gave and will continue to give the ultimate sacrifice for freedom, we dedication this invocation to them. The American GI known to God as a patriot hero and humanitarian around the world . He is the valiant one who defended the constitution of the United States of America during our finest hour. Mission driven and a true inspiration to us all who seek the right to their pursuit of happiness. [Gi tar] for what the cost of freedom means, a veteran only knows, present and of wars gone by soon it will be Veterans Day throughout this great land. There with it be avenues of flags parades and marching bands. You'll hear music the firing squads and a bugle playing taps. Veterans will arrive wearing their red Red wide olive drab and purple caps. Soldier sailor, air man and coast guard, stand alone as one they did, stand alone as one, no more. Protect them, lord, as they protect us, until the day they all come home. At this very moment, some are experiencing their very first engagement of war, the perils of hell and the valley of death. And for those who fought for it and who are going to fight for it, freedom has a taste the protected will never know. As greater love has no man than to lay down their life, they were once young men and women who converted from school books to helmets, from sneakers to combat boots. When war shattered our country and freedom was threatened. Men and women rolled up their sleeves and answered their call. To GI Joe and Rosie the riveter, from the great depression's threat to M-1s and bayonets. From our farm lands and cities to foreign lands the jungles in

the East into crossing the line in desert sands. From cruising our boulevards to patrolling the dangerous roads of Iraq and Afghanistan. Young soldiers pressing forward for freedom for her majesty for old glory for liberty and justice for all. Veterans valiantly answered the call and left their homes. And back home, back home, a veteran's guardian angel remained on eternal watch. A true hero who stayed at home, the one who had to spend Christmas all alone. A hug and a kiss good-bye and then you had to part. You left them with an ache and a pain in their heart. A blue star banner hangs on the window, a mother, a mother or a wife, weeps in prayer. She prays that the star doesn't turn into gold and have to leave the rest of her life in despair. They leaves dim lit light and she asks somewhere some somewhere over there tonight he might have thoughts of home. Would you just give him my blessing and let him know he's not out there alone? She keeps, excuse me, she weeps into sleep and then she dreams. In her dream, she cries. She gave her country a son. In return, received the stars and stripes. When the eulogy was done. The sound of taps echoed in the night when all was still. She listened to the bugler play and felt a sud owner chill. Started and frightening she awakens she puts pen to paper and sends a letter to her loved one in the far away land, always dreading a telegram from the western union man. Tired stressed and depressed, challenged by the test of time waiting for the day her son or daughter or husband comes home to stay. Tell her that life will still go on, show her, lord, that all this darkness will be followed by the dawn. And to the veterans of the greatest generation, the battle of the bulge in the Ardenes, man against tank in the coldest of winters, you were a victor and he seized. Before engagement you received sacrament on the hood of a Jeep, resilient and confident you marched forward with you without time to weep we owe you for humanity and for gives us a chance. gallantly you were humble you were a victor as only you know. In the name of freedom you entered battle fields to the sound of hell's bells and you conquered the perils of hell. Quietly over time you've turned gray. You accomplished your mission, you saved our way. Our way of life and freedom you preserve, we thank you, less than you deserved. You never boasted, bragged or asked for praise for your past, as you spilt your blood on foreign lands. And waved old glory with desperate hands. For what you lived felt and seen for the cost of freedom means, you accomplished the mission you knew was right but silently you still sigh and cry short breaths at night. You leave us bringsed with every breath you won the worst and greatest war. 1 million were lost, we owe you more, we owe you so much more. Thank you for your heroic feats for open streets and quiet of our way. Thanks from the kids who have never seen a tank. We give you thanks, we give you so much thanks. For homes, jobs and baseball games, for many colors and many names, you saved our lives, we proudly hail to thee

as we live in the home of the brave and the land of the free. And in your honorable presence and silence we know what you accomplish and what you did is for who we are and how we live. And to the veterans of wars thereafter, we have gone to the black granite wall, touched, knelt, prayed and softly cried. It feels -- it feels so sacred when you touching a loved one's name. The cost of freedom so many died. We remember the many soldiers who marched out to meet their foe, and thank the lord in heaven that we didn't all have to go. We think of the captured fliers harboring their rages, deprived of their precious freedom, locked up in wire, bamboo and concrete cages. Oppressed by the enemy in the darkness of doom, never to surrender with a passion to live, driven by the Rojo Blanco red white and blue soon your journey will be over your ooms shall owes in the setting sun. We salute our country's veterans who serve their nation well. As they march behind old glory through the battle grounds of hell. Veterans are members of a brother hood, a brother hood second to none. Who would die for each other, men and women who live by a creed that bound them eternally together. Not only in life but in death, beyond the call of duty. So we thank our God for today, and if he takes us in our sleep, we ask not to be judged too hard for we're veterans who served in our country's elite. For the cost of freedom means a veteran only knows. On the silver wings of valor they fly, the valiant ones present and of wars gone by. [Guitar] ∂∂

>> Thank you so much. [applause]

>> Mayor Reed: Thank you for the invocation. I'd like to vital everybody to join us on Thursday, November 11th, that's Veterans Day. There will be a parade in Downtown San José. At 11 a.m., 11 a.m. on the 11th day of the 11th month. Please stand for the pledge of allegiance. [pledge of allegiance]

>> Mayor Reed: first item of business are the orders of the day. We have a couple of requests for changes from the printed agenda. We need to drop item 4.2, the TEFRA hearing for the proposed bond issuance by CSCDA for the McCreery courtyard apartments project, will are renoticed and brought back in early January 2011. We have a request to defer 5.1, we don't have a date for deferral councilmember Liccardo.

>> Councilmember Liccardo: I'd request November 16th, thank you mayor.

>> Mayor Reed: Any other changes to the printed agenda? Councilmember Oliverio?

>> Councilmember Oliverio: Thank you, mayor. I would certainly support my colleague Councilmember Liccardo in the deferral of agenda item 5.1. However I would like to say that I was fully ready to support this initiative from the parks staff so I'll look forward to what would come forward with collaboration. However, I'm somewhat hesitant on the 16th as that will be a day meeting and there's a lot of community inquiry into this topic so I would suggest perhaps the first night meeting in December.

>> Councilmember Liccardo: We attempted to wrestle with numerous dates. Newhall neighborhood several items are going to take several hours I'm told so we're essentially left with an afternoon. We checked in with a neighborhood group and they seemed okay with that.

>> Councilmember Oliverio: Fair enough, actually, since the park proposal, even though it's much about newhall, it's about citywide, park maintenance citywide I know it's the general plan hearings on December 7th, I'm cognizant of that so can we at least do the Rules Committee do a time certain and do it in the later portion of the council meeting?

>> Councilmember Liccardo: I have no objection. It's obviously -- it's going to get a challenge to get it all in but I'll leave that to the Rules Committee and it's infinite wisdom.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: is there a motion? Motion is to approve the orders of the day as amended. all in favor, opposed, none opposed, I'd like to note that this meeting will be adjourned in memory of Penelope Pries, affectionately known as Yiayia Penny. Member of the creek community. Councilmember Constant has some additional comments.

>> Councilmember Constant: Thank you, mayor. October 3rd of this year was a very difficult and tragic day for the Pries family and for the Greek-American community. With us today we have Penelope's three sons, George Paul and Nick and their wives. There's a lot of wonderful things to say about the Pries family. Most personal to me is they have sort of adopted me and my family to be a member of their family. Which has just been an incredible thing for my wife and my children and me to be part of their family. On October 3rd, Yiayia Penny was killed in an automobile accident. And it was something that shocked everyone, obviously not only in the family but in the community. I know I was at church sort of wondering where the Pries family was that morning when I received a phone call from police chief, acting police chief Moore who called me on my cell phone to let me know what had occurred. And you know, sudden deaths are always tragic. But Yiayia Penny had made such an incredible impact in the Greek American community and our church and touched so many people's lives and I wanted to make sure that we as a council really acknowledged that. She came here with her late husband, to the United States in 1968 from Greece. Making it here to San José in '69. They built a wonderful family and home here in San José. Yiayia Penny worked for San José State university for 20 years, and in her work there touched thousands of lives of people who went through San José State University. She was very well-known for her work at the church. And particularly, at times like our Greek festival which I know all of you have been there for. Many of you have had the wonderful Greek pastries and treats, and she was famous for her Lukamadas that were made from honey from their own bee hives in their yard, natural honey here from San José. Yia Yaa I want to explain means grandma in Greek. Everyone referred to her as that because of her long reach into the community in touching everyone's lives. Now while she'll be sorely missed, we know she will not be forgotten and not just for what she herself has done but quite frankly for the legacy that she's left through her three boys that are here, who do so much in not only the Greek community but the San José community. I know that when I got elected to comes they have been by my side, making sure that I don't forget about my Greek heritage. In fact the Pries family was very instrumental in helping me start the Greek flag raising here at City Hall and getting more people from San José involved in the Greek community and more people from the Greek community involved in the City of San José. So I just want you to know, as a family, we not only the family and the Greek community will miss her but entire City of San José will miss her. And -- but we're so happy she left us you guys. I look forward to many, many years of having close family relationships. Thank you.

>> Mayor Reed: Thank you, Councilmember Constant. Our next item is closed session report. City Attorney.

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

>> Mayor Reed: We'll now take up the ceremonial items. I'd like to start by inviting Councilmember Constant, Laurie California association of nurse practitioners to join me at the podium. today we're recognizing the week of November 7th the to 13th at national nurse practitioners week in the City of San José. Councilmember Constant has some details.

>> Councilmember Constant: Thank you. With me to accept the proclamation are Laurie granbury and joe lieuist, nurse are practitioners. You may know that there are over 200,000 licensed nurse practitioners in the United States, with more than 10,000 nurse prak tiringsters in the state of California alone. Mine seem to see nurse practitioners all the time . They are there day in and day out helping the physicians in their offices and giving high quality, cost-effective, comprehensive and patient centered care to all of the residents in our area. And they've been doing this for about a half a century. Many people don't know that not only are nurse practitioners registered nurses but they all have advanced education and advanced clinical training. Most of them have master's and or doctorate degrees. Nurse practitioners are patient centered clinicians and the combination of meme and nursing experience and skills. Nurse practitioners are a vital part of our health care system and undertake important duties for their patients, guiding patients to make smarter health and lifestyle choices and ultimately reduction health care cost which we know is very important and providing health care in diverse setting such as urgent care clinics, long term care facilities, schools, state and local health care departments. I thought it was important that we continue to recognize the excellent work they do and on behalf of the mayor and the city council, we're very proud to complain this week of November 7th through the 13th as national nurse practitioner week in the City of San José. The mayor has a proclamation for you. [applause]

>> I just wanted to say, on behalf of area practicing nurse practitioners and on behalf of the Silicon Valley chapter of California association for nurse practitioners we thank you very much for this proclamation.

>> Mayor Reed: Thank you. I'd like to invite Vice Mayor Chirco, Councilmember Pyle and assembly member Jim Beall to join me at the podium as we commend assembly member Jim Beall for his ongoing dedication to public service. It's not is his first but just the latest. Councilmember Pyle has some additional words.

>> Councilmember Pyle: Thank you, mayor. It is my pleasure to tell you a little more about Jim Beall. First of all he began his political career at the very tender age of 28 some becoming the youngest person ever to be elected to the San José city council. Jim has been in public service for 29 years, those of you who do math quickly find out how old he is, first as a San José city council member and then as a Santa Clara County supervisor and now as a state assemblyman. He has focused his efforts on the foster care system, the transportation system and the health care system. His contributions include building highway 85 on time, and on budget. Widening route 101. Upgrading route 87. Working to make foster care children a priority. Partnering to create the children's health initiative, the first in the nation universal health care program for children of low income families in Santa Clara County. And Judy Chirco our Vice Mayor is here to tell you a little more about his involvement with the Camden community center here in San José.

>> Councilmember Chirco: Yes, I'd like to speak to the difference that Jim has made. When I first met Jim he was the councilmember for district 9 which is the seat I now hold. And working with him when I was on the school board I learned many things that have helped me as an elected official. One of the things that jam had was the creation of the Camden community center. It had always been the hope of the district to have that kind of a center and when the opportunity came forward Jim was there to partner with the community and to lead that to success. Jim has always made transportation services for the community, the people that were most disadvantaged, whether they were foster children or children who could not have access to health care, a priority. Transportation so that we could get around, health care so that we can be healthy and he continues his advocacy for our community all the way to the state assembly. I'm honored to follow in his footsteps, and I wish him well on his endeavors because he has always thought of San José and his community first. So congratulations, Jim, you deserve it. [applause]

>> Well, you have business. So -- as my mom used to say and mom's probably watching, the purpose of a public hearing is to hear the public. That's what she kept reminding me of. So mom, she had ten children, so she knows what she's talking about. I just wanted to say, I really appreciate this honor and humbled by it from the councilmembers and the mayor. It is very important to me, that we're here in San José, my home town where I grew up and that my parents met just a few, actually a half a block from this building, is where my parents met. When my mom had this young man come and ask her for a date at the Catholic women's center which is at 5th and San Fernando over here. And ten children later and a lifelong resident of the Cambrian area of San José, we lived and when I decided to get involved in public service, what better to place to do it in the City of San José. We had a great mayor at the time, Norman Mineta. I actually got appointed, my first thing was the San José goals committee. And it was to settle goals for the City of San José. A lot of those goals are still very valuable, in 1971 when I was 18 years old. And I'm very proud of all our councilmembers here in our city. I think San José has one of the best governments in California. And I think we're an outstanding government. We have outstanding staff led by our wonderful City Manager and the other people in San José. We should feel quite privileged to have such a wonderful city. And so with that, it's quite an honor to receive this recognition. This is my 30th year of elected service to the people of San José. And I have a few more years. So I want to wish you well, and continue on with your business here at the meeting and thank you so much for taking some little time to honor me in this endeavor. I also want to, at the last, say you know, I never would have been where I have been, unless I had as they said earlier wonderful parents but also my wonderful wife Pat who we've been married 27 years. She's the real one that advises me. And tells me when I'm doing something wrong. And then -- which is somewhat frequent sometimes. And then, most importantly, I've had some really outstanding staff members who have guided me throughout the years. Many of gone on to elected service like councilmember Alice woody and Anndrea Leiberman and some have been very dedicate public servants. They've gone ton to MLK service. They have one over there who was my chief of staff, he's embarrassed about it, Norberto Duen,,s worked for me several years. Mayor I want to say thank you. We're doing an outstanding job in San José and don't let anybody tell us otherwise. Thank you, mayor. [applause]

>> Mayor Reed: I'd like to invite Councilmember Liccardo and Geoff roach, executive director of San José jazz to join me at the podium. Today we're commending Geoff for his work in the artistic scene in San José, and as executive director of San José jazz. Councilmember Liccardo.

>> Councilmember Liccardo: Assembly member Beall's segue to this, does a guy with a doctorate in business and MBA and master's in computer science go on to become the executive director of San José jazz. But there's actually good reason for it. Geoff roach happens to play the saxophone the flute and the clarinet. A prominent member of the group, Octo-pop. Under Geoff's leadership -- what's that? They do work cheap. Weddings, bar mitzvahs, whatever it may be. Has transformed San José jazz into one of the great cultural organizations of this region I think we're all familiar with the jazz festival, which brings 100,000 people into the downtown every year, transforms San José into an incredible venue of music enjoyment, where people simply engaged, entertained, inspired and fulfilled. We're grateful unfortunately Geoff is moving on but he leaves behind him a legacy which I think we will continue to carry, certainly through San José and influence the rest of -- through San José jazz and the many other cultural organizations that we know aspire to do such great things. So we wanted to thank Geoff for his great service here in San José and send him on with a commendation. Thank you, Geoff for your leadership and service here. [applause]

>> Thank you very much. I am -- I thought as many times up in front of city council asking for help that you were going to have me arrested if I came back to San José. No, that's not true. But I am with all the issues and challenges facing the city council and the city I am honored that you would even think of this and spend time to do this. I am forever grateful to the City of San José. Thank you. [applause]

>> Mayor Reed: Next item is the consent calendar. I have one request from the public to speak on the consent calendar. I'll take that now, Don Grelnick.

>> Mayor and members of the council, Don Grelnick, general counsel for San José arena risk management. Number 2.6 we're in favor of the recommendation of the staff. And we would like to commend Sheila Tucker and Patty Degnan for their very prompt cooperation in this matter thank you mayor.

>> Mayor Reed: Thank you. Are there any items that councilmembers would like to pull off the consent calendar for discussion or comment? We have a motion to approve the consent calendar. All in favor? Opposed? None opposed, that's approved. Next item is 3.1. Report of the City Manager.

>> City Manager Figone: Thank you, mayor members of the city council. I wanted to give you a brief preview for our plans for the special council meeting which is scheduled on November 18th on the topic of budgets planning and related topics . Among the documents that have been distributed is a new budget forecast which unfortunately does not contain good news. The deficit we are now projecting for next year is up to \$70 million the result of expenditures that continue to outstrip city revenues as those revenues fall short of expectations. During next week's special meeting we will review the numbers behind the new projections. In light of this the meeting is shaping up to be a very significant discussion that will are of interest not just to our organization but form of our community stakeholders as well. In light of the deficit influences which as you know, all too well, foltz directly on last year's record \$118 million shortfall we have no choice but to recognize our city organization is in downsizing mode. At next Thursday's session we will be discussing the challenges associated with this organizational reality. The importance of realigning expectations with our reduced capacity and the various drivers of workload within the organization. We will also have a discussion on some of the potential strategies to address the 11-12 shortfall, the agenda also includes the annual summary of labor negotiations, which will allow the city council to discuss and establish direction for the coming negotiation process, and I'd also like you to know that I am likely to issue a supplemental memo to further inform those discussions. That memo is still in the development stages. We will also be discussing the retirement reform report that resulted from the work of the General Fund structural deficit elimination plan task force which held its final meeting last week. And finally, we will be updating you on progress and opportunities in the area of organizational and service area restructurings. The administration has distributed several substantive documents associated with all of these items and they are available for review by the public on the City's Website with the agenda for the meeting. The budget office will of course continue to monitor revenues throughout the year and we will keep you updated but given next week's special meeting I wanted to take this time to highlight what we have planned for you so that all of our stakeholders are informed that this will be a very significant discussion. As a reminder, the 11-12 organizational planning -- budget planning

special council meeting will be held again on November 18th, from 9:00 to 5:00 p.m. in the council chambers and all documents can be found on the city's Website and that concludes my report.

>> Mayor Reed: Next item is item 3.2. Airport commercial paper letter of credit extension. We will have a staff presentation often that. I'd like to start by thanking the staff for the great job on rebuilding our airport. The expansion of the facility and the creation of the world's newest airport. Maybe not the biggest but certainly the newest is a great employment and as we've all been out there for the openings and others, we can see the fruits of all that labor, so that we have an airport that is comfortable, convenient, and safe with some of the newest technology, in fact the best technology in the country, if not the world for some of the security measures, and that's a huge asset for us. And as I have been in the process of working on some of the task that the council has set out for us to do, I've learned quite a few things from the CEOs of the airlines who are using the airport. First is they do love the new terminal. It's a great terminal. It's terrific for the business customers, very convenient. And the council may remember back in March we had a study session on the airport. Learned about air service trends and constraints of the marketplace, cost challenges and policy issues that constrained the airport and asked the staff to develop an airport competitiveness plan so we can take full advantage of this fantastic new facility that we have. And on May 12th the council approved eight strategic principles to guide the preparation of that airport competitiveness plan, including being aggressively seek to increase air service to gain more routes, frequencies and carriers. In June I sent a letter from 11 of our Silicon Valley CEOs to 19 domestic and international airline CEOs expressing our interest in working with them Silicon Valley CEO to airline CEOs in helping them make decisions to add service in San José and certainly to maintain service in San José. And since then I've had personal meetings with CEOs of some of those airlines. I'm in the process of trying to talk to all of them one on one. I've spent quite a bit of time with southwest, Alaska, horizon and virgin America and talked to them about what they see at our airport that would be important to them in making route decisions and adding additional flights. Certainly, the facility is number one. It's great. They love the facility. And they have confirmed what our staff have told us back in March that cost is a critical factor in their decision-making. Cost per enplaned passenger and cost for the airlines so it is clear that we're on the right path, that the plan the staff is working on is moving us in the right direction the difficult decisions the council has already made in order to control costs, the right decisions moving in the right path from the airline CEOs. Southwest has added a few routes, schav has added a

few routes that's good there's much more work to be done but as we see what is in front of us today, cost is a factor in lots of decisions that people make in our commitment to controlling costs and our airport competitiveness plan is important not just to the airlines but to the financing the capital markets and the folks that are going to be talked about in a few minutes as the staff makes their presentation. I want to thank staff for their good work. We got our work cut out for us but I'm quite confident that we'll be able to deliver and that we're going to see flights increase. I think we have already started seeing the results of that effort and we want to get back to where we were before and that will make life easier for everybody. With that I'm going to turn it over to Bill Sherry who is going to lead this presentation.

>> Scott Johnson: Thank you, Mr. Mayor. I'm Scott Johnson, director of finance and I'm here with Bill Sherry our director of the airport and Bill is also accompanied by Terry Gomes, the finance director of the airport, finance side we have Charlene Sun, accident blr, and Julia Cooper our assistant director and Arn Andrews our division manager for treasury. Mr. Mayor, members of the council there has been a lot of discussion and interest in this particular issue so Bill and I are going to apologize up front. This may take a little longer discussion for us but we think it's important to clarify the issues on why are we here today. Where have we been, where are we now in regards to our debt program related to the airport and where are we going. And so we're here today primarily to discuss the City's airport commercial paper program. And with that as far as where have we been, on this first slide, I apologize that you know, I think it's important to kind of take a stroll down memory lane. As we review our commercial paper program it's important to put our financial structure in context to the external factors and how they've impacted the city. The current state of the liquidity markets and the credit markets is very challenged. Given that many providers have exited the business. They've suffered down grades or they're not issuing new credit facilities or they're leaving a smaller number of banks that are offering them. And the problem today of too few liquidity providers has caused a massive amount of consolidation in the industry, over the past several years. And -- past several years pps and while the remaining top liquidity providers are nearly at maximum percentage levels in terms of their portfolios in terms of what they can lend out, their balance sheets they have a lot of delinquencies in regards to mortgage and other types of credit due to this real struggle that we are having in our economy. So this leaves little room for alternatives. But our story here today is that we do have alternatives and we have a good financial plan as we move forward in regards to the airport structure. So this

chart is illustrative of the events that have occurred in the financial markets that have most impacted the city that began in 2007. First you know we can reflect on the mortgage crisis that began in 2007. There have been significant impacts due to this event. Related to the financial markets and the overall impact on our economy and how that's impacted our budget and how that's impacted our retirement funds and so on and so on. Second this mortgage crisis led to the bond insurance collapse in 2008. And this is where the insurance companies who were -- you may recall that we had a special study session about this in February of 2008 because we were basically forced to restructure our entire variable rate debt program due to the fact that we were insured by these insurance companies that were also insuring mortgage backed securities. So this trip down memory lane is just to demonstrate the challenges that these external factors have had on the City's debt management program. And you can see some of those examples here on this slide. And I think that we position ourselves very well, and the council has excellent policies that the financial community really looks to, and appreciates the sound fiscal policies that we currently have in place. And through our navigation through these challenges, that we've had over the last several years, we continue to have strong credit ratings, strong commitments, and very strong relationships with the banking community. So on this next slide, I just want -- I think it's important to explain what is commercial paper. I spent quite a bit of time with a local reporter about this this weekend, trying to explain what commercial paper is, what are letters of credit and so on. So this slide here just tries to put this in layperson's terms. Commercial paper, we as the city issue commercial paper as the issuer and it's short term debt that we issue. It is remarketed periodically and the duration goes from one day to 270 days. So it's a great opportunity in the short term market where we have the flexibility to issue those short term commercial paper notes in this related to the airport you may recall that we don't have the bond insurance companies to rely on. So we use what's called letters of credit. We work and we partner with financial institutions that basically guarantee the investors that they will be paid and that as they are putting that investment back into the market, if we sell it, for example, on a weekly basis, the letter of credit providers these commercial banks provide a guarantee to the investors that they're going to be able to sell their investment if they choose to and that they're going to be able to receive their principal and interest. So it's just a stopgap over and above what the City's commitment is with regards to our credit ratings and our financial viability to pay that debt. Now on this next slide, I just wanted to you know speak in where we've been and where we are. So I want to give a little bit of history of our existing airport commercial paper program. We started November 1999. We initiated a influence commercial paper program with

a \$100 million capacity. It was used to finance, you know short term financing for some our construction projects related to the airport. Then in June of 2006 we increased that capacity to \$200 million. And that was for various airport projects that we were funding at a short term level. And it is -- had always been the intent that on this commercial paper program, it's a short term financing vehicle, but after the construction is complete, the overall financing plan would be that we would take that short term debt out with lock term financing and restructure it with long term financing. But it's been a very beneficial program for the city overall. And then moving on, in 2007, this is where, after Bill Sherry came on board with his vision and leadership we reprogrammed the airport master plan significantly and it's about a 1.3 billion project and we developed the financing plan where we said you know we went to council and council approved this financing plan where we issued \$725 million in fixed rate long term debt, and then we expanded and we increased our commercial paper program to \$450 million. And that commercial paper program then was secured by three banks, Bank of America, J.P. Morgan, and Dexia. So they secured it. They provided the letter of credit for our ability to issue the short term notes at the total capacity of \$450 million. And then, as I described earlier on the previous chart, you know, over the period of time we were dealing with a dislocation in the financial markets. We had some variable rate debt that we had to restructure. So what we did related to the airport is, we expanded you're commercial paper programs from \$450 million to \$600 million and we had a new \$4140 million letter of credit program with Lloyd's bank and we refunded our twoir auction rate bonds. Because those auction rate bonds, the auction market actually collapsed in the U.S. markets and we were very cost effectively for us still at the short term level of the auction rate bonds were. So moving on to the next slide, I just think it's important also, to talk about the benefits of our commercial paper program. First, as I mentioned, it's a lower-cost and it provides us the greatest flexibility that we can have in any financial program. You know and I'm sure council recalls that recently we came to you and we extended agreements related to our General Fund commercial paper program. And we also recently extended agreements or entered into new agreements related to letters of credit related to our General Fund variable rate program. So very effective low-cost, especially given the market rates where they are today in regards to the short term market. So as I mentioned we issued these short term commercial paper notes as we pay the bill. As Bill is spending that money I'm writing the check and we issue the notes to make sure, you know, we have a way to pay for these. And it also increases or flexibility to prepay the debt at any time. Unlike when we issue long term debt there are call features and we're limited to when we can repay it. Commercial paper notes basically as I said typically we issue

them from anywhere from 1 to 270 days. Generally we've been issuing them in weekly mode. Any week if we have money available, if we decide to restructure the program we have the flexibility to pay that debt off. And then again the budgetary savings this program with the three-year average we calculated the three-year average what we're paying total cost for our commercial paper program over these last three years it averages about 3%. That compares to the 2007 bonds that we issued. We were paying an average of about 5.3%. So our savings over the last three years for the airport had been over \$10 million just for the last three years. If we look at the commercial paper over the duration of time since 1999, we've done this calculation in the past. I think the savings are closer to -- they're over \$20 million that we saved for the airport. So it's very beneficial in regards to a budgetary measure. Now, I want to get into this next chart, just demonstrates, I mentioned, two different commercial paper programs. We have a \$450 million commercial paper program, letter of credit commercial paper program and we have a \$140 million letter of credit commercial paper program. So this chart here shows our existing letters of credit. Although council authorized us to have capacity for our commercial paper program up to \$600 million, we have letters of credit up to \$590 million. So that's the capacity that we're able to issue. As I mentioned the \$450 million piece is J.P. Morgan, Bank of America and Dexia and those agreements for our letters of credit associated with the commercial paper program expire December 12th. And then the Lloyd's piece, that \$140 million piece that letter of credit with Lloyd's expires May 2011 and will be coming back to council with some either an extension or replacement. So we're currently in discussions with Lloyd's about you know what are their plans and what are the City's plans on a long term basis. The next slide -- oh, one thing I wanted to mention, I'm sorry. On that slide, the far-right side, the column shows of the \$450 million program which is in yellow, we've issued \$327 million of commercial paper note and we have \$123 million that's available that we've not issued. On the letter of credit for Lloyd's the \$140 million piece, we've issued \$108 million and \$32 million is available that we haven't issued to date. Moving forward to the next chart, to me this is really important this chart here because given the interest in this program and the recent newspaper articles and the media related to this, there's been a lot of discussion about this \$110 million gap that we have in our credit card. And I think it warrants some explanation. So I already discussed the \$450 million, the \$140 million on the far left. Now the reason why we're here today primarily is to get your approval for a two-month extension with two banks that have agreed to continue in the current \$450 million program, Bank of America will continue to work with us and participate in this program at their current rate of participation at \$83 million, J.P. Morgan will continue with \$200 million, and we're

not here to talk about the Lloyd's piece yet, we'll come back to council to talk about the Lloyd's piece, the \$140 million. In the staff report related to this item we mentioned that we issued a request for proposal to replace the \$450 million program. And we received preliminary -- we received proposals and we're still working with these banks, two of the existing banks are indicated that they are interested in coopt continuing to partnership in the program. Bank of America has given us a preliminary commitment that they're willing to participate at the existing level and as a matter of fact they've indicated that they're looking at increasing their level of participation over and above that \$83 million. J.P. Morgan even prior to us issuing the RFP they have indicated to us that they're going to be reducing their participation in this program. So we had anticipated that when we issued the RFP, anticipating that there be other banks that would be interested in working with the city. And we very much value our relationships, both with Bank of America and J.P. Morgan, in continuing to work with the city related to this program. And I know that you recall that with the Redevelopment Agency, J.P. Morgan continues to commit to this city to the Redevelopment Agency, you know, in the Redevelopment Agency's rate program . I want to focus to the column on right, the far right. As I mentioned we have currently proposals, preliminary at \$340 million, from four banks, two of the existing banks in the program and two new banks that are interested in working with us as well. A couple of them have indicated to us that they are willing to participate at a higher level. There's actually another 20 to \$30 million that we may exceed, we may be over and above the \$340 million the current proposals. So this \$110 million gap that we're referring to is actually less than that. In addition, the airport staff, in December of 2009, as they reviewed the budget for this program, they've identified some budgetary savings of at least \$60 million and they're currently reviewing that, Bill and his staff and Terry Gomes and their finance staff are currently reviewing the overall program related to the modernization project and we're anticipating that we actually won't need the full \$450 million that we initially submitted the RFP for. So at the end of the day, where we are at today, I think that related to the commercial paper program, we're probably short ten to \$20 million. Considering the savings that we're anticipating, and that's assuming kind of the floor amount of \$60 million savings that we're anticipating. It considers the additional amount that a couple banks have said that they're interested in increasing over and above this current \$340 million level. And so we've also identified where we have some excess bond funds on the long term portion of the debt. So quite frankly, I think -- I think that we have this covered. I think we're working really well with the financial institutions, and you know, we're planning to move forward with the extension

based on council's approval today. And then Bill wanted to talk a little bit more about some of the current airport successes, and communicate that to the council.

>> Bill Sherry: Thank you, Scott, mayor, city council members, Bill Sherry, aviation director. My job over the next three slides is really to kind of try to paint a picture that the sky's not falling here. And I don't know that I can do much of a better job than the mayor did. In this -- in the times we find ourselves in it's easy to kind of think doom and gloom and that all is bad and we're cutting and you know the future is not bright. But quite frankly, I'm very bullish on this airport. I'm very bullish on the city. And I think we're already starting to see signs of recovery. And so I just wanted to touch on some of those signs. As you probably recall over the years we've had double digit declines. When we lose a flight because our growth is counted year over year, it takes 12 months for that loss to annualize. And we're getting very close to annualizing all the losses that we've suffered in the past. Throughout the year, we've had a lot of gains. And so when we do our forecasting, both activity forecasts as well as financial forecast, we believe that we are very near if not at the bottoming out of this down cycle. September saw a very slight increase in growth so that's a positive sign. But certainly, this last quarter of this year, our forecasts indicate that we're out of the red and starting in January we should be in the black in terms of passenger growth. We're forecasting ploddest growth for the remainder of this fiscal year. And as you've all heard me say before, I've said it many times is when you look at our flights, we have record setting load factors. Load factors are the number of seats, the number of passengers divided by the number of seats. In other words, how many seats are full. And we're well up into the 90 percentile, 92, 93, 94 percentile, which is an industry high. You've heard in the past, some of you have come out to some of our inaugurals, we've added flights to Hawaii, Spokane, Austin just a few weeks ago Alaska signed the focus incentive program which you all authorized and that program commits them to adding even more flights throughout the remainder of this year and into next year. Southwest came into the market in Austin and has started out what we affectionately started the nerd bird to Austin we have many encouraging signs to other carriers that are contemplating either adding service to San José or coming into our market as a new airline. Next slide, just talks about the modernization program. We've been five years of building and demolishing. But we've gotten rave reviews from the industry as the mayor pointed out, the airlines love the new facilities, so does the traveling public. We're getting a lot of architectural awards. So our facilities, and the designs, have been well received by all users. And not only that, did we design it right and build it right, but the

modernization program came in months ahead of schedule, and is currently of currently tracking about \$130 below budget huge success. Next slide and the last one I have here is to talk about the future in terms of our financial situation. The mayor indicated that we came to council earlier this year. You all approved a competition plan for us and much to everyone's credit both on staff as well as council, we stayed on track with that competition plan. We told you early on that if we did nothing, our cost per enplaned passenger was forecasted to reach a high of \$25 per enplaned passenger in 2014 and that would have been an industry high. We would have been the most expensive airport in the nation. We've taken a number of actions and you've stood behind the airport approving these actions and they've brought results. The council, as you know, approved the administration offices moving over to the airport Monday, yesterday was our first day in the new offices, that saves \$2 million a year. We unfortunately, had to outsource our custodial services but the services are being provided, the terminals are clean and that provides \$3 million a year in savings. Just a few weeks ago you approved the restructuring of the airport communications center to an airport communicates that has \$500,000 ongoing savings and as you well know the airport staff as a whole has gone down from 400 FTEs down to about 200 FTEs and that has is significance. Right now as of today our forecast has changed from \$25 in 2014 CPE to \$17. Big big improvement. That doesn't get to our goal of \$12. We still have work to do. But the airlines, the industry is watching us and they're very interested by what this city and this council has taken I think we're on a road to recovery so my message to you today is the sky has not fallen and I'll hand it back to Scott.

>> Scott Johnson: Thank you, Bill. So one of the next steps we're continuing negotiations with the RFP responders and we are continuing to reach out to other banks. The airport staff as we mentioned is updating the estimated program budget savings to determine what the actual CP capacity is needed related to the airport and it's possible that the updated CP capacity needs will be within the letter of credit bank commitment amounts that we're working with these banks on. And if these capacity needs are greater than the bank commitments, then we have alternative solutions as I mentioned. So finally, the future actions afterwards, would be to return to council for approval of the new LOC agreements of up to \$450 million in January of 2011. We'll continuing with our lloyd's, expires May 7th of 2011. And in addition, keep -- want to make sure I reiterate to keep in mind that this overall program related to the airport financing, we always had envisioned that this was a short term, you know, financing solution through the construction of the project. So we will continue to evaluate our long term financing

structure for the airport's overall debt portfolio. With that, it includes evaluation of the commercial paper program, we'll be looking at other refunding opportunities, looking at the overall structure of the airport debt program. So with that Mr. Mayor, members of the council, we're available for any questions you may have. Thank you.

>> Mayor Reed: Thank you, I'm sure we'll have a few questions. I think I figured it out, very simple terms, we did construction financing, we're going to move to permanent financing. It's complicated how you layer it all in there, we had construction financing, and eventually we had to take it out with permanent financing, which is typically the way construction projects are financed. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. And thank you, Scott and thank you Bill for enabling us to navigate these very, very stormy waters. I think nobody anticipated all this five years ago and I think the fact that we've come through it as we have is really extraordinary, and as we're looking toward a very bright future I think for growth in passengers and in service at the airport, we certainly have you and your teams to thank. I wanted to really build on the mayor's point with a question, which is we're now past construction, we're in a favorable bond market or so I'm told. I know VTA is going out with an almost \$700 million bond issuance on measure A and I know you showed those numbers that you showed Scott I, and comparing interest savings which are considerable but compares rates in 2007 and I imagine they're more favorable in 2010. Why are we not rushing out to option take out debts?

>> Scott Johnson: We're currently evaluating that, councilmember. It also -- we also have to reflect ton story that we need to tell in regards to the airport, to the financial community. So we are currently looking at long term options. .we have been looking at that for a while. But the place that we're at today is that we have short term notes that are outstanding. We need to extend these letters of credit and that gives us time to work on a strategic you know long term financing solution and if Bill wants to add something.

>> Bill Sherry: Yes, I'd gist like to add something. when we had the ribbon cutting in June for the new terminal, everybody thought the program was over. We're far from over. We still have about \$50 million, \$60 million worth of construction to complete. So the terminal area improvement program is not yet completed. It won't be until

about March. So all the final numbers and all the final closeout documents that have to be done probably won't be done until fall of 2011. Numbers are still moving around. I will say they are moving around in a very positive direction and so we're very encouraged that we're even going to be able to do better than the numbers that we've just outlined. But I think in terms of looking at long term financing, it really kind of enhances our story. If we can complete that program, get some positive growth back, and get a better story. And I think we're very -- we're on the doorstep of that better story.

>> Councilmember Liccardo: Okay. So what I think I hear you saying is by holding up we'll get better ratings and we'll have a much more receptive bond market out there, is that fair?

>> Bill Sherry: Yes.

>> Councilmember Liccardo: Okay. And thank you also for straightening the record Bill, and I didn't mean to suggest that all that construction was going to come grinding to a halt. I know you have legislator more to do, the overwhelming majority of it has been done. The other question I had relating to Lloyd's, number of participants and as Lloyd's interested in continuing to be in this line of business?

>> Scott Johnson: Councilmember, we just started those discussions with Lloyd's. Quite frankly, I don't know if Lloyd's knows where they're going because all the banks are reevaluating their guarantees. And they're look at their balance sheets and hoich limited resources they have available to lend. So we have engaged them in discussions but they're still, you know, working with their corporate office to develop their plans related to liquidity and credit providers in 2011. So they're basically telling us it's kinds of too early to tell. What we may be doing is coming back to you and asking for an extension. It sounds like they are -- they are agreeable to extending our existing letter of credit, as they are trying to work out internally in their locker room, you know, what their overall strategy is in regards to the credit markets.

>> Councilmember Liccardo: Thank you. I make a motion to approve.

>> Mayor Reed: Motion is to approve. Councilmember Pyle.

>> Councilmember Pyle: I just have a question. We are talking about the Lloyd's of London, is it the same bank?

>> Scott Johnson: Yes.

>> Councilmember Pyle: I would imagine Lloyd's of London has been very much affected by the European turmoil in the banking industry. I can understand that. I also wanted to ask, you had mentioned that the interest rate for the B of A I didn't catch that. What would be the news interest rate with them?

>> Scott Johnson: The interest rates that we are currently paying on our letters of credit or commercial paper ranges from .27 to .38%.

>> Councilmember Pyle: Okay, thank you.

>> Scott Johnson: Very favorable right now given where the interests are in the overall marketplace.

>> Councilmember Pyle: Yes. You also said that J.P. Morgan wanted to reduce the amount of money.

>> Scott Johnson: Yes.

>> Councilmember Pyle: Was there a specific amount? Skeg they're looking at reducing it in half. They're currently at \$200 million. They're giving us a preliminary commitment of 100 million.

>> Councilmember Pyle: Okay. You mentioned two other banks that are coming into play? What would those banks be?

>> Scott Johnson: I'll have Charlene sun to answer that question. I have a potential conflict.

>> Good afternoon, my name is Charlene sun, city's debt administrator. The two other banks that have submitted proposals in response to our RFP are Citibank and Wells Fargo bank.

>> Councilmember Pyle: Thank you very much. That's all I had. Just curious. Thank you. Call for the vote.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I know there's quite a variety of creative financing in the institutions and I have a level of discomfort with debt so I look forward to as you bring back the proposals on how we can make the airport more efficient, as other airports are across the country, I understand -- you know I'm optimistic that we have good times ahead of us but in the meantime we have to make some payments. So and we need to do that in a prudent manner. Thank you.

>> Mayor Reed: We have a motion to approve staff's recommendation. All in favor? Opposed? None opposed, that's approved. Our next item is item 3.3, service delivery evaluation and options for maximizing financial benefits from the San José municipal water system to the General Fund. This is coming to the council after having been to the Rules Committee looking at the proposed work plan. I think Jeff ruster is going to talk about the work plan.

>> Deputy director, Office of Economic Development, City Manager's office. planned approach to initiate the analysis for maximizing financial benefits from the San José water system. This effort stems from a council referral that we received in spring of 2010. That asks staff to explore and to consider various options around the lease or sale of Muni water. I mean it was around this time that the city also received a letter of interest from the San José water company. That letter of interest contained two types of proposals. One was to purchase Muni water for an up front payment of \$54 million. In addition, there would be an annual payment of \$4 million, a 2% franchise fee of sorts that range of value for that up front payment was between \$25 million to \$40 million depending on the terms of the lease and other terms and conditions of that agreement. Staff was then directed to

come back in the fall which is where we are today to present our work plan to initiate this analysis. Just as a quick context. Muni water serves about projected city yours are expected to increase to about 182,000 by the year 2040. It serves four areas. Edenvale, Coyote, Evergreen and North San José. And by all accounts, Muni water is a very well run system. It has no capital infrastructure backlog and since 1995, has transferred \$35 million to the General Fund. It is important to note that since the City of San José purchased Muni water in 1961 for the then handsome sum of \$253,000 that there has been seven or eight times that the that city council has looked at this option of either selling or leasing Muni water and of course today none of those have come to fruition. But nonetheless the City Manager the assistant City Manager have taken this very seriously as has the team. And nonetheless we have a two track proposals sale or lease you will note in the memo there are some key recurrent issues that have come up since this was first considered way back in 1962, the first time that we actually looked at that time sale or lease of the system and probably at the top of that list would be the issue around the reliable supply of water. There are many different kind of complex components to this. Probably the top of that list would be the list around the Hetch-Hetchy water supply. Hetch-Hetchy water supply comes under the raker act, the San Francisco Public Utilities commission there are very strict prohibitions about the availability of that water going to a private operator for resale. That would obviously put roadblocks and have proved to be important. The importance of that as well is though Hetch-Hetchy represents 25% of the 100% of the water for snort San José. The second thing to consider are issues around the IRS code and as it relates to issuance of tax exempt bonds and private use restrictions. In part, the Muni water system has been financed through tax exempt bonds through assessment districts. There's about \$8.5 million of those bounds outstanding. Presumably those could be refinanced through any sales proceeds or up-front payment from a lease. Perhaps a bigger looming establishing troalts Santa Clara Valley water district oop rks in terms of their private use activity so if for example we were into bringing a private operator in place of the public Muni water operator it could cause problems for them. Santa Clara Water District provides 75% of the water to Muni water for their operations. There are also issues around required approvals. I've already mentioned a couple of them. There's the San Francisco public utilities commission, there's potentially the public utilities commission. There is the Santa Clara Valley Water District, if there was a sale, it would include two-thirds sale or lease and looking at the various studies and approvals and requests for proposals or requests for interest that may need to occur, we are probably not being overconservative or overoptimism, looking at consummating a transaction around December of 2013. So it's not

for the immediate budget horizon. There's the other issue that's very important. We've done a couple of community meetings but clearly people are concerned about the impact on rates, coinciding about the new that rates may rise by as much as 29% in order to provide a private operator with their required rate of return. So those would be the impact on rates in the short term. We would of course have to be concerned about the long term impact on rates as well. There are other issues related to city priorities. Clearly around the Green Vision, around water conservation, around fluoridation that has actually come up in a couple of our committee meetings. The public's intern economic development tool, as well, and again where it is serving with Hetch-Hetchy water supply which is a very pure pristine water supply that's important to companies, there's 27 million square feet of commercial and redevelopment space that's available. So this should be taken into consideration as part of our analysis. Though these are not any I think what we've done is began to look at these issues and see that these have been recurrent issues in the past. We began to look at other ways of trying to maximize the financial benefit for the General Fund as it relates to the Muni operation. So you will see a brief sketch of a few of those options. There's three. The first two relate to a tax or fee that could be proposed and that would be presumably taken to the voters and that would be 10%. Muni revenues right now are about \$25 million so that would equate to about \$2.5 million. It's important to note that there currently is as part of the Muni code an 8% rate of return fee plus a 2% in lieu of fee. So there's already a combined 10% fee that's on our books, but because of concerns around proposition 218, the city's collection of that was phased out over the last year or two. Another option may be able to look at the possibility of an impact fee or a rental fee. Santa Clara for example does charge something similar to this. An impact fee in the sense of trying to offset the costs of the operation, maintenance, capital improvements of the right-of-way as it relates to the Muni water system. So again our two tracks would be to come back to city council in the February-March time frame, as it relates to the tax or fee options. What we would propose to do as part of the annual budget survey in January to go out and test the viability of thigs proposals. And then-d these proposals and then continue along in track as it relates to sale or lease, further exploring these issues and conducting a free feasibility issues march to move forward with say a tax or fee option then our timetable would lead us to bringing -- doing some polling in the fall, bringing the ballot language back to the city council in November 2011 and then if everything was a go to put that as part of the -- as a measure in terms of the general election in 2012. As it relates to the sale or lease option, what we would bring back in February or March is a further analysis of a lot of these issues that I've just talked about as well as an updated

timetable and a budget that would be required for a lot of the financial technical legal due diligence around a sale or lease option. Just kind of a rough order of magnitude estimate, the last time that there was a series look of the sale or lease of Muni water, the estimated budget was about \$1 until to \$1.5 million . That concludes our review. I've also got Mansour Nasser and also Ashwini Kantak here to answer your questions.

>> Mayor Reed: Thank you. Since I started this ball rolling, which is now the fourth, maybe the third time back in my budget message in March there are a couple of things I wanted to add first as you heard the City Manager say earlier today, next year's General Fund shortfall is in the neighborhood of \$70 million. \$2.5 million is a pretty significant number in the kind of General Fund gaps we're looking at trying to fill. \$2.5 million is enough to fund a full fire station or a couple of libraries. So we're talking about some really significant numbers which is why I thought it was important to get this work done, do the analysis, and revisit some of the decisions that had been made in the past. I did ask the staff to issue a supplemental staff report about what happened since May of 2002 to find out things I couldn't remember. I was here in May of 2002. But I couldn't necessarily remember everything that happened. But we know in May of 2002, the city council approved, and directed the staff to enter into negotiations with San José water company for what essentially was a lease of Muni water. So notwithstanding all the problems that staff has identified, it is possible to do a lease. And the real question for me was, why did we not enter into a lease, how come we were not able to come to a deal? So if you look at the staff report from 2002, and the evaluation that the staff did, the maximum financial benefit to the city and customers, the highest score was what was called the ESD management plan which was essentially to keep Muni water intact. Because at that time, Muni water was transferring an in-lieu -- actually a rate of return and in-lieu transfer of \$2.44 million per year. Staff valued that at about \$45 million at the time. Well, as the staff has already just identified a few minutes ago, today that rate of return is zero. And so the math is dramatically different than it was in 2002 in terms of whether or not there is any value in going into a lease. So I think there's value in a lease that we weren't able to achieve in 2002, but that the numbers have dramatically shifted because we can no longer get that rate of return that we were getting. And I think staff has correctly identified the best course of action which is to focus on how we could get that rate of return approved by the voters. But I think we ought to focus on that, and not even work on some of the other stuff, until we can figure that out. What I'd like to do is figure it out sooner rather than later. And the schedule the staff has outlined I think is too long because next year's gap is \$70 million. And I think

we got to move more quickly. I don't know that we could get something in front of the voters in time to affect next year's budget. But at least Dan Walters thinks the new governor, governor Brown is going to call on new elections in May of 2011. So it's possible if we have the right kind of support we could put it on the ballot in May of 11, and I'd like to be prepared in case we get that kind of opportunity. So that's a little faster than what staff has outlined for working but I'd like to take advantage of that opportunity. But I do think that we could focus our efforts on the most promising of the options and just stop working on the other stuff until we figure that out, allow staff to focus their ones that we think are the most promising. But ultimately it is about the money as far as I'm concerned. I have absolutely no criticism of the operation of Muni water and the staff, they've done a really good job of, as you've outlined. It's with the money and the need to figure out a way to bolster the General Fund during really difficult economic times which we all lived last year, we're going to get to relive in this next budget cycle. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor and I really appreciate, Jeff, your presentation and Mayor your comments. I'd like to put a motion on the floor and speak to that motion. I'd like to make a motion to direct staff to focus their efforts on option A and to stop working on all other options and alternatives and also to prepare draft ballot language to be included in the annual prebudget poll to be completed in January 2011 so the information can be included in the 2010-2011 budget process.

>> Mayor Reed: Okay, we have a motion on the floor. Councilmember Herrera you want to speak to the motion?

>> Councilmember Herrera: Yes. I along with councilmembers Chu and Pyle issued a memo last week. And our intent with that memo was to make the case for preserving the assets of Muni water but also supporting options presented that did not include the sale or lease. And I'm modifying the direction of the memo because although I still feel the same way about preserving Muni water I think it's important to move forward on the option that has the best chance for success in the near term. So I really believe it's fortunate to prioritize our staff resources. We've already heard in the past we spent a million and a half dollars in looking at sale or lease and although there's some disagreement on how fast we can move forward I think it's clear that moving forward on

option A is a much more near-term kind of option. And especially as we've heard, the deficit now at 70 million and I hope that's where it stays but I remember last year. That it's really important that we do something that's going to help us solve problems sooner rather than later. I do, though, want to talk about the principles behind saying that we support the idea of maintaining Muni water as a city asset. Water is the new oil. Water is precious, everyone knows it, and it's worldwide become an asset that's traded and coveted. And I did hand out a news week article that I distributed, we had distributed to the council just to talk about some of the background and some of the issues that are moving forward option in terms of water. And I'm not going to get into all that today. I think Jeff talked about the issues that we'd need to cross, and I think these are issues that we'd need to deal with in terms of a lease or sale and that's preserving access to Hetch-Hetchy, there are companies in North San José that are on a speed dial system with Muni water related to access to clean water that comes from help helpy, Cisco, canon, Novellus are some of those companies they need and rely on that clean water that everyone knows that Hetch-Hetchy provides. Even though Hetch-Hetchy has its own struggles, the CPUC in terms of maintenance and the kinds of money that will be needed to do that that is certainly something I think San José needs to make sure we have access to that. We heard yesterday at the Water District meeting about how few sources of waiteer access we really have. The delta comprising 40% of that the city, if we were ever foolish enough to give it up so I do believe that is an issue whether we sell or lease. Prop 218, as the mayor's already indicated some was to stop the rate of return in the first part, I believe that is still an issue whether we sell or lease . And then the tax exempt bond financing. I did have a question for Jeff, because he -- either Jeff or mansour can answer it. Did you talk about the I think they're receiving 19 million gallons a day of water, is that -- mansour maybe you can address that, and Howe that would impact the water district if we were to sell or lease?

>> Mansour Nasser: Good afternoon, mayor members of the council. Mansour Nasser, in yferg, about 19 million gallons per day of water is supplied by the Water District. And that's generated from water treatment plants. In Santa Teresa and in Penitencia.

>> Councilmember Herrera: Is that 100% of the water that the district services is from.

>> Mansour Nasser: That's correct. We have but 100% over the last 20 years has been treated water from the Water District.

>> Councilmember Herrera: And what potentially would happen if we sold or leased the utility to that organization?

>> Mansour Nasser: I think the district would have to do some namings on how it would affect their bonds and the private activity it issues on those facilities.

>> Councilmember Herrera: All right, thank you. While I know that some of the people up here don't agree that we should move forward with the lease, that's 80 modified my direction of folks oochts take it totally of a the table. By prioritizing our staff resources we maybe able to achieve a benefit to this General Fund in the near term. And if you are a proponent of keeping the lease option open, although I don't think that's an option we should go, I'm.

>> 12 to 18 months plus all the staff time to resolve all the legal issues and I would argue not spending a lot of money. So I hope my colleagues would support the motion.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. You know, there's no doubt that this water issue, as it relates to Muni water, is very complicated issue. And as was pointed out both by Councilmember Herrera and Mayor Reed, we've looked at this issue before. But we are in a time of new realities, not only in realities in change of circumstances, as it relates to the prop 218 complications, but also really in a whole news reality as far as our budget and the significant challenges that we faced for the last nine years and the challenges that seem to increasingly be growing. Unfortunately almost daily or at least monthly as we look forward into next fiscal year and beyond. I think that while I understand Councilmember Herrera's reasonings, for wanting to you know, kind of put it aside for right now, I really think we're doing a disservice to all of the taxpayers of San José to not look at this from all angles

and to look at it through the lens of the changed circumstances that we've had. I know that the near-term issues are significant. But the long-term issues are also very significant to us. And as I look at some of the biggest challenges that we've faced in the short, less than four years I've been here, most of them have been created because of near term decision making without long term perspective. You can look at that, whether it be the gasb 43, 45 agreement where we had an agreement in the mid '80s to fund that but have just recently gun to fund it in earnest. Just gotten to an incredible hurdle in front of us. and we see that not only now is that short term long term, putting off that maintenance, becoming such a burden, and receiving a big memo like we did yesterday on the increased deficit where it contemplates not making that minimum maintenance program again, when we just heard that we have to do 100 million a year for however many years and then I think it's ten, million or whafers it is after that. We create thee business problems and we don't focus on our short term issues. If we are going to keep in perspective, we need to look at that time impact of the nearly 1 million residents in the City of San José, not just the population that's served by Muni water, that's really, really important. For us to base an exclusion of some options based on decisions that were made under be completely different circumstances I think is not prudent. I think for us not to be looking at not only under every rock but under every rock from every different gadget angle next year's budget and the long term problem that most of us will serve two entire terms without ever seeing black ink on a budget document. Think about that. Eight years, some of us will be here. Like God willing, Pierluigi will be here ten years at the end of his second term. And red ink for that entire time. And that is just something that we really, really have to keep in mind. So I urge my colleagues not to vote yes for this motion, because I really think that we need to look at all options. We need to talk about, is the delivery water service to 10% of the city a really essential core city services? Because we know that there are so many essential core city services that we are just not meeting right now. We need to look at the service reductions and the layoffs that we're going to have throughout our organization and throughout our city as we face these deficits. And ask ourself, is the decision to maintain a, so to speak, 10% stake in our water worth all the other sacrifices that we're making? The mayor pointed out to just a few of those sacrifices that could be more positively impacted if we are able to see some revenue generation from this. We need to really look at, you know, what are the different options with leasing transactions, sale transactions, all those things and what are the effects. And quite frankly, I know we've got wonderful staff that have a long, in-depth knowledge of this but we also have people working on this. We have a vested stake in maintaining their job. No offense but I think we really need to take the work that

we get and look at it very, very critically and be objective as we go forward. And the prop 218 thing I know is mentioned and I've mentioned it a couple times myself here but we really have to look at that. And where are we going to or not test the limits of Prop 218 and what have other people done? And I think we really need to look at it in the greater context. And we are making potentially decisions that affect 100% of our population based on the service impact to 10%. So again, I plea for a no-vote. And if the no-vote prevails then perhaps I can take a stab at an alternative motion. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. First I wanted to thank Councilmember Herrera for your leadership in coming out with the memo and also, I have received many phone calls and e-mails from my constituents expressing concern about transferring this very, very valuable commodity that the city have. I definitely will support a motion because I feel that's just really using a one-time revenue to solve an ongoing problem. A lot of North San José company rely on a quality water supply and that's actually one of the reasons that they choose to move to North San José. And then I'm also concerned about the long term impact to the water bill that I'm paying, as a customer of the San José water company. I'm not in the Muni water system but I understand that the fact that the Muni water system rate is lower than the San José water's rate, and that's one of the reasons that we can hold the water rate in San José much lower than maybe the market rate. So once we lose the Muni water system, and you know, the whole San José, the million people, we'll probably see a rate increase in the very, very short term. So I will definitely be supporting the motion. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I think points have been well made on all sides. I just had a few questions, though, and maybe mansour, you would be more informed to understand this. the concerns about the amount of time that would be required to best investigate all these issues. Actually you or maybe Jeff would be able to answer there. Why aren't we saying to San José water look you guys have a financial interest in this. Persuade us by doing the legwork, doing the research about whether or not you know the private use

restrictions can be overcome. Persuade us that the Hetch-Hetchy program is not going to be -- that we're not going to have a harder time obtaining wholesale water through Hetch-Hetchy system. You know, persuade us by doing the legwork ourselves and then come back to us with an analysis so we can all look at it and evaluate it and decide whether or not we want to move forward?

>> Ed Shikada: So Councilmember Liccardo, members of city council, Ed Shikada, assistant City Manager. We have asked that question and San José water company has politely declined I think in fairness to them it would as we have found require a significant investment of time and effort in order to try to reach some definitive conclusion to those questions. But nonetheless, the end point in our conversation is, as I just described, also should we proceed with serious procurement, we would want to have an open dialogue with any and all prospective proposals as we got into details.

>> Councilmember Liccardo: So Rick would that automatically preclude them to be able to provide an RFP if upon we ultimately used for?

>> City Attorney Doyle: No, it depends on how carefully that was structured. Typically if they put together the information that you used in your RFP, that presents the problem. But in this case the issues really are many of which we've gone, we researched, we would need to update that. Some of the information you know we could get from them. But it's our bond counsel that's going to have to sign off on private water activities. It is the Water District's bond counsel that's going to have to sign off on private issues. The Raker Act ultimately it's the City and County of San Francisco their municipal water company that's going to make a decision as to whether or not there is a potential problem there or not. We have a contract but we'd have to have discussions with San Francisco. I don't know, you know, they could -- they being San José water or any other utility could ask questions but it's really our agreement and we would have to have that conversation.

>> Councilmember Liccardo: Absolutely.

>> City Attorney Doyle: So I think it's virtually impossible to -- I think we're going to have to be engaged, involved and maybe to the extent that we need consultants or people like that we could ask for financial support but you know beyond that we're still going to have to do a lot of the legwork ourselves.

>> Councilmember Liccardo: I just wonder whether or not that's fruitful and Ed I recognize that the question's been asked but it seems to me given the position that I think was reflected here on the dais, there's a real reluctance to be spending any city resources going down this path when we've hit our heads against that so many times before. At the risk of carrying the law along with us it would be really helpful for us to sit down with San José water and say look you guys have strong interest in this, figure it out or provide us the resources we need for us to figure it out and in the meantime obviously pursue and prioritize, as I think Councilmember Herrera suggested, the low hanging fruit. I'm worried as I think Councilmember Constant is about the idea of taking options off the table completely. And one reason is, simply, that I lack I guess the confidence that many might have in the reliability of Hetch-Hetchy. Mansour, maybe you can correct me if I'm wrong, the system that transverses three or four active quake lines it is a system that has been run by San Francisco PUC. We frankly don't have a whole lot of input in how they set their wholesale rates. In fact, for many years they were diverting tens of millions of dollars to finance the General Fund in the City and County of San Francisco with their system. As a result, my understanding is they're about \$4.5 billion in the hole in deferred and unfunded maintenance and upgrades that they need to make. That system is a mess. And to the extent that we believe by preserving Muni water we're going to have a reliable system, I think we're deluding ourselves. I just don't think as a wholesale system that is a terribly reliable source. Do you have any opinions on that?

>> Mansour Nasser: Councilmember, San Francisco is undergoing a \$4.3 billion upgrade of the system to make it more reliable. So we expect it to be more reliable. And Hetch-Hetchy is really critical to North San José, because it provides about 15,000 gallons a minute of supply and it's very critical for fire suppression. For us to replace that supply would be very, very costly.

>> Councilmember Liccardo: Oh, I don't doubt it would be very, very costly. What I'm concerned about is the notion that I'm going to blindly assume that that supply is going to be there. Let's keep in mind that \$4.5 billion has

to come from somewhere and my guess is it comes from ratepayers and passing along to consumers poops so those who believe their rates being served by San José Muni are going to remain the same as they are are also deluded because somebody is going to have to carry the extraordinary cost of those repairs. I think we've got huge increases coming either way, if one post office them in a private entity I don't pretend to know what the right answer is. What I'm concerned about is we're taking this option completely off the table and I'd like us to engage in San José water and say hey do you really think it's valuable? You guys do the legwork. I guess the other issue I really have is, you know, we have already 90% of the city that is essentially served by a private retailer is that fair to say mansour?

>> Mansour Nasser: Yes, great Oaks is 9%.

>> Councilmember Liccardo: Right, so if the notion is that we're going to hang on through self-determination, and self-sufficiency for a water supply for this city, that horse has left the barn a long long time ago, at least for 90% of the city. We rely on all kinds of cooperative agreements regionally, nationally, internationally. For that is the nature of an independent world. I think the invocation clinging to this service because it serves 10% of our residents, without recognizing the fact that there may be larger opportunity cost is I think short sighted. So I'd be very open to the motion if there was at least some requirement that we engage with San José water to see if they're willing to foot the bill for additional investigation. But I don't like the idea of staying these items off the table completely.

>> Mayor Reed: Let me just add to that, nothing is going to be off the table completely because if we can't get a reasonable rate of return and there's still an opportunity there to fill a multimillion dollar budget hole, we'll bring it back up in the process. As I understanding understand the motion to focus on an option that seems to work the best and so that's why I'm going to support the motion but I'm not giving up on anything. It is about the money and the General Fund certainly needs it.

>> Councilmember Liccardo: Well can I ask that question of the maker of the motion?

>> Mayor Reed: Sure.

>> Councilmember Liccardo: The words to exclude the option of the sale of modification of the motion the question is are those words essentially still part of your motion?

>> Councilmember Herrera: No.

>> Councilmember Liccardo: Okay.

>> Councilmember Herrera: No. And that was why I started the whole you know this whole presentation with, with looking at not working on those options right now. Focusing in on the option that has the best chance of success, and I was also had the button on to respond to something Pete said. Does that answer your question?

>> Councilmember Liccardo: Yeah, it does.

>> Councilmember Herrera: I'm sorry for that confusion. That's why I started off by saying I wanted to make that that exchange.

>> Councilmember Liccardo: I appreciate you making that explicit.

>> Councilmember Herrera: Because I think we need to have compromise here. Some of us feel passionately about no more privatizing of the water system and other feel differently. We all agree we have this huge budget deficit, we have option 3 is a near term opportunity. It's not a short term solution. It's actually a long term solution if we get that -- if we can move forward with it but it's a near term opportunity that we should take advantage of and so I think that's very important. I'm a little bit concerned about all the focus on San José water. I know they're the ones that have the largest customer base here in San José in fact that's one of the reasons why if we do move to the with a sale it would create a water monopoly. That's one of my concerns. I think that 10% really makes a difference. It's not the concern over just the folks that are receiving Muni water, it's the effect on the whole

city. I have a lot of concerns about just focusing on San José water. And as far as asking them to do the proposal, I think staff's already said if we start looking at any other private opportunities it ought to be opened up to other companies too. So I'm concerned about going down that road. I don't understand why it still keeps leading that direction. But I really think we need to focus on the near term stunt in option A and let's be forward with that. Let's be open and transparent with our citizens about what we're trying to do here, which is to take money from the water fund and use it in the General Fund. I think our residents are intelligent enough, to understand we have this shortfall and not do a back door tax which I believe is the other options, the other way is a lot more upfront and I think we have a really good chance of moving it forward.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I don't think there's anyone suggesting doing something that is not open or transparent. Even the suggestion of a lease or sale it would be done completely transparently and out in the open. It's a matter of examining our options that being said, I'm not -- I don't have the same concern or at least some of the suggested concerns that some of my colleagues feel are valid. There's far majority of our water is privately supplied as it is. San José water already has a large majority of the supply in San José and I also don't think this is a matter of protecting 10% of the supply to a small% to residents vs. what is in the best interest of all of our citizens. It is an asset that has been profitable to the City of San José and I do think we need to manage all of our assets. With these economic times and with the projected deficits of this fiscal year, it is extraordinarily significant asset. And when it comes to leasing or selling, certainly we have to be cautious. Whenever you're in a down economy because sometimes you're in more desperate state and you have to be certainly more worried about whether you're going to have to forgo an opportunity if you weren't in a deficit situation. And I appreciate Councilmember Herrera, you adjusting and not putting in your memo in its full text because I would not have been able to support it in its full text because I appreciate keeping everything on the table. Since we do have control of them and we do have the opportunity to potentially increasing our revenue from this current asset some I do think that we should certainly in the very short term focus on that. You mentioned in your initial comments that you were only suggesting a two-month delay in the exploration of a lease or sale option. I was wondering if you could

elaborate on that, I was trying to get clear on exactly what we're looking for going forward if your motion were to pass.

>> Councilmember Herrera: Focusing on option A, because that's the thing that.

>> Councilmember Kalra: Next 60, 90 days or however long it might take to do that initial polling and analyzing the possibility of increasing revenues, we'll focus on that. You in no way, as the mayor indicated we're going to be going in a very difficult budget cycle that we can still at least analyze the opportunity for lease or sale. Now if San José water or any other company wasn't to come forward with numbers that will help us I'm more than happy to look at them but certainly San José water is the largest splor in San José. Look at their numbers. So I will support the motion simply because we're not taken off the table the opportunity for sale or lease. We're focusing in the short term on quickly looking at some low hanging fruit and I agree with some of the sentiments of some of my colleagues, that we shouldn't put that aside assuming we know what the right answer is. Thank you.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Pretty much the I wanted to thank Councilmember Herrera for her flexibility and her openness in termination of more voters who's going to be affected byth change if there's going to be a change. And I think that there's nothing wrong with that. I think that this is an important issue and we're trying to do this many times over the course of many years and we haven't been able to get anything done. There's a reason for that and I think that you know perhaps we're not doing it right and perhaps we're not engaging the voters smiches we should. So I think with this curchlt motion we have the opportunity do that and from Councilmember Herrera to move from real excluding to options of leasing or to sell Muni water to you know keeping everything open and on the table. So I urge my colleagues to support a motion.

>> Mayor Reed: Vice Mayor Chirco.

>> Councilmember Chirco: Thank you. Thank you for your adjustment on the motion. In my first four months I remember a very unpleasant council meeting having to do with not taking the additional funds that the mayor pointed out. And I was always troubled that an asset owned by the intiesh citizenship of the city didn't benefit in any way from the asset that was owned by all of the city. So I think your suggestion leaving the options on the table but to explore the option you outlined is a good strategy and I will be supporting your motion.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Rick Doyle, City Attorney, so far I'm aware, electric utilities, whether it be gas or water they cannot raise rates, there is some regulatory authority over them?

>> City Attorney Doyle: I think California Milpitas account we are not subject to the same regulations.

>> Councilmember Oliverio: But those that would be contrary to selling Muni water, water raids would they it has to get approved.

>> City Attorney Doyle: I think mansour is the veteran of water and water rates. He's in a better poeing. Whatever the PUC factors in in setting rates they do allow a reasonable rate of return. There's exam, there's a overwhelm host of factors that go into water rates and I'm certainly not expert at it. But you know, I really can't answer yes or no, other than there is an oversight.

>> Councilmember Oliverio: Sure, understood. And then I see someone from the San José municipal water exeanl, maybe you could come down and answer a question. Cliecial --

>> Mayor Reed: Councilmember Oliverio, can I interrupt? San José municipality water company?

>> Councilmember Oliverio: San José water company. And I think actually that's a good point mayor because a lot of people hear water water, and they don't know if it's the water district, municipal watt. And I know that's 10%

of the discussion explore this and I guess the question for you know San José water company, what is a way that you know to Councilmember Liccardo's comments and to Councilmember Herrera's work something towards later what is a way that understands, you know, our ability to make a decision with minimizing our risk, at the same time, potentially gaining either lease or sale of this system to municipal water to something water company, but also acknowledges the fact that you don't have all the resources or all the time in the world to can I get my question? .

>> Yes, I think so, know px San José water company has had severalty discussions with the City Manager's office and other folks on this issue. And I think Ed Shikada's recollection of our discussions is somewhat accurate. We have reached out to the City Manager's office and have told them that we certainly would want to be engaged in this process in this evaluation if there was equal engagement by the City Manager's office. This is not the issues identified here are not something that we can take on, on our own. There is a lot of data that needs to be evaluated. There is a lot of data that the city has that needs to be evaluated. A lot of needs that the Water District, it is a -- we share the responsibility to answer some of those questions.

>> Councilmember Oliverio: So you could put a level of effort to get us the answers we're looking at?

>> I believe that's correct.

>> Councilmember Oliverio: The new realities task force under Mayor Hammer back in the '90s? To manage our budget issues, voilþ, one way or the other, looking and researching selling other assets hayes mansion, golf course, et cetera, I could not, you know, say that I would make an exception for municipal water. I think its behooves us for taking, first ideas of this but of course again there is levels of complexity in this. I think it's clearly something we have to figure out and I'll make this you can public comment. I don't want to see it go to the General Fund. I would rather see it going through, decisions that could taken place a long time ago.

>> Mayor Reed: I look forward to the City Manager telling us how to spend the money. No, no, had he she has another comment.

>> City Manager Figone: I wanted to about our conversations and Ed can correct me if I'm wrong. I think the other thing that was important to both San José water as well as from a staff perspective was to not go through long drawn out processes before you reached a go no go is decision, as you're debating that, time is money for the council as well as the city.

>> Mayor Reed: Councilmember Constant .

>> Councilmember Constant: Perhaps I wasn't paying close enough attention when you made your motion. I want to understand I completely understand what the motion is. Can you restate it and then I'll ask my questions.

>> Councilmember Herrera: To have staff work on option A, that means not work on the sale or lease right now, focus on option A. And then prepare, do the polling, and work towards that. For a go, no-go once we do the polling. And that means that there is certainly if that doesn't work out, then we'd be looking at other options.

>> Councilmember Constant: I guess my concern with that motion, and I think I did understand most of it then, is I think we should be giving equal priority, and equal weight, and equal research to both sides as we go down the road. Because time marches on. And unfortunately, almost everything we do here gets drug out over longer and longer and longer periods of time. And to march down a path for say two months like you point out and then to find out we need to do that and then backtrack and start two months of work all over again in the midst of it as we're getting into the heat of all of our other things, some of them we don't even know about because they haven't come up and the increasing pressures of the budget I really think we should be going forward in parallel. Equal weight, equal priority, equal -- because we don't know where it's going to come out and to give one effort stronger weight, what I fear is that we'll be here say 60 or 90 days from now and the argument's going to be we've already invested all this time and energy and effort and research into this. We need to keep going down that path because we just don't have the research. That's my hesitation here, so I'm still not going to support the motion based on that perspective.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I just wanted to verify some inclusions in your memo. First of all, it says and this is on page 3 at the very end. The minimum all those issues including citywide voter approval that must pass by a two-thirds vote, must be finalized before the city could even consider any benefit from the proceeds of a sale. So in a scenario where we sell or lease the system and we overcome all the obstacles, the benefit to the General Fund would still be years away. So it would be a long time before there would be any monetary benefit. And then, the City Attorney, it says, explained that if the system is sold, sale proceeds may need to go to property owners in the assessment district. Rick, would you verify that?

>> City Attorney Doyle: Yeah, and that's an issue that we've, you know, discussed. I've mentioned this has been researched and there are memos outstanding on that. The issue involving the voter approval is the issue that you have a sale approved and not a lease. one of the issues we indicated the mayor in 2002 a prior council looked at this they put sale off the table and focused on an operating arrangement, a lease essentially for that very reason. So a lot of this stuff is -- we've been down the road but there are limitations and there are limitations as to some of the moneys have to be he reimbursed to ratepayers.

>> Councilmember Pyle: So if it were \$50 million we would not know how much would have to be deducted because some had to go back to taxpayers but then the interest from the bonds would also have to be taxed.

>> City Attorney Doyle: That would have to be part of the analysis. It may be that bonds --

>> Councilmember Pyle: Right.

>> City Attorney Doyle: Because they are tax exempt bonds, maybe these bonds have to actually be redeemed. And there's not a lot of bonds out there but there's some. All of that would have to be part of the analysis. I don't want to make this any more --

>> Councilmember Pyle: I don't either. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Yeah, I will support the motion. I think there's no problem in prioritizing. I now appreciate there's some clarification that there's not going to be a exclusion of options. So moving forward , and focusing on option A seems to be a sensible approach. What I am interested in seeing though, is -- and I know that Councilmember Herrera had the point of you know why San José water, why San José water, well, they're the only ones showing up at our doorstep with flowers so we know that they have at least the incentive to help us understand what the legal landscape as well as the regulatory landscape I recognize that it will involve staff work to do an awful lot of that work again. Although I do appreciate the world has changed since 2002 so we may have very different incentives than we did then. What I think would be helpful for us to consider at least is, to the extent that San José water's able to present options and do some research and so forth that's helpful, to the extent it really requires city staff to be doing it, is there a way in which we could get to a point which any proposer, potential proposer could essentially help fund city staff to do the analysis that is necessary to even consider this proposal? I know we've done it in the planning context because there was a lot of dispute over how that was done. But I know planners are funded in the past through specific plan efforts through contributions and essentially the deal would be struck that if there is a sale or lease to any entity, San José water or anybody else, there could be some compensation in return for whatever they invest to help us pay for our staff. That is, so they're not just out the money as sort of a jaded suitor but in fact if they are paying for staff they'll get the money back at some point if in fact we choose to go that route. I have no idea what the legal implications are on that and of course I'm leaving Rick I'm sure with --

>> City Attorney Doyle: You're absolutely, we're doing it in the context of the Planning Department, private developers funds studies and plans and specific plans. I would want to speak with the manager's office throe though before we come back with anything. I want to reiterate a lot of this work has been done, loot of this is dusting it off and reinvigorating it. A loot of this is not reinventing the wheel.

>> Councilmember Liccardo: I just haven't seen any of that .

>> City Attorney Doyle: The answer was no on a sale but pursue a lease then I think for business purpose and policy reasons the council decided not to go with it.

>> Mayor Reed: Councilmember Herrera I'm going to give you the last word and then I hope we can take a vote.

>> Councilmember Herrera: I think I've forgotten why I put on the light. I want to encourage focusing on the option that has the most immediate opportunity not take any of the other things off the table. And I hope everybody will support it.

>> Mayor Reed: Thank you. On the motion, all in favor? Opposed? One opposed, Councilmember Constant, that's the only vote opposed so that passes on a 9-1 vote with Councilmember Campos absent. Thank you very much staff. I always love the Muni water discussions. I don't think there's anything more complicated than Muni water. Even commercial paper seems simple compared to Muni water. Our next item, 3.foir, take home vehicles audit. Done by our City Auditor. Sharon Erickson is here to present the.

>> Sharon Erickson: Good afternoon. use of city vehicles than is necessary. Just a few words of background. The City of San José has a fleet of 2200 motor vehicles, in limited circumstances employees can use those vehicles to commute to and from work on a regular assigned basis. In 2009-10, the last fiscal year, 166 city vehicles were used on a take-home basis including 144 by police department employees. There were, in addition, 11 vehicles in the fire department, six in the General -- excuse me five in the general two in the environmental services department and once of the Parks, Recreation, and Neighborhood Services department. The objective of our audit was to assess the cost and reasonableness of current practices and opportunities to reduce the number of take home vehicles. I do want to say that City Auditor staff did propose this audit and you approved it as part of our work plan for 2009-10. Our audit concludes that the city as I said has allowed city vehicles to take home more vehicles than needed to meet its operational needs. In fact many employees that take home vehicles actually log

more miles commuting in a city vehicle than they do driving for city purposes. Specifically we found 78% of the miles logged on the City's police motorcycles were used for -- were for commuting. Similarly, 72% of the miles driven by police canine cars were for commuting and 50% of the miles driven for -- in certain police SUVs and fire department Sudans \$1.1 until in 2009. Including 900,000 in the police department in addition commuting in city vehicles accelerates the frequency with which city vehicles need to be replaced. Faced with diminishing resources and the steep cost of this commuting we believe vehicles should go home with employees only when frequently needed to respond to emergencies in the field. However, we found that some take-home vehicles are used by employees who are not regularly required to respond to the field and emergency call-backs are rare for some staff with take-home vehicles. Thus we've determined that 93 take-home vehicles with an annual commute cost of about \$630,000 may be unnecessary, and that the city needs to collect more information which would justify the decision to allow at least 38 other vehicles to be taken home. We recommend the City Manager's office review the information in this report and remove unjustified vehicles from take-home use. In cases where emergency call-back estimates were not available, continued use would be allowed for the department earth to gather that information specify again that the rationale for allowing vehicles to take -- allowing employees to take home city vehicles is to ensure timely responses to unforeseen emergencies in the field. And that the city, again, restrict take-home use to the greatest extent possible. City administration's response which Marses actions that have been taken to date in response tot audit was distributed under separate core and they and I are happy to answer any questions you have. Thank you.

>> Mayor Reed: Does the manager have anything to say at the time or would you like to take questions?

>> Deanna Santana: I ooms specific questions. When we heard this item at the Public Safety committee the administration did state that we are in agreement with all of the recommendations, there are some that we need to evaluate more fully to further complete our analysis. The supplemental that we issued in terms of the inventory of vehicles and the current state I think is a good indicator of our need to manage take home vehicles and track them more closely and administrative level. We get that. We've already started a phase 1 work plan that's identified in our response as well as a phase 2. We're more actively beginning the implementation of phase 1 analysis tomorrow. We did want to be informed by today's council meeting but we're ready to get started as early

as tomorrow and meet the spring 2011 goal for completion of phase 1. So with that we're here to respond to more detailed questions but I just want to put on the record that we are in agreement with the recommendations offered by the City Auditor.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. First I'd like to make a motion to accept the report and then I'll speak to it.

>> Councilmember Liccardo: Second.

>> Councilmember Constant: Thank you. I was very happy to see this audit report. As you know this is a topic that I brought up. I think pretty much every budget year since I've been here. And it really concerns me that we have an issue that we have discussed multiple times in the past, in fact there's been prior audits, yet the use of take-home vehicles has increased over the years, instead of decreased over the years. I was grateful for the thoroughness of the report, and being able to concretely see what I think we anecdotally knew before, and that was that several vehicles get retired in a very short period of time just in commuting. And that the need or the perceived need for vehicles for call-back is, I think, overestimated 50 administration. Based on the number of call-backs that have occurred. And I think it's important to really look in historical perspective of how many -- how much the take-home vehicle scope has crept over the number of years. And I know that ten, 15 years ago, at least 50% of the vehicles in the police department take home vehicle list weren't being taken home at that time. And at that time I would venture to say probably a significantly larger number of employees lived in our county versus out of our county. And looking at the maps and looking at the geographic spread of our precious resources is gaunt. I already made reference to it once today but we have that memo on the new budget projections that came out yesterday. And you'll look right on the first page is an adjustment for public safety vehicle replacement. And it's hitting our budget right now. And it's something that's been affecting our budget every year. And when we look at it, it's not just the fact that we're wearing out these cars. Think of the amount of gas that goes in these vehicles. And what's troubling to me, and I pointed it out, I can't remember how many

months ago, when we saw gas prices hitting the highest they've ever been, happened to be about when our take-home vehicles peaked as well. That's a big problem. We know that there have been some significant motor vehicle accidents that have occurred with these vehicles, not only in our county but outside of our county. Some of them got a lot of press attention, but a majority of them didn't get any. We also know that there are some workmen's comp claims that have arisen as a result of some of these accidents. I know I've personally seen, these epitome of triple dipping. Off duty officers i've seen car seats in cars, and seen people you know commuting with their kids in their cars, which are, our city policies just don't allow. I've seen other family members driving vehicles. There's significant issues with these take home vehicles and the liability that we take on in addition to the hard costs of the physical asset, and then the gasoline cost, but that liability cost, it wasn't even addressed because it wasn't part of the scope of the audit. But it's there. And it's huge. So I really think, and reviewing the management's response, I really think the way -- it should be almost exactly opposite. We shouldn't take the vehicles that are being taken home now, and build a justification for them. We should wipe the slate clean, and we should say, this job description for this officer at this time or this worker in this department at this time is justified, and start almost like what do they call it, zero-based budgeting. Start basically with a clean slate. And that's really what I hope the administration will do. Because while there's the -- I'm focusing on the police department unfortunately because it's the biggest chunk and it's the area that I have the most personal knowledge with. We talk about the need to have them for call-back response. But we really don't talk about whether that call-back response is so urgent that 15 minutes makes a difference. Because if somebody's driving, take the furthest reach if they happen to be the in the Central Valley. Or even the shortest reach if they live in Downtown San José. The difference, the delta of time is just stopping at the police department, getting your car and going out there. Which could be no more than a 20 minute increase in response time. And if there's not a serious threat to life like you would probe have with the sponges of the merge unit or a significant exposure to loss of evidence like you would have from the crime scene unit not being able to respond or the homicide investigators being able to respond or sexual assault investigator being able to respond, then we should say, we should weigh what the -- increase the deem at a in the response time is to the liability that we are exposed to both in our budget directly and our liability in the risk that we expose ourselves to overall. And I think that's really important. So I really honestly hope this is the last time we have a discussion about take-home cars because it's just been too many times and we still have the old audits that we can go back to and I hope that when we get the auditors report that we get periodically on

the implemented and unimplemented audit recommendations, this is very simple. the one thing that's pointed out in the audit and I think we need to give some more critical look to, is how we treat this as a nontaxable benefit to people. Again, we are giving expense of a much larger portion of our workforce. And I don't know how those rookie employees feel sitting at home unemployed that we laid off because a few select employees throughout our organization got to take cars home. And that's a values decision that is made budget year after budget year that I hope we don't have to complaint anymore because it's got to be handled once and for all. I'm sorry to be so long winded but I really feel strongly about this particular issue.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I appreciate that, Councilmember Constant's leadership and passion on this issue. It's -- they say it's a thin line between a benefit and a boondoggle but not in this case. You know, we've seen the data that Sharon presents, with 16 million miles driven in 2009 and 9 million are spent commuting that's an extraordinary cost on our taxpayers. Seeing our chart on -- I think it's on page 11 -- where we see we've got motorcycles from Manteca to Monterey. We've got the Bay Area pretty well covered with San José city vehicles. And I appreciate that we're keeping everybody else safe but we've got first priority right here at home. My only concern is, with the phasing of the reforms and maybe Deanna if you could address that or someone else. I understand you're taking a phased approach and frankly I agree with Councilmember Constant. I don't understand why we wouldn't just do this tomorrow.

>> Deanna Santana: I'll let PD add any additional comments. The first phase includes 42 vehicles that were discussed often during the development of the audit and the recommendations. The second phase includes 84 vehicles, and a large number of those vehicles, at a they are assigned to key positions in the police department that we'd want to understand a little bit more closely. But also there were about 38 to 40 of those vehicles for which we needed to obtain more information. The -- so that's almost half of those vehicles, we could not receive information from the police department in terms of current status with respect to the frequency of how many times they're called back. And so that is data that the auditor did ask the police department to put together so that we could inform phase 2. So with that lack of information, we parceled out what we could deal with in the short term

and then gave the police department some additional time to collect that information so that we could inform additional analysis. Von, do you want to offer any additional comment there or Chris.

>> Good afternoon, mayor, councilmembers. Deputy chief Von Gno. I think vehicles that we're looking at to basically eliminate from having the officers take them home, and so we have to do a cost benefit analysis of whether it would be feasible to do it immediately or whether there is space to have storage for these vehicles if we were to make the decision immediately. And that is something we're working with GSA.

>> Councilmember Liccardo: Well, I hope it's something we're able to do fairly quickly. Because it just seems to me you guys have incredibly complex jobs but this wouldn't seem to be one of the more complex of all the challenges you face. You know we had -- at the DA's office we were on responsibility too but a cell phone and a pager go a long way and when we're called out to go show up with a search warrant or look at a crime scene it was apples if you need to get the miles you submit a request to be compensated for mileage and it all worked out okay. I would like to believe that for the majority of employees that is something we could fairly easily implement..

>> I would like to add to Councilmember Constant's imoment some of the misuse of the take home vehicles. I absolutely agree with you that the vehicles should be used for work related purposes only and if there are misuses we have addressed those misuses when we are made aware of those misuses. One of the things that we consider also is with the current service delivery model we have in keeping our city one of the safest large cities in the country if we were to make some of these changes would that somehow exact our service delivery model based on the fact that we may be looking at a workforce that is constricting also. So some of those things that we are taking into consideration when we do our analysis of this take home vehicles also.

>> Mayor Reed, members of the council, Chris ploor, acting Chief of Police. managers office for the amount of work that went into this vehicle take home vehicle audit. Although there have been previous audits none has gone to the level of detail and part of that has been driven by certainly the tough budgetary times. I think everybody at our department, everybody who takes a car home or doesn't take a car home rails with respect to personnel. So with that said, our department has a number of take home vehicles, particularly motor scams and four wheel drive

units that might be used vehicle by vehicle, as part of this study to try and justify in our own minds, if this really makes sense and for which vehicles it doesn't need to, that they don't need to be taken home. So with that in mind just yeah the commitment from me as the acting police chief as well to all my staff to continue to work with the auditor's office and the City Manager too to whittle that number manageable I do believe there is a number that we'll need to maintain to maintain plaicialt efficiency chem the question is at what level. I agree with you there are a number of officers that may be at risk of potentially losing their jobs I think the answer is pretty clear on that one, it's making sure that we have the resources, the personnel resources to be able to even drive that car home so we appreciate the patients of the council as we work through this process.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor and I appreciate those last comments there regarding doing the best you can to whittle down the number that are absolutely necessary. And if there is an issue that's created due to lack of storage I know that there -- that's certainly an issue. In the short term at least with opportunity to use the substation before it's fully operational. We certainly have an opportunity to do that if it makes sense, I understand there's oop at the very least we should try to take advantage of that facility if storage is simply the issue which I'm sure it's not. But if that is for some of the vehicles then maybe we can take advantage of that since it's there and ready to be used, thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. Of the 93, Sharon, that you recommended not be used for commuting, that is over 144 total or somewhere in that range?

>> Sharon Erickson: That's over the 166. So it's 90 out of the police department's 144. We did recommend another 38 in the police department be studied.

>> Councilmember Pyle: Oh, okay, thanks. And then in reference to the 1.1 million, you said \$900,000 of that would be attributable to the vehicles. What about the other 200,000?

>> Sharon Erickson: That's 900,000 in the police department. So most of the expense was in the police department.

>> Councilmember Pyle: Right but who -- what --

>> Sharon Erickson: The other 200,000 would have been spread across fire and the other four or five departments that do have vehicles. It's just that the other departments have very small numbers of vehicles.

>> Councilmember Pyle: Well I do too, city on the county emergency preparedness committee I find it somewhat of a -- well, it isn't so balanced sometimes in reference to how do we make it so that if there is an incident, we can have people coming in from the north, south, east and west in an easy way. So some cars would need to be able to have that immediacy, and I'd like to hear what Chris Moore has to say about that.

>> Thank you, Councilmember Pyle. I think the discussion has obviously included some units such as the high profile kid name nap for ransom case that was recently occurred last week. We have a number of resources coming that are not on duty that are responding and sometimes, Councilmember Constant's correct it may only take 20 minutes if they're coming in from one part of town to be able to drop off and pick up a specialty vehicle. Sometimes it's an hour and those minutes never do get to predict when those things happen. So that's one of those cost-benefit ratios that you have to determine. If there is an earthquake, there is utility from having what is more important, where are you twoig take that risk. As to the issues of abuse, as Councilmember Constant talked about, that's unacceptable. We can't have that, we can't have you driving your family around. These are designed for emergency use. But again take those out and it's truly a value proposition, what's important to have vehicles available in case there's a disaster there and what marginal increase in response is associated to that emergency response. The city spends a lot on verkz. The added miles are clearly an added cost and it comes down to weighing you know what's more important.

>> Councilmember Pyle: So it sounds like you're pretty certain this is going to work in revenues to emergencies and that kind of thing?

>> I do. And a lot of these vehicles are motorcycles. There's a reasonable argument to be made that although there's a value of someone driving through the city on the way to work, there's value in that. You get added law norms, that you don't get otherwise. Having said that, benefiting from the cost of gas it's not something pleasurable that you're going to be listening to your stereo on. Especially if having said that, you know, between the motorcycles and the merged vehicles, the canine vehicles, all those specialty response vehicles that adds up very quickly. It is a matter for us to whittle down do we need every canine car to be taken home, do we limit it to within the city limits? you put that against the backdrop of current reductions in staff plus further potential reductions in staff in the upcoming 11-12 budget so these are all things we're working through and again we appreciate the patience as we move forward to this. We will hit the targets or pretty close to them as fast as we can.

>> Councilmember Pyle: Because in addition to that, as Sharon Erickson has pointed out, is the unintended consequence of having to reup the vehicles a little more frequently. The wear and tear on the vehicles. And that's pretty costly as well. I don't know how-d could you tell us Sharon how often that makes a difference or how often they have to be replaced? I think you said the accelerator replacement was 142,000.

>> Sharon Erickson: Avi is telling me motorcycles are every 60,000 miles for example. So if you have somebody commuting long distances it does dramatically accelerate how frequently you need to replace a vehicle.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: How much of the decision making on these remaining vehicles are subject to negotiation with the police union?

>> Appreciate you asking that question. We were just approaching that issue. Some particular units where that may be included in the MOA, that may require some negotiation. However we do have some latitude when it comes to numbers of positions within units and how we equip them but I think it's a realistic proposition there are a number of them that we would have to address in meet-and-confer and I don't have a specific number is what I'm saying, it is not a large percentage but it is a percentage.

>> Mayor Reed: City Attorney, with the passing of proposition V would these kinds of operational decisions with the chief after he meets and corch first have to be after.

>> City Attorney Doyle: Not my understanding, this would be a management issue but that is not to say we wouldn't have a dispute about that.

>> Mayor Reed: Okay, chief I wish you good luck.

>> Thank you sir.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: So just a couple of time thoughts. First I want to make sure everyone knows I'm not saying all take home cars have to go. The emergency response and specific units are completely justified. But you know, I wanted to address something that Deanna said, and Chris kind of touched on it, as far as you know patience and getting the information. The best way to get justification for a take-home car is to say, can't take it home anymore, effective beginning of next pay period until you justify the reason for it period. You will get the quickest response that you need to get in why that vehicle has to be justified. So everyone knows I'm not a patient person. And I'm in at the end of almost four years of patiently asking this question. So not to be blunt, but, or rude but I'll be blunt is, I don't think the answer is we don't have the information yet is acceptable. Because we've talked about this a bunch. And Chris, I know you're new so not harping on you but just in general. I think we just have to make a commitment to this and I think one of the things we should be asking is when did we start letting

each of these cars be taken home. Because we know ten years ago canine officers didn't take their vehicles home. Marked patrol vehicles that go sometimes out of the county. We have to ask ourselves, if somebody is taking a vehicle home, because of the potential needs for emergency response, how can you justify that, if the response time is more than X number of minutes or X number of miles? When you look at that map it's very hard to justify no matter what unit someone is in that they need an emergency response from Tracy or somewhere else in the Central Valley. And that is one of those things that I think we have to address. And so again, I really -- I know we're not giving that specific level of direction but I encourage the administration to fast-track and think in the mindset of zero based budgeting and justify each one of these. Because this year was difficult enough. And the 69.9 million we're looking at next year remember doesn't include the 20-something million of one time stuff that we funded this year. So the real problem is really \$90 million and we have to be conscious of that and that's all I have to say for now.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor. There was one question I forgot to ask and I was hoping that Kevin or chief Moore might be able to respond to that. Even for those officers for whom the take home use is justified under any new policy, have we looked at the possibility of since so many officers live South county or points beyond of identifying a point near the city limits right where 101 comes in and just to throw out an idea, say, a brand-new police substation that costs millions and millions of dollars, where the vehicles would be stored, so that anyone who lives south of 101 can zip right up 101, top in there on the way in and quickly get a vehicle that's located within the city limits that could actually be used to respond? And therefore, avoid the time getting into town and daily traffic and so forth. Has that kind of arrangement been explored?

>> To date it has not although that is certainly one of the issues that we will be exploring. When you start talking about housing vehicles you may have needs for staff at those facilities, I'll take specifically the substation as a hypothetical. Having fuel in the tank, issues there, requires mechanics to be there to be maintained the vehicles that sort of thing. You could have a park because but it never is just a parking space one issue that did come up that came to mind when we start talking about somebody coming from let's say Tracy and we do have people

working younger officers typically who might be occupying the merge units, people coming on three to five years and they may be living outside the county because perhaps they may not be able to afford it we find ourselves in a position of perhaps restricting their ability to enter into the units because they get into residency requirement or otherwise we might perhaps preclude somebody from being able to apply from a unit and then that will raise other issues operationally for us that I don't think we've worked our way through with and those are the types of things I'm concerned with.

>> Councilmember Liccardo: Thanks chief.

>> Mayor Reed: Vice Mayor Chirco.

>> Councilmember Chirco: I'd like to make a motion to accept the audit report and the staff's response.

>> Mayor Reed: We have a motion, okay, we have a motion. It's a long -- yes, clerk says there is. I don't remember a motion either but if the clerk says it then that is the truth. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I just wanted to thank Sharon Erickson for the once again a great report and also, deputy chief Moore, for you know your thoughtful response to the questions. I like others am concerned but I think it's important to understand that for some of those there may be a benefit to having them take the car home and I'm interested in hearing that too. It's not like it would not be like it's not the same as any city employee just driving home a car. I know if I'm driving down the road and I see a police car, I pay attention that there's a police car. I can see there's some benefit when there's a police car driving in San José. I clearly you know not really a benefit if you're driving around the streets of Tracy or in between San José and Tracy. So to the extent we can limit that I would support that and would also like to see it move along this quickly, as quickly as we can, thanks.

>> Mayor Reed: That concludes the discussion. We have a motion on the floor to accept the report and the response. All in favor? Opposed? None opposed that passes unanimously. Before we move to item 3.5 I want to

see -- I need to go back to the Muni water thing because I had a request to speak on that and I messed it up and didn't call on that person. Steve Bennett wants to speak on Muni water. Why don't you come down and do that now. Sorry for missing the opportunity earlier.

>> Thank you, mayor. I have great respect for you. And what you've accomplished so far. But this thing with our Water District, excuse me, municipal water issue, I don't agree with. I feel that it's a temporary solution for much -- other issues that need to be corrected. As far as the two-thirds vote, I think just those of us that are affected, we should be voting on it, not the rest of the city. Because this is raising our taxes. And to me, this is like you selling your son's house, your daughter's house to pay your bills and having her pay rent. And that's what we would be doing is paying rent. I know the rest of the city council's looking at all this money which is really, it's a lot of money to me. But it's really short for our city budget. It's like a wolf pack. Here's some money, let's get it. But this sets us up for selling other assets. I mean we could sell the fairgrounds and then bring in high-density housing so that all the traffic's messed up in a certain district. Or we can sell some police training units assets, grounds that they train on, and make them drive all the way to Gilroy and pay for their own gas. Also, our people here, that are not here now, they didn't bring up the issues that a lot of citizens of Evergreen and North San José brought up against it. And this should be publicized a little better. I used to look in the paper and it had the agenda of city council. I don't see it anymore. Especially important items like this. And I try get on the Internet, not that I'm that good but it should be easy to get the agenda of city council. So we can see what's going on and maybe come and talk about it.

>> Mayor Reed: Sorry your time is up.

>> Thank you very much, mayor.

>> Mayor Reed: Thank you. Anybody wish to reconsider their item on 3.3 on Muni water? No, thank you. Then we'll move on to item 3.5, actions related to supplemental retiree benefit reserves, SRBR.

>> Councilmember Chirco: Move approval.

>> Mayor Reed: Motion is to approve the ordinance and the resolution. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. While I supported revisiting our retirement practices, I feel it is unfair to our retiree to suspend their payment before we have all the answers. They are entitled to that amount based on the current ordinance. And you know, I feel like if I file a state tax return based on this year's tax table, and if the state wanted to change the tax table for next year, that the fact that we have the money, and it's sitting in the account and it's not helping the General Fund, the General Fund doesn't really benefit from the payment sitting there, and so I will not be supporting the motion.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I already, I already indicated the issues I had with going forward with this and it's not because I or any of my colleagues agree with me are forgetful and not respectful so I will also not be supporting this .

>> Mayor Reed: On the motion, all in favor, opposed, Councilmember Kalra, opposed, Chu opposed, that motion passes on an 8-2 vote with Councilmember Campos absent. We'll now take up the open forum, have some requests to speak please come on down when I call your name so you're close to the front. I'm looking at the request to speak, they all appear to be about the raids regarding medical cannabis, which is not something the San José police department is doing and something which we have no authority or jurisdiction but I think we, rather than not allow people to speak, we'll go ahead and let them speak since they appear to be here. But I am going to limit public testimony to one minute per person. Please come on down when I call your name so you're close to the front. Matthew Sinna, Lauren Vasquez, Michael, Gurmisk, can't quite read the last name there. So Matthew Sinna, Lauren Vasquez. Michael Gurmisk, Paul Stewart, Paul's at the front.

>> Hello, my name is Matthew Sina. I'm here representing all the sick and suffering medical cannabis patients here in San José. I'm pleading with San José and ask the San José floormt help us in the raids. Our sick and

suffering patients are having to go back to the streets and that's not going to be good for us and we'd have to go back and fund illegal drug lords and gang members where we can go somewhere safe to get our medicine. I'll pleading with the city to help do intervention and help us. Thanks.

>> Mayor Reed: Paul Stewart, Lauren Vasquez [applause]

>> Mayor Reed, members of the council my name is Paul Stewart. I represent the medicinal cannabis collective coalition. We do recognize that it is a county wide task force that is undertaking these raids but we also know that SJPD is a part of the special norms enforcement team. It seems a waste of 80 man hours per raid and an estimated need to clear \$40th,000 per raid to hassle medicinal cannabis patients they claim that all co-ops operate at a profit. That is based seems to be straight out of L.A. and the California police chiefs association. All of the collectives that I'm aware of operate per state law as not for profits under prop 215 the state health and safety code and the A G's guidelines. Attacking collectives using funds to clamp down on illegal drugs such as methamphetamines is unconscionable. We feel the SET should stand down until the council has the ability to vet the regulatory ordinance. Lastly --

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

>> Thank you.

>> Mayor Reed: Lauren Vasquez. [applause]

>> Mayor Reed: Michael Gamick, Mark Trout, Don Duncan, Hector Gonzales, these names sound familiar to anybody?

>> Mine does.

>> Mayor Reed: Okay, Mr. Trout, go.

>> Well, I'm very concerned that although we still call this the open forum, that's what it says, the open forum that it's evidently now for the last year or so, an open forum on your side, not on the citizens' side, on your side. It's open for you that I can talk about what you want me to talk about. I can't possession you any longer evidently about what concerns me. And you also, can't possession them about what concerns you. Petition them about what concerns you or you're subject to dismissal or arrest, is that correct?

>> Mayor Reed: You have 26 seconds left Mr. Trout. This is not a conversation. You got your minute however you use it is up to you.

>> Well let me remind that you he that rules should rule in the fear of God. You should consider God. He is here. He's invisible but you've been placed here by God and he that rules must be just ruling in the fear of God.

>> Mayor Reed: Michael Gamick, Don Duncan. [applause]

>> Mayor Reed: Hector Gonzales.

>> I'm Michael Gamino, I believe.

>> Mayor Reed: Sorry can't read it very well.

>> And I'm a medical marijuana patient and these raids are making it really hard for me to go anywhere and feel comfortable to get my medication, simple as that. There are a lot of people out there who rely on these dispensaries and a lot of real good one that have been over backwards that have done whatever this community wants and what you people want and have gone even further and beyond that and I feel that you've let them down and so far and down that you've let me down now. Am I to go to a corner drug dealer? I know I'm not asking a question but this is what my points is. I know, I know darn well you guys could inter15 and put a stop to this. these dispensaries have been good to the San José community. Why have you turned your backs on us?

>> Mayor Reed: Sorry your time is up. Don Duncan, Hector Gonzales. [applause]

>> Mayor Reed: Followed by Jennifer Raff.

>> Good afternoon. My name is Don Duncan I'm the California director of Americans for safe access, the nation's largest medical cannabis organization. I'm here to share with you regulations about law enforcement approach. Our research and our experience shows that regulation reduce crimes and complaint arounds medical cannabis collectives. It is sensible to adopt those regulations. The law enforcement approach is going to drive medical cannabis back into the shadows and that's the wrong direction. You will hear a lot of rhetoric about profits and nonprofit operation. And I want to assure you that just because patients are reimbursing their patients for the cost of sale. And just because money is change hands doesn't mean they're operating for profit. If you want to ensure possible is the best way to police the collectives and to make sure they're doing it right. So I would encourage you to use your influence to stop the law enforcement raid and start the regulatory process.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Hector Gonzales, Jennifer Rath, Clinton Cronin. Lauren Vasquez, sorry.

>> Sorry I wasn't present. Councilmembers, honorable mayor, I'm here today to ask for your help. We the patients of San José are under attack. There is a concerted effort by many agencies, state agencies scared patients they don't know what to do or where to go. They're afraid that they're going to have to turn to the street and they've asked me to come here and ask you to please put an end to this, do whatever you can under your power as a county to please protect us. Make this stop. I know many of these operators mergely, I know they are abiding by the law and I know we've put innocent people in jail and we need your help. So please do whatever you can within your power to make this stop. Thank you. [applause]

>> Mayor Reed: Hector Gonzales then Jennifer rath and Clinton Conan.

>> Hector Gonzales, oosms member, I just want to remind the council that on November 2nd eight out of ten voters, eight out of ten voters voted for San José to tax cannabis on a medicinal level. That's no small margin. Now we're going to and I'm sure we're all going to debate the level of that tax but I think as representatives of our community it's kind of time for you now to recognize that San José wants to see medical cannabis regulated here. That tax vote was just one indication of that. I think it's time to either get on the horn with the county, talk to whoever you can, and kind of step up for the people because there's a lot of people here who supported you in the past. There's a lot of people who aren't here who have supported you who would support the decision to support cannabis. That would help all of us, that would make everybody safer because I've got a lot of scared people out there right now. I talk to them on a daily basis --

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Jennifer rath, followed by Clinton Cronan and Aisha leamed.

>> I work for patients libels. Whether they were gettings relief from pain, nausea --

>> Mayor Reed: Can you pull the microphone down eligibility thank you.

>> High blood pressure, insomnia anxiety, the list really does go on. City they're now being forced back onto the streets for their medication and they're not the only ones affected. I know 50 hard work tax paying citizens are now going to be forced onto unemployment and that directly affects our state . Now is the time for change. Now is really the time to start writing regulations and start offering operating permits for those legitimately ran businesses. That's all I have.

>> Mayor Reed: Clinton Cronan followed by Aisha Alexander and Gabriel greenstein.

>> My name is clibton Cronan, I represent Northern California natural collective, I'm a member of Americans for safe access and we come before you today like many before me that the local law enforcement stand down at the raids of the local dispensaries here in San José. We have many patients coming in that are in fear of being arrested or being you know possibly prosecuted for attempting to obtain medications safely. We're merely trying to provide medicinal cannabis to our patients in a safe manner. So thank you. [applause]

>> Mayor Reed: Aisha Alexander, Gabriel greenstein and Todd Cohn.

>> First I would like to say that two minutes are way too short of my time to tell my story.

>> Mayor Reed: Sorry it's one minute.

>> I'm a 36-year-old cancer patient. Top oncology methadone Percocet, Oxy Contin medicate with medical marijuana because the voters made this legal for us in the state of California. So I don't understand how you can sit up here and allow your city to take my rights away. It's not right. You guys need to do something about it. They can't keep raiding these collectives harassing patients. People are sick. This is medicine. Cancer I'm sure has affected everybody in here one way or another, family, friends, relatives, you can't do this to us Mayor Reed, you got to step up. Pro verbs, thrive like this green leaf, make this right for us.

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

>> Mayor Reed: Gabriel Greenstein. Gabriel, Todd Cohn and Ed Esters.

>> Stein is right. My name is Gabriel Greenstein. I'm a chronic pain sufferer I depend on medical cannabis to help with my chronic suffering. I can -- I don't want to use prescription drugs. A lot of my friends and family members

had problems with prescription drugs and the adverse affects. I also have a respiratory ailment and I can't smoke medical cannabis, I have to ingest it and I can't get a pot brownie on the streets at least not one that's going to be safe. So it's really important for me to have a place to go like San José patients group where I know I'll have safe access. So I ask you to please intervene for safe access for us patients and citizens of San José. Thank you very much. [applause]

>> Hi, my name is Sahar Kahn, I'm the second youngest EMT in the state I became an EMT I worked 911 in San Francisco and I saw a lot of comping. When I became an EMT at the dispensary I was not prepared for level of suffering I saw. I see patients come in every day who are going through chemotherapy, radiation, they've been through really bad pain through accidents. These are people who are not stoners, not drugies. They are people who legitimately need and my cancer patients are sitting at home and they cannot eat and they cannot sleep because they have no access to their medication. I'm asking you on my behalf on the behalf of your public health professionals and your cancer patients to please please consider saying something in our defense, thank you. [applause]

>> Mayor Reed: Ed Esters, that's the last card I have, so if neb else wanted to speak, I don't have a card.

>> Ed Esters, there are 50 people who no longer have a job that directly affects the City of San José and the state. I understand that this is a county task force, but I also understand San José PD is part of that task force. Tell them to stand down. Prop 19 passed in Santa Clara County. I know it didn't pass in the state. You can be proactive or you can be reactive. In two years this will pass. You got time to do it right now. Don't wait, to put this on the next councilmember's or the next mayor's shoulders. You guys have the opportunity to lead. That's why you're elected, right? Thank you very much. [applause]

>> Mayor Reed: If anybody whose name I called earlier that hasn't spoken please speak now. You want to speak just come on down.

>> Hi councilmembers, my name is Lauren Payne. I'm the medical advocacy group and I just wanted to talk a little bit about the fact that this is a community that is about to face some taxes by the City of San José. The county has decided that the dispensaries are violating state law, which is absolutely untrue and also, we are demanding that if we're going to regulate and tax this industry, we need to not send men with guns in during the regulation process. Thank you. [applause]

>> Hello, good evening, my name is Reina burns. I'm a consumer. And I'm here to say that I'm very grateful for the time that has been open, the dispensaries, and the collectives, to be able to provide safe access. I don't know how long that they -- you will allow them to still be there. But the amount of time that they have been, have been great for me, as far as being a family member. Actually, I'm a mother of a child with a disability. I have many things that I've overcome in my life and this one subject, this stigma that this world has around this medicine is the only thing that stands in the way of me living a normal life. And I would like to have the opportunity to continue getting safe access to the medicine just as well as other consumers, to be able to go forth and be able to appreciate what God has already given to us in this earth, this plant. That it was here before we were and we would like to be able to enjoy that. For what was begin to us. Thank you [applause]

>> Mayor Reed: That concludes the open forum. Let me just close with, this is not on our agenda. We are not here to discuss this today. However, December 13th in the afternoon we have already agendized a council meeting to discuss the regulatory system. You're all certainly invited to come back and participate in that meeting . Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor Reed. If I could make a suggestion to our City Manager, perhaps if we could put together an informational memo truthful I think there's just information floating on all sides of the fence. I've understood this is a federal grant that is specific towards methamphetamines and guns but seems as though they have been looking at the medical cannabis collectives. The guidance to staff that these facilities that are next to residential and schools should be closed. However if they are not then they were sort of waiting for us to make a decision on December 13th on the regulatory side of the fence but I think it would be beneficial to those in the community to get the facts from the city side of the fence and I would make that suggestion.

>> City Manager Figone: Absolutely we will do an info memo and be at complete as possible.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: Thank you. That concludes our afternoon agenda. We will take up the evening agenda starting at 7:00 p.m. so we are going to recess until 7:00 p.m.

>> Mayor Reed: Good evening. I'd like to call the San José city council meeting back into order. Evening meeting for November 9th, 2010. I'd like to start the meeting with a ceremonials, I'd like to invite Councilmember Herrera and members of the Sikh Gurdwara temple to the podium. Take a minute for everybody to get down here but today we're recognizing the month of November as Sikh awareness and appreciation month in the City of San José. Councilmember Herrera will give us some of the details.

>> Councilmember Herrera: Thank you, mayor. Thank you. So I want to thank Bob Dylan and other members of the Sikh Gurdwara of Evergreen. I'd like to Raginder Dylan (saying names) we welcome them here. Sikhism originated in punjab, India. they are also members of the larger Sikh community in California and that community is now 250,000 members strong. Today we are recognizing the Sikh community and their contributions to California and San José and on September 5th of this year the state legislature approved assembly concurrent resolution 181, designating the modify November as Sikh awareness and appreciation month. Today and throughout November we join cities across California to celebrate our state's diversity and to recognize the Sikh community's historic contributions to California from agriculture in the Central Valley to work in the railroads and the lumber mills in the 1800s to our ongoing contribution to the state's high tech Gurnanic the founder of the Sikh community. The Sikh cross cultural and interreligious understanding in San José. The San José Sikh Gurdwara was founded in 1984. This community is dedicated to promoting brother hood and a bond of brother hood in the Sikh community and the general public. To further this goal, the Sikh community blood drives each year last year they held a clothing and blanket drive for victims of the Haitian earthquake. and also, every sun, the Sikh communities provides a community meal for everyone. For those who don't have a meal. Evergreen Sikh temple opened in 2004 and I'm very proud to have this temple in my district. It is truly iconic. They are my neighbors and friends. I've been to many celebrations there. This evening I'm so proud and honored on behalf of the mayor my council colleagues and the residents of San José to proclaim for the first time in the City of San José, November as Sikh awareness and appreciation month. And now I'd ask Mayor Reed to present the commendation to Bob Dylan. And Bob's going to say a couple of words. [applause]

>> I want to thank the council, councilmember Rose Herrera and Chuck Reed, Mayor Reed for taking this time, and recognizing the Sikh community. Sikhs are indeed very proud of the contributors of the Sikh community in high tech and low tech alike. There are individuals like Deep Singh and several others who have contributed in high tech area. But low tech as well, several entrepreneurs you see in taxi industry in truck driving and just by their hardworking nature, they have contributed to employment in this valley. And we thank the city council and the staff again. Thank you. [applause]

>> Mayor Reed: We'll now take up the land use items on this evening's agenda. The first one is item 4.1, which is a reorganization annexation of Penitencia number 77, McKee number 136, McKee number 135, and Capitol number 57. I have one request to speak on that. So I'll take the public testimony at this time on any or all of these matters under item 4.1. Mary Larson. Why don't you --

>> Thank you for letting me speak. I represent my neighbors. On one Saturday I went out just for a few hours and got over a page worth of signatures of people who don't want to be annexed into our city because it will increase our taxes. We don't like the trash pickup that the city has. We like the trash pickup that we have. I feel that the city streets are much dirtier because you have all of the yard waste and there's no park. And if we had that yard waste all over our streets it would impede on all of the parking in our neighborhoods. And so I just ask you to reconsider Penitencia number 77 as not being annexed into the city. I don't feel that it's right that there was one guy who annexed his lot, and street, and so therefore, it makes us part of a possible city takeover. And that's what I think that it is. Because we don't get a chance to even vote on it. We just get sucked in and that's not right. Thank you.

>> Mayor Reed: That was the only card I had. Anyone else wish to speak on any of these reorganization annexation matters? We have a motion to approve. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. Thank you, Mary. I do receive your e-mail and would I like to ask Joe Horwedel to explain to herself the history of this pocket of annexations throughout the City of San José. And also, talk to us or some people at home about the noticing process.

>> Joe Horwedel: Thank you, Councilmember Chu. In 2006, the city council agreed to annex in all pockets of less than 150 acres. This was at the request of the county of Santa Clara and utilized a statewide program to allow pockets such as these to be annexed into the city without a vote of the residents. That was a legislation that the state of California had approved in early 2000 recognizing that the delivery of services by cities and counties is inefficient when you have pockets like this. So state law was changed to make it much easier for cities to annex these pockets in. The city initially did not take advantage of this as we were concerned of the cost of city services of providing this but after great pressure from the county of Santa Clara who is has said they no longer want to serve these areas, they don't want to be in the business of providing services to residences such as this the city agreed to annex the pockets in. This is the fourth year of the city doing pocket annexations. We have thus far annexed in about 1400 acres into the city as a result of these programs. It is something that we do hear residents not wanting to annex in. But it really is a case where the county has said they no longer want to be in the business of providing urban services and there really is no other choice of where this area would annex into the city. We do provide a layered approach of notification. We start this process, about six months before the actual annexation, to make sure the residents of a pocket are aware of the program. We have an answer book that we provide to the residents that explain about property tax issues, the concern that taxes will go up. Taxes do not go up as a part of the annexations. The property tax rates are the same in and out. There are special district taxes some of which go away, others that apply because you are in the city or not in the city. Garbage service does change as a part of the annexation. That is one of the functions of how government provides services and we have a different provider than the county does. As a part of the different public hearings coming forward we did do separate notifications to the residents of the hearings previously and tonight last month because of some other noticing issues we had we went back and looked at all the county pockets to make sure that we were notifying those. We actually address-matched the addresses we were mailing out to make sure we were providing notice to all the residents in these pockets and we confirmed that piece of it. We did have one you remember the Cambrian number 36 so we renoticed that one. So it is one we know it is not always popular with the residents but it is one that the state law has said it's available and the county has said that we the city need to annex these pockets in so we're complying with that.

>> Mayor Reed: I have no other request to speak. We have a motion to approve. All in favor, opposed, none opposed, that's approved. Our next item is 11.2. That's a rezoning of property on the southwest corner of West San Los street and Sunol street. We will have a staff presentation on this, I believe.

>> Joe Horwedel: Yes, Mr. Mayor, Mike enderby a Sr. planner is prepared to make a presentation. .

>> Thank you, Mr. Mayor. 8.2 acres into three blocks which will all be bordered by streets. It will include a range of commercial uses from 24 up to potentially 30,000 square feet. That will all be on the ground floor and also include up -- a range of 680 to 800 housing units which edwiets a density of up to 125 units to the acre. This will be conconfigured with three towers, one on each block two at 15 stories and one at 11 stories. Parking for this project will be provided in two different parking levels, one at grade basically for the benefit of the commercial development and the other for the benefit of the residences. The developer as part of this project has offered to provide a deed restriction of approximately 3.9 acres of property that is directly contiguous to this park represented to the city that has voluntarily agreed to develop \$1 million to the development design and or financing of the West San Los street light rail beneficial to the project. The proposed site is really ideal for this mixed use project in that it's close to shopping, it will help strengthen the San Carlos street neighborhood business district, has good access to bus lines that are already in place on San Carlos, as well as future bus rapid transit. It's 2500 feet away from an existing light rail strayings on race street and eventually expected to be directly next door to a new light rail station on Sunol. It's also 20 -- half a mile away from the Diridon CalTrain station. This council probably remembers this project was the subject of a general plan text amendment and midtown specific plan text amended that was brought before this body a year ago in 2009. As part of that that included three key elements and that was to increase the density of the project from 100 units to the acre to 125 units to the acre. It also allowed an increase in height from 90 feet to 150 feet subject to FAA regulations and had some minor changes from an architectural standpoint to allow the street wall edge to gasp a little bit higher up to 65 feet. There project was very well vetted through a series of 14 community meetings that were all attended by staff and the applicant. In addition to that the developer also held numerous meetings with various neighborhood groups on their own. In addition to those that were listed on the screen. I'd like to talk a little bit about the evolution of the project. When this first came in two years ago prior to the approval of the specific plan amendment and the

general plan amendment the initial proposal was for 825 units. It did divide the site into three blocks similarly as proposed today and included three towers. So it really pushed the envelope on the density. It had three 18 story towers, each of the blocks basically looked and were configured basically the same. As part of the review of the first proposal it went before the architectural review committee. The architectural review committee is required. Their review is required for projects over 100 feet tall. This is made up of a group of independent architects that provide assistance to the city for architectural design assistance. We've had two such meetings with the ARC at this project one at that time general plan stage and another one at the rezoning stage and the key items that they brought up as part of their concerns were, and this is based on the previous slide, Watts was the repetitive nature of each block and that should be avoided by staggering the location of the towers, there should be some variation in the height and the towers should be setback from the edges of the street. And there should be more emphasis on the creation of large public plaza areas down at the street level and various -- and more variation with respect to the building height along West way which is the new proposed street along the west side of the project. Also they commented that the towers shouldn't look like offices. In May of 2010, the developer took those comments to heart and modified their project. And came back and this was shared with the -- at the community meeting in may and while you know it did rent a lot of significant improvements the project didn't take advantage of the full density opportunities that were afforded by virtue of the recently reduced the tower that's closest to the future light rail station was eliminated, which brought the density down to 95 units to the acre. It would have originally been allowed to be 100 units to the acre prior to the general plan approval. And staff was concerned because we didn't feel this was heading in the direction of the envision 2040 task force and their maximize density in areas such as this key growth areas areas that can take advantage of transit opportunities. The current proposal is for 107 units. It's 104 units to the acre. A third tower is restored but it's brought at a different layout. Each of the sides of the towers have a slightly different architectural design and I think the architect will probably talk about that as part of their presentation. Staff feels that this really embodies the best of transit oriented design. The conceptual design has really shown a lot of improvements since the beginning, has really created a very dynamic living environment, an exciting commercial San Carlos street. The planned development zoning also recommends, the viennig impact report that was done at the specific plan stage, also included the planned development zoning and this project does conform to the intent of all the City's design

guidelines with respect to transit oriented develop question is a chapter of the city's so with that, staff recommends approval of the proposed planned development zoning, thank you.

>> Mayor Reed: Start with the presentation from the applicant, since this is a zoning application we allow the applicant five minutes to portion however the applicant wishes nooning various participants and then we'll take some public testimony. Before the applicant starts I do want to disclose that in preparation for this meeting which has been going on for a couple of years now getting prepared ever since VTA decided to sell this I've met many times with members of the community including around of course the developers, my staff or I have met with Michael Van Avery, Eric Hayden, other members of the green republic team, members of Barry Swenson and others and too many meetings too numerous to mention I think with all the community members over the last two years, maybe. Mike, how long has it been, Michael?

>> Green republic limited liability, limited partnership, 50% partnership with republic urban properties and Barry Swenson builder. Yes Mr. Mayor, over 360 days probably times three. It's been a long haul and we appreciate being here tonight. With that I want to devote most of the presentation to the architect to further define the project and then I'll be available for question or comments as needed. With that I'd like to introduce San José architect Rob Steinberg.

>> Good evening, Mr. Mayor council. I'm very proud to be with you tonight to share some of our design thoughts. It's also very nice to be here in sync with city staff. As you know this is a very large block. Our charge was to reduce this into three smaller blocks. Our goal was to make them have a residential pedestrian scale. With a variety of characters to each of the block. So along San Carlos we have an urban front door, in the middle block a community meeting space that features that block and in the block along Auzerais we have a trolley stop contemporary feeling variety of heights and characters to the building. The first block on the corner phs San Carlos and Sunol has a retail oriented plaza that has outdoor dining as you can see in the back of that image, it has a performance stage. So we can activate the plaza. The plaza has a mix of uses both retail and residential. So we can activate the street and the plaza both during the day and the evening hours as well. The taller buildings are oriented north-south in their closest to San Carlos which makes sense both from an urbanistic

point of view as well as a sustainability vantage point. Our middle block has a large community meeting room and garden located at street levels that both the community and residents can enjoy that and yes, you can see a large outdoor fireplace as part of that so that it really could be an indoor outdoor community space. The third block at the south end of the site has a ten story building incorporating a brick base. And we've tried to use industrial materials and a character that would reflect a history in the adjacent buildings along Auzerais. Trolley stop plaza is a smaller scale plaza opening out to the community and the future park. Coffee shop dry cleaner would be a perfect complement to a transit stop there. So we look forward to continuing our work with the city with the community with the neighbors to realize the vision of making San Carlos a grand boulevard. Thank you.

>> Mayor Reed: Thank you, developer's got some time level. If you want to reserve the time left ?

>> Just that. We spent over three years on this project. We took community outreach to a different level thanks to your Planning Department. A great deal of effort was provided to us by your Planning Department, a lot of latitude to have creative juices to the council offices, letting us meet many different times not necessarily on the subject of what's good what's bad but who's going to live here and why this would be successful. So we appreciate that latitude Mr. Mayor look forwards to the comment and the potential questions from there, thank you.

>> Mayor Reed: All right, we'll take some public testimony at this time. Please come on down when I call your name. Helen Chapman followed by Terry bellandra, Richard Zepelli.

>> Good evening, Mayor Reed, members of city council. My name is Helen Chapman, Shasta Hanchett community for the outreach. However, please don't interpret our appreciation for an excellent outreach process for approval of this project. Our neighborhood has seen the pretty pictures before, heard the promises and waited for the results. Too often what ends up happening is the agreement is made, the community returns to our busy lives and the important to us. Instead we are left with empty holes, missing retail and of course no parks or trail connections. This project has been touted as precedent setting in jury's still out. If this project can deliver the four acre park excellent community space, vibrant on time without exception we will be the first ones in line to promote this project. Promises made must be promises kept. You have heard consistently from us in what we want to see

in terms of great development. In order to gain back the trust of the community please show us the leadership needed part of our community are built. We can't afford to see yet another TOD not deliver what was promised.

>> Mayor Reed: Terry bellandra Richard Zepelli and Richard Martinez.

>> Terry Bellandra. Developers permit fees pay for city planning staff . Planning staff's role needs to be defined at community outreach meetings. At these meetings it is not clear how agreements can captured and documented so as not to cause misunderstandings which included during this Ohlone process. There is uncertainty in building height restrictions due to the City's ongoing lack of an OEI policy that will ultimately affect our airport apples success or failure. higher numbers and well designed commercial retail per the City's vision. The developer seemed to want less retail. Developers win because the city wants their business at any cost. It seems that a project's list of development standards is the only piece that the city is willing to enforce. We need strong development standards to stand the test of time. As projects sit in the pipeline developers fell off projects as all of you as well as the city planners cycle through City Hall, it's the surrounding community who is stuck with a project that doesn't live up to the pretty pictures we were sold. San José has grand visions but has no urban design standards or policies nor a governing board to enforce them. One of these developerren partners with this project has a past history of not fulfilling park land promises. In this case, clean uncontaminated park land dirt needs to be dedicated to the city before the first stage PD is granted and most definitely not tied to the city's ability to maintain it. If we don't all partner up early in the game and give the surrounding neighborhood community a stakeholder seat at the development table there will be a rough road ahead. Thank you.

>> Mayor Reed: Richard Zepelli Jonathan Martinez and Shiloh Ballard.

>> Good evening, mayor and city council. Is there a heaven? Yes, heaven is what dreams come true. Field of dreams is not about baseball. The climax is the mark turns it back into farmland. Sound like Tamien station? it's all about parks. A field of dreams at best, we only have to look back at our past transit oriented developments at best they are fields of dreams. San José, what we have is an unresolved relationships with developers and their developments, unrealized dreams, unrectified mistakes, unexamined beliefs that can only be repaired on a

magical piece of dirt that in the end is restored from a dream to its original form. Our previous parks to be have been erased like a blackboard, erased again and again, is this city council going to make Del Monte park nothing but a field of dreams? Once again construction of this park that should be a park that will not because a development is tied to future maintenance of the Del Monte park the impossible dream. Please don't let the Ohlone development go forward without breaking dirt for the first tower at the same time you're breaking dirt for the park. How does the city council wish to be remembered? Please, do the park and the tower at the same time. Thank you.

>> Mayor Reed: Jonathan Martinez and then Shiloh Ballard.

>> I don't have a prepared speech but thank you for letting me speak. I'm on the Shasta Hanchett neighborhood association, I'm on the Georgetown Facebook neighborhood association, I'm on the good neighbor community, or was, I don't know if that's i'm going to speak I live in Sunol I'm okay with the rezoning here. my concern is, by the way don't believe everything you read in the newspaper because that article did come across like we kind of supported this new plan 3 and that's not quite the case. I went to most of the meetings, the community meetings and they were very heated and my heart's off to the architect who redesigned the second plan which was, wow, I kind of like that project! And a lot of my neighbors go wow, okay, that sounds okay with us. Only to have this last-second, no, it needs to be higher and denser, okay. Got it. So I live here so I'm going to be the face of my neighborhood. And the challenge is trust. It's not so much park, you'll hear that and you'll hear a lot of other things about parks and other things. But if you live there and you put yourself in my shoes and you go, how do I get to Santana Row, San Carlos, Do they take a bus. We do take the CalTrain we do take VTA but Santana Row is on San Carlos up and over the freeway it's going to be very challenging. Although the marginal difference in the density may seem small in the relative picture of the whole city that marginal difference when you build that third tower will play a huge -- will have a huge impact on the traffic on San Carlos and my neighborhood. I would invite all of you to just drive down Sunol from this project to the whole foods store. You'll see that one of those streets is almost like a one-way street. So we'll be back. I just wanted to know that you know I'll be here. I support the rezoning. I support plan 2, not 3.

>> Mayor Reed: Sorry your time is up.

>> All right, thank you for your time.

>> Mayor Reed: Shiloh Ballard is our last speaker.

>> Good evening, mayor and council, my name is Shiloh Ballard. I'm here on behalf of the Silicon Valley Leadership Group. For those of you who are not familiar with the leadership group we represent the business community and I'm here on behalf of them advocating this project. At the general plan amendment stage we sent a letter communicating two main messages. And those two main messages were really for a project of this scale, outside of the core downtown, where the city is starting to go up, we have to concentrate on getting the design right. That was main message number 1. And main message number 2 was, again, with a project of this scale, when we're starting to go up outside of the downtown core and learning from the lessons of both Tamien place and center towers, and I think only but the community and an important stakeholder maybe engaged in the effort. And when the developer originally reached out, that's exactly what we communicated to the developer. We are pleased with the outcome because it does look like the developer went above and beyond with the help of planning to really set the bar in community engagement and then design. It also looks like a beautiful project and I think again the community have a strong role in the outcome in terms of the design. So again we support this project, and encourage your support. Thank you.

>> Mayor Reed: That concludes the public testimony. Does the applicant wish to add anything to the comments or reply? This would be the time.

>> Thank you, Mr. Mayor and thank you for those who came out to comment. San Francisco giants set out on a quest for World Series championship, they set out in high expectations. I think the development is a similar analogy. You set out with high expectations. A lot of things can trip you up, market factors or people just don't generally like what they see. That's the bum part about this prop process is we were actually able to have that candid dialogue over 22 times. So -- and I take exception. There is a native son that's my partner who has

pioneered this type of development and it's morphed and it's got to be better each time. We expect Santana Row and I remember that debate back then because I am in here. I remember a lot of people saying that wasn't going to be a good project either. So let's see. Let's see. I've delivered a number of projects in this city that I'm quite proud of. The developer said dead cat park land or put park land on your site. Well guess what, we only had eight acres there and we had to find offsite land. We found it offsite transit villages. We did that. This is a reflection of your next general plan. So get used to this. This is the debate that will happen time and again, as we try to create transit villages and it is not easy and it's very expensive. So I stand before you here very proud. I stand before you here, we have received -- we'll invest about \$350 million in San José. We've already invested close to \$3 million just in soft cost. And last time I checked your planning agenda didn't have a whole lot of other developments here making economic development in San José with two local San José developers. We're proud of that and we'll stand by that record. Thank you.

>> Mayor Reed: Thank you. We'll see if there are any questions, if so, we'll call you back up. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor Reed. If it feels like it's because we took this up a year ago and voted unanimously to support the Planning Commission and the Planning staff's recommendation to support higher density and we viewed this was the right place to put density and made sense when it's neck to a transit corridor opportunities are rare and few and we've had those opportunities come and go and we've missed, absolutely missed on the opportunity for large parks because we wanted to have it short. And you don't get open space if you build it short. You don't get substantial retail if you don't have the density. So those are things we talked about a long time ago and I think that because there have been things that have happened that have not gone as the picture promised we've learned from that and I think that's why we held a little bit of a different microscope on this project because we should treat each parcel of land as precious because at the end of the day if we do it right we have more options of the city to build something beautiful because we'll have more land for jobs or the right development, et cetera. Joe, Mike, you heard various comments from the community tonight. Do you have anything that you wanted to say in regards to some of the comments?

>> Joe Horwedel: Thank you, Councilmember Oliverio. Staff, we did want to note a couple of things. One is that we do very much believe that it's critical to have enforceable development standards and as councilmember noted and several of the speakers I think in the past there has been want for that term, happy ears, that we heard what we wanted to hear and not necessarily really put a stringent set of standards to requirements that were critical. And I think that is some of the challenges that we're working through still with the Tamien site about how to deliver the park in that community. As it relates to this neighborhood, we have delivered the park when we did the KB project. It's not open today but we have the land that's there as a part of this project for this high-rise start, as Mr. Van Avery said, staff has been absolute. That without that land being dedicated with the first phase for the park land requirements for that tower, it comes out of one of these blocks, that we really want to make sure that the incentive is there to deliver park land. We're not about collecting money. You also heard about the strong desire about enforceable development standards and as Terry pointed out it is correct that the city cannot enforce private agreements, we unique with this project and it's something that probably has merit to do more of in the future is that Mike and Laurel and I spent probably three hours with the community about a month ago. To talk through, one, the process and the concern that somehow something last-minute happened which in our minds did not. But we wanted to talk that through. But more importantly we wanted to talk about the vision and the outcome. And that, I think there was a pretty clear consensus that what we were trying to achieve was the same thing. And so we actually shared the development standards that are before you tonight about a month ago with the neighborhood just so that they could see it well before the Planning Commission, not in the normal way that it's tucked into a staff report but to really walk through the issues and see where those are contained in the development standards. Oochtion succeed in every place and with every resident's opinion about that. But that's still you know how we look at this is that we do see this as an important first step where we're heading with the city that we're not going to build 14-story buildings in every village in the city, rest assured, relax a little bit there. But where we don't have single family over the back fence we really should be thinking along these lines as opposed to putting town houses on every street in the city. We think this is a critical first step to that .

>> Councilmember Oliverio: Thank you Joe and I wanted to again thank your department for all the numerous people that touched the project over the past three years. Planning staff, Public Works, parks department, members of the community it is a lot of meetings, the alternative is less meetings. At the end of the day we have

to draw that fine line I think in retrospect maybe 22 was too exhausting with the community, maybe we should have just had two, making clear, we can try to make it nice around the edges but in the end this is what is going to go there now. Sometimes when we're not consistent, and people will forget we'll learn from that as project's going forward. Project's year ago unanimous, I do want to thank all the members of this council that sit at VTA. And Councilmember Liccardo, all the rest, Pyle, Kalra, mayor Red Reed, that then takes the million dollars of KB homes put forward to this project years ago and it takes the million dollars from the upset and the million dollars is voluntary, it's not a traffic impact fee, as for the what's already there. So that's important to note that's a voluntary donation. This was always planned to be residential. It was always in the general plan. It was the tallest and most dense use in the midtown plan but that was a plan adopted in '92. Times have changed 18 years later, Thursday the county decided to do the general plan amend. Of course we saw in the same area where we were converting industrial land to housing, in this case this has always been planned. This will take some time to build out, ten to 15 years but the realities of steel construction and financing are a reality that takes time. You're more likely to do the project on San Carlos and Meridian, again going good connecting our downtown with Santana Row, value fair, the endorsement of the west valley community association approximates when I hear snicker when it talks about maintenance of our parks. the reality is that this structural budget deficit is difficult for cities. Go intentionally is trying to take a park away from its residents is BS. This city is doing the best it can under its structural problems and we're going to get there. And we're hoping that through modification of city rules, and the donation of services for park maintenance, waiving prevailing wage, you deserve that. It's not developer's fault. It's not my colleagues's fault. I hope and would appreciate if those that have been so involved in city politics would understand the nugget of the financial dilemmas we're in. This will deliver four acres of park adjacent to the future Del Monte park. There is no other developer that could come in here and deliver this piece of land because no one else owns it. They do. So we have a great opportunity of making a large urban park. We also have the addition as this grows out because of the Reeding Graham property that was much larger park. So this is part of a puzzle that will stretch beyond my tenureship on this council in 2016 and will go to the next councilmember. But I want to say it here, publicly, we're going to create beautiful urban large park over time as developments occur. It's contaminated, yes, and it's going to be cleaned. We require the developer to clean the site, it's going to happen when it comes to providing parks for everyone here. We've covered OEI extent last time. Again I want to think, we're going to have an infill light rail station, as well as bus rapid transit. I think the light rail infill station was a big

deal. Thanks for the donation. Traffic, you're going to have traffic all the time. Lets look here, same amount of units but it was short. Whether you have people up or people in smaller square footage they're still going to carts. The council approved the environmental impact report . The retail again is a lesson learned. What did we do at Del Monte? There's no retail. We converted Lou's village, no retail. So here we're providing 25,000 square foot of retail. If this council remembers last week, we on 42 00 units of housing on north San José you're get going 25,000 square feet of retail for 700 units here one sixth you're get going the equivalent amount. I think if its very good thing. Especially again learning from the mistakes that were made from other projects. Again, you know, you can go about wanting to lower the density here, but you know what that means? That means less park fees. That's how we get you land and hue to get the park fee? The other option as well if we made it smaller that we're going to grow as a city, you are going to want to have kids. Your kids may want to live here. What we've done is having descrubtful subdividing of a lot of 21,000 square feet into three houses. We had 40 people here. That is more disruptive to a neighborhood than this. Because the equivalent of getting those units back means we're going to have 100 subdivided lots within the neighborhoods and no one wants that and the general plan is talking about that, putting a bubble over our traditional single family home neighborhoods. But to do that I got to put transit where it counts where it ooms single family homes and this project does that. Again we've talked about many times on this council how the density per acre actually creates the aggregate revenue to keep the city going. Density of the aggregates he aggregation, we do not upset we don't decide color today or window tints, that gets done by the planning director and the rest of the planning department. I think that's about all I want to say. So I'd make a motion to approve this item.

>> Second.

>> Mayor Reed: We have a motion to approve. I had a couple of questions. First let me say that I'm really pleased with the progress that's been made over the years ago with this project. I think it's going to be a great one. The trick will be getting it built in a tough capital market. I know that's difficult. I had one question about the retail, everybody wants retail, I've learned the hard way, can you build it and they still won't come. In the street of dreams metaphor. In what level is staff going deep enough and wide enough and high enough and all of those things unique enough to retail to make sure we get retail space?

>> Thank you? Mr. Mayor, TOD type developments. This projects builds in sufficient department so we fee we have the ability to attract retail. We are not precluding those types of uses we are include tall seelings but we have adequate parking. Alt the things that a retailer would want. So we feel very comfortable that while unfortunately we don't have 50,000 square feet of retail the up to 30,000 we can get with this I think ill we'll attract good tenants.

>> Mayor Reed: I think the key is the number of traffic on west San José street. River oaks, few thousand square feet of retail on these projects. The projects themselves don't support retail. So it's good to see it up on the front of the project like that. It has a better chance of attracting trerls than only one criticism. I just don't think there were enough community meetings. [Laughter]

>> Mayor Reed: Michael's going to cut his wrists. Athat last got to be a record of most community meetings than I've ever seen on the project. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I hope we don't break that record any time soon. I want to thank everyone who's been involved, certainly from the community, the direction we're going into the city who we like it or not, growth is coming to San José. Eer we plan for it or don't plan for it. This is the only way we can sensibly O&M San Carlos. I want to thank rob Stein berg. I think the design look grot, you're a greatly credit to the city, in the downtown. So you don't have to incur 22 more meetings bit we'll -- I certainly appreciate the effort that's gone into this project and certainly Councilmember Oliverio, I know something about the challenges of supporting projects that are more than 100 units an acre and I certainly appreciate your leadership on this. I just wanted to point out a couple facts. I think the community may not be fully aware of because there's been a lot of recent developments. First of all, Tamien I know has been the poser child for really bad development deals away with regard to procting community interests. I'm happy to announce that after three years of trying we finally managed to trike a deal been the VTA and the city now with future acreage to be transferred later for the development of a park at taxi yen and I want to thank my colleagues on the VTA board who, preernt that. Messy deal and took several years to unwind and I don't believe we'll be, lessons in mind. I do appreciate that here the developer is

committed for paying for ecopackages. I know we've had developments in the path in my own district where echo passes were committed to and then not provided until we follow up pop I am he home that remain in place and we are all very cognizant of that. I priesht your concerns about commuting here along with San Los. I think it's important that the community become very voaj and, we know it's going to be very expensive to get over 880 and that bridge but it's a very important line for the city and for the development along with San Carlos. And that commitment of the \$1 million from VTA or at least -- I guess it's \$2 million now if you consider the KB money for the light rail station. We're going to need some grant money to get over that, double tracking in that area as well which is going to take some additional equipment. This serm is a good, \$2 million commitment from the private sector. It's not going to be built tomorrow but I can say certainly with greater assurance I was able to give couple of months ago, this is something the board has committed to and it is in district. I guess the last point I wanted to make miecialg and your team and bare e-swenson, I appreciate the scroord effort you've made through all and all on this and I believe there is a, high density in the city I'm sure you don't need to be told this but please get it right. Because if you don't we're all going to pay for it for the next decade. So I look fort to seeing what this looks like in the ent. I know the design looks fantastic in the beginning and I look forward to seeing the end product.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. If you really want more public meetings I'm sure Mr. Van Avery will be often to that. There's going to be plenty more going forward? Even in terms of some of the challenges of coming back and asks for an increase in density, height, you know that's really the vision that all of us up here understand. We have to go in that direction and as Councilmember Oliverio indicated these discussions that we're making now we really are new of any of us are up on the days for sure and want to thank the staff for really helping facilitate the meetings and also faferg the vision that we all knows away we have to have going forward if we want to sees steinberg I think the architectural depipingses and what you have in mind certainly looked good. And I appreciate all the and effort because I know inbut rks as well as the community. Mr. Van Avery and your whole team I know you have been open through this whole process with the community and it's important I think that's reflected in what we see here today before us, and the community has been very closely now, they understand what we're trying to do as a city but I also any they're understandably skeptical of what the many

many picture or a song and distance as to what we're going to get and we get smgths different. We've had situations where we have comment upon all of us, the applicant, working with the architect at the developer goes forward, the staff, community and all of us up here to make sure that what we have envisioned here is what the end product is going to to be, how many ever years it takes to get there. This is an important stage in the process where we can all at least hopefully agree that the zoning's appropriate, the density's appropriate and that this is the kind of development we need to see if we really are planning to become a city that's more liability on transit, if we're I able to hillsides or the open spaces which we cherish so much. And one last point to follow up on Councilmember Liccardo, bus driver transit I do believer that is dwpt e-going to be going forward in the years to come to really chem downtown with are veaf and all point why between including this critical development and the trine station and what have you. So I look forward to seeing I look forward to the potential of this project coming to fruition, I look forward to the years to come and that I'm hopeful that some day we ask look back and all be happy for aim the meetings that were attended and all if exchange that were made and the community New Hampshire you put so moving forward as well.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I just want to congratulate everyone involved in this and echo, I'm not going to repeat everything my colleagues have already said but I think this project has really been improved since I saw it come here months ago. And Rob Steinberg you've done a fantastic job as I think that gives me a degree, a greater derive comfort that we have local folks involved in it, and I know where to find you when things don't go well! I feel very encouraged by it and I also want to thank the community. I've heard members of the community that are here I have the greatest respectd for your nu put. You were supporting the project in many respects. I think you just want to make sure it hams the way we see it stay on top of that and make sure it does happen and including the park. That's very important. So I will be supporting this oorchtd I have high hopes of this project bling what it is supposed to be.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: . I'll be a short one on the end here. I just wanted to say this is a very, very bike deal and it really drchlt hit me until tonight, just how bill a deal it is. I want to thank you each for participating. It is be the futuristic site that we've been craving for, thank you for all your hard work and I'm speaking to those of you from the community as well. I think if concentric thoughts and efforts have paid off. This will be an absolutely phenomenal building and I'm very much in favor of this.

>> Mayor Reed: That was short. Thank you. Other comments? We do have a motion. On the motion, all in favor? Opposed? None opposed, motion is approved. Congratulations, now all you have to do is build it. Practically done. Last item of business is item 11.3. It's rezoning of property on east side of Almaden expressway. Are there any cards from the public? I do have one card. Would be from the applicant, Eric Shanehauer, available for questions. Any questions for the applicant? I have no requests from the public to speak on this item.

>> Councilmember Pyle: I'm trying to find my paper to speak from. It doesn't matter. I just wanted to say that had has been of course a much smaller project than what you just heard about. But it was a delightful project. It was a case of working with the community on the part of of Mr. Hudson who is here tonight. And the neighbors, you see we don't have hoards of neighbors down here complaining, isn't that wonderful? And that's because of all the extra efforts that went into putting this together. This has been a combined property. It began with two smaller parcels, put into one. Which will not only make a better product in the end but it will make for a smoother transition for the adjoining neighborhoods. They will have less traffic going on and noise and the rest. It will be a beautiful project that will serve the needs of the upwardly mobile community. I'm really excited about it and can't wait for the -- what shall we say, the ground ceremony. Thank you very much. I move for approval.

>> Second.

>> Mayor Reed: Motion is to approve the staff recommendation. All in favor? Opposed, none opposed, that's approved. Any cards to speak under open forum? We have no requests to speak under open forum. That concludes our meeting. We're adjourned.