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>> Mayor Reed: (gavel strike) Good morning. I'd like to call the San José city council meeting to order for December 14th, 2010. We're on a different schedule today than usual. We have a lot of matters to get done before the end of the year, and this is our last regular meeting although we have a special meeting tomorrow -- Thursday but nevertheless we have a very long agenda so we've reorganized it in order to get it all done. And we have -- we'll start in sort of the usual order although at an earlier hour. So first item would be the invocation. I'd like to introduce Delorme McKee Stovall, manager, Santa Clara County office of human relations, promotes diversity, former coordinator of Santa Clara County for hate free community, many of you may know her for that. Delorme, thank you.

>> Thank you, Mayor Reed and members of the city council and good morning. As we begin the high holy season and experience the joy that the it brings I need to call attention to what has occurred four days ago on December 10th. On that day the U.N. declared the next year as a time to draw attention to human rights defenders around the world who take action against discrimination. The secretary general of the United Nations recently stated, human rights are the foundation of freedom, peace, development and justice. And the heart of the work of the United Nations around the world. Because the human rights of many Americans continues to be unfulfilled and often violated it is essential that we work here at home to begin to understand and support human rights. But quite often, progress comes down to people. Courageous women and men, striving to protect their own rights and the rights of others. Determined to make rights real in everyone's lives. In recognition of human rights day, and the year to come, it's important to acknowledge that the decision to act to end discrimination has often left human rights defenders and their ability to work around the world in jeopardy because of acts of repression and violence. Particularly in areas where there is strife and conflict. Each of us has a responsibility to support the efforts of human rights defenders by adding our voice and taking a stand in defense of those who fight for the dignity of life and the sacredness of our human rights. So let us use the power that we have and the relationships in our lives to not only defend those who defend our rights, but to stand among them, shoulder to shoulder, as defenders of human rights in our community and around the world. And God bless us all.

>> Mayor Reed: Thank you, Delorme McKee Stovall, we will now have the pledge of allegiance. Please stand. [pledge of allegiance]

>> Mayor Reed: First item of business are the orders of the day. I have a couple of requests for changes to the printed agenda order. Item 2.2 H a rezoning of property at 405 north third street we will need to defer to January 11th. Item 4.4 actions related to general plan amendments to the South Alameda valley reserve and O&M and then we'll need to take up item 8.1 approval of actions related to the 2020 COPS hiring grant immediately after having the city consent calendar. Any other requests for changes to the agenda order? Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. Can I request to defer 4.1 and 4.5 to be heard this afternoon.

>> Mayor Reed: 4.1 is licensing of tobacco retail establishments and 4.5, I say there is zero chance we'll get that far by in the in the agenda by the afternoon but I'll say people can.

>> Councilmember Chu: Thank you.

>> Councilmember Liccardo: I may be requesting quarntion on 4.6. There may be a supplemental coming from the City Manager's office relating to the CED recommendations put I'm not sure it is out already.

>> Mayor Reed: 4.6 is the community way finding we can defer any of those before they come up there won't be an issue . Motion to approve orders of the day? All in favor? Opposed none opposed, all right. Let me talk about the agenda order for the benefit of the public since we are doing things in a difference sequence. We will take up first after we get the closed session report, first actions will be on the regional Public Safety and interoperability broadband project, 4.3, then we willing have dwroot items. Joint city-Redevelopment Agency items and then we'll take the calendar and work our way through and start with 8.1 ache the consent calendar, and somewhere around 6:00 we'll be done. You're all welcome to 78 for the whole time or just watch it on the Web. I would note that we will adjourn this meeting in memory of Le Von Ba acknowledge family to start over from scratch. Councilmember Nguyen has some comments.

>> Councilmember Nguyen: Thank you, Mayor Reed. I'd like to stay a few minutes to make a few comments about a very special man. Levon Ba, name to start over from scratch. Here in America. Arrive being in San José in 1980 Mr. Le and his children within three years launched Lee's switches plus locations in four other states. Mr. Le passed away on November 23rd at the age of 79 and was the patriarch of a creative and industrial family. The family came to San José as refugees with Mr. Le becoming the american fast food restaurant principles to the delicious meat, especially French style baguette. Mr. Le was a pillar strength and determination for his family and he he will be certainly missed in the community. I've had the pleasure of knowing Mr. Le and I will always value his snietle and examples of honesty, hard work and dedication. He is survived by his wife, nine children and 23 grandchildren. We are joined here by Aenne Le, Mr. Le's holdest daughter. And on behalf of the city council we would like to extend our deepest sympathies to the family. Thank you.

>> Mayor Reed: Thank you, Councilmember Nguyen. Closed session report City Attorney.

>> City Attorney Doyle: Mr. Mayor, the city council convened in closed session, there is no report.

>> Mayor Reed: All right, we'll now take up item 3.3, actions, item 3.3, close of business Wednesday, that would be tomorrow if the City of San José intends to participate in the bay web project which is a regional broadband project for public safety. Which is designed to provide broadband for interoperable ten county Bay Area reernlg. In August, Motorola received \$50.6 million grant from the federal government, to start to build the bay web project in the Bay Area with plans to use Public Safety, communications and infrastructure already in place to build on it. There's a staff report that's been circulated to the council that outlines the history that San José staff and I have raised to date. But the decision to join in the Bay Webb project is or not is a big decision and one that neither I nor the police chief nor the City Manager could or should have made without a vote of the city council. So that's why we're putting this in front of the council. Sheriff Ahern has been asked for the long name for the acronym mass been asked to get letters of intent from the participating agencies and he was given a short schedule to do that. So we're trying to accommodate that by putting in front of the council today notwithstanding the fact we have quite a few other things on the agenda. But we -- he's agreed to wait until tomorrow for a written response. The Rules and Open Government committee put this on the agenda waived the sunshine requirements in order to get

this in front of the council in order to get sheriff Ahern a timely response. We've offered sheriff Ahern the chance to come in and tell us who I think Bill McAmmon is going to take the lead on presenting it so if you'd come on down and I'll turn this over to you for a presentation. Bill McAmmon is executive director of East Bay communications authority .

>> Thank you, mayor and members of council. I appreciate the opportunity to address you on the subject which we think is extremely important. The way I found myself here today is Schaeffer Ahern has been very concerned as I'm sure you are when you read through staff report that probably the most glaring deficiency in the whole governance structure. Schaeffer ahern is committed to I was asked to facilitate that process because we successfully we currently have 36 member agencies and we're building a communications system for the two counties so I have had some experience in developing governance. Would I like to make a couple of comments about things that are included in the staff report not as criticisms but to elaborate on those a little bit and then speak to the efforts that sheriff Ahern has put forward to try to bring this all together again. Because clearly it's scattered. Initially the NTIA grant through B top was established to accomplish three primary goals. The first was to increase community access to broadband. The first round of grants went out to actually improve public Safety access to advance broadband capabilities on secure networks. Something that a number of us in the region including chief Moore have been actively pursuing at the national level and third was to provide economic stimulus to the creation of jobs and promote public-private partnerships. One of the important things to note about that is this issue of the stimulus funds came with a very short time frames in terms of implementation. They want the grant completed within three years and so they really wanted to get things moving quickly to stimulate the economy. The UASI. Motorola was selected and I know there was a question about whether or not that process was a competitive process. Cal EMA reviewed that process and made a finding that it actually exceeded standards for this type of relationship. The grant was awarded to Motorola. It's a \$50.5 million Motorola is going to put up. It consists of 193 sites that are owned by local jurisdictions within the 10 Bay Area in conjunction with that a Public Safety network for broadband. Again I mentioned it has a three year time frame in terms of implementation. There is some question there's a recommendation in the staff report about possibly going back to NTIA and having them reallocate those funds to local jurisdictions. It's very clear from NTIA's perspective that Motorola is the grantee and there's no ability to change that and if in fact the Bay Area does not go through with

this grant the money would be put back to the treasurer. We've had conversations with Larry Strickling the communications director for ooms dpeanging the support of the local agencies within the ten bay counties and so that was why we put forward the letter of intent. Was to dpaij that interest. It is not financially binding in any way. It was just to gauge the interests of local jurisdictions. There's another issue that's brought up in the report about interoperability and the fact that if we're partnering with Motorola we're going to end up with a system interoperability and that is really far from the case. The LTE 4G technology which is proposed for this system has to meet an international standard which is a 3 GPP standard that requires interoperable devices that work on all these established the technical framework to ensure interoperability of the networks to ensure that the early builders that the Bay Area would be if the Bay Area goes forwards to ensure that there's interoperability built into that network. Related to sheriff Ahern's support from the Bay Area. The three mayors from the core cities were involved with letters of support, there were elected officials that were involved with letters of support and they needed somebody to sign for the reernlg. Sheriff Ahern stepped up as that executive sponsor believing he was supporting the interests of the region moving forward. Never that he he was going to obligate to anything did sign the executive as the executive sponsor. Since the grant was watered sheriff Ahern has worked to bring together the region so that we could form a governance which was sorely lacking. We formed a technical advisory group that are working with Motorola to outline the technical requirements of the grant itself and we are moving forward to try to formalize a the letter of intent that was approached was something that we did with JPA to engage the interest of cities to participate in this. That was all the letter of sphwent was for. The NTIA as was mentioned is very interested in understanding I want to be very clear that no financial commitments were made by sheriff Ahern or behalf of the region. The governance structure is where the financial commitment will be agreement that will be negotiated write the member of this governance structure with the vendor. And then it would take a council action or a Board of Supervisors action from each stooght ratify that agreement and their participation in that. So as all this relates to the recommendations that are put forward by your staff, we recommend that you execute the letter of intestine, it is not binding in any way financially to the city but it's gauging your interest in moving forward. But we recommend that you execute that with conditions. And the conditions are that the governance group adopt those guiding principles that were proposed by your staff. I'm totally in support of those have to be included as guiding principles for the governance structure moving forward. And in complousing I think this is an extremely important and valuable opportunity that we hope doesn't slip away from us. I understand that there's a lot of angst

and things haven't gone the way they should and I can tell you from sheriff Ahern's if there are any questions specifically for us so thank you for your time.

>> Mayor Reed: Thank you for taking the time to come in and make the presentation. We appreciate the time pressures that this sheriff is under to try to respond to the federal government. I think we'll have some presentation from our own staff at this point.

>> Thank you. As stated the city has received a request from Alameda County sheriff Ahern that the city execute a letter of intent to participate in the broadband opportunity program or also referred to as B top. Our staff memo outlines the various concerns with respect to this request and I just need to state early on that we are in support of the concept and we do understand the -- but we do need to understand the impacts to the city before we formally, specifically we have tried to obtain critical information such as operational goals, system design, equipment site requirements, and most importantly, the fiscal impact to the city. Since we have not received that information from staff's perspective it is very difficult for me to sit here today and professionally recommend that we sign and execute the letter of intent. Because we do support the concept of interoperability for Public Safety communication we have developed policy alternatives for the city council to consider. And I'll just go over them very quickly. First we are recommending that the city adopt a position of support for the concept of regional interoperability for Public Safety communication and as stated that with that come guiding principles. The guiding principles are fully documented in the report and I'll just review them very quickly also. First is that public-private partnerships or any decision to procure a system be done with accepted government procurement processes arounds that the promentd decision be made by the appropriate governing enjoyed. The ooms disclosed to the impacted public agencies, that the governing body adhere to good government principles including the Brown Act and other principles noted in the report and last that the system be developed by using source equipment and true interoperability with the purchase of nonvendor specific equipment. And second as already noted as yet another attempt to put this effort back on the right track we have suggested that the city council consider asking the NTIA to reallocate the funds to the Bay Area cities and counties, this request is very similar to what other regions are doing regarding B top dollars although we do note that it is highly unlikely that we would successfully have that in as an outcome. Oomsz that concludes my staff perspective. I do want to note that Santa Clara

County staff is in the arches and they can also bring the council up to date on their actions with regard to this request.

>> Mayor Reed: I think that's a good idea. I don't know who is here from the county, Emily Harrison I think.

>> Deanna Santana: We do have Emily Harris,.

>> Mayor Reed: I'd like to know what the status of that is and the work that the county is doing.

>> Thank you, mayor. Members of the city council. Emily Harrison representing Dr. Jeff Smith our county executive . Dr. Smith responded to the same short time line in terms of the letter of intent from the sheriff of Alameda County. He did so also expressing the support for the concept of a broadband project. And saying that the county of Santa Clara would participate provided certain things which have been called to our attention as being irrecognize in the process bringing us to this point were in fact not true. The sheriff responded saying that the way in which we phrased our conditions, if you will, was not acceptable and therefore that the county of Santa Clara would be excluded from the B top project. That's the status as of today. We also were in closed session with our board yesterday on this issue.

>> Mayor Reed: Thank you. A couple of things to start with. First as mode noted by Mr. McAmmon, and others, I signed a letter of support for the B top letter of support. Had I known the fact I would not have signed the letter of support. I believe that letter of support was signed under false pretenses, at the time it was supposed to be a project of the Bay Area UASI, we have helped form we are on the approval authority and its job is to approve things. We're part of that. And this started out as a project that was going to be done by Bay Area UASI. As you have heard, it is no longer the case, it's now a project in which sheriff Ahern is the lead in whatever capacity for yet another organization. So I'm just going to say that if the council approves the staff's recommendation I will write a letter to the Department of Commerce rescinding my letter of support and I think that would be the appropriate thing to do. In I have talked to strick Ling of the NTI amount and he he did say that the decision by the federal government was final and that was that. However I think that if the factser known to nimplet NTIA they

may have a different opinion. I have also talked to secretary Locke and have and the inspector general of the Department of Commerce, it is not clear that the Department of Commerce NTIA is aware of all the facts of this matter and they may have a different opinion about their grant and the grant process when those facts are known. My objective over the last few months that I've been involved is to first anything out what the factors. That has not been easy because the Bay Area UASI staff was not forthcoming with the documents. We had to go to the federal government request under freedom of information act requests to get the grant application that Motorola submitted. And if you read that grant application you'll see that they are claiming that this is a Bay Area UASI project, that we have a governance model, we are all organized and all behind it. But the project I was in favor was a different kind of project, different in management, different structure. I don't know why the general manager decided to circumvent the memorandum of understanding. I don't know why the Bay Area UASI Berryessa manager and staff exceeded the scope of their authority, I don't know why they created a competing organization, scrutiny of the action, and denying the approval authority the right to vote for denial of the deal. I don't know why we misrepresented the process and partnership that we have in the local area to the Department of Commerce. I've asked those questions. I specifically asked Sheriff Ahern those questions and he doesn't have a response to why. So we know a lot about what happened. We don't know a whole lot about why it happened. But I am interested in getting the facts one way or the other. And will continue to do that. But the question in front of us today is whether or not we want to sign the letter of intent that the sheriff has asked us to sign. So let me go back to my usual traditional approach and that is what is it? What will it cost us to get involved, what will it cost us to get involved with Motorola on basically a single source deal and does that make sense with the City of San José governance and issues with the grant application process? So if staff could talk a little bit about what we know about the costs, because I think that's a relevant factor to consider.

>> Deanna Santana: That may be a better question for Alameda County representatives to respond in terms of what they know. He we have heard different numbers flying around. We do know that the total project buildout has been estimated to be between \$400 million and \$600 million. What the city's share we've heard estimates in the 160 to \$180 million range. But he we don't have anything in writ. We don't have any cost calculations. That's partly why it's very difficult to professionally, answers to.

>> Mayor Reed: What about the elements of the cost? We at least have the areas in which we think there will be a cost. We're going to have to bold out some kind of physical infrastructure.

>> Deanna Santana: Let me describe what I do know. There are some sites that are recommended in the South Bay region. There are some sites noted in the grant application that are San José-specific. As noted in the moat Roma local governments would America those sites ready and pays through their own cattle the cost to have those sites ready so that they can be brought into this effort. That cost we don't know, we've heard some estimates, I think recently there's been an estimate around \$4 million Pyle looking to Michelle to confirm that.

>> Santa Clara County's preliminary estimate for the entire -- for the few sites that are in.stloirk including those in serge is you are \$4 million to get them shifl ready. This is disputed all the sites are shovel ready.

>> Deanna Santana: One time tps ongoing costs. There's mog cost to have an superoperability, almost like a subscription to make sure the equipment is working on a monthly basis. I do hear different figures but I do believe it is 3300, amount I --

>> We don't know what that-w a flat fee that we've floashtd. Here this would be no negotiation, and the only term we get is about half of what you pay today. Well, I don't think they're contemplating half of what we pay but we just don't have a number, they don't give us the number. We get the rirch around and the fact that one ghost entities is having to go through a public records act request, on is stunning to me.

>> Mayor Reed: What about the cost of yiment? Once you get the towers up and the infrastructure in, who's going to sell us the hand held equipment or the portable equipment or the mobile equipment?

>> Mayor, again, depending on how this -- this technology does not yet exist. And that -- we all have to recognize this, that the LTDS technology is just knowledge for there are no devices for public safety px we don't nonet who costs could be quite high. Actually we're trying to drive the produce down but we just don't know. Now to say we're going to be spocial for it, we do know. We just don't know how much it is going to be.

>> Mayor Reed: Is it contemplated that we're going to have to oosms.

>> Because it is such a small part of their market. It's very specialized and its costs us literally \$5,000 per radio. But the answer is probably yes. don't know for sure yet.

>> Mayor Reed: Just to ballpark it, if we currently pay \$5,000 per radio, how many will we need?

>> I don't know how many officers but right now roughly about 1200 and if you talk about the fire department, you're adding on whatever the staffing of the fire department or milk works that cost goes up from there.

>> Mayor Reed: I'm going to give Mr. McAmmon a Chan to talk about the cost issue as I of you suggested.

>> I appreciate the opportunity. I'd like to step back to the letter of intent. The letter of intent doesn't mean that you're joining and there's financial obligations. All it means is you're going to sit at the at the same time yubl costs that we've been given from Motorola today. I wouldn't voark often is assemble the people who are interest and then begin to assemble those costs. We're very concerned about the site preparation costs. The only way we can determine what those costs are, there's a period in jaunt of all of the interested parties to dernlg what though costs are so we can move fort. There is priedial costs, that will be, if we come together. all of those costs would have to be determined before anybody would be expected to enter into annal agreement that would obligate their jurisdiction to any funding at all. It was just a way to gadgets the region to fry to move this forward. As it relate to devices, disheef Moore is correct that these oorks interoperable so we're not locked into one market, reasonable blidz, ncial we were just back in boulder and had presentations from these devices, alt we want is you to come partner with us so we can determine what those costs are and then there's going to be an opportunity to determine whether this is good for Bay Area or not before anybody allocates one dime to do that.

>> Mayor Reed: Any other questions of cost as long as we're on the topic. Staff.

>> Deanna Santana: This good afternoon B top application. We were put in place through UASI staff and to some extent to project cornerstone, there was approval authority taken, the concept of removing the V T A B, authority action. It is unclear how we were asked to participate in another effort when this really is a project that had formal approval authority. The UASI staff staffed the B top program grant. And so it's unclear to us why we would then have it removed and put it to another government structure, when the dollars and amounts are very much UASI generated. So that is also a philosophical issue that I need to put out there. It is unclear why it would need to be removed and put into another government structure that doesn't need to exist.

>> Also, with regard to the system where the three large counties came together and decided on their own to acknowledge and to seek waiver to using Public Safety. The basis upon which this B top grant was played was made contingent upon the use of that spectrum. Again, we are one of the three waiver cities that signed for that spectrum and yet as part of this reallocated money San José has not been included in that pilot project cornerstone. Not only was the money reallocated without approval authority vote it's also being done by spectrum that specifically San José had been granted a waiver to use.

>> Mayor Reed: I do have some questions about that 700 megahertz waiver. I don't understand how Sheriff Ahern had the authority to deal away or get or grant or lease whatever happened with that spectrum, without San José's approval.

>> I won't speak to it because I don't either but I think perhaps somebody from San José may be able to answer that question.

>> Mayor Reed: Anybody want to answer that question about the 700 megahertz issue, San Francisco, Oakland and San José were the three waiver cities.

>> I can only speak from what I understand the reasoning was moving forward. And that was that the waiver was filed by the three cities on behalf of the region. And everybody feels that this grant was representing the region and as part of that we needed to apply the PSST to have access to that spectrum for this grant to move

forward. Sheriff ahern is the executive sponsor, submitted that application to use that spectrum. It was filed for clearly by the three cities but on behalf of the region.

>> If I may on behalf of the region again, the PSSC chairman who was granted that licensee was on the understanding that it went to the UASI and not to the region an entity that was not defined. Diss I should note that in attached 1 of the attachment there is a letter I had signed that references the waiver and that if the application was successful the City of San José would in good faith enter into the requisite agreements with the PSST oochts what on behalf of an entity of which we really know nothing about that's referred to as the San Francisco Bay Area urban region which entered into the -- those lease agreements. I know Michelle wanted to add more.

>> We've uncovered a number of documents that are on the FCC Website including the lease agreement, including an experimental license, ex parte meeting between members of UASI staff and the undersheriff advocating for this lease to be granted to sheriff Ahern for B top project. We were never notified as one of the three waiver cities. And the FCC's response was, that there was a period for people to file complaints about the leases. Well, we were never notified that the complaint period had opened, so San José did not know that the lease was being entered into, nor did we know that we had a time frame in which to respond to the FCC, and we are one of the three parties to the waiver. Uksz.

>> Mayor Reed: During the last few months my staff and I have talked to Alcatel Motorola motorola was the one that ended up letter of intent is that it looks like a request for just for us to just let by gones be by gones, I can't bleach it meets San Francisco standards that we just not worry about that anymore. And that we not worry about misrepresentations in the grant application, about this project. So I think we just got a letter in from Harris microwave, I don't know if that's been circulated, it came in today. I know there was an Alcatel Lucent letter yesterday. My question is, if we sign on to this letter of intent requested by the sheriff what do we do with regard to these issues that have been raised that these vendors have and we have with the procurement process? Because I don't think we can just ignore the irregularities in that process.

>> The next step to our understanding is the governance group with Alameda County would proceed with developing the governance structure and they would proceed with negotiations with Motorola. And you're right, mayor, those past issues would be water under the bridge.

>> Mayor Reed: What about the \$6 million, there is \$2 million allocated to San Francisco, \$2 million to Oakland, \$2 million to San José. How did that fit into the \$50 million ?

>> Deanna Santana: That's a great question. That's true there was a \$6 million, that the approval authority assigned \$2 million each to San Francisco, Oakland and San José. The moneys were reallocated for the UASI general manager for project cornerstone which is the pilot program that begins B top and the \$2 million that specifically to San José as well as the other cities was then reallocated over to Alameda County sheriffs office for project cornerstone and our moneys that were specifically assigned to San José were reassigned to Sunnyvale and Santa Clara. There's bin no formal action taken by the approval authority to redirect those funds and we did distribute a supplemental memo that we received from the county, and City of San Francisco city attorney's office because there was action yesterday on the approval authority agenda to retroactively approve the UASI general manager's actions. It was payable because the meeting ran over but it's what's important here is that the attorney for San Francisco suggests that the action should have been formally adopted 50 approval authority. Which further suggests to us that that was an inappropriate action where the authority of the general manager was exceeded.

>> Mr. Mayor, it is also my understanding that the management of that cornerstone project also now resides in that money, if I'm not mistaken, also went by the mr. McAmmon, he he or what its status is if he's willing to say so.

>> Mayor Reed: Mr. McAmmon, would you like to talk about the reallocation?

>> Thank you. I'm not prepared to comment on the actions that the UASI took about the reallocation because I don't know all the intricacies of that. We were approached 50 Bay Area UASI to implement a pilot project the

region was notified of this reallocation and the pilot project and there were sites they were asked for from throughout the region to participate in this pilot project so we could begin to get some early testing of what these networks would do we offered at the time of the procurement to stand up and purchase the equipment with the understanding that it would be rolled into the B top program so that we would only retain ownership of it for a short period of time. There were ten sites that were selected through a process that the UASI went through, four in San Francisco, three in Contra Costa County one in the City of Oakland and two in Santa Clara County, cities of Santa Clara and Sunnyvale stepped up and said they wanted to put up sites. So we're in the process of building out that network now so that we can do some network testing but again those assets will become part of the regional assets once the governance is in place to manage it.

>> Mr. Mayor, I was just wondering, has that money been spent, the \$6 million?

>> Not all of it. Process of being installed and they're actually a few of them that are working now and they're doing some preliminary testing so some those funds have been spent but they've been dedicated to that project so in a sense they have, yes.

>> Mayor Reed: Okay, anything else from the staff from this piece?

>> It's important to note just so that the council has an understanding of the actions that were taken, between March 18th and early September of this year, all meetings of the UASI approval authority were cancelled. And during the summer, when the UASI approval authority meetings which are cancelled the UASI staff actually went to the board of Mr. McAmmon's organization and asked them to enter into this agreement to run the cornerstone project. It's all there in the minutes of the organization. And they approved a contract, I believe it was in mid July, right around the time of a UASI approval authority meeting that was cancelled. And the UASI approval authority had an agenda item to retroactively approve this on the agenda for yesterday, as Deanna mentioned and unfortunately due to the length of the items on their agenda, including discussion of whether or not to do a more complete investigation, of this project, they -- they didn't get to that agenda item. They also -- I should also note that the City of Oakland has filed a formal protest with UASI over the project cornerstone reallocation.

>> Mayor Reed: Thank you. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. As win of the City's representatives on the Silicon Valley interoperability board not only in that compass capacity but also in my capacity representing the city and all large cities on the national league of cities Public Safety and crime prevention committee which has spent a considerable amount of time on the allocation of the D block and the 700 megahertz spectrum, I have to tell you even with all of that information that I've been receiving, over a period of time, all of this came to me as almost a complete and utter surprise. To know that this type of actions were being taken in the area, without the City of San José even knowing about most of it, without the Silicon Valley regional interoperability board knowing anything about it, it's unconscionable that this type of action is being taken. And I know when it first came up, Pierluigi who sits on the board with me, he he and I looked at each other like what, did we both knawel asleep at a meeting? How did we not know about this stuff? It was simply because it wasn't told to us. I'm concerned about a lot of things, that the fact that we got this request and basically saying, drop everything you're doing and suspend all your rules and just give us this letter that says you agree, I think is unreasonable. I'm disappointed that sheriff Ahern isn't here because there are a lot of questions that we have, and I don't think it's an accident that he isn't here. It's a continuance of a pattern to refusing to cooperate and refusing to answer questions to the City of San José. And quite frankly, I'm getting fed up with that. I look at these reports, I look at what our mayor has had to do, filing freedom of information requests, public record act requests and still not getting all the information that we need, is ludicrous. Imha what we're being asked to do is just close our eyes and say sure, go ahead and spend our money and see how it turns out. It's unacceptable. I think this is bordering on fraud if not just actually criminally fraud. misrepresented the authority of a group that doesn't even exist, the San Francisco Bay Area urban region. Somebody just decided to make up this name and start this project, it misrepresented the intent of the participants, with us being one of them. And as the mayor said, completely misrepresented his letter of intent, that he wouldn't have signed, had he known the facts surrounding this. It completely misrepresented the readiness of the sites, at least the sites that we know that are within our jurisdiction. I don't know about anyone else's accounting but to me that's fraud. Just put on whatever you need on the application, so you get the money. Don't worry about it, we'll fix it later! Well, I don't know about how Alameda County works or how Alameda

County sheriff's department works but that's not how the City of San José works. We have a waiver for the 700 megahertz spectrum that was signed by sheriff Ahern without any authority that we know of. In fact we've asked many times just show us where the authority came from. And we get absolutely nothing. We don't even get the sheriff here so that we can ask him directly. And I don't know about my colleagues, but to me, that's offensive. Just we'll go ahead and do it. Don't worry about it. We have an RFP that we heard Mr. McAmmon say, that exceeded standards. I'd like to see what low standards those were because they don't even come close to the standards of the City of San José. In fact we know that the RFI that went out on September 29 of 2009 specifically stated that the Baird will not award a long term contract based on this RFI. That's a quote directly out of the document yet a short time later on February 1st, 2010, the UASI staff sent out an e-mail to the responders that basically said, yeah, we were wrong. It really was an RFP and we're going to pick this person this company and we're going to go ahead. Well, I really would like to know, Mr. McAmmond, can you tell us what standards you're talking about that this procurement exceeded those standards? Whose standards were you comparing those 2 to because that was something you said a moment ago.

>> I referenced the California emergency management agency's audit of the process. And that was in a letter that they sent to the UASI. Related to their review of the procurement.

>> Councilmember Constant: Okay and what standards did they cite in that letter?

>> I'm not sure what they were. I'm telling you what they were --

>> Councilmember Constant: Are we throwing good with that audit or is that something we need the freedom of information standards for?

>> First of all I'm not involved in UASI. I'm not related to anything --

>> Councilmember Constant: You have read the document?

>> Yes.

>> Councilmember Constant: Do you have it --

>> Councilmember Constant: I can get it for you.

>> Councilmember Constant: Do you have it? Displ no I don't do have it.

>> Mayor Reed: Let me --

>> Deanna Santana: The document was issued by the UASI general manager. We have by separate action had requested that there be a full audit based against government procurement standards. Our approval authority, member Teresa Reed was successful in having the approval authority approve a request for audit. And that was confirmed at yesterday's UASI meeting for both programs, project cornerstone and B top. However what's concerning is that the UASI general manager initiated and audit before the formal approval authority could said scope and standards to the audit investigation so the valuatity validity of the audit.

>> Councilmember Constant: People watching on TV or on the intrrnt I want to make clear it is in the dojts I think it's important to note that there's key UASI team members who developed the deal with Motorola who are actually former Motorola employees. And I know we would never allow someone in our organization who had that kind of relationship to be involved. In any process to spend money or to commit our agency. I think it's important to note as the mayor indicated that \$2 million of our money's already been taken, taken away from us. And I know none of us up here knew anything about it. There's no formal records of any government entity ever voting on that particular issue. It just sort of happened. And now we're talk about many more mmtion of dollars that we're being asked to just trust and that it's going to get spent correctly. Well I'm not anywhere close to being able to trust in numbers that big, specifically given what we have seen so far. I think that, there's just so many things on this it's kind of hard to narrow it down to a handful of things to talk about. But I think that we as an agency as a city cannot continue to let this continue on this path and watch this money get spent in a way where there's no public scrutiny,

there's no document trail for the public to go back and look at what happened, I don't think it's wise for us to be in partnership with people who won't share information with us. As I mentioned before it's ludicrous that people like us and the county of Santa Clara who undoubtedly represent a huge number of residents who are affected by this project and can't even get our questions answered. For those of you who haven't read the letters from Dr. Smith, the county executive I think it's very enlightening to read those and see exactly what is and isn't being done. I wholeheartedly support the goal of the interoperable communications. I think it's something that not only we need here in San José, nor our first responders but also for our residents throughout our city. And I think that it is one of the top priorities of our nation. But there is no way that I can support the approach that has been taken so far or do anything that would endorse this approach continuing in the future. I am really concerned about the UASI approval authority never voting on this private partnership with Motorola, the selection of the executive sponsor, the decision to shift the \$6 million of UASI funds from 3 projects to this. And the fact that a grant went through without any vote. I know here, in the City of San José, and staff can correct me if I'm wrong, but before any grants are applied for in the City of San José, especially those that would have the impact of causing us to incur significant expenses in the future, don't those all have to come before our council for approval?

>> Deanna Santana: Generally, yes.

>> Councilmember Constant: And to just to see this whatever it is organization, and I see several different variations of names in the document, to continue forward without in the formal process is just wrong. And I'm not willing to sit here, closing my eyes and click my little red shoes together and say I believe, I believe that this is going to work because it's not going to happen. So with that I'd like to make a motion for approval of the recommendations in the memorandum that is dated December 10th from staff.

>> Mayor Reed: All right, we have a motion to approve the staff recommendations. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you. Michelle, just so I understand, I know there are numbers thrown around about what this could cost us. If we assume as I think many of us do, that this becomes an opportunity for sole

source contract for Motorola for the future, I know we've got a \$50 million contract, what is the magnitude of this effort to Motorola ooms?

>> Well if you're just looking at the hand held devices which is where San José already has a relationship with Motorola in the police department, as Chris mentioned, as chief Moore mentioned, it's \$5,000 roughly per device. The grant application, if you talk about the Bay Area region, talks about 50,000 subscribers. So that's you know the various public safety personnel, the first responders from throughout the Bay Area and other individuals. Somewhere in the magnitude of \$1 per device, to \$5,000 per device, you know, will come up with a price. And someone, whether it's Motorola or another vendor will be selling those devices to local jurisdictions.

>> Councilmember Liccardo: It's probably north of 100 million?

>> Yeah, and then there's another piece of it where the public access side of the equation which we haven't really talked about, where somebody stands to make money off of selling broadband public access, you know, kind of to the general public in the underserved regions and using these communications fooflts provide that service. So there's money to be made on that side as well.

>> Councilmember Liccardo: And several tens of millions more I would imagine?

>> I would imagine so.

>> Councilmember Liccardo: Mr. McAmmon forgive me would you mind coming to the microphone for a while? I understand you don't work for UASI, is your.

>> No I'm a contract employee with East Bay communications division and when sheriff Ahern called the first regional meeting together I was there and I was requested that I assist with the formation of the governance. I have no connections with the UASI directly. We are running a connections system for Alameda and Contra Costa county or building one excuse me.

>> Councilmember Liccardo: Do you have dealings at all with the RFP?

>> No.

>> Councilmember Liccardo: None at all?

>> No. I was involved in the review process but not in the RFP process at all, RFI or RFP.

>> Councilmember Liccardo: You're aware that it's UASI's team that searntion twopped the RFP?

>> Yes with pes facilitated the selection committees?

>> Yes, representatives and I think those are included in the staff report of the people throughout the region that were on that selection committee.

>> Councilmember Liccardo: And the UASI team recommended a selection of.

>> Veshedz that responded.

>> Councilmember Liccardo: Right. When this was posted on the UASI Website it says explicitly the management team will recommend the selection of selection committees so in fact it was the management team wasn't it?

>> I'm sorry, I'm not aware of nap I can tell you my involvement was to be part of the selection team, our selection team made a recommendation, and how that recommendation was taken forward I'm sorry, I can't answer that. I'm not sure.

>> Councilmember Liccardo: Okay. So let's just assume for the sake of argument that the UASI selection made the recommendations? Were you aware at the time that four former Motorola employees sat, had jobs with UASI?

>> We've all been aware of that for years, yes, that they had jobs with the UASI, they had worked with Motorola but again I'm not aware that they made a recommendation that was different than what the selection team made and there were no members of the UASI staff that were on the selection team.

>> Councilmember Liccardo: The same selection committees that they in fact facilitated?

>> They facilitated the process, yes, you're correct.

>> Councilmember Liccardo: Did it ever dawn on you that there might be a conflict of interest?

>> On the process that I was involved in, there were at least four vendors that came in and made presentations to us and I didn't believe there was a conflict at that time, based on my involvement.

>> Councilmember Liccardo: Even though general manager of the UASI team had just been employed at Motorola, that never struck you as a conflict?

>> Again we were dealing with what we were dealing with but our process was a reasonable process where presentations were made by vendors we rated those presentations and we made a recommendation as a group.

>> Councilmember Liccardo: Was this RFP ever posted on the San Francisco bid Website?

>> I'm sorry, I don't know. I'm sorry I can't answer that because I'm not involved with the UASI directly.

>> Councilmember Liccardo: So what public entities voted to ratify the selection of Motorola?

>> Um -- I agree with your staff there were no public entities that did. This was a grant that was moving forward and there were no public entities that voted on it.

>> Councilmember Liccardo: So as we look at this letter of intent going forward I think it means you said we would get a seat at the table to decide, I'm hoping you can complete that sentence. What do we get to decide when we get a seat at this table?

>> Well we're all struggling as a region as to what this grant means. I struggle with the same questions that your staff struggles with. Is about the cost, is it something that we can actually make work for the Bay Area and we have to work through these issues with Motorola who received the grant to see if we even want to go forward. What we're trying to do is assemble that team site assessments, your staff made a point that those sites were supposed to be shovel-ready. Well all of a sudden we find out now that those sites weren't shovel ready that there are costs associated with upgrading those sights to make them work for this system. We need to understand as a region what those costs are. I'm not here today to tell you that I would recommend that we go forward with this. What we're trying to do is do our due diligence and see if it will work for the region.

>> Councilmember Liccardo: And the fact that those sites aren't shovel ready comes as a surprise to you now?

>> Yes it comes as a surprise. I was not involved in the selection of those sites, I was not involved in the grant development process at all. I'm coming in at the 11th hour at the request of a group of people that wanted to establish some governance on this. But I'm concerned that sites were proposed, that were supposed to be shovel ready that we're finding out aren't shovel ready. I'm in total agreement with your staff on these issues.

>> Councilmember Liccardo: I can empathize how you feel about not having been involved in the process. What I guess I frankly feel bad for you because you're being put in this position, to stand in front of us to sheriff Ahern apparently lacked the courage to do so. And I'm sorry that you have to stand here. I think frankly that there's a message you should carry back to sheriff Ahern, and the GM Phillips, that my seven years as a criminal

prosecutor with the DA's office and the U.S. attorney's office I would clear my desk for a public corruption case like this one. I think this thing stinks and I think folks should go get attorneys and I hope we can clean this up and I hope we can do it in a very public way and I'm hoping we can do it in a collaborative way. But if we can't do it in a collaborative way it will be public either way about.

>> I'm here today to tell you I'm commit to doing just like that. I hope we can move forward with the city and put these pieces together and see if it's beneficial for the region or not.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, player I don't have too much more to add to what my colleagues, I agree with pretty much the sentiment we've heard and I just think ultimately it's sad because we did have and hopefully there will still be an opportunity but we did have a really good opportunity here to create something that we definitely need, especially with the natural disaster risk that we have here in the Bay Area. There was a great opportunity to create this regional interoperability for public safety communications in a way that was transparent above board and I know that the Alameda County representative indicating that the goal is to assemble people interested and then determine the costs and I don't disagree with that, should be the way it's done but that should have been started a year ago when this money was first allocated. There were plenty of opportunities going forward even in March when the mayor sent a letter and we were sthawrd information would be forthcoming, could are another opportunity for saying okay, how we move forward and I think it's just a shame. Because what we did put our trust into this and maybe we should be more cautious in doing that next time. I think it's surprising and shocking to see other government agencies acting this basis point I don't think we could have anticipated this type of nondisclosure but maybe we've learned through that and will be more cautious next time and not taking insurances when we put our name or the mayor puts his name behind something going forwards. I think that makes us look bad and I don't think that's fair for us as a city and we certainly have standards that are far beyond what we've seen through this process. So going forward I appreciate the staff report and agree with it and I think we're still committed to creating this regional communication system. I think it's a good thing for us to do and we

need to do and I was hoping going forward we could do it in a way that the lease reaches our expectations and our standards.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I agree with my colleagues that the fact that sheriff Ahern is not here is a huge red flag. I just can't believe that he wouldn't take this seriously enough to come down here. And the fact that the memo and the documentation strongly suggests that the process has been compromised. Some of the dollars have been spent. We don't know how many of the dollars have been spent, we don't know where they were spent for, strongly suggests there is no sunshine here we are trying to be honorable partners, we are trying to do so so I will have to ask Rick Doyle and or chief Moore, is there enough evidence in the materials that we have before us today and the testimony, to proceed with some kind of investigation? And/or do you recommend doing so?

>> City Attorney Doyle: Yes, there is and I think he we are -- that's ongoing. So the short answer is yes, but as you can tell from the materials before you, there is a lot of information we don't have. And we've been despite our efforts to get it. So absolutely, we've got to uncover all the details. And then make recommendations on our next steps.

>> Councilmember Pyle: But we do have the authority to bring the individuals that we need to bring forward here to answer those questions?

>> City Attorney Doyle: Well, I think this is a legislative hearing. You've asked the individuals to appear. They've not appeared. I think at this point, we should continue to try to get the information and then we'll advise you accordingly.

>> Councilmember Pyle: All right. I would like to say too that there is far too much wiggle room in the process. So that liberties can be taken in relation to getting the moneys distributed. And because of this I hope

somewhere along the line that we do come up with some fairly air-tight rules and regs for distribution of moneys. The interoperability units are critical for the safety of the Bay Area and the fact that this is happening and all of the use of those units will be delayed is really another crime in itself. So I would agree with the proposal, and I'd like to push this forward, as quickly as we possibly can. Thank you .

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. It seems and I totally agree with everything my colleagues have already said, it looks like the attitude in this project was the ends justify the means. And I think we've all heard pretty clearly that that's not acceptable no matter how great the goal is. And I think this prompt, the idea of doing this has already been stated, that it is very important nationally as well as locally. So I hope that in the end, we can come back and actually do the project, a new project the way it should have been done in the first place. And Mr. McAmmon, looks like you were brought in at the 11th hour, that's really what it looks like and really kind of holding the bag and as everyone else has said, I can't understand why sheriff Ahern is not here. I strongly support our staff's position. I also want to thank the staff for the diligent effort you have been doing to uncover the facts. We haven't even got the fiscal impact on San José. Hopefully now we know more than we don't know but I'm not totally sure of that. We definitely need to have the reallocation of funds. Where's our \$2 million that should have been allocated to San José? San José can't afford to be losing \$2 million that should be coming to us. This doesn't pass the smell test let alone meet our high standards. So I support this and will be voting yes.

>> Mayor Reed: Thank you. Welch has been said about sheriff Ahern's absence but undersheriff L urveghtscia is here and he has a couple of questions that perhaps he can answer since he also sits on the UASI board and I'm curious as to why we have to have a governance discussion when we have a governance structure under the UASI board and why this couldn't be handled by the UASI approval authority.

>> The discussions within the approval authority have been about governance, about whether -- whether or not UASI was going to govern this grant. The grant itself was applied for by Motorola not by UASI. Motorola was the recipient of the grant, not -- not the UASI. It involves 10 Bay Area counties and over 100 cities and special

districts and those counties and special districts don't have representation on the UASI approval authority. The UASI approval authority represents, as you know, the three core cities and the three core counties. So if we're going to ask or if members of 100-plus cities and special districts are going to be asked to participate in something, the belief is, that they should have some say in it. Including the core cities and the core counties. So if you're going to pull together something that's got over 100 entities involved, there has to be a governance system in which they all have a say. And they don't have a say in the UASI approval authority. So by proposing a different model which mimics to a certain extent the East Bay regional communications system JPA where everyone does have a say, the thought was is that it would be much more open, much more transparent, and it would be much easier for those entities that wanted to participate, to know that they were involved in all the decision-making right from the beginning, in terms of the grant, and how it moved forward. So that if the agencies felt that the costs associated with going forward didn't make sense for them, they wouldn't have to do it. If a majority of those agencies felt the same way, the project wouldn't go forward at all. It could still not go forward at all, whether San José or Santa Clara County or any other agency decides to become part of it or not. We would like to have a system that was truly interoperable. We believe that there's a definite need, just as you've all expressed to have a system that's truly interoperable. How a lot of this occurred is not clear to me. But then, people weren't calling me directly and asking me. I wasn't, as it was pointed out I wasn't asked to vote as a member of the approval authority on this issue. So the specifics as to how this occurred, I suppose depends on who it is that you're asking. But I can tell you that our intent all along has been to help facilitate the creation of a true governance model, where everyone has input. Where there are no secrets, where no one has to wonder how much something costs. But you can't get there until you sit down and start talk to the people who control the grant and that would be, in this case, the NTIA and Motorola. If you want answers to how much something's going to cost you got to ask the vendor who's charging what the cost is and for one person to ask and get an answer, I'm not sure that's going to satisfy all the other 99. So all 100 agencies need to be involved in this, as far as I'm concerned.

>> Mayor Reed: You're a member of the Bay Area UASI approval authority board. Do you know why this wasn't presented to the approval authority for consideration say on March 18th and why since March 18th the approval authority hasn't been engaged in this?

>> I can speculate. Nobody called me up and said here's why it didn't go there. I can tell that you the why is because the general manager made the decision to do what she was doing based on I suppose what he she believed she had the authority to do.

>> Mayor Reed: Do you think that the Bay Area UASI could have handled this organizational work that now the sheriff is doing if you accept your premise that we need to get 100 cities and counties engaged in this, there is some reason why the Bay Area approval authority couldn't have managed this instead of having sheriff Ahern do it?

>> I slum believe we could not have done this, nor does sheriff Ahern believe he he can all by himself manage this. That is why we are trying to move forward to create a governance system that can manage 100 plus agencies. The volunteers often the UASI approval authority including me, who volunteer our time to niece regional efforts, in spite of the fact that we have other pressing jobs to do, as all of you do, I'm sure, we cannot manage a 100-plus entity broadband system, no, the answer is no, we could not do it, my opinion. The other members of the approval authority may feel differently. That is my opinion.

>> Mayor Reed: As a member of the approval authority board are you a little bit concerned about what happened to the \$6 million that was entrusted to the approval authority of federal funding?

>> Yes I am and I have some solutions for that that would have been voted on yesterday but unfortunately through no fault of my own, the meeting was adjourned because a member of the Santa Clara County, one of our members had to leave. Otherwise, we -- I was prepared to stay there all day.

>> Mayor Reed: Well, I think that's -- would have been a good thing to do. Do you know why --

>> I was there.

>> Mayor Reed: Do you know why the are the approval authority board didn't meet between March and September?

>> I don't call those meetings, sir, so no I don't.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Sir, I was just curious, you said option 100 cities and county and incorporate them in the process. So what outreach has been conducted to those 100 cities and counties to date?

>> We've held a number of meetings with what's called a the deck groups that -- first of all we're looking at the cities and counties that control sites first because without their -- without their cooperation, there is no program. If the cities and counties that control sites all chose not to participate, which is certainly their right to do so, there wouldn't be a broadband project. Because without the 193 plus sites, there's no interoperability. So the first, the first move is to talk with the cities and counties that control sites to see if they're interested. And that has occurred. There's been two meetings with representatives, there's been a representative from all ten counties that have been invited to the meetings. We've also invited all the core cities and the core counties to the meetings, to talk about moving forward to form a governance model that everyone will have a say in. So yes, there's already been two meetings of that, that sheriff Ahern has called.

>> Councilmember Liccardo: And sitting on the UASI board, you have I know that you're aware that Alameda County has benefited quite a bit from UASI.

>> As has the other counties, yes.

>> Councilmember Liccardo: Dollars. But yes specifically Alameda County's obtained specific projects that are unique to Alameda County it's fair to say, isn't it?

>> I'm not sure that's fair to say. What's unique to Alameda County?

>> Perhaps Deanna and Michelle have particular help that they can offer.

>> We're aware that Alameda County does receive funds for urban shield off the top of the allocation.

>> Absolutely that's a regional exercise that includes many other counties. Alameda County is we're just one participant, we're just one piece of that huge project that includes San Francisco County, Contra Costa County, Santa Clara County, San mat yow county.

>> Councilmember Liccardo: And Alameda County receives a disproportionate share of those funds?

>> Disproportion at share, absolutely not.

>> Councilmember Liccardo: Cher.

>> To their credit urban shield is an incredible program. If I may --

>> It is a million dollars we do not hold onto those funds. We actually use them to reimburse the cities and counties that participate.

>> Councilmember Liccardo: In Alameda County.

>> No, not in Alameda County, throughout the region. This exercise just a month ago occurred in the City of San Francisco and the county of San Francisco obviously, one and the same, in Contra Costa county, in San Mateo county and in Alameda County. So it occurred in four counties. But it doesn't matter what county it occurs in. The participant agencies are the ones that are reimbursed. So if Santa Clara County wanted to put on six scenarios they would be reimbursed for all six scenarios. In Alameda County this year I believe we had five out of 25. So

Alameda County did not receive a disproportionate share of the money because we didn't-d we didn't run a disproportionate number of scenarios. And it's not about making money. It's about training first responders for the kinds of events that they have to face. So the million dollars is not a check to the Alameda County Schaeffer's office to do with as we please. the money is to pay for to do a regional exercise which costs quite frankly way more than \$1 million.

>> Councilmember Liccardo: Yes, thank you. Sir could you tell us why your boss isn't here?

>> I can't speak for him. I'm speaking on his behalf. I'm his appointee. He asked me to be here. And so therefore I am here.

>> Councilmember Liccardo: Okay. Could you share with him our great displeasure with his lack of presence?

>> Certainly.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: Undersheriff Lucia have you been involved with the conversations phone or person to person meetings with either NTIA or FCC?

>> Have I had personal conversations, no. I was on a conference call with the NTIA recently. When we asked them specifically about this deadline that they were asking us to impose. So yes, I was on a conference call with them.

>> Mayor Reed: Well, I'm curious as to, in that conference call if they had any discussion about the letters of support that have been received. I mentioned a letter that I wrote earlier that is based on this being a Bauer UASI project and whether or not that was an issue that they raised in those conversations.

>> No they did not. I will tell you that the conference call was something that I asked for. So it wasn't at their option. I wanted to make sure, before we put any letters out or anything or we appeared here, that the NTIA's desire or almost demand that we get answers on who's in and who's out was actually coming directly from the highest levels of the NTIA. So we had that conversation and I was told that yes, in fact that that is their desire, that they want to know which cities, which special districts which counties have an interest in moving forward. Because if there aren't enough the NTIA isn't going to be interested in continuing this grant opportunity. And I don't blame them. If it doesn't benefit the region they shouldn't continue this grant opportunity. And that's what the conversation was about sir. It was not -- he they didn't initiate it to talk about any other issues. I more or less initiated it just to be clear on that issue.

>> Mayor Reed: As an approval authority board member are you concerned about my statement that my letter was gained under false pretenses by the Bay Area UASI staff that works for the approval authority and that there are 29 or 30 other letters of support that may have been gained on false representations by the staff?

>> Absolutely. I am concerned about that.

>> Mayor Reed: I would draw your attention to the letter from senator Feinstein. I'm a little bit ticked off, having my letter on a signature under false pretenses. My turns out really wasn't a Bay Area UASI application.

>> Deanna Santana: Mayor Reed.

>> Mayor Reed: Yes, ma'am.

>> Deanna Santana: I just have to put this in the record as well because attachment A there is a letter that I signed that is in support of the B top. And I need to say for the city council that this was a UASI staff-initiated letter. The form came from the UASI staff, Heather Tannenhill I believe. And at that time, we were -- I believe I signed that letter under false pretenses as well. It does recommend a support of Motorola but because it was initiated by UASI staff we fully expected that this would be brought through the UASI. At the time the letter did

include references to having Alameda County sheriffs office as the fiscal agent. Because we preferred that the UASI maintain status as fiscal agent because of all the activity we saw UASI staff engaged in we deleted that reference out there because it was something that we could not support. And it says he very clearly in here that we would be in agreement regarding the City's waiver for the 700 megahertz spectrum that we would be in agreement to sign and enter into negotiations regarding the lease. But little did I know that at that time, and I -- no one still don't have full information there was already activity underway to negotiate our lease away from the City of San José. So I need to put that in the record because there is document here that needs to be further put into context.

>> Mayor Reed: Thank you. Councilmember Constant.

>> Councilmember Constant: Thank you. My final comments is I really urge --

>> Mayor Reed: Undersheriff, why don't you have a seat. Unless there are other questions we'll call you back.

>> Councilmember Constant: I really urge all microphone colleagues as we run into our congressional delegation as we often do at many events throughout the city that we each individually express our displeasure with not only what's happening here locally but with the way the governmental agencies are pushing this forward without the accountability. We know that clearly President Obama, his administration and the Congress was very clear on what they expected with stimulus funds and transparency and accountability. And made it very clear that they would want to investigate abuses. It's our responsibility as electeds and sometimes our individual contacts have a lot more influence with the delegation. I know we each know them and speak with them frequently and I hope can you all join me in making sure that message gets loud and clear to our congressional delegation.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Actually, my points have been covered. Thank you.

>> Mayor Reed: All right, I have no cards from the public to speak on this, correct? That's correct. Any further council discussion? We do have a motion on the floor. Made by Councilmember Constant. All in favor? Opposed? None opposed, that's approved. Thank you very much, Mr. McAmmond, sheriff Lucia for coming down trying to answer our questions. We appreciate that. We're going to take up the Redevelopment Agency portion of the agenda. As soon as I get back to where we are, get my notes squared away and get our staff changed. Any chairntion to the printed agenda, under orders of the day? I have no requests, is there a motion? Motion is to approve the orders of the day for the Redevelopment Agency agenda. All in favor, opposed, none opposed, do we have any closed session report on the redevelopment agenda? I don't believe so. Nope.

>> Mayor Reed: Then our first item would be the consent calendar for the agency. Have a couple of matters on there . Motion is to approve the consent calendar. Is there anybody who wishes to pull anything off for discussion? I have no cards to speak on the consent calendar. All in favor, opposed, none opposed, that's approved. Item 3.1, report of the executive director.

>> Harry Mavrogenes: Mr. Mayor, members of the board I'd like to just move on to our fiscal report today in the interest of time. I'll give you another report next month. But in the interests of time let's go with 3.2.

>> Mayor Reed: All right 3.2, agency's financial progress report.

>> Harry Mavrogenes: Mayor, members of the board, this was out of our budget process, there was a request, that we give you monthly updates on our finances. I'm going to ask David Baum to give you projections from the county assessor's office, we will give you another report next month. And during our mid year budget review we will make any adjustments necessary. So David if you could please proceed.

>> David Baum: Thank you, Harry, Mr. Mayor, members of the board. Just real quickly we have three slides we wanted to go through with you this morning. As you know we approved our budget in November. And there's not too much new to report, but what we have here are three slides, and because of the decline in tax increment from \$202 million to \$187 million, the agency and directed by the mayor and the board have slowed down the

expenditure of funds. And so these slides indicate that. That new contracting is down 41%. We work to close out encumbrances and contracts that we no longer feel are necessary. And so that's -- that is underway. Because there aren't as many contracts there hasn't been quite as many closeouts. But really the bottom line here are the year-to-date expenditures which were down 10 million or 31%. And in terms of those year-to-date expenditures the bulk of the expenditures I'm pleased to report are for capital projects. We do have operating costs incurred by staff in support of those projects, but a good \$13 million of that capital credit expenditure is spent on capital projects. And then we have general overhead. Of course the statutory pass through of our housing set aside funds. The ERAF loan pams are for loans received for us this is the semi annual payment and the letter of credit fees are for our banks and fees to support our debt program. As Harry mentioned we have been receiving monthly reports from the assessor's office. The most renal monthly report indicates that the secured value for the agency assessed value is down 3.07%. This is a limb more than a drop than we had hoped for. The budget forecast a 2% drop in tax increment. Also embedded in that 3% drop is an assumption that prop 13 would be at the 2% level. In fact prop 13 inflation is trending loafer than 2%. The most recent bureau of labor statistics indicates it is .75% but the state Board of Equalization has yet to announce what the CPI is for prop 13. We are expected to know shortly. That represents about 20% of the story. Personal property is another 20%. We would expect that personal property would be on the rise and of course construction value added in the form Equinix and Brocade and apartment sals, higher than assessed value prices, would probably help mitigate the assessment we've seen so far. About that that concludes my comments and we'll be happy to answer any questions you have.

>> Mayor Reed: The question about the 3.07 and the 2%, it's 3.07 assuming it will be included in the 3 many 07?

>> Yes, the 3.07 drop also includes the 2%. If prop 13 was zero, then the drop would be 5.07%.

>> Question the amount of money we are going to have to pay the State of California in May unless we get a stay in the Court of Appeals which is unlikely, we are currently planning to borrow those funds or we have been

planning since last year to borrow those funds from the City of San José in some fashion or another. But we do not yet have that work finished so we don't yet know where that money is going to come from, do we?

>> Harry Mavrogenes: That's correct. We are working with the city, City Manager and I have had discussions on that but we will have to make a determination in the next several months of how we're going to raise the funds, funds for that.

>> Mayor Reed: We need to make that determination sooner rather than later because we can't wait for May. Because if we have to write the \$13 million check, there is a penalty for late payment. Is that still the death penalty for the Redevelopment Agency?

>> Harry Mavrogenes: Yes many it would.

>> Mayor Reed: Not actually a death penalty, a comatose penalty.

>> Harry Mavrogenes: The City Manager and I are well aware of that and trying to find a way to make that payment.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. David, as I recall last year, as prop 8 appeals come in towards the end of the year, the line on the graph tends to fall off the cliff, or at least it did last year. Do we expect there to be a significant drop again as we get to the end of the fiscal year?

>> David Baum: Councilmember Liccardo, it still is too early to tell but in our discussions with the assessor's office they do tell us that they are still working through appeals. And you'll recall in the month of June there was a drop of about \$1 billion. And so last year there very much was a big decline at the end, right at the time they announced the new assessed values on July 1st.

>> Councilmember Liccardo: Right, so if -- I guess we'll hear from the Board of Equalization soon about the inflation factor but I'm getting we'll see the secured value drop at the end of this calendar year somewhere in the amount of 4% or more is that the assumption?

>> All we can tell is what the assessor told us on December 1st.

>> Councilmember Liccardo: I'm just concerned now knowing what we no about the pattern of appeals this number is going to get quite a bit deeper by the end of the fiscal year.

>> Harry Mavrogenes: Sir in response to that we are very concerned about that and that's why again we had set outdoors exat budget in the smaller amount. We had increased our reserves in anticipation that you know, we're facing some unknowns now. We see progress in the years ahead, as we see projects starting back up again. But it won't help us immediately. So I think we are bracing ourselves for a difficult time.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I just had a private conversation with Larry Stone and asked him what was your prognosis and he he basically said he was going to give it two more years before it was back to where it should be in reference to the property values. And I said I basically said, two years? And this is -- that's too long a period. And he said, well, I can't change the figures, I just go by what I get. He just didn't seem as optimistic as I would have liked him to be. So just wanted to add that to the story.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I just wanted to continue to recommend that we use the very, very conservative numbers. I think it's always disappointing to come back when you hears revenues are

lower. Not blaming you but certainly the forecast should be with that in mind. I guarantee you, it's much easier to spend money if it's extra. And then the other point that I wanted to say -- all right, senior moment.

>> Mayor Reed: We'll come back to you. I'm sorry you cannot yet claim senior moment. You're going to have to come up with a better excuse than that. Some of us can. I have a question about the sequence of dealing with these issues. We're getting a monthly report, we have a mid year budget session scheduled for February something.

>> Harry Mavrogenes: February.

>> Mayor Reed: If we need to make adjustments in the budget we've approved we'll do that in February.

>> Harry Mavrogenes: That's right, we'll come back with the adjustments for you. We'll have another report in January as we get more information from the assessor.

>> Mayor Reed: I think it would be extremely important to know by February 8th what we're going to do with the \$13 million, where the money is going to come from. Because if we have to squeeze \$13 million between now and whenever that date is, that is something we need to know, we may not have all the paperwork done but at least have to know how we're going to do it. Otherwise we'll have to make additional budget decision. Councilmember Oliverio.

>> Councilmember Oliverio: Immediately came back, on my concern, doing everything and anything, so looking forward to that \$13 million being surfaced in a way that really sets our priorities first as a Redevelopment Agency in my mind as economic development. Thank you.

>> Mayor Reed: One more comment on the \$13 million proposition 22 that was approved by the voters, is that the right number?

>> Harry Mavrogenes: Yes.

>> Mayor Reed: That protects local government revenues. That's too late to help us on that one because that was actually previously taken by the legislature.

>> Harry Mavrogenes: That's right, prop 22 prevents it for anything in the future.

>> Mayor Reed: At least until the legislature figures out of a way around it but that will be for another budget year. Anything else on this report? None. We'll move to item 6.1, approval civic auditorium phase 2 project.

>> Motion.

>> Second.

>> Mayor Reed: Motion is to approve. Awmpedz, opposed, noaft, that's approved. We now have some joint city-Redevelopment Agency matters to take up. First is 8.1, sens of tps financial transactions community redevelopment agencies.

>> Harry Mavrogenes: This is the annual report for the state controller and we've coordinated this with the housing department, and this is a requirement of all agencies in the state, and we do this with you annually, recommend the approval so we can forward it.

>> Mayor Reed: Do you have cards on that? No cards. Is there a motion? Motion is to proven and forward it on to the appropriate authorities. All in favor, opposed, none opposed, that's approved. Item 8.2 is amendments to the development disposition agreements with north San Pedro town homes and San Pedro life 1 LLC for the north San Pedro housing site. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor, I want to disclose I've had meetings with all the developers in this site, including first community housing incorporation and thank them all for their willingness to be flexible in how we move forward on this. I know there were some 11th hour changes that I insisted on because of some concerns we had about the parch much development and I'd like to move the mesmed days December 17th with the addendum included in that.

>> Councilmember Herrera: Second.

>> Mayor Reed: All right we have a motion on the floor based on the memorandum. Discussion on that Councilmember Oliverio.

>> Councilmember Oliverio: Just want to say thank you to whatever elements that came together to increase the density, as it is right in the core of the downtown. Thank you.

>> Mayor Reed: On the motion, all in favor? Opposed, we have one card to speak on it before we take the vote, Tina Morrill.

>> Gorge, my name is Tina mortal Morrill, I live in the Vendome neighborhood just north of the project. And I'm glad to see that the project's moving forward. I'm not sure if I'm too early or too late to insert this. I really think it's great that the residents who live there will have a great place to live and be very close to the urban marketplace. That's wonderful. I'm here to talk about two issues, the Pellier park is actually going to happen, that's very good. The community has waited a very long time, unnecessarily long time, for this, Sam Liccardo, you've been very patient with the community, the feedback and snarling, the small park, I'm here to publicly request that the first and only community meeting, there was a lot of disagreement about the design, if it is indeed even a park. So the community deserves the opportunity to give some input because it will impact the community and we should -- I would like to see the park plans be in completely to the first phase of the design so that we are not having to wait again an unneville time for it to happen. Promises made to the community need to be kept and kept in a timely manner. .

>> Mayor Reed: Before we vote on this I want to disclose that me and my staff had last minute issues to get it done timely because we do need to act today. We're the recipients of a grant from the state of California under proposition 13 from what election I don't know but one C grant funds from 24 to \$28 million, I forget how many..

>> Harry Mavrogenes: 24.8 million.

>> Mayor Reed: We need to keep this project moving. On the motion, Councilmember Liccardo.

>> Councilmember Liccardo: Just one quick question, regarding the item that Tina Morrill actual specific planning on the park and I hope everyone can speak on that so we're clear on what that is publicly. .

>> Harry Mavrogenes: I think we're going to -- it's still early and there's opportunities to do it and there will be opportunities for the community to input on the park. It is not final-designed yet, there are still -- I don't know Peter if you can speak to any of that but there will still be opportunities before anything is finalized on the park.

>> That's correct, Harry, the last, I think she mentioned was in 25. phase of the project. And at that time, you would be having public hearing, meetings?

>> That's correct, it will be a few months down the road at least.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: On the motion again all in favor? Opposed? Anybody opposed? Notched, motion is approved, Councilmember Liccardo's memorandum is the subject of the motion. That concludes the joint redevelopment city agenda as well as the Redevelopment Agency agenda. Now we're going to go to the consent calendar. I don't know how much you want to talk about consent. I know we need to do item 8.1 before the chief leaves to make a trip somewhere. So if it's okay with the council let's take item 8.1 because it's almost noon. That's actions related

to the 2020 cops hiring program. Completes do that is a the chief can glue wherever he has to go. Then we'll do the consent calendar. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I'm flipping my binder here. Get to the right one here. I'd just like to make a motion to approve.

>> Mayor Reed: Motion is to approve the COPS hiring grant. The chief is here. One question that was asked of me from the city our ability to make our own budget decisions and if either the chief or the manager wajts to speak to that I think it would be useful.

>> Mayor I can answer specific questions at your pleasures, sir?

>> Mayor Reed: Answer questions because we're running out of time.

>> With respect base salary and benefits for an entry level officer for a total of 16 positions which is the only good thing we've seen budget wise for a while. We have entry level cost which is prufi and what we would be paying our top level folks to retain positions to the tune of a little over \$300,000 and that's on -- it's \$282,000 the first year \$310,000 the second year, for a total of \$931,000 that we have covered for the three years. Basically for three years for \$900,000 we have 16 positions and that's great. There is a 3.2 million requirement for us for the city at the end of three years of subsidies you have to retain these officer positions for one year for 12 months and that's what this, why we're here again one of the reengs we're before you is to make sure everybody understand that piece, the \$3.2 million in year 4.

>> Mayor Reed: Okay, Councilmember Constant.

>> Councilmember Constant: I just wanted to make sure it's clear that my motion was my memo that I co-authored with you and I believe it was Councilmember Nguyen dated November 10th.

>> Mayor Reed: That is clear now further discussion on this grant application acceptance, et cetera? All in favor? Opposed? None opposed, that's approved.

>> Councilmember Constant: Thank you.

>> Mayor Reed: Now we have the consent calendar. Finally. Are there items -- do we have any requests to speak on the consent calendar? No cards on it. Anything councilmembers want to pull? Councilmember Oliverio.

>> Councilmember Oliverio: 2.14.

>> Mayor Reed: Item 2.14. I'd like to pull item 2.31, San José convention and visitors bureau. All in favor, none opposed, those are approved. 2.14 which is the agreement with the Google reseller for dpoolg Aps software program. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you mayor. This is a long time coming probably in the area of 18 months. Long time back probably 18 months back the council had approved a \$7.9 million renewal with Microsoft for licenses. I was hoping there was an alternative, the maintenance number of people fixed to maintain these this is an actual pilot, doesn't cost us anything but it did take it quite a while to work through the legal agreement, but I look forward to us not having to spend so much on I.T., but we still need to make excited about making a motion to accept this.

>> Second.

>> Mayor Reed: Motion is to approve, all in favor, opposed, none opposed, that's approved. Item 2.31, agreement with San José convention and visitors bureau, a question with staff on that. We have extended the agreement before, we've continued moving piece regarding the convention center. How do we monitor the performance and the spending under this contract while we're trying to sort out everything else we're doing with the convention center?

>> Ed Shikada: Thank you, mayor, members of council, Ed Shikada, assistant City Manager. We see the next skis days the opportunity to sync up the parts of the puzzle related in a draft agreement that has been in place and we want to take another look at it over the next 60 days to make reference to the need for a marketing plan, marketing strategy, and does establish a few specific measures of performance in the both development as well as implementation of that plan. We do understand that this is a subject of discussion with the communications working group and we expect we'll use that to finalize performance measures and go from there.

>> Mayor Reed: I think that's a good idea. We spend more money under this area than in use great success at getting from Convention and Visitors Bureau/Team San José the information about how those marketing dollars are being spent. We have a communications working group that Michelle McGurk chairs. they need difficulty of getting information of things that we are paying for. So I want to make sure that as this contract gets renegotiated that we don't have trouble finding out how they're spending our money. And it is a lot of our money. I don't know what the total is, it's a couple million dollars, yes, that's serious money these days so I want to make sure when we do get the contract finally approved that we have what we need in order to know how the money's being spent. Any other questions on that? Is there a motion? Motion to approve? Motion is to approve. All in favor? Opposed, none opposed, that's approved. Concluding the consent calendar. So I think that this is probably a good time to stop. And take a lunch break. We'll be on the agenda, we're at 3.1, the report of the City Manager, I don't know if we have any ceremonials to take up immediately after lunch but that's where we'll start the agenda and after that we have a lot more things to do but I still think we'll be done by 6:00. I'm always an optimist, we're adjourned, recess until 1:30.

>> Mayor Reed: Good afternoon. I'd like to get the San José City Council back to order after taking a recess. Meeting we started this morning. We're on a different schedule than usual today because of the lot of work to be done on the last regular meeting of the year. We have another meeting on Thursday to deal with other matters. But we are just about ready to start section 3 on our agenda, but before we do the report of the City Manager we have a couple of ceremonial items to take care of so I'd like to start now by inviting Councilmember Herrera and members of La Raza round table to join me add the podium. Today we're commending La Raza round table of California for their commitment to ensuring social justice, education and leadership while improving the life of Californians in San José. councilmember Herrera is going to get the honors today of talking about it.

>> Councilmember Herrera: Thank you mayor and councilmember Madison Nguyen and councilmember Sam Liccardo have joined us, Victor Garza, the chaplain, Paul Guerrero, (saying names) and we're very happy to have them with us from the executive board. la Raza round table is a nationally recognized conclusive, Rose amador and Pancho Garcia. The round table has been committed to improving the quality of life in the Latino community by ensuring equality, social justice and education. It advocates for many issues, criminal juvenile justs, workforce development child welfare and public services. Its monthly forum has grown although not all of them, I don't have perfect teadges but I can tell you the mayor attends we see many county office of education that's an incredible number of he very significant folks that attend these meetings and depend on the La Raza round table. community based organizations local leaders elect officials and among La Raza round table, collaborative convening a consensus developing justice and child welfare systems. This has been made possible under the guidance of the conflict assessment prepared by the Harvard negotiation and mediation clinical program and the leadership of deacon Sal Alvarez. La Raza round table the is looking at the root causes and trying to find solutions to make sure Latino youth is not ending up behind bars. Leaders who support and believe in the work La Raza is doing. For the past five years La Raza has been providing leadership training for students at Evergreen valley college. They have increased the oomsz Evergreen and transferring to four year institutions. They're make a difference in a community and make sure that Latino youths are going to indeed be part of the leadership of the future. La Raza has worked hard to be part of the make San José a vibrant community for all. Congratulations on

your extraordinary work devotion keep up the good work and as we say in La Raza, sí se puede. Victor Garza, the chair of La Raza round table, La Garda and Victor will say a few words. [applause]

>> As all of you know it's not a one-Man man show. All of these people behind me and many, many more are responsible for the successes that La Raza round table has enjoyed throughout the years ago. But in the more recent years, I wish to thank the mayor, the city council, the City Manager, Debra Figone for the tremendous support they have given us, their trust and confidence in partnering with the La Raza round table to make a difference in our community. What we have done is not only for the Latino community, for the whole community because we believe in helping each other. And thank you mayor, thank you city council, thank you Debra Figone for the tremendous support that you have given us. I hope that you will continue to do that. Thank you. [applause]

>> Mayor Reed: Now I'd like to invite Vice Mayor Judy Chirco and our City Clerk Lee Price to join me at the podium. This is the last regular meeting for this year and more importantly, the last meeting for Vice Mayor Judy Chirco and our City Clerk Lee Price. We want to take just a minute to thank them for their years of service.

>> Councilmember Chirco: I wasn't that old.

>> Mayor Reed: I didn't say how many. A lot of service. Compressed into a few short years. And we know that Vice Mayor Chirco has a passion for education and for libraries. And that most of us have books in our home. But there are many people in the City of San José who don't have a book. And so we have collected books from the council with some of our favorite books to present to Judy Chirco. I don't think she's going to take them home. My guess is that she's probably going to do some kind of a thing with the library because I know that tomorrow night there's a more fun kinds of a last event and people are asked to bring books and sort of making donations to contributions. So let's just see what we have in the bag, Judy.

>> Councilmember Chirco: Oh, cool! Come over here. So -- it's a bag of books and in there you'll find one of my favorite children's books. That's not it. [Laughter]

>> Mayor Reed: I'm not sure whose books go with whom. That will be something for you all to figure out which councilmembers go with which books.

>> Councilmember Chirco: All the places you'll go. One.

>> Mayor Reed: These are favorite books of councilmembers.

>> Councilmember Chirco: Brown bear brown bear.

>> Mayor Reed: That's mine.

>> Councilmember Chirco: I love these, you read to me, I'll read to you. Oh, this is fun! Curious George. Oh, I love this one. Alexander and the terrible horrible good bad terrible horrible day. We've never had one of these there. I got going. Cat in the hat. I think all the councilpeople have done reading day with the cat and the hat, hat on. Oh, where the sidewalk ends, that's one of my son's favorites. Because of Dixie win, is it okay if I read during my last council meeting?

>> Mayor Reed: During your last council meeting you can do whatever you want Judy.

>> Councilmember Chirco: Charlotte's web, another good one. The phantom toll booth. Wait a minute, I found the bottom.

>> Mayor Reed: Well, these are some great books that our councilmembers have selected so the Vice Mayor can do what she loves to do which is to give books to children. I did notice in that whole stack of books there was not a single staff report! [Laughter]

>> Mayor Reed: So I don't know what that says about reading staff reports or reading books but you'll have to get your own staff reports from now on Judy. I'm sorry to say.

>> Councilmember Chirco: I'll commit to not getting any.

>> Mayor Reed: Thank you, Judy for your service.

>> Councilmember Chirco: Thank you! [applause]

>> Councilmember Chirco: As usual, San José is generous in the extreme. I was listening to CNN, obviously I need to get a life but they had a series of Congressmen that were leaving office. And I heard some comments which I thought were worthy of remembering and one of them was, it's hard to get here and it's hard to leave. And I have thoroughly enjoyed representing San José. And it is a community of my heart. So thank you all so much. Thank you to my fellow councilmembers and thank you, mayor.

>> Mayor Reed: Thank you, Judy. Now, if any of you have been inspired by Judy's example or by sending the books today you too can help the San José library holiday giving program. Lot of opportunities to donate. But Lee Price, we're not giving Lee any books today, but Lee would like to donate to animal care and services. One of her passions are animals. Cat aficionado. She rest accuse cat. Robbie, has rescued through Alameda County. We have a bunch of stuff that will be good for cats. And I don't know if we have a cart. But you don't have to carry them very far. So Lee Price, you've done a great job for us. We're sorry to see you go. But there's nothing we can do about it. It's time four to retire and move on as you've said and you're going to do that and we tremendously appreciate your help to the council and the entire organization even though Clerk's office is small, it is mighty and we appreciate it. So we thank you very much.

>> Lee Price: Thank you. [applause]

>> Lee Price: Thank you, Mr. Mayor, members of the council. It's been an absolute pleasure and a privilege to work for the City of San José. I have learned so much. It's been challenging, it's been rewarding. Every moment has just been an incredible ride. I thank the council for six and a half wonderful years and a special thank you to all of my staff. They have just been wonderful. I have -- I just could not have asked for a more committed, dedicated hardworking team. And any success is because of all of them, and the hard work and the dedication that they demonstrate on a daily basis. Thank you all. [applause]

>> Mayor Reed: Our next item of business is item 3.2, that's water of convention center renovation -- I'm sorry while we're doing that I skipped item 3.1, report of City Manager. While staff is getting set, City Manager will do her report.

>> City Manager Figone: Thank you, Mr. Mayor. Very briefly, you've already alluded to the special meeting on Thursday and what I warranted to add this is a special meeting of the council to interview for the public members of our retirement board. What I wanted to let the council know is I will be asking Alex Gurza to sit for me on that day. He staffs me on major issues and I want the council to be very free to use Alex, as a resource, Russell Crosby will also be there. This is an important next step in advancing goals to strengthen the fiduciary structure we have for our boards. Alex will be staffing for me and if you have any questions before Thursday, please feel free to give us a call. Thank you.

>> Mayor Reed: All right, item 3.2, our convention center construction project. We'll have a staff presentation.

>> Katy Allen: Thank you, mayor, members of the council, Katy Allen Public Works director and joining me is Ed Shikada, assistant City Manager and Ed Freitas, working diligently over the last several months bringing this item together for your review and consideration and Julia Cooper from finance who plays a very critical role in obtaining the financing for our San José convention center renovation and expansion project. We have a brief presentation that we'll go ahead and get started with. A lot of pictures to show you and then look forward to answering any questions that council may have. The recommendation before you today from our staff report is that council make the finding that design/build will save time. In our analysis of the project design/build versus

design bid build. We are looking at about a nine-month advantage by using a design build process. I can also say from our experience at the airport there's many, many other advantages as well and I'll cover those in the remainder of our presentation. The other recommendation that's before you is the execution of the contracts with Hunt construction group. We are asking that you approve the award, however, and delegate the authority to the City Manager however we will not execute the contract until the bond financing and appropriations come back to council. That will be in the March time frame. And then based on council's action last week, we've also incorporated the spending reduction plan as a -- I will say a trigger that we will not move forward with the construction contract award until the spending reduction plan is in place. So with that I'm going to just give you a brief background of how we got to where we are today. Starting in February, council authorized agency and city staff to work together to bring forward a design-build procurement and move this project forward. You gave us a budget. We worked very hard to keep within that budget. There has been a slight modification I think in February we were looking at 130 million. Today it's 120. The delta and the difference is primarily at this point the agency's not able to contribute to the construction of the project. So we went forward with a procurement in June. It was a very -- I will say highly competitive procurement. We were very, very pleased with the caliber of contractors that were interested in our project. In October council took the action that the rankings was something that you would approve and then today, December, we are before you with the contract. It's been fully negotiated and we're just very pleased and excited that at this time, the project design is starting to come together. Certainly the budget is very much set and we have validated that. So with that I'm going to turn it over to ed who is going to talk a little bit about the financing.

>> Ed Shikada: Thank you mayor members of the council. Symbolic of the multidisciplinary team that is been involved I will do a quick overview of the financing. As Katy noted, the specifics of financing will be coming back to the council at the first of the year I think February 1st. To touch on what has come before you, council has clearly discussed the financing of this project before. And just to reiterate what we've got in the works is an innovative financing plan that takes advantage of the foundation, built on through the hoteliers commitment to fund the project as well as leveraging the city's financing tool. As Katy noted \$120 million total budget which includes the combination of both the hotel special tax and General Fund lease revenue bonds for the area in which the expansion will be done again particulars coming back to the council after the 1st of the year. The financing plan

mitigates any convention center facilities district as well as the additional 1% that could be triggered should reference require that. And also, the 1.5% of the transient occupancy tax which is currently allocated to the Convention and Visitors Bureau for marketing. Through the combination of the funding sources we believe that we have a very good and solid financing plan that again we'll be coming back to the council for further action.

>> Katy Allen: Thank you,ed, now we're going to move forward to something that I think is exciting, the contract terms. I think in San José we're just so proud of what we did at the airport and we wanted to use many of the aspects and I will say he they are lucrative, creative and very tried and true on this project. So I'd just like to take a plin and share with council kind of the unique aspects of this contract which we think will greatly contribute to it being a very excellent project. First is cost reimbursable with a fee. We negotiate a fee, a markup if you will, what's really unique about this project is we hit the market just right. Though at the airport, we greatly benefited from a deescalating market, so when we were negotiating prices, we were doing it in a time where it was very, very competitive, the fees on this project are reflective of today's market. So in 2006 when we were negotiating the airport fees were much higher, almost double. When we look at fees such as profit and overhead, markups on subcontractor -- contracting work we really are very, very pleased with the fee structure that Hunt put forward on the table. And we were able to agree to and it's included in this project. Another unique aspect is that because we are going to low-bid different aspects or excuse me Hunt is actually going to low-bid different aspects of the project you're able to get the best pricing in the market at the time that you hit or you go out. And it also provides a unique opportunity that contractors in our community will actually be bidding on the project. To do the lion's share of all the trade work. So Hunt construction group is not bringing in other than their management team, they are not going to be self-performing. That's the term we use. They are actually going to be hiring local contractors threw low-bid process. So there's ample opportunity for individuals to be involved with the project. As Councilmember Nguyen asked last time we were before you is how many jobs will be created, I confirmed with Hunt this morning that we are looking in that 500 job range over the course of 24 months. The other aspect is guaranteed maximum price. As this project evolves we execute maximum prices for any project element. That's how we keep it within the \$120 million. They when they sign the contract guarantee that they're going to deliver that work for that price. As we put it all together it comes together at the 120. So you know the likelihood of overruns, the likelihood that we're not going to get exactly what we've seen is very, very remote. And then finally

shared savings. In this particular case we used it at the airport. It worked extremely well. The contractor has the contingency that they manage and they manage it to close any gaps they have. But there's an incentive not to spend the contingency because they get to keep 15% of it, we get 85% of it to put it back into the project. It really in many ways brings efficiencies on the contractor's side so that we could share savings along the basis point and truly if they don't spend their contingency it's over \$4 million that comes back to the project. And then finally liquidated damages, unfortunately, if things don't go well and it's late we have included liquidated damages in this contract and it's very typical and they are valued at \$3500 a day. I'll go to the next slide, program validation. This is the term we use to confirm that we know what we're going to get and we know what it's going to cost. And since we were before you in October, we have had many staff meetings but we've had also numerous stakeholder meetings with hotels, Team San José, the downtown association, users and we've just really received a tremendous amount of feedback, Hunt and Populous, pictures that we have come together through the architectural development, those pictures you see are included in the budget that we have. So let me just start. We have five pictures. Just to share with you kind of what everyone else has seen. So this is obviously from San Los, looking towards the front of the convention center. What you see on the top level is a 35,000 square foot ball room. A lot of glazing, a lot of open windows, very, very attractive. It's been receiving broad support from the agency and city staff as well as others that have seen it out in the community. Especially the event planners and the hotels. Then down below the ballroom is the multipurpose room area. And that is -- has the very much flex space so that you can maximize, get maximum use out of that facility. There's another slide that's going to show something that's I think important to this design. I'm going to go to the next slide. This shows two things that I want to point out. One is the ability for people in the building to one, feel like they're outside and be outside. You can be fluid whether in or out and spill is the term we're using, spill outside. That was noted as attributes of the design. The other one is wanting to activate the plaza. Get people whether it's a cup of coffee or a hotdog or a vendor, whatever. Get people onto the plaza and start activating that area. This is what you see there. If you look above the balcony if you will, the terrace, people are spilling out of the ballroom onto the terrace. It's a very large area. We have great weather in San José and it's covered and it was he very attractive to many of the users I just think that this picture is something that has resonated well with many of the stakeholders. Let me go to the next slide. This is when you're in the ballroom and looking outside, you might think you're outside and get to see the skyline of the city. Again that indoor outdoor space, glazing and resonates well. Again, there is a custom things I

wanted to note here one a desire to create a hierarchy and a sense of place when you're there. There's comments you receive at the time, you get lost, there's no part of the building where you feel like you know exactly where you're at. By colors and letters, this may not be the colors and the letters. A sense of place while you're there. The arcade level especially we want to activate that. In the next slide I want to walk you through this. This is an important element as to why this is such an efficient design. When you come off the street on right-hand side of the slide those are the existing escalators. You go down the escalators and double back down the ballroom same level. You're activating what we call the arcade. It just makes for a more competitive and friendly environment I think when convention -- or when events are scheduled in our convention center. There's a couple other aspects here, is some of the woodwork if you will to soften some of the stark things we currently have in the building but also technology, places to sit, places for informal conversations to have a cup of coffee. This is all included in our budget. Couple of things that were important to many of the users was to paint the walls, replace the ceiling tile and then do something with the air wall. So that's in our budget as well. So this kind of wraps up our design concept and I was going to -- I think our last slide is just point out a couple of elements or reinforce those with you. Local job opportunities. I've already touched on that, job creation obviously. Operations during construction. We are working with Hunt, have some language that was used in Phoenix so that when people are scheduling, there's clear communication as to what's going to be going on in the building and our ability to move construction around to accommodate an event that's going on. Stakeholder outreach has been going very well. We want to continue that, though, as the design continues. This is a very accelerated design schedule, so individuals that want to have input into our design are going to have to engage in the first three to six months. Because after that, the project will move very fast. And then finally economic development. Not just during construction but postconstruction. Certainly, this is a building that we want to be competitive with in the convention center industry. And very excited that this project will make us be more competitive and people will look forward to booking an event in our facility. So that includes our presentation I believe and we're open to answer any questions.

>> Mayor Reed: We have a motion to approve the staff's recommendations. We'll have some questions and comments I'm sure from the council before we get into this I do want to disclose that in preparation for this I think this has been going on for about three years I've met with probably all the stakeholders at one time or another but

most recently with the representatives of the Hilton and the Marriott hotels and I'm supportive of the action but I think there are some things in the staff report that I'd like to have the staff at least explain for the public namely how are we going to pay for this, who's going to pay for it, what impact will there be if any on the General Fund, and so it's all in the staff report but not necessarily everybody's heard it.

>> Katy Allen: Thank you, mayor. Right, there is no General Fund associated with this project. It's being financed, I'm going to go back to the slide that shows the financing strategy. .it is being funded with bonds and Julia I'm going to look to you to assist with some of the details associated with that.

>> The city council and the hoteliers formed the convention center community facilities district and there's a special tax that's being collected as of July of last year and it's being accumulated in a fund and those revenues will be used to pay off the debt that's associated with funding the construction of the convention center.

>> Mayor Reed: And those funds can only be used for that is that right?

>> Right, special tax, wholly dedicated to convention center facilities.

>> Mayor Reed: We are not putting any General Fund dollars into this, this is not a budget action today.

>> No.

>> Mayor Reed: All right, City Manager.

>> City Manager Figone: Just to be a little clearer, Julia this is a tax that people who stay in our hotels pay.

>> Yes.

>> City Manager Figone: So it's driven by the hotel room nights.

>> Yes, it functions much like the existing T.O.T. and it's an additional 4% that the visitor pays when they stay in a hotel room.

>> Mayor Reed: One question did come up in my most recent conversation with the hoteliers which are obviously key stakeholders in this since they're basically paying for it. How do we in the contract the design-build contract that is to be negotiated although I understand it's mostly negotiated, what terms do we have in there to protect the design elements, the finishes, things that people think are important in this project, so that we can be assured not just us but the hoteliers can be assured that the \$120 million of hotel revenues that go into this will be spent in a way that gets them what they believe they need in the way of expansion and renovation?

>> Katy Allen: Mayor, it's a multipronged step but let me answer it very briefly. Is that this project has been priced out by Hunt. And they are here and will speak to that but let me share with you what our thinking and our approach to this is that we put out a RFP, it said we had \$120 million and it said we need this many square feet. We need this much put into the existing building, the expansion and the renovation. When we signed the contract, it will be for price, not to exceed a certain amount. As far as the scope coming in and out, that will occur during the design progress, as we go. But we will not deviate from the project elements that council has put forward. So it's basically, it's included in the contract, the scope of the project, and the budget.

>> Mayor Reed: And can you explain how the convention center facilities district advisory committee I think that's what it's called, what their role has been and will be?

>> Ed Shikada: Thank you, Mr. Mayor. Actually, it's the capital advisory CPAC, we create these acronyms and need to stick with them. Their role is to provide stakeholder input up until that point this body has provided us feedback both on the financing as well as on the program. The -- in fact the financing structure that staff is working on in detail has been significantly influenced by the feedback of that hospitality industry stakeholder group. Going forward, I think that we are in fact looking to provide some structure and some very clear protocols in place such that that body can provide input in a timely manner, that can help as Katy described the decisions

that are made on the project in a manner that does not at all affect its cost and ensures that the scope stays as is currently envisioned and will be within the contract.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you Mayor Reed. Let me start by commending Katy Allen and her staff. The expansion of the convention center has long been coming. We've been talking about this for years and hopefully in just two years we can see the completion of this project. But I also want to just it's worth mentioning to commend staff in pushing for the design-build procurement process versus the design-bid-build. In this particular project alone we're looking at saving about 11 months of work. We're looking at completing this project in 54 months versus the 36 months if we were going to choose the design-bid build project. This is going to generate almost 500 local jobs which is important for our city. At the same time, I know that Katy's last day is this Friday. You're going out with a bang. This is a great project and I hope to see you come back two years from now for the grand opening. So thank you very much for all your work with the City of San José.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I too have been looking forward to this for quite a while. I remember there was a time when we didn't think we'd be able to use the design bid process for this and I think we'll have another great project like we had at the airport. I look forward to it. Fully supportive of the design and everything we've got so far. Just keeping my fingers crossed that we can build it all with the amount of money we have so everyone will be happy not only the hoteliers but all our visitors guests and everybody that works in and around it. I urge my colleagues to support it. This is a very good thing for the city.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I wanted to echo all those words, particularly the words of praise for Katy. It has been an extraordinary year for your team, the opening of the airport, getting this off the ground,

certainly all the awards keep coming in on our community centers and libraries for design and LEED sustainability and everything else. It must feel great to be going out on top, congratulations Katy well deserved.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank mayor. Katy kudos. Multiple kudos. Thank you for the wonderful stars you've left for us and I'd also like to thank the hoteliers for agreeing to fund the project. Without them we would not be able to go on with this. I also think the plan really works for all of us. By hiring local people, small businesses and contractors, and doing that outreach with local labor, 500 jobs, that sounds terrific. With more people working there's going to be a more vibrant economy as a result. And so thank you for all of that. I'm very, very grateful, and will be voting for this. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. Katy, when I see the 24-month time line but when will the shovel actually hit the ground as we go forward as I assume we're going to today in approving staff recommendation?

>> Katy Allen: Councilmember Kalra we're going to put up a slide that I skipped, next steps. That's an excellent question. We do have a window between the contract and the fund being so let me just share this with everyone. The project duration is 24 months. Once we hit the ground and execute the contract, the clock starts. Hunt is able to start in January. But our dollars don't become veil until March. So working with the City Manager's office we're evaluating options on interim bridge funding to see if there is a way and the value added to advancing the project before March. But certainly this will require council's approval. We are looking at a three or \$4 million range and again any kind of bridge financing would be reimbursemented by a bond sale. But we're looking at that conceptual option. If the shovel hits the ground in March it will be March of 2013. If we're able to keep schedule in January then it would be January of 2013. Oh, excuse me, December of 2012. Thank you. So that's kind of what we're looking at.

>> Councilmember Kalra: I would be absolutely supportive of any bridge finding to get this two or three months in advance to get the project started and I imagine the rest of my colleagues would agree with that, since it would be a couple of months for it to be repaid. I think especially given the industry those two or three months are critical in getting there project done. We are already using design-build and to push it up another couple of months is a good way to go. Couple more comments. Sharing in the contingency, I understand, that's at least something that can get Hunt to move as quickly as possible. And I like in some of the discussions the feeling of not being lost and that's not unique to our current convention center. I think anyone who has been to convention centers have seen or felt that. If we can create something unique, that would be great. As far as the sitting areas I think that's a great idea. Often times convention centers spend networking and we don't have a real connected way. In je when you go to convention centers, even other cities that have pretty good weather, you don't see that much and that could be something unique that sets us apart that helps us compete with other cities and convention centers. I like the thought process of stakeholders and how it got to this point. Definitely I want to thank hoteliers, Councilmember Pyle rightfully said, this wouldn't be possible without our commitment of our city in the convention center. Katy, I have full confidence in the team that you have around you but I think it's absolutely appropriate that you've been here through this bid process, and you had the opportunity to be here today for us to take that action and I really look forwards to you being here when he we have the ribbon cutting because at that time you will deservedly receive many more kudos so thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you mayor. I will be supporting the motion. Kudos, again I think this is a long time waiting. I think that what this will also do is allow us to not have to pick and choose events that come to our convention center, and we will be able to be more competitive in the region. I think one of the best things -- or the best thing about design-build is \$120 million, it's going to get built, no cost overruns. I think that is the way to go. I do have a question on the 2.5% contingency. That comes out to \$3 million. You did mention possibly \$4 million in contingency. Where does the other million come from?

>> Katy Allen: Okay, so the contingency, there's two contingencies, and let me take just a minute because I think when the mayor asked the question about how do we manage scope and make sure that at the end of the day, there's not going to be cost overruns and there's a guarantee, if you will, a high level of certainty that we're not going to scrimp or cut back on the scope, we use contingency. So we set aside enough dollars to cover those sorts of things. The Hunt contingency is 2.5% of the construction contract, not the 120. The construction contract is approximately \$100 million. I'm going to have Harry fill in the gaps on some of the gaps if needed. Basically, their contingency is to manage those gaps so we don't lose scope. At the end of the day, if they don't manage those gaps, the city gets 85% and 15% is their incentive for managing the contingency. We manage the contingent if there were to be unforeseen conditions . In this type of project we're thinking there's not going to be a lot of unforeseen conditions and just to given you an example Councilmember Campos is in library and community centers we typically hold 10% contingency, and in this project we only hold five, we believe that's all we need for this project. I know that's a lot of information but the percentage is held in the contingency.

>> Councilmember Campos: That's all I wanted to know, thank you .

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I just wanted to join my colleagues in thanking Katy, I guess this is the last timing I get to thank you, this is a project that will be a great legacy for the staff for our community. I wanted to thank the hoteliers, your commitment, ongoing commitment to this project. This is asuch an incredible project. I see this as a book end to our airport. Initially I was worried we were looking at a much bigger budget and I was kind of worried about what we would independent up with on the end. The 125,000 new square foot of space and all of the things done within the 120. Congratulations, looking forward to voting on this and seeing the ribbon cutting and getting back a lot of the business that we have unfortunately seen go elsewhere.

>> Mayor Reed: One of the things that made the airport project successful and that was huge, it was ten times the size of this, was the design-build process. And never once in that time period did we have people ask us what the color of the carpets should be or the paint on the walls should be and things like that. I want to make sure as

we go through this design-build process that this allows the same kind of integrity, to ops slow down to ask the city council something it will cost us money and it's important to let the professionals do their job. How can you assure process integrity so we don't have groups of people lobbying city council to decide where the doors go?

>> Katy Allen: So mayor I think one of the best ways we do that is by reaching out to those people so they're coming to us and they are actually at the table. The design is going to go very fast so we want them talking to us working with us probably working on a daily basis of three months or something like that. I think that's the best way for that. rules of engagement. We're still work on the details of that that's our goal is that there is going to be a very clear way for people to give us their input and we want their input at the staff level as opposed to spending a great deal of time up on the 18th floor.

>> Mayor Reed: Well, that's what you want. My question is, how can you enforce that, how can you build that? How can -- stay at the table. We know it takes three weeks four weeks to have the city council decide something and that would be just lost time, lost money and very disruptive.

>> Ed Shikada: Mr. Mayor, members of council I certainly believe that we have got the right folks at the table and in fact the hoteliers have brought on their own expertise to help ensure that the project delivery input that they give us is both on point as well as in the timing standpoint. I think in large measure and we certainly will put protocol in place but in large measure it's self-controlling to the extent that with the contract let, any delays due to decision making increases the costs. And the hoteliers have just been very clear in their sensitivity to any increase in cost and I think our goal in going forward in our communications will be to make sure that those connections are very clear. And also, as Katy described, that there will be ample opportunity for the appropriate decisions to be made as the project moves forward.

>> Mayor Reed: Okay, well let me just be more clear and more blunt. Team San José needs to be at the table and needs to stay at the table. That their tendency to walk the 18th floor if they don't like something that the staff says or does would be destructive for this process. And that would be a bad thing. And they just need to get with the program, stay with the program, and they're part of the team, they need to be team player. Team San

José. What a novel idea. Because we need to get this construction done and \$120 million is not a lot of money but we can get a lot of value with that but only if this design-build process works.

>> Ed Shikada: I would certainly say that at staff level the communications we've had with them recently, they get that message loud and clear.

>> Mayor Reed: Good. We have one request to speak from Hunt construction group. Might as well take that testimony now. Ray Zunino.

>> Good afternoon. My name is Ray Zunino, I'm a vice president with Hunt construction group. I oversee our operations here in the Bay Area. I have done that for about 18 years. I realize your agenda is full. One thing I would like to touch on. We've done a lot of Public Works construction here in the Bay Area, we understand a lot of the things you've hit on here today. One of them is local subcontracting. We're committed to getting those locals involved in the project And employees, from the San José area, we understand how important that is in these public projects. Last thing very quickly, probably won't be last but the most important thing you've been talking about. We did go through the validate process and we're very, very confident that the project scope can be built for \$120 million. We are excited about the project, excited for the opportunity to build it, we did the HP pavilion 16, 17 years ago for you and we're looking forward to this project. Thank you.

>> Mayor Reed: Anything else from staff? I have no other requests from the public to speak on this. We have a motion to approve on the floor. All in favor, opposed, none opposed, that's approved, Katy congratulations, people didn't say why you're leaving. She's retiring folks. We're sorry to see her go. You have a great record looking over the past few years of the projects that we've done. You've done a terrific job so congratulations, I hope you enjoy your retirement for at least a week before you get bored. [applause]

>> Mayor Reed: Our next agenda item is 4.1, licensing and regulating tobacco retail establishments.

>> City Manager Figone: Mayor, I believe staff is here to respond to questions, correct Ed?

>> Ed Shikada: That's correct.

>> City Manager Figone: One comment I would have, and that is in reviewing of the councilmembers memo, there is a request that we develop additional languages, including but not limited to Middle Eastern and south Asian languages to be included in the outreach. And I don't know if staff is here to respond to that. We have done a little bit of research, and although it's very important that we be inclusive in our outreach, including multiple languages, there is a price to that. We have done some research in terms of what the registrar of voters uses and I'd like to have staff comment on that, if you would, please.

>> Yes, thank you City Manager, Mike Hannon code enforcement manager for City of San José. Any outreach that we and specifically code enforcement do often any regulatory scheme is to be as inclusive as possible. You may recall when we adopted the offsale of alcohol program not only did we develop literature in multiple languages but we felt the first year was going to be spent doing education and outreach because in this particular case we have almost 900 tobacco retailers and we understand that there's probably a significant number of them that do not understand the rules and the regulations that we will be adopting today. So we'll certainly make sure that they're fairly knowledgeable of them. But we do intend on adopting the primary languages of San José, English, Spanish and Vietnamese, in addition Councilmember Chu suggested we include Chinese and tagalog and we certainly intended to do that as well. Middle Eastern and south Asian you really get down to really a small percentage of our population, for example, the last census information that we have, that we have less than about 2% of -- less than 1% of our residents are Arabic, for example, 1.3% are Persian and Turkish doesn't even measure. As far as the others, Hindu, Bengali, whatever outreach and education we need to make sure that our businesses and residents comply, we'll certainly do that. But try to understand that trying to develop outreach at these other languages in mind will come at significant cost to the program.

>> Mayor Reed: City Manager anything else?

>> City Manager Figone: I don't think staff has a presentation but is here for questions. Thank you, mayor.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. In regards to the specificity and the memorandum that was referred to by myself, Councilmember Chu and Councilmember Campos, does refer broader residents but the actual retailers themselves and so maybe I'll narrow the scope enough so that -- and I have full faith in the fact that you have some sense of the retailers themselves what needs are there. But we just want to make sure that for the retailers that are most affected that they understand what's coming down the pike from the council to have every opportunity to be part of the discussion and have every opportunity to understand the process. I don't know if that makes that easier -- understanding if intention, that at the we weren't necessarily understand that that would be quite burdensome and that wasn't really the intention of the memo. Rather it was just for the limited number of tree-rings of which maybe you know, whatever percentage may need those services that even if it's a matter of just having simple maybe not as exhaustive printed material but just some printed material just so you get a -- just so that you get a sense if there is a need for further elaboration. I hope that clarifies it enough so you don't feel we're putting this great burden on you which I agree would be a huge burden if we're creating 1% of the population or half a percent of the population we're creating thousands and thousands of documents. That is not the intention from any of us who actually signed the memo, we wanted to make sure the pretty small businesses for the most part they can understand. We'll leave it to your judgment to make sure they understand it, but something that could be put together more common language from the retailers. At least he they would -- is that something more reasonable of a request?

>> Councilmember Kalra, that is absolutely our intention. I staff we as regards of this provision need to make sure that our businesses understand the full scope and full responsibility of what is being adopted today. As we did with the off-sale of alcohol, we spent the first one year visiting each one of these businesses, talking to the business owner, making sure they understood what the requirements were. We intend to do the same outreach with tobacco retailers.

>> Councilmember Kalra: Great. I guess the only component of the memo that would be relevant is if there appears to be a need for the language services or if you feel that it would be helpful to create some basic literature so at least you can make sure you're your point is getting across, make sure that these small business owners fully understand what's happening and what our intentions are.

>> Excellent.

>> Councilmember Kalra: With the remainder of the memo we've talked about it so many times, sharing resources and working with our partners, talk become the decoy program and the ability to see how we can share resources with our partners because otherwise these programs if done independently by the city would be quite expensive and we don't want to incur that kind of expense if we can share our resources as well as expertise with the county and a number of nonprofit agencies that have come forward to say that they want to help. So that is really the intention of the memo is to make sure that we have some sense of where we're going in termination of that component of the retail license ordinance so that once it is put in place we have some mechanism to work with our partners to ensure that it's going to be in force in a way that's not only efficient for the City of San José so that we're not waisting resources but that we are following through with enforcement and working with our partners. With that further understanding that I hope helps to clarify with the staff in particular what the intention is, put forward the memorandum that is co-signed by Councilmember Chu and Campos and myself which includes the staff recommendation as well as the other items on the memo.

>> Mayor Reed: Have a motion on the floor. We have some requests from the public to speak. I have a couple more councilmembers to speak. I'll take that first, Councilmember Constant Public first? Okay, let's take the public testimony at this time now that we have a motion on the floor. We have a long agendas, a lot of people want to speak on this item, not only this item but many others. I'll have to limit the number to 1 minutes. Dr. Marty fenceter Scheib. .

>> Very significant vote for the health of this community. We know that youth access to tobacco is a serious problem and you hopefully will be joining in almost 100 other California communities in developing and instituting

a tobacco retail license law. And to the point of working together we are here to work well to work together with you, we have as you know provided some money from our federal grants, about \$128,000. We may have a little bit more money that we'd like to work with you on some other areas of secondhand smoke. But also, on the decoy program which is really a critical program we are ready to work with you and to hopefully help with utilizing some of the youth coalition to do those decoy stings. And I think that's very important. The enforcement and the decoy part of this is critical because the whole idea is to decrease youth access. And that's why we're here so again thank you very much in anticipation of your vote. Thank you.

>> Mayor Reed: Charles Janigian (saying names).

>> Mayor Reed and members of the council, I would first like to say how enjoyable and productive it has been working with your staff members on the new ordinance. We made a lot of progress since our meeting here last. There's only two areas that I would like to state for the record. One is the fee is really not pinned down as yet. And I've been told it could range from \$450 to \$470 annually for retailers. And I would just like that on the record what that fee range is going to be before it's passed in at all possible. The other area of concern is really the first strike the first strike for a retailer here creates an automatic fine of \$2500. Many retailers are not going to be able to afford a \$2500 fine for first violation. That's an area I'm concerned with. Other than those two areas we are very satisfied. I'd like too thank you, wish you all a merry Christmas and happy holidays. I know our association will support it completely.

>> Mayor Reed: Sorry your time is up. Samantha Dabish (saying names).

>> Thank you Mayor Reed and members of the council. I'll be as brief as possible. I'm here representing the neighborhood marks association, small independent stores, grocery and convenience store industry. Many of the stores have been struggling in this down economy and sales have been down 25 to 40%. I just want to say also that I do appreciate this city and your staff reaching out to the retailers but something that the retailers have been telling me is that the fee is still too high being contemplated between 450 and \$475. One thing that people don't realize is that in order to recoup a fee of even \$300 a retailer has to generate sales of \$15,000 so it's actually a

significant amount of money that's being asked annually to pay that \$450 to \$475. A common misconception is tobacco sales generate great profits to retailers but in fact these are offered at very low profit, to adult customers who come in and buy other products as well, milk eggs snacks. In addition I also --

>> Mayor Reed: Your time is up.

>> Urge you to.

>> Mayor Reed: Emily lamb.

>> Good afternoon, my name is Emily lamb, I'm the executive director for the Silicon Valley Leadership Group. Representing 3500 retailers in the region, almost one out of four public sector jobs jobs. A recent study showed that smokers cost double in terms of medical costs on that nonsmoker and with premiums costing over \$10,000 per employee for employers. This is a very important policy strategy for us to curb health care costs and we hope that you also support it as well, thank you.

>> Mayor Reed: Carlo Francisco Jessica Bell tran Patsy Cortez.

>> Hello councilmembers, my name is Carlo Francisco, and cat alumni, California i'm in support of the TRL which is basically just age to prevent youth access to tobacco. In my neighborhood, stores have many ads specifically for tobacco, and that use -- that ease to actually access this is very available to all youth in my neighborhood. There is the question on the fees that actually come with TRL and when it comes to businesses, accepting advertisement for tobacco, they actually get a substantial compensation for it. And I still urge that TRL does pass because the main goal is to prevent youth access. And prevent health care from being impacted.

>> Mayor Reed: Jessica Beltran Patty Cortez (saying names).

>> Good afternoon, I'm Jessica Beltran is a great policy to hold all tobacco retailers accountable as it will set a good neighbor policy to the surrounding communities. It sends a clear simple message to keep the youth from getting hooked on these things and just to not to sell them to the youth, it's no good and it will prevent chronic adult diseases and save our economy health care cost so it's a great thing for you guys to pass so thank you for your time.

>> Mayor Reed: Patsy Cortez, Ashak Kumar.

>> Good afternoon council I'm Patsy Ann core Tess, I'm Catt alumni go ahead with the implementation of tobacco retailer licensing, one of the main arguments is cps a lot of money because of ads either way. This is just to encourage health business practices. My counterpart and colleague, Z Hong, mentioned that he she was a youth decoy and sold to underage. We know if the youth is speaking out about this it must mean something. Our goal is basically to stop youth access to tobacco and ultimately from getting youth getting addicted. That's it thank you.

>> Mayor Reed: Ashack Kumar.

>> My name is add shack Kumar and I represent through my association 200 stores covering San Francisco Bay Area. I have spoken against this in the earlier meeting. I have behalf three points to make, one was very well covered by the suggestion that Councilmember Kalra mentioned a little while ago about the need to educate retailers, I really preecial that. And second if the intention is to cut down the cigarettes in the hands that get into the hands of the underaged consumers I think we should also think about sting operation, that should involve kids buying cigarettes through their friends. Because there's a lot of that and I think we need to do either an educational or a community approach to involving nonprofits and schools in educating those kids, not to help their friends get cigarettes. I think the third point I'd like to make is --

>> Mayor Reed: Sorry your time is up. That concludes the public testimony. Councilmember Constant.

>> Councilmember Constant: Thank you. I just want to make a couple of brief comments. First of all, attachment A that staff provided thank you for giving us the side by side exairp. What it points identity is something that, I brought up the last time we discussed this in November is that most of the items within this ordinance are duplicative of efforts or ordinances or laws that are already available to us at the state level. And I know it because brought up in the meeting that we have the state laws but the State's not enforcing them. And I wanted to point out that those state laws are to be enforced by local authorities. That's how we have the police officers enforce all the vehicle code, penal code, business and professions code and all those other codes. We have the tools too do the enforcement now. It's clear, the California Department of Public Health has shown that the illegal sales of tobacco to minors have been decreasing and continues to decrease and is at an all time low. I really want to emphasize that while this may be a good idea it is duplicative of other laws, we already have tools and laws on the books that we can address this right now without this ordinance. We are creating a new fee structure and cost on small businesses at -- during one of the deepest recessions of any of our lifetimes. And this is one of many things that we're doing that are increasing costs to our businesses which really means our residents and taxpayers in the City of San José. So I know I'm in the minority view there so I'll just leave it at that. But the one other comment I wanted to make was about the process. We continually talk about the backlog of ordinances and we talk about the staff workload and we go over this weekly in Rules and it always amazes me how some ordinances sit on the books for literally years for us to try and get drafted where it's already been clear unanimous support by the council to pass something. We can name the sign code all different kinds, there's a list of does of these ordinances that are kind of in a holding pattern due staffing and bandwidth issues but then we'll get things like this to get fast tracked, to the top of the stack for no parent reason. It may be because it's the flavor of the week or because a jurisdiction next door to us did it and we want to do the same thing. I think as we move forward it's going to be increasingly important for the Rules Committee to be very firm in managing the work load of our ordinances and getting caught up and keeping -- not changing the priorities every two or they weeks. And I think that when we have our study session in February on the outstanding ordinances and the workload we need to give serious discussion and weight to this backlog and make sure we have a clear process that all ordinances and all council requests go through so that we can get the things done that have been waiting forever. Some of these that are tools that we could actually be giving our businesses to help grow their way out of their financial problems and I can't emphasize that enough.

>> Mayor Reed: Let me just add to that. I'm going to support the motion. I think the time lines laid out in the memo are pretty aggressive in terms of getting back to the council considering the kind of work that we've laid on our staff as recently as yesterday with all the work that needs to be done around the marijuana issues. But we can review this in February when we look at the priorities of the staff on ordinances. But this does look overly optimistic about what staff can do in a short period of time but I am going to support the motion. Councilmember Chu.

>> Councilmember Chu: Thank you, Mayor, thank you very much. I'd like to take the opportunity to thank the colleagues in the Rules Committee to take on this related issue as a priority. And thank Councilmember Kalra for clarify our language regarding to the outreach to the retailers, not the general public. And appreciate staff for setting a very ambitious time line for retail licensing. I'd like to stress the importance of a enforcement program as we have seen in other cities. The success of a tobacco retailer program really lies in the proper enforcement. Again, this is a very effective tool. We're not trying to -- it's not a means to regulate the tobacco sales. But to establish a program to reduction access to underage miles an hour. So I'd be supporting the motion. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you. Councilmember Constant's points are well taken. I don't think we necessarily think we're adding a lot of tools. One thing we are adding are the resources to do the enforcement. I think that's the critical piece here so that's why I think that's a good idea. With youth decoys and other approaches certainly we are adding new tools. But I recognize and appreciate Councilmember Constant's concern about the priority in which we take various ordinances, my understanding was you know, we're really constrained primarily by resources, that's really constraining our bandwidth. We'd obviously hire more resources if we had more money. Through federal grant through the county through their good offices are providing us more money to be able to expand that bandwidth. That's why I think it's certainly in my understanding of allow we move things forward where we've got independent sources of funds to be able to get things done that don't impair our ability to

do what's already on the priority list. I think we ought to do so if we think it's a good idea. And the additional resources made available by the grant funding are specifically for that purpose. I really want to thank the youth commissioners and the young adults who came to speak today. I think they pretty well explain why we're doing all of this. I want to thanks Marty Fensterscheib and I want to thank the councilmembers for getting this ownership the goal line.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. I'm going to support this motion. I wanted to thank Councilmember Chu, Campos and Kalra. about the youth and your active participation. Obviously this policy decision is going to affect you directly and I think it's wonderful that you've been very active in this whole process and coming down here to speak today I think it's just important that you continue to be engaged especially issues that affect you and affect our city so thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Campos: Thank you, mayor obviously I'm going to support the motion, I signed onto the memo. In the either '90s I was part of a coalition called stop teenage addiction to tobacco which was actually supported by county health department. We were very, very successful working with youth to empower them to actually go out and prove to the general public that they are targeted. I mean we've known that. You know a lot of studies came out of the '90s that showed that youth are the target. Tobacco companies have to finds young smokers to replace the ones that die every year. And so I think this is a good -- a good message from the city to commit to this. Youth dekois work. I actually took park with the sheriffs department in doming some of these and they work. The businesses were he very surprised. They didn't realize that they had employees that were you know, selling to minors, and he they made corrections. I think this is a good start and I hope this is a good tool to be able to continue in the future. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Final comment as a suggestion that this may be a flavor of the week. This was raised by councilmember Nora Campos earlier this year. I think we have shown an interest as far as the council in going forwards with this type of program. And I really want to thank Dr. Marty Fensterscheib from being here. Having the county's leading health officer, I want to thank Emily Lamb, Silicon Valley Leadership Group. And I did get a chance to meet with Ashook Kumar, representing other responsible retailers, even referred to the fact this they would be happy to be part of a decoy program for the people who are selling out in the parking lot they are willing to be a part of the solution here and finally as has been said the youth that are here it's tremendous to see your activism, your participation, and take ownership of the sniff your generation is really powerful for me and I want to thank you for being here.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Certainly want to commend my colleagues for bringing up the topic of youth smoking and Dr. Fensterscheib for being here. As someone who smoked during high school for a brief time, certainly glad I don't anymore. As Councilmember Constant said we already have existing laws and I'm more inclined to do just straight decoy and doing citation of those that choose to break existing law and not just tobacco but also alcohol because I think that's more problematic to youth as we've seen recent times in newspaper headlines, people underage drinking and getting into car accidents. So I will be supporting today's motion.

>> Mayor Reed: We have a motion on the floor. I think we're through with the discussion. All in favor, opposed, one opposed, two opposed, councilmembers Oliverio and scant opposed that passes on a 9-2 vote. We'll now move to item 4.2, agreements regarding the airport west property. Before we start this I want to disclose that I've had quite a few meetings with Lou and Keith Wolff, deal with this particular property and soccer, the earthquakes. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I've also had meetings with all those individuals and wanted to make a motion to approve.

>> Councilmember Herrera: Second.

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

>> Councilmember Constant: I just wanted to make the exact same disclosure.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Also wanted to make the same disclosure.

>> Mayor Reed: I want to congratulate the staff for figuring out a way to keep this project alive even though the property values are falling as we know due to the recession as we continue to move forward on this. Hopefully the economy is going to get a little bit better, so the developer in this case Lew Wolff and his team can move ahead with the soccer stadium, hotel rooms, retail, et cetera, on the airport West property because we would really like to get rid of this property so thank the staff for keeping alive our opportunity to sell this property. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. Same disclosure. I met with Jim Kineen and Ed Hunter.

>> Mayor Reed: Any cards from the public on this? I see none. We have a motion to approve. All in favor? Opposed? None opposed, that's approved. Next item would be 4.3, a tax equity, a TEFRA hearing, tax equity something hearing, and a bond issuance by the California authority, not us, for McCreery court apartment project on 1884 Alum Rock and McCreery avenue. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Just also wanted to disclose, have had a conversation with a representative of the applicant, Ed Bavaro regarding the project. If I could just speak on this. I also would like to put a motion forward to get this moving. But this particular site has been empty and has been asking for something positive to go there for over ten, 20 years, probably goes back further. This is a great project. It will create jobs, 93 units of affordable housing from ELI to moderate income. You know, all the way around. It's a great project and I urge my colleagues to support it. So moving the staff recommendation.

>> Mayor Reed: And the second by Councilmember Pyle. Right, we have a motion to approve. Let me just go back to emphasize we're not issuing bonds we're not taking on debt we're having this hearing under neral law and state regulations. So the statewide community development authority can take the actions they need to take. On the motion, all in favor, opposed, knopped -- I'm sorry one opposed, Councilmember Oliverio. That motion passes. 4.5 is a rezoning of property at the southwest corner at East Brokaw road and old Oakland road. Councilmember Chu.

>> Councilmember Chu: Thank you very much. I would really like to make a motion to approve the staff recommendations and the memo dated December 10th, authored by mayor and myself, I'd like to take this opportunity to thank the Fox family for being here today, along with their representative Sean Morley. They have put a lot of work and effort into making this project a great proposal that is thoughtful and very sensitive to the surrounding neighborhood and will provide great neighborhood commercial opportunity for the District 4. With the memo co-authored with Mayor Reed we can also take this opportunity to reassess the North San José phase 1 unit elementary. So would I like to make the motion.

>> Mayor Reed: We have a motion to approve. I do have some requests to speak on this item, I think I'll take that now. First we'll hear from the developer's representative, that would -- probably Sean mor Liz and then Kerry Hamilton.

>> Cairn Morley with the Morley brothers, representatives of the developers, they have owned the site since the 1950s just a couple of very brief remarks. The Fox family initiated the project at the request of Planning and OED

about a year ago to create a great commercial and mixed use opportunity poster child for the city in RDA jobs and revenue team. Its redevelopment can create hundreds of jobs and millions of dollars for the City's Redevelopment Agency and the General Fund through new sales tax. However, as Councilmember Chu mentioned we do have an issue with respect to phase 1 housing allocations. And unless the city can find a solution to this next year, discussion of this site and your future could very well be an academic exercise. Why because allocations are now locked up with a number of other large projects due to economic reasons cannot move forward and due to density may in fact never move forward. We are very hoping that the city can remain open for business on this issue and find a solution early next year as the mayor and councilmember have indicated. So we appreciate very much your memo and keeping the open for business sign on, in the city, and we very much look forward to moving the project forward next year. We want to do that in 2011 but we can't if solution to the allocation issue isn't found. With that I just wanted to focus on that particular issue because that's what we're focusing on now assuming that the project will approve project today which we very much hope you will do and I would be happy to answer any questions you have.

>> Mayor Reed: Councilmember Pyle do you have a question?

>> Councilmember Pyle: Yes I do, Sean you are saying that up to 650 multiresidential units and up to 150,000 square feet of commercial uses needn't be done at the same time? In other words, you'd leave some of that for future development?

>> Yes, we will -- the next step in the process is a master PD permit which would cover the whole site and pave the way for the commercial center which could be a traditional retail center or mixed use, circulation residential. We do not anticipate in all likelihood that all 650 units will likely be built on this site. We do expect first phase of this development will be approximately 350 units in all likelihood on the southern portion of the site and possibly one area on the commercial center. But we cannot take that step and nobody will spend millions of dollars to take the development step in the review process without the reasonable insurance that these permits will be available. There is a possibility, staff is looking at this issue very closely. I wanted to impress to the council that in order for you to get what you want we can't take that step without some certainty on the allocation issue.

>> Councilmember Pyle: And the banks are so iffy it's tough to get that now?

>> Very difficult. There may be some capacity next year with some of the news projects being reconsphirged that are out there but we don't want to be held to wait for that resolution. And I think the March time frame if a solution we may superwill work nicely with this about project as we go forward.

>> Councilmember Pyle: But you're with this?

>> Yes.

>> Councilmember Pyle: Thanks.

>> Mayor Reed: I think that's it. Councilmember Liccardo.

>> Councilmember Liccardo: Sean I just had a question on the single family detached. Why would we want the single family detached?

>> Sure. It was in our application the first day he we filed it. The staff recommended just multifamily instead of single family. We thought it made sense for two reasons. The most immediate housing nearby is single family. There is some higher dinsity town home and some lower density podium if you will in the area as well and so we tried to mirror that. We thought some amount of single family, is appropriate to essentially allow the site to build out more quickly. It is reasonable that a small marketplace cxg that is, frankly, an important element. I think it's going to makes for a different detached or comfortable with 30 unit recommendation up from the mayor and councilmember. We think that will though, overall with potentially 650 units be good from afternoon overall standpoint, for a nietion mixed using viewpoint.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: We'll take the public testimony. Carey Hamilton.

>> Thank you. Carey Hamilton for citizens for environmental and economic justice we support the staff position on this, no single family homes however we support finding a way to move forward under the North San José allocations soon. We think that because of this site, having originally been in the north San José plan, and as it was an industrial site that staff, years ago had recommended for combined industrial commercial and saw it as an opportunity site, it wasn't designated for residential at all, partly because it was afternoon opportunity site and it's also a heavily contaminated site with consolidation points on it which is where the commercial and industrial is located. The whole justification for converting it when Councilmember Campos and Councilmember Kalra were still on the Planning Commission was that it could be a great mixed use site and that we could maximize that opportunity and we really think we have plenty of single family product in process and in our city and what we really need is good mixed use.

>> Mayor Reed: Your time is up. That concludes the public testimony.

>> Joe Horwedel: Mr. Mayor, staff would like an opportunity to comment.

>> Mayor Reed: Staph Joe Horwedel.

>> Joe Horwedel: Thank you, option Mr. Mayor. I will note that staff has not supported single family detached on this site or any of the other North San José sites. That we have looked at these properties for how they fulfill the goals of the North San José development policy and that is building work for housing for our workers. We currently have 64 units available for market rate housing in phase 1 and we can come back early next year with an update on phase 1 allocations. We have when 200 units available in phase 1 because high rise, on first street and we've had negotiations, discussion west Barry Swenson builder of building a 220s unit tower for them and another wish if they were to perform next year on that. We will be working with them early next year. At this point there are no units available. We have two other projects that may expire in 2013. That we'll be looking at an

assessment to see where they're at. But other than that all 6400 units are moving forward that we have construction already starting on the first phase of the Irvine project. By this time of year they will have three phases of the five phases under construction. We also have Fairfield off of equity residential Mrs. Moving forwards with the on our jobs program to build high density housing in North San José and we think those projects do warrant staying in phase 1. So we can come back to the council in early '11 about how we think this project would score especially in light of the 30 units. The last thing would I rhyme the council is many so as we know from our fiscal analysis with the general plan update as well as the most recent Cambrian annexation information we shared with you last week, our service costs do depend on and so that the challenges that we would face and that's pardon me why staph has oafdity North San José area development policy is our ability to steal that wit stealing from other parties of the city.

>> Mayor Reed: Thank you, Joe. I need to disclose that I or my staff have had meetings with members of the Fox family, Sean based on our memo and when I think the Fox family for all of the remediation work that they've done on the site. This goes back to the days when I was the council for this area. Get it into a usable form. The big property that you see behind this particular area used to be very heavy industrial. So they've done a lot of event to get it to this point or thr people ahead of them. Revenue generation team has been working very hard to move this ahead. This is folks that had their zoning stalled for couple of years, one of the things that staff will continue to work on and bring back to us to figure out if there's a slughts or people willing have to wait. Phase 1 is how many units in if?

>> Mayor Reed: So how much of the 1600 is taken up in allocations?

>> Joe Horwedel: We have about 850 of the affordable units that are still available. If the project wanted to be affordable we could do it today.

>> This part of the discussion will have it until today. While they wait for an allocation. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Joe for reminding the council of economics of land use. I think that needs to be repeated as much as possible. Looking at the map when I pull it up, clearly this is an area that should have stayed industrial/jobs. Understand that was a prior decision and actually if council did nothing I believe they could actually build more housing and less commercial. So in this reality, we actually have a sort of a deconversion or so I think this is actually a are better than what was passed by the council six. Though I'm not a big fan of single family homes, certainly the high density is what we've been talking about in the general plan.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor. When you are assessing the allocations for purposes of phase 1 in North San José and projects come to you are they severable, in other words, could you decide a portion of the project multifamily for instance, and thereby get priority while another part would not?

>> Joe Horwedel: That's one of the things I want to come back to the council with. In the past we've treated them as an entire project and scored them that basis point because of the request we had from Barry Swenson to do the two-phase tower projects that we have previously approved that are now figuring out how to finance themselves and house do you allow those to move ahead in an incremental basis without losing the parts as to why they got their approval that's one of the things I want to come back to the council with.

>> Councilmember Liccardo: For the reasons that Pierluigi articulated well, I'mive of this project and I'm concerned about the single family allocation and given the nature of the motion it seems to me that it is conclusive of a concept that could include greater density. So I think it shk fine moving forward. And I wanted to thank Sean Morley for his hard work on this.

>> Mayor Reed: I have a motion to approve by Councilmember Chu based on the memorandum. All in favor, opposed, knopped that's approved. Our next item is 4.6. I had a card on 4.4, that matter was dropped, actually the applicant requested withdrawal of the South Almaden valley, so we dropped it from the agenda. 4.6. Community identification and way finding policy. Councilmember Liccardo.

>> Ed Shikada: We have no presentation so stand by for any questions.

>> Mayor Reed: Okay, Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Ed I think that the additional megs that was made, and I've probably not had a chance to check in with you beforehand but the CED committee there was additional portion of the motion that was made by the committee that didn't make it into the report. Are you familiar with what I'm talking about?

>> Ed Shikada: Yes, in conversation with the City Attorney, the issue was, follow-up information related to any restrictions associated with the placement of sponsorship low goes or additional text on banners.

>> Councilmember Liccardo: Yes I think that was part of it.

>> City Attorney Doyle: On that issue we are -- we've yet to produce a memo but we have a memo that we are going to be issuing to the council. I'd request a deferral on the item and bring it back in January if you want to consider that issue.

>> Councilmember Liccardo: The only thing I don't want to do is hold this up anymore because I know there are folks who are anti, and I know we have a long list of projects waiting in line but I know some of the community advocates would like to see the policy in place for the summer banners. I don't want to hold this up. What I'd like to do is make a motion to approve with the additional administrative guidelines that I believe are going to accompany this?

>> Ed Shikada: That would certainly be fine and again, perhaps we can work with the city attorney's office so we all understand what those restrictions might be with respect to placement of additional verbiage.

>> City Attorney Doyle: Yes, obviously the big concern is the sign ordinance and the First Amendment issues and I think that's what we'll work with staff on.

>> Councilmember Liccardo: Okay.

>> Second.

>> Mayor Reed: All right we have a motion on the floor.

>> Councilmember Liccardo: Thank you. Last thing I'd ask is do we have any indication as to when a banner policy might be in place for those who are ready to run out there and put up the banners?

>> City Attorney Doyle: Well if you're depending on our memo and working with staff I think we can have that ready by January.

>> Councilmember Liccardo: Okay, great, thank you.

>> Mayor Reed: We have a motion on the floor. All in favor, opposed, none opposed, that's approved. 4.7, parking incentive program. Councilmember Liccardo.

>> Councilmember Liccardo: Just wanted to thank Jim Ortbal for all the work he's done and a lot of input from the stakeholders and appreciate the flexibility. I'm also aware that there may be some illegal uses of the downtown core that might otherwise be eligible for parking incentive programs. So I'd like to be able to add the additional condition that only lawful uses can avail themselves of this parking incentive program. That would be my motion.

>> Second.

>> Mayor Reed: All right we have a motion and second. So motion's on the floor. Any further discussion on it? No requests from the public to speak. I want to just acknowledge that I have talked to quite a few businesses who have made a decision to stay in this parking incentive program has been a -- maybe not the only reason but an important reason because they're looking at places where there's no charge for parking. As long as we have empty parking that's not being used we can use it as a tool good for all of downtown. Councilmember Liccardo anything to at to your motion? On the motion all in favor, opposed, none opposed, that's approved. Item 5.1 is our next item, that is a report on the community center reuse and aquatics program. We'll have a staff presentation on that I think Albert Balagso is going to take the lead.

>> Albert Balagso: Thank you mayor members of the council, Albert Balagso director of Parks, Recreation, and Neighborhood Services, hire with angel Rios, assistant 22 facilities are funded through remainder of the year for the adopted 201011 budget, for those facilities we've made good progress up to date and angel will be giving you a little bit of information later on in the information. Last year's budget, also impacted our aquatics unique service purchase method, this enable PRNS to secure partners to continue our aquatics program over the 2010 aquatics season and again we'll provide you with a little bit of information on that success later in the presentation. The actual recommendations before you, there are two particular ones that we are asking the council to approve and it's particularly with the aquatics to get an early start in 2011, we ask the council to provide us the authority to extend the use of aquatics operators. This enables us to stabilize the program over the course of a several years, enable the operators to develop a following in the community, and we think that we're going to get a better product out of that as well. In addition to that, we're seeking council's approval to amend policy 7-12 which is a reuse policy to delete the across the board reference to free use and allow flexible charges to be applied to where appropriate where different intth. This will prod the city with the ability to recoup some of the facility costs that we're still carrying ton facilities and where appropriate also achieve some revenue. We're finding on the larger facilities there are certain groups that do have the capacity or Ellis state funds such as ADA to pay for rent and we think we can recoup some of that. It is not necessarily across the board charges but it gives us the flinlt to utilize that as an option. With that we have greater challenges ahead of us with a \$90 million deficit facing the city and so trying to put these two components basically put them to rest that the aquatics program will continue through

the agreements that we would have with other partners and the 22 facilities will find other uses will enable us to move on to the other challenges that we do have laid out for us. With that angel will continue the presentation.

>> Okay so beginning with the summer aquatics update and by way of background the city 10 swimming amenities. Six of those are open swimming pools, there is one open facility which is Almaden lake and two limited city operated pools to two sites, Mayfair and Camden. You also gave us direction to identify partners to help keep as many of the remaining pools open. This past June you approved a temporary suspension of a formal competitive process and authorized use of the unique services purchase clause in the Muni code. I'm pleased to report in a 30 day period we did release the RFI, we identified partners and negotiated agreements and seven of the ten pools this past summer. We served over 30,000 participants and received an average customer satisfaction rating of 91%. Quick special note of thanks to our partners the California sports center sparkle swim school West Coast aquatics and the many neighborhood associations we worked with to get this over the goal line. Similarly a note of thanks to Councilmember Pyle for her fundraising efforts with respect to Almaden lake. In preparation for summer 2011, we did get an early start. We have issued an RFI already that's closed. Our intent to have partners in place by February or March 2011. Moving on to community center reuse, last fiscal year, through MBA number 11 council action you added 22 sites to the facility reuse list. Similar to the aquatics strategy also approved the use of the unique services provision, for reuse sites. We tidied a list of 22 centers into two phases. Phase 1 which consisted of the high use sites, Alamo Alviso, as Albert mentioned we're asking for approval of the revision of council policy 7-12 which will free use of reuse facilities and this revision would also fulfill the City Auditor's recommendation number 9 to revise the reuse policy to allow a tiered approach to cost sharing for reuse contracts. Phase 1 RFI was released this past September and closed on September 30th. The proposals are currently being reviewed with the help of a facility reuse task force, senior commission parks and recreation commission disability advisory commission, strong neighborhoods initiative, and the Silicon Valley council of nonprofits. We did receive 20 proposals for the six sites and we're currently on track to have negotiations completed by late January. Phase 2 RFI was also released this past November 30th and will close January 28th. Our intent is to have those partnerships in place by April 2011. We'll be issuing an info memo in early 2011 detailing our efforts. With that this concludes our presentation.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I think that you should get an award for your ability to bounce back because I remember last year we were thinking oh my gosh how are we going to do this and keep kids swimming and the rest. You have found a wonderful solution. Congratulations to you. So I would like to propose a recommendation or a proposal to accept the citywide report on the aquatics program, authorizing the director of PRNS to enter into direct negotiation with providers accept the staff's report on the 2010 community reuse program and amend council policy 7-12 which is the community center reuse.

>> Councilmember Nguyen: Second.

>> Mayor Reed: All right we have a motion on the floor. Anything to add, Councilmember Pyle?

>> Councilmember Pyle: Not from me.

>> Mayor Reed: On the motion then Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Staff, I notice that out of the phase 1 community insertion, four, you're in negotiations with, you the last time I got this information, with Alum Rock and Alviso not having -- you're not being in negotiations for those centers. Is there a reason for that, what are the prospects for those two sites?

>> Councilmember Campos we actually received four applications for Alum Rock youth center. At this time we have not identified a lead operator. We have identified a number of partners that are willing to pash with a LEED. We are -- the policy as it was revised last June does give us the latitude and the ability to go outside of the RFI and that's what we're doing right now. And at this point there is a number of organizations that have expressed interest and we are working out those details as we speak.

>> Councilmember Campos: Of those organizations that have expressed interest, wroops they will not have to come back to the city and ask for operating dollars? Well you can --

>> That's correct. We put them through a similar screening process as we do others you know in selecting and identifying partners for lead use, especially solvent that they have a track record and that there's good alignment and connection with the community as well. And so we will screen them.

>> Councilmember Campos: And that the community will be able to have -- will be able to enjoy similar or the same types of access, for example, the SNIs rely very heavily on the Alum Rock center, the St. John Vianny chapter it's dear to their hard. Have they been involved in the discussions?

>> We failed to mention earlier we have conducted a community using that information to help inform our decisions. One of the things that we are building into all these agreements is access especially by neighborhood associations, SNIs groups, groups we know do not have the funds tos paiflt pay a rental fee we're building those accommodations into these agreements.

>> Councilmember Campos: What happens if it falls port, lets say it's March or April and all of a sudden you guys say you know what, you can't do it. So what happens then?

>> Well, these community centers have pokes that are end-dated June 30th. So in a worst-case scenario these centers will close. So with the reception of find being an alternative provider and/or council coming back and restoring funding, the centers would close if we're unable to mind a provider.

>> Councilmember Campos: My request to you all if that should happen, if you could look at a contingency plan. Because the last thing that I would want to see is Alum Rock closed. I mean you all know that -- I mean that's it, that community that's all they have the alarm. As a matter of fact, when I look at Mayfair and alarm, I size them as the same center. They're doing similar activities. It is not feasible or even right to ask kids to try to make

their way out to Mayfair to get the services that they need after school or you know, in some cases on the weekends. And I'm sure you all know that that's the riefel bloods of alarm, when it comes to youth services.

>> Mayor Reed: City Manager.

>> City Manager Figone: Councilmember and I would direct this to staff. I would think that if we're finding negotiations difficult due to policy reasons I think we're on high alert to bring whatever registers forward to council to remove barriers. I mean if there's no interest that's one thing. But if our own policy are barrier to successful reuse, I think we're pretty confronted with dealing with those issues as quickly as possible with council.

>> Albert Balagso: I guess that's right, bringing an alternative forward, we'll keep our eyes on that. If things start going policy issues back to City Council .

>> Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, I wanted to commend angel and Albert for the wonderful things you've done to get this to this point. My only concern with the policy, the page 7 the staff report. sort of the fourth paragraph there, the middle. Talking about the revised reusing policy, the "clarifies free use of reuse facilities, utilities, meabt, emergency system improvement cost will be allowed only where services are provided at no charge and where revenue generating activities will not occur. Now I know you've talked toed from offend our team about this interpret that provision and you've looked at page 5 of that policy as allowing you enough flexibility to allow for nonprofit and other organization that's able to provide services even if they have some nominal charge, for instance, basketball or soccer league that charter,s to provide programs that the community really wants and to keep the centers going. What I'm concerned about is that this language is quite mandatory, that in fact the services would have to be provided at no charge, and the revenue -- in would have to be no other revenue-generating activities there in order for free use to kick in. And I'm concerned that that's not flexible

enough, that allows the staff to be able to look at the situation and say, here's where this use makes sense, even if they're going to charge a couple bucks. I would ask the maker of the motion, I guess really I'd ask for your input on this angel. But ultimately where I'm going with this is to ask the maker of the motion for some friendly amendment to allow staff to advise this to allow for that flexibility. Angel do you want to add --

>> Albert Balagso: I think if we would change the wording from will to may that would give us that flexibility. Check with the City Attorney.

>> City Attorney Doyle: I'm alonging at the policy. Are you looking at the policy or the stats?

>> Councilmember Liccardo: I'm looking at the policy but it has a different is the problem.

>> City Attorney Doyle: In the policy where it says may provide for use so it's already discretionary, or not discretionary but there's some flexibility, where a nonprofit or for profit service provides all service for he free and maybe insert or as a nominal charge which may take is into account the five bucks for basketball or something like that?

>> Councilmember Liccardo: Or some other language that says in other circumstances deemed appropriate by the director.

>> City Attorney Doyle: I don't want to give a third opinion but I think we can come up with something.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: So we have the friendly amend is okay with the maker and the seconder? Okay, motion has been amended by friendly amendment. Councilmember Chu.

>> Councilmember Chu: Thank you Mayor. I wanted to thank Albert and angel services. I like the inclusion of four parters in this program. Just curious. During page 1, how many of those for profit groups actually comment out with an RFI?

>> In phase 1, we had no other nor ploaks of these fatalities and the size of these famghts.

>> Councilmember Chu: How about our marketing effort. How do we market to those small groups so they are aware of the opportunity?

>> Well for starters, we did identify four of them from the community, parts of a network of organizes that just work with businesses and nonprofits and secondly we've uses all of that commerce, as well as the mierntd based,.

>> Councilmember Chu: Gej, please use our communication to our constituent for you to yowx right to more for-profit yubs.

>> Yes and we've done that as well we've look at your disseminating this information. Just about everybody out there has sejt out a reuse RFI to all your constituent groups.

>> Councilmember Chu: Please continue to use it school district, you know, both Alviso youth center as well as the Baird youth center are sitting on the school site. Is the city obligated to keep the centers on, even if we cannot find a provider.

>> The majority of joint use agreements not have that clause. In the case of the Berryessa youth center there is a clause in that that became of obligates the facility to keep that, from the Berryessa school district to work out those agreements because in fact we will be meeting with him tomorrow of next week.

>> Councilmember Chu: Okay, great I was looking forward to that meeting, thank you.

>> Mayor Reed: Comj.

>> Councilmember Nguyen: Thank you. Staff I had just one specific question regarding the Alma community center. My understanding is Martha's kitchen has expressed interest in providing the food for the senior program. What's the reaction to the feedback?

>> Preliminary feedback has been mixed, there are some seniors that are good with their food choices, others have other recollection, Sr. leadership council that we met with through this reuse process on January 5th and the intent of that speech acknowledge towards an amenable agreement and arrangement.

>> Councilmember Nguyen: That's wonderful to hear. I was out in a few weeks as leading with the mixed feelings so I was hoping as we are moving forward that we can find something type ever agreement, providing I thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you mayor. Council remind me when because we don't have the funding and we designated the two pools, Mayfair and Camden. Was it nine or ten city pools that the state operated?

>> Ten.

>> Councilmember Oliverio: We are charged with which essentially allowed you, staff, to search outsource the aquatics program where we were able to open six more pools, staff time to get these things in motion but we actually provided a service option to residents. And I think that's really imperative as we're stuck in the grind of limited r, that we had a very success aquatics program, we serviced a thousand more swimmers and to quote another, certainly faced with not providing services to the residents? Instead to provide services to the residents, this was a great success so I'm very happy that the council invoked unique services clause and I think we're going

to have to look at that sooses he we go into a budge of Alum Rock community they are the Berryessa community center or Alma but we are not going to be able to do it in the current I smould.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Is there any provision in that agreement that accounts for if no one steps up to the plate, does the city have to make it available for the school district? Because I mean, that is their home court to pive, voila balm or describe the other issues.

>> There is the expectation as part of that agreement to provide some after school opportunities. So we have better than dealings with José Mon imrvetiona the superintendent of the contracost school district. That we identify fidere that are a if fight for that community.

>> Mayor Reed: I have one request from the public to speak, we'll take that testimony tilt. Marcello Castro.

>> Thank you, Mr. Reed. My name is Marcello Castro, we represent the swim school. We'd like to thank the City of San José prntion district 3 and the parks found, the he be \$black. We are a small business, we are San José residents we have expertise in aquatics and you are goal is to provide not only recreational opportunities but as well as health services through fitness and safety, and we submitted again the RFI and we hope that we can provide services again in the near future to the San José community. Thank you very much and happy holidays to all of you guys.

>> Mayor Reed: Thank you. That concludes the public testimony. We have a motion on the floor. Any further? All in favor? Opposed? Councilmember Campos. That's approved. Actions related to the plant master plan update, 7.1, that is the water pollution control plant.

>> John Stufflebean: Good afternoon, John Stufflebean, director of environmental services. I have a short presentation on our plant master plan. Briefly we're going to talk today about the terek alternative and the land

use alternative. Rebuilds the plant and decide what to do with about 2,000 acres of land around the plant. Here is our schedule. We've been working on this for about three years and we've been focusing in on what we are to present today which is the recommended plan. We started with a very wide range of alternatives and focused into our recommended plan for both rebuilding the plant and the land use around the plant. We'll come back to council in April with our final recommendation and then go into the CEQA process which would take probably a year. Just a reminder is beyond that we have the triple bottom line of economic orkts, environmental objectives and social objectives. We believe the plans brought forward today meet those objectives. We have a lot of input from a lot of groupings. We have a great community advisory group that's met about 19 times and they've become expert of the plant and the land around us. Some members are here to give you their thoughts on its. Regulatory agencies, everyone around. Why are we doing this? The main reason is the top reason which is the condition rereplacement. Regulatory requirements we need to make sure we're prepared for there's an economic benefit, the plant is now being waste that creates resource. We can also imloch proms and the plant and save money. We want to make sure the plant will accommodate the growth that's going to be occurring in the projects area in the sewer shed we call it and there should be some things he we do just for policy direction, just to reduce odor. Again a \$2 billion with a B, includes all process areas, adds odor control in almost all the process areas as well. The plant was originally built with open tarntion as we rebuild we'll clot it up. We'll also be ring in the sludge lagoons and drying beds and kind of one of the questions is how quickly do we do that. This does 92nd sewer funds for the sewer plant. Anything else would have to come from other sources. The plant separates liquids in solid, I weren't through it in detail as you T&E. head wrorks, and the froirms both of those would get covered because that's, at that point the wastewater still has an odor, second cli treatment is am filters and disinfection, solid areas, as I said the plant separates liquids from solid. The first thing that happens to solids is we thicken them and he they enhe we are going through a coz generating sproas which is pts main solids treatment process and we would be rebuilding all the digesters of, current 5 of scans are out of service because of thier iej. From the dies Jessers, the, stabilizing lagoons and then drying beds and one of the emergency reallots as we move ahead we need to come up with some additional he questions. Digesters we're looking at a different process. It takes much less land and it's covered, the mic can zoo, processes that are-morch technology but it begun to take some:00. Cost is on the order of \$threntd million. Uftsz just a major chaim with our prayings. We also want to make sure we have a number of different disposal opposites. There are a number of sources of odor in the

area. The drying beds, several landfills in the area, raw sludge pump station that generate the odor, we, the grege dots show you mostly in the Milpitas area where there's been complaints of odor. The only one that was confirmed to come from the plant was the receipt circle. Some of them cps would probably be the from the landfill. We are certainly committed with dealing with odors, it's just a matter of house quiz that could hooch. This is just a schedule for getting out of the drying gets and the that genes. All we neat to do is finish many old lagoons we need to clean up before we can -- the new processes would go on that same location where those old lagoons are, we need to clean those up. We need to rehab the thickening and die jetion 81 am and digest efforts being, start constructing the dewatering facilities as can you see this takes 15 years. Lots of folks have said gee can't do you that sooner? We would love to do it sooner. We think we can shave about three or four years off of that proceed by starting the dewatering facility, doing some of the work material that we don't know what the actual quality is going to be bought we some risk in that but we think it's the risk that we can manage that. So the other thing the mention is that we intend to do a number of miles, there have been a number of plants over the country that have made much it. That didn't work and we don't want to get there and stie very lethe we want to iks plant uses a lot of energy. One of our objectives is to close the gap. The red line shows how much energy the plant is projected to use over the next 30 years. The solid lines below is how much we generate and we want to make it by gap by digesters and generating additional energy. So I think we have a well thought bsh rks \$2 billion investment. The at the time require determine mock are that I would take it up fiefs managers to piled up the sewer funds so we could handle the CIP. Then he we would be where we neat to be laws lander use part of it. Again the land use, poi cellular area biosold area, proposal is do get out of the rks smaller area that orange area, which I said is over drying beds that are historically there that we need to clean up. And this shows the plan. This is a lot of work that's gone into this in terms of what we were proposing to do around the plant. I'm going to break it down into three components, sustainability and to kind of of see the whole planning. This is the plan that relates Northwest and converted to it tidal marsh. And kind of moved the -- so that's an area that's very valuable in terms of habitat. We've created another fresh want mash to the sees but say, Coyote creek corridor and a couple of others, we've created some uplands grass lands for the owl habitat. In temps of the social goals, this sound kind of like how the bay trail so the orange lines are the new trails that would then connect around the South end of the bay. Really important for a lot of folks including us. Beyond that there is an area for recreation. It could even be expanded beyond that. Beyond that, there's visits want to come many obviously the plant is at

great attraction. Up to finally shows the economic benefits of the potentially of the plant lands, I'm showing a retail kind of right at the corner of 237 and Zanker where it's visible and accessible. A clean tech institute kind of a campus environment that has really resonated well with a lot of our stakeholders and then R&D and expand to the north william energy feels we could put solar energy or other possibilities as well. So again I think we can accomplish the economic goals this way. To sum it up we have got about 300 acres of developed land and this is some of the other acreages and quarter footage but the biggest thing in terms of job space and so we can house about employ about 17 to 18,000 folks on the plant lands which would be very valuable to the city. It's all positive, ground lease and new taxes although not that much really the great value is for the jobs and that concludes my presentation. I just would mention that this kind of keep an eye on this choreography. This is the way it is now and this is the way we would see it transitioning, it will take a little longer than that. If you have any questions, thanks.

>> Mayor Reed: Thank you. Some has seen this presentation before. This was the best one because it was the shortest. All condensed, just pure information. It is a very big project the long term project and complicated project. I want to thank the staff for all the work that's been done to get it to here working with the community to try to get to a solution that we can both afford and will be an asset to us. Councilmember Nguyen and I serve on the treatment plant advisory committee together. Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, mayor Reed. Let me just start by thanking John Stuffbean and your staff and your team for the presentation and the wonderful work that has been done thus far and also wanted to recognize and thank the members of the plant master plan community advisory group and as well as the members of the TPAC, like Mayor Reed has said we have heard this presentation in the pa past. I just wanted to talk a little bit about the order issuing. And eventually make a motion for the memorandum dated December 9th. Since the beginning of the treatment plant master plan update concerns have been raise bed the odors that are emitted 50 plant and how it affects the city of Milpitas as well as its residents and the surrounding businesses. Obviously it's important to reexamine the this memo does just that. I know the master plan mentions technical upgrades that need to be addressed to time line as to when it will eventually be addressed. And so with that said I'd like to move the memorandum dated December 9, 2010 which was co-signed by Mayor Reed, myself and Councilmember Kansen Chu.

>> Mayor Reed: All right, memo on the floor.

>> Councilmember Nguyen: Just briefly let me speak to the land use item. Again I think it's important to establish a specific time line because I think that will really help the City of San José as well as Milpitas to figure out a way to move forward with the land use alternatives to present the master plan. We really need to ensure that spoolings are in place and continue to provide the services to the community. I think that the master plan update is going to enhance the region's ability to attract new businesses, create jobs like you mentioned John, and also to increase tax revenue and provide better opportunity for both cities to thrive. And so with that I look forward to my colleagues' support of the memorandum. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you. Thank you mayor, thank you Councilmember Nguyen for the memo and definitely odor is a big deal for the business in North San José and the residents in Alviso as well as in Milpitas. So this memo definitely clearly set a direct that we need to address that problem, as we're attacking the problem of rebuilding an aging plant. So second the motion, I'll be supporting the motion.

>> Mayor Reed: Thank you. I had a question that I've heard the answer to before, I think it's important for the public to hear it. There's a lot of work ton done at the plant, a couple of billion dollars worth. There is stuff that can't wait. Can you talk about what can't wait and what we're doing about that?

>> John Stuffbean: Sure, we had a major project of complete the rebuilding of the head works. We had some startup issues but that's working. Certainly we're already rebuilding a lot of the electrical systems, electrical power and control systems were quite antiquated, it was a safety concern so those are being rebuilt. We're also rebuilding the digesters acknowledge five of the 16 digesters are out of service and we need the rest of them until we get the thickening process improved. Those are some of the absolutely critical projects that we're working on currently. But as we mapped out the schedule for the master plan we worked with our consultant to map out when

we need to do the most critical projects to get done earliest. That is absolutely critical that we stick on that subject. assessed the condition of the various assets and determine when they need to be replaced and that's a critical part of the master plan.

>> Mayor Reed: Okay this is where one place where the slogan failure is not an option applies. So I want to congratulate our staff for keeping this 50-year-old facility running day in and day out oop the folks who are cps patching it together and keeping it working and this master plan update is really critical but the things he they have already done are really critical to make sure it doesn't fail while we're working on the master plan. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor I'll alsoing supporting the motion. But I have a question on liability. Is the city liable in the future for odors that emit across the property line? You know, that could potentially devalue adjacent properties, sorry, just got handed something for another item so anyway that's the gist of my question.

>> John Stuffbean: We work with the air board closely and if they get complaints their process is they determine the source of the odor and if it turns out to be us which again it hardly ever has been but if it does they then work with deal with odor. You know, potentially if it were a major source of odor and you were not resolving the problems there certainly could be regulatory action taken against you. We do want to avoid that because that could cost you. We want to do that and keep in line with our regulatory requirements.

>> Councilmember Campos: So consistent with what I'm sure you have been hearing from the rest of the council, strongly recommend that you know we get our arms around the issue of odor and if it is coming from the plant that we need to deal with that you know as a priority.

>> City Attorney Doyle: Coik councilmember, ijohn's right, but I think you had mentioned I think historically we've tried to \$limit the number of sensitive uses that are nearby. To the extent they are, in one case in point McCarthy ranch, we have paid for an easement, paid significantly, \$6.5 million back in the '90s. That was a settlement

basically buying the right so certain properties wouldn't be developed. There's a long history to this. I think potentially you apples run the risk that a sensitive use might have a potential nuisance claim. That's why we try limit and that's why there are buffer lands around the plant. I think staff's very mindful of that but the analysis will be done.

>> Councilmember Campos: Thank you. And I'm bringing it up because I mean in on a good day in the summertime you can smell the garlic from Gilroy so I mean odors travel. Thank you.

>> Mayor Reed: Thank you. I think that's the end of the questions. We have some requests from the public to speak. I think we'll do this now. Before we do that I do want to disclose that in preparation for this meeting me and misstaff have talked to McCarthy Ranch, city of milpitas multiple times. kathleen Phelan (saying names).

>> Good afternoon, Mayor Reed and councilmembers, my name is Kathleen Phelan, I'm from the City of Milpitas Public Works department. I'm here to provide comment on behalf of my city. This is a tremendous project, it is an essential facility for the entire South Bay, this is a wonderful time to see the project come together so well. I want to comment that Milpitas depends on this plant so we are very excited to see the work that's being done and we appreciate the cooperation of the staff working with us to address our needs. The city also appreciates the consideration of the Milpitas guiding principles. They are in your packet. There was not a mention of them but we appreciate that you have incorporated them into your planning process. The comment we would make is on the schedule for the conversion of the open air biosolids the report says this will be done in the first phases which was as Milpitas was requesting. We ask if you can continue looking at speeding up this conversion as is feasible and we would direct your attention to the report commissioned by the McCarthys prepared by ERM which shows that the conversion can be done much more quickly. We believe that that report may provide opportunity to find ways to do this more quickly. Thank you very much.

>> Mayor Reed: Thank you for joining us today. Joey McCarthy Stephanie Miller and Dennis Martin.

>> Good afternoon, Mayor Reed and councilmembers, my name is Joey McCarthy and I'm representing McCarthy ranch. I'd loo mayor Reed, Councilmember Nguyen and Councilmember Chu. Odors long term and wefully support that effort . We do have a concern with the position that San José staff has taken in public meetings during the plant master plan process. Staff has stated there are other odor sources in the area and the plant doesn't want to spend money mitigating their odor problem with other odor sources in the area still emitting odors. We strongly disagree with this thought process and feel the plant knees to conducts their plant in a tributary agencies will also benefit economically from mitigating the odors from the plant. The largest land holder impacted by the odors emitted from the plant is the plant. San José staff has put a lot of time and effort into a land plan for the buffer lands and in the odors are not mitigated await 15 years for this opportunity to develop the lands is too long.

>> Mayor Reed: Sorry your time is up. Stephanie Miller, Dennis Martin, Pat Saucedo.

>> Good afternoon, my name is Stephanie Miller and I represent the Irvine company. We are a commercial landlord right in the direct path of the odors that are emitted from the plant. Right there at McCarthy Ranch at McCarthy center, consists of 19 campus office buildings. The odors emitted from the plant is one ever our biggest complaints we receive from our customers and our tearnt. Recreation areas we've creeted at McCarthy center for their use. Having worked in the area since June of 2009 I first hand can attest that there are some very high event days and it is frequent and it is rather unbearable at times. The odor issue does impact our tenant retention program for the center. We recently had conversations with our largest tenant JDS whowmplet occupies about 20% of the center and they're a little uncertain because of the odor of whether or not they want to retain their presence there at our center. That would be a huge loss for us. He we recently also were -- a perspective tenant who was coming through for about 150,000 square feet was advised to not lease space at our center because of the odors that are emitted from the plant. Ultimately this does lead to a loss of overall revenue and income for --

>> Mayor Reed: Sorry your time is up. Dennis Martin, Pat Saucedo Eileen McLaughlin.

>> Good afternoon, I'm Dennis merle with Naop Silicon Valley, we strongly encourage the City of San José to do all it can to eliminate obnoxious odors that discourage the development of new and existing businesses in the area and prevent the creation of new jobs. San José should realize that the buffer land surrounding the plant must be prepared for development which includes the necessary mitigation of odors. These impacts need to be addressed and provide economic benefits to Silicon Valley, instead of being held back because of obnoxious odors. Current the plant master plan contemplates mitigating odors wurchtion businesses decide to mitigate odors in order for any prospective evidence that the loss of reernt prospective tenants in office buildings that currently exist near the plant are specifically because of odor issues. We believe that the mod everyonization of the plant and eliminating the odors is an investment that willing make surrounding property more valuable including that owned by the plant. There are over 400 acres of plan with potential for economic benefit.

>> Mayor Reed: Sorry your time is up. Pat Saucedo.

>> Pat Saucedo: Pat Saucedo, San José Silicon Valley chamber of commerce. Happy holidays. I'm just here to say how much the chamber of commerce supports the adoption of the memo from December 9th busy Vice Mayor Nguyen, Mayor Reed and Councilmember Chu. As a former TPAC member from just a couple of years back, the idea of looking to rebuild our creement plant, to be state-of-the-art, to really take advantage of the potential future development opportunity is really a very propositioning site and a very promising day for San José. I say kudos to you but also kudos to the staff that has worked on this. This is something we talked about 20 years ago and it's really good to see it finally coming about. Thank you very much.

>> Mayor Reed: Eileen McLaughlin and then Ann Schneider.

>> Good afternoon, I'm Eileen McLaughlin with the citizens community to complete the refuge and for the past two years I was the community virus for the plan. One just going through odor if you remember that slide that John put up all of those complaint spots were outside the plant lands and arguably we can say the odors emit from within the plant. So on plant lands we are likely to have the most significant odors so that issue is a factor in any use of these plans. I wanted to point too, some information I believe is missing from the planning process at

this point and hopefully can be gathered during the coming months working with the milk. Although there was a wonderful plan put together with three preliminary alternatives and a survey, the gather of information that was created was demonstrated in the results. The prults said the public pointed to the least development options that were presented. It therefore took -- it was probably looked to be balanced and said where is thou full crumb to be balanced? For the the public it was apparently at the low development alternative. So what is actually the -- there was no way in that survey for the people to keep up --

>> Mayor Reed: Sorry your time is up. Ann Schneider is our last speaker.

>> Hi, Ann Schneider Sierra Club. I apologize if our chapter has not been as active on this plan as we should have been. I'm not going to talk on odors I'm going to talk on the energy aspect. We're excited finding sources of the waste stream have good clean potentially renewable energy. Our concern would be with our digesters, as you potentially bring food waste in our policies require that sludge and food waste become separate so you don't gasification pilot or model plant and I couldn't tell what technology that was. We are concerned as a club and our national policy on burning things. It's -- we're perfectly okay with anaerobic digesters. We look forward to seeing thousand model comes out, what the technology will be what the air pollutants, please keep the stream separate and go slowly on plasma arc.

>> Mayor Reed: That concludes the public testimony. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I just want to say that I support the memo put out by the mayor and councilmembers. I think it's important that we thern source of the odors. At the T&E meeting apparently it is not that easy to find out other than your good old nose looking for them. I do appreciate staff indication that they are willing to look at moving sooner on this and possibly not doing as many pilot studies or maybe being able too move forward on this topic, I think that would be good. Because I think the economic development special not only in private lands but in the plant lands itself is tremendous and we need to be able to reach that so if it's possible I'd like for it to.

>> Mayor Reed: I'm smelling a consensus on this. I think we're going to move ahead but let me just ask one more question about odor. And that is those of us have heard the long presentation, there's a lot more information about how we're going to deal with odors. And we're not waiting for a lot of years. My recollection of looking at the slides is that almost every step of the way we will be doing some things about odors. John could you just talk about that a little bit.

>> John Stufflebean: Certainly. When you cover the tanks you then need to basically collect the odor, collect the air, treat it before you release it, there's a cost to that. As we rebuild the thick nix process, that's currently works so there's a gap there in the cover, the new digesters will be fixed cover. That odor will be eliminated. It is really a major, major problem, and other odors drying beds and the lagoons. It is our commitment to move as quickly as we can on that but obviously we need to be responsible and consider the rate impacts as well.

>> Thank you, any further discussion on the motion? All in favor? Opposed, none opposed, that was root William, we have a consensus. We're unanimous, even better than corn census. I think staff can breathe a sigh of relief to have completed at least this milestone. That conclusion 7.1. We'll now move to 7.2, actions related to single use carryout bag ordinance.

>> John Stufflebean: John Stufflebean again. Brief presentation on carryout bags just to tee up the issue. First thing I want to mention is there's a lot of activity going on with single use bags around the state. This kind of highlights a few of them. Los Angeles county recently enacted an ordinance very similar to what is being proposed today and Los Angeles county, unincorporated lades county is a million people just about the same size as San José. It affects all the stores. There's 88 cities millions more can follow on that with the environmental review and implement a similar ornl if they so desire. Milpitas, our friends in Milpitas have santa Cruz and Santa Clara County are considering action. We also understand the list of cities will probably follow San José if action is taken as well. Second thing I want to mention is that there away a green cities event a few weeks ago and basically the glean cities California which San José is a member is promoting an ordinance similar to ours. Many cities plenchtd to adopt speakers from long beach, San Francisco, Councilmember Chu from San José the Chico bag manufacturing company and the commercial food union. We've had 31 stakeholder meetings over the past

two years, we seventh letters to almost 5,000 business and have had retailer workshops and community meetings. I think most people in San José who are affected busy this, are being considered. We had media events in English Spanish and Vietnamese. Keep California beautiful base rock, California Waste Solutions one of our haulers. The purpose is two foamed, one to encourage the use of reusable bags and to inform people what the ordinance would accomplish. This is a summary of the ordinance that would ban single use plastic and paper bags. Store charge that would be retained by the store exemptions would include meat and vegetable materials, restaurants would be exempted. People on WIV food stamplets stamps. Needs to be no more than 2.25 mils, a lot less than a millimeter. We've put together some tool kits for retailers to use that include store signs acknowledge parking lot ten silings and riempedz at the cash register. General outreach strategy have included a reusable bag pledge that I will use reusability bags. Antiliterature program, we have a plan for business outreach that would start in January. We would notify business of the ordinance. We would encourage the use of media announcements and we would then in November 2011 our plan would be to have a self-certification process for businesses. And then finally the economic considerations, there really are quite minimal. Certainly was an increased cost during the transition period for retailers, ultimately they will want money residents again we talked about the exemptions, there is also a-we are distributing a lot of usable bags and rks rebate for reusable bags. So I guess the final thing to say is that in places where this has been implemented it has gone very smoothly and people have been able to make the transition to reusable bags. That concludes my presentation.

>> Mr. Mayor.

>> Mayor Reed: I hear a voice.

>> Darryl Boyd. Principal environmental manager, PBCE. The appeal of the final EIR prepared for the single use bag ordinance is being considered in accordance with CEQA and title 21 of the San José municipal code. As indicated in our EIR field staff report essentially the council has two options. You can either 1 find the EIR's complete and conforms to the requirements of CEQA, secondly you can find the EIR is not complete or not in compliance with CEQA in which case, council could not take action on the ordinance today. the city chose to jurisdictions in California. Considering similar codes. The proposed ordinance results in no significant impacts and

requires no mitigation measures and no need for adoption of a statement of overriding consideration. So essentially that means that the environmental clearance for the ordinance could have been covered by the adoption of a negative declaration but the city chose to prepare an EIR, primarily for legal defensibility reasons because it takes us out of the realm of the fair argument standard and puts us into the realm of substantial evidence. The preparation of an EIR does allow for disagreement amongst experts and doesn't expect perfection and essentially CEQA says it's okay to have conflicting studies and disagreements, so long as the manner has been carefully considered and the appeal is filed by Mr. Stephen Joseph on behalf of the save the plastic bag coalition, Mr. Jones submitted some substantial comments over the course of the EIR to be exact six separate letters, seven if you include the one to L.A., over several hundreds pages of materials. We have carefully reviewed and considered and responded to the information that he's submitted and as stated in the staff report we have concluded that there are no issues that are raised that require different analysis final EIR. Based on the entirety of the administrative record, that's been prepared we're recommending that the city council uphold the Planning Commission's certification of the final EIR. Thank you, Mr. Mayor.

>> Mayor Reed: Anything else from the staff? Councilmember Liccardo.

>> Councilmember Liccardo: Thank you mayor I'd like to put a motion on the floor first this is a multipart motion because I know we're dealing with several pieces here so if you'll bear with me. I'd like to make a motion to open the hearing on the administrative hearing and consider the appeal of the Planning Commission's certification of the EIR, the motion will then be to uphold the certification and adopt the findings with all the certifications noted in the staff memorandum and to adopt the staff registers relating to the proposed ordinance and everything noted in the memorandum dated December 10th from councilmember Kansen Chu. Madison Nguyen Vice Mayor Judy Chirco and myself with yet another amendment, we have some proposed language and I appreciate the hard work of Rosa San Tatari, over at the city attorney's office, I apologize if I mispronounced your name Rosa. I've passed out this handwritten document, defining single use carryout bag, I think it's substantially similar, I guess that's up there on the screen there, essentially speaks for itself, provides for specific exemptions, clear what we're banning and what we're not. That is my motion.

>> Councilmember Herrera: Second.

>> Mayor Reed: Let me see whether or not we have to have that in a separate motion from the substantive motion.

>> City Attorney Doyle: I think you can hear the matter in its entirety but then here the matters separate.

>> Mayor Reed: We'll have a motion, we'll take public testimony, either one, whatever the people want to talk about, then we'll bifurcate, first the appeal and then the other part of the motion. If that's good for you, Stone.

>> Councilmember Liccardo: If you like to go to public testimony we can or I'm speak, whatever you wish for mayor.

>> Mayor Reed: Why don't you are speak and then we'll have public testimony and then.

>> Councilmember Liccardo: Tim James with the California gross grocers pes Manny Diaz. I just want to thank all the folks who spent an awful lot of time, particularly Emmy mendosa, Skip La case or Lacazi, Melody Tovar and Jo Zientek. Beings the pie fleers in many ways we have to carry the purred in doing, over at the city attorney's office. At save the bay I already mentioned Felicia and Emily and their hard work, David Lewis the executive director has done extraordinary work throughout the state on these initiatives and thank the many organizations that have been pushing with us including the ones I mentioned sls the center for oceanic team who that is done an incredible job of trying to manage the various loivelts from industry groups as well as attorneys and input from vierchl groups around so forth and hopefully we've got something that we can go forward with and feel confident. I really wanted to thank Councilmember Chu in his extraordinary efforts to get these things going, and Vice Mayor Judy Chirco for her leadership on so many environmental issues. I saw Majority spellman, she and her husband jack spent hours and hurs every year bringing together residents in their neighborhood to get out to Coyote creek and just clean it up. They do this, they have various pot lux and barbeques and bhant, an its think what we are today and how that dovetails with the million hours of labor of so many volunteers like Mar Li and how grateful we

are for their endless efforts to, zero waste goals this is the most comprehensive far reaching ordinance of any major city in the country and we should be proud to move forward and I think this will be a segregate model for other cities to knoll.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Do you want to take the public testimony first?

>> Mayor Reed: Let's do that now. We have a lot of people who want to speak. One minute per person. Rick calendar, Gil Chezzo, Rick James.

>> Good afternoon, Mayor Reed and members of the council, Rick calendar on behalf of the Santa Clara Valley Water District. By the streams bithe City of San José and the district during trash hot spot cleanup is plastic bags were the number 3 debris item collected and paper bags were number 10. Data collected during the 2010 national river cleanup day in Santa Clara County in May 2010 indicates that top three of all debris collected. Plastic backs are a significant source of lit earth found along drail ways, called for the cleanup of these trails and the waterways. Plastic bags are also, but they are generally deexoagz. Why not a visual he edit riment, a buildup will cause that's these kinds of ors ordinances which help encourage the local quality of life for the protection of our environment and enhancements of our watersheds. Thank you for your time.

>> Mayor Reed: Gil Chezzo Tim James Lisa Bickford.

>> Mayor Reed, members of city council, and sempletD staff my name is Gil Chesso and I represent allied waste and the Newby island resource recovery and recyclery which will help control let litter and help improve efficiencies in recycling centers. Thank you.

>> Mayor Reed: Tim James.

>> Tim James, California grocers association. We represent both large and small grocery stores, including convenience stores in the City of San José. Wanted to take my time to speak specifically to the amendment. We really appreciate Councilmember Liccardo bringing that forward along with a few of you have who signed that memo, two key issues in there, feemtion like I'm being stalked by a bag monster. Consumers with their prescription medications, another one, under an ordinance like this, consumers are going to ask us to put more products into smaller bags. Contamination when placed in the same bag we feel is he very important to take care of our customers. With that I would also like to extend a thank you to all of you and your office and your staff for all the time you've given us over the course of this issue and spheacial, east being so available and willing to talk to us.

>> Mayor Reed: Peter Bickford, Emily Hanson, are.

>> Thank you, I'm the San José bag mofn sister and I'm here to protest any bhan on plastic bags. I'm made up of 500 plastic bags. I live to about a thousand years old and I'm synthetic so I break down very slowly. It is not a pretty sight. I'll be here regardless pes of of when you are gone. Eye kill about 100,000 marine mammals in the year. There's plenty of fish in the see I hearsd people say. I kill land animals too, we can make my fault. And it's not my fault that the water animals or the land animals swallow me. He we have plenty of knish 14 |1 th |0 of oim right? You made me so why not just up rks cheap, too. I think that you should keep me in your homes, in your stores, on your shores, on your streets, in your dumps, on your lawn, let me live. Support my right to be a productive member of society.

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

>> Mayor Reed: In more ways than one. Emily Hanson, then David cook. Followed by Samantha Debbish.

>> Good afternoon councilmembers, Emily Hanson here representing both Green waste recovery and Zanker road waste recovery, two sister companies. We are here to support the bag process not only single stream recycle abltion and whul we are able to recover a lot of the film plastics that come into our lines, when they come

into the titory line for example all the multifamily waste some all the multifamily garbage, the greatest amount of contamination in that garbage when we send it down to our compost facility down in Gilroy is plastic bags, what it does is wraps arounds the organic material, and inhibits the option recyclary and again thank you for spear heading this effort we're supportive of the staff recommendation, thank you.

>> Mayor Reed: David cook, smat Davish AndrÈ Marcopindlay, I don't think David's here, go ahead Samantha.

>> Good afternoon acknowledge mayor and community members, he we respectfully oppose this ordinance because it will hurt consumers and businesses. Disproportionate impact on our members the small neighborhoods stores. They don't have the buying power that the larger stores do when belying payable bags. As stated, the smaller stores can buy them at 50 cents a bag. We're asking that you consider a possible exemption for the small eggs stores the ones that are 2500 square feet and below similar to what you've done with restaurants in this proved owners. There is a tremendous express answers. Maybe moving the effective date for the smaller stores after the year after the larger chain stores, we supported the statewide effort the sate legislation to ban public bags because it was a little bit different. It also gave me time for the smaller stores to allow their stores to get used to this important trend.

>> Mayor Reed: Sorry your time is up. Ann dreys capapinlack (saying names).

>> Good afternoon, Mayor,-k 20th district which covers a portion of Councilmember Chu's district. The assembly member and the incoming chair of the assembly committee on environment and toxic waste wanted to convey his support for the plastic bags in the City of San José. As the former mayor of the single use bags while his efforts were not successful nor was AB 1998, the statewide taking up the issue and taking action and I won't waste time by renaming those cities but I would use like do the reiterate Mr. court to be an advocate in Sacramento for a uniform statewide barch.

>> Mayor Reed: Kevin Cotilla (saying names).

>> Good afternoon, thank you, Mr. Mayor and the city council. For giving me this chance to talk about this. I want you guys to know that I am opposed to both of the resolutions. Both of them. Because I don't think that it's -- that it is fair for this city council to try to force me, to try to take -- infringe on my civil right to decide whether to-d it should be my right to decide whether I use a plastic bag or not. That should be my choice. Not -- that should not be forced on me by this city council. That is wrong. And I want you to know, that I will remember the face of every single one of these -- of you councilmembers that votes in favor it it, and when you come up for reelection, I will not vote for you for reelection. Thank you. And I ask you to vote no on the bag ban. Thank you.

>> Mayor Reed: Carey Hamilton, Kimberly Brady and then Kelly Stewart.

>> Good afternoon, mayor and council, Carey Hamilton, we've been working on this issue I think it's been over three years since Councilmember Chu had supported it at the county recycling and waste reduction commission so we're very happy to see this day come. The kids while I public Frenemy. Our biggest concern about plastic bags are the completely implications, with plankton and other sea life mistaking plastic bits for food, thank you very much, for supporting the EIR, and he we urge you to go ahead and uphold the commission's physics of the final EIR and this policy. FTC.

>> Mayor Reed: Kimberly Brady Kelly Stewart, Sotab Miab.

>> Hi before you start the clock can I say one thing. Judy, and Lee, you guys have both brought a face to this council that we are going to miss sorely and with it shoes that are going to be very, very hard to fill. So I just wanted to let you know that we're e-going to miss you. Okay now you can start the clock. Ha ha. Mayor and members of the council, I'm going to read this because I just had to cut it in half. I would like to offer ways to incentivize rather than penalize San José residents to adopt better habits, fast food restaurants and establishments as well as local merchants. We all know that success is being innovative ways to further enjoy the second suck of this model am collaborative community effort. I'd like to propose to each of you councilmembers, to allow me to come and talk to you about taking this to the next leg level by adopting shop localize bags that would be a collaborative of both businesses and restaurants in each of your districts. Each would be for your

districts alone. They would offer 911 to solve problems for discounts that would not only encourage traffic too and spending at participating venues, the cost is minimal compared to the potential rewards. I'm already speaking I'm trike to wrap it up with dissuch as Santa Clara, Mountain View and Milpitas option --

>> Mayor Reed: Sorry your time is up. Kelly Sotab and Miab, handwriting and the eyes confuse me sometimes. None of those folks all right, Joel Corona, ReneÉ Irely.

>> Thank you, mayor and council, I'm Joel Corona with California Waste Solutions, we'd like to support the ban on plastic bags, in addition to all the other statements made, they reduce they increase our mechanical break downs and down time and they also increase the cost of our operation with ultimately do get passed to every ratepayer in the San José so we do appreciate the ban of those bags.

>> Mayor Reed: ReneÉ irely.

>> The solid waste and recycling manager for city of Palo Alto. As the sister city that has already taken the step of banning single use carryout bags I applaud this excellent environmental work done on this topic for the City of San José. In September 2009 after successfully settling a lawsuit, Palo Alto our ability to expand our ban ideally in conjunction with San José in 2012, has been contingent on the completion and certification of your environmental impact report. It would be much more difficult for smaller jurisdictions such as ourselves and in the state to consider a ban without your environmental assessment. You're providing excellent research for and leadership to the rest of the county and state. This is a comprehensive and thoughtful ordinance it's dreachg a pervasive and difficult to manage material. So I urge you to approve the ordinance before you today. Thank you.

>> Mayor Reed: James Keller Christopher Lynn Janey roamer.

>> My name is Christopher Chin. I'm the executive director of core, the oceanannic councilmember Liccardo and Chu for championing this effort. The staff and everybody else involved for their tireless dedication to this effort. Your vote for this ordinance shows vision and true environmental leadership. As one of the strongest and

most comprehensive ordinances in the country, this will provide an example, and encouragement for communities throughout the Bay Area, throughout California and even throughout the country. The time of the plastic bag is over and we really do need to give up our addiction to convenience. So I thank you, I encourage you to vote 80 and it's time. Thanks.

>> Mayor Reed: Jeannie Ventura, (saying names).

>> Good afternoon, my name is Jennie Romer I'm ordinance will reduce litter and associated cleanup costs to the city reduce marine debris and help preserve aquatic ecosystems and change consumer behavior so that disposable backs are seen as a product and more likely to be reused. Thank you for seeing the try's recent claims for what they are, a red herring. This has been a very long process and I comedged the City of San José for its work. Thanks.

>> Mayor Reed: Andrea Ventura Heidi Mallander, inclinehouse.

>> My name is Andrea Ventura and I'm here for clean surroundingsing communities. I'm also here as a resident of San José. And I want to say that we strongly urge you to confirm the validity of the EIR report. We believe that this appeal was merely a tactic to delay or stop progress on addressing the pollution coughed by single use bags. Basically we also want to say that throwing away a plastic bag is in fact throwing away money. This ordinance makes sense on all levels. It stops pollution at the source. It's affordable, especially due to the fact that reusable backs are become more available and saves the ratepayers billions of dollars for environmental cleanup. We should be doing this at the beginning of the process, not once it's gotten into the waterways and environment. Please move this forward.

>> Mayor Reed: (saying names).

>> Hi my name is Heidi mallander, I represent the as members and we promote waste reduction reuse and recycling and composting and of course this ordinance is right up the alley of what we support as an

organization. Waste reduction of course high on the priority which often gets shorter solicit shrift. So please vote yes on this ordinance . I'd just like to quote the Northern California recycling association president and what he shared with me yesterday even on his opinion. He said I love plastic, it's a wonderful material. I love dogs, too but when they get loose, when they're not under control they can do a lot of damage. I think we all understand what that damage is. One thing I'd like to just mention while I have a chance to those who are concerned about for the small businesses being able to purchase enough plastic bags at a lower cost. I just recommend they maybe look at getting together as a co-op to do bunching in larger quantities so they can get a lower price.

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: (saying names).

>> Good afternoon. I'm Suni Klinehouse representing Santa Clara County Audubon society. I'm here to support the badge on plastic bags due to the devastating and per vaif is impacts that this material has on both marine and fresh water aquatic ecosystems our birds and our wildlife. Thank you very much.

>> Mayor Reed: Andy Keller (saying names).

>> Andy Keller, born and raised here in San José. I'm one of 20 companies, my company employs 30 people, and small businesses helping them turn operating cost into a profitable venture for them by selling resale bags. I'm one of 20 companies here in California. California is becoming a leader in reusable bag making, design, and with your leadership this trend will continue attracting more green jobs to California. Smart environmental policy means more green jobs. It's good for San José good for California thank you.

>> Mayor Reed: Dan Schneider, Naples.

>> Ann snierd. We've been asking elected officials where they're going to take a stand on extended producer responsibility and I'm so happy that you're taking it here and I strongly encourage you to certify the EIR because I have cities all over California all over the U.S. waiting for that EIR. Your ordinance is great too. Cities will always tailor their own ordinances. So please meses pass it. In a way I'll be heartbroken. My task is to provide jobs for vownls. Our volunteers love the issue of take out backs. This is very exciting. I thank you for your leadership. I thank staff for their leadership. Please vote yes on.

>> Mayor Reed: (saying names) come on down please when I kale your name.

>> Good afternoon mayor councilmembers, my name is Julie Hutchinson. I'm with the committee for green foothills. The land and waterways protection. Many local streams including our waterways, including Guadalupe river and Coyote creek have been listed or are considered to be, considered for listing as impaired under the clean water act due to trash. I believe Rick calendars speak to this issue very clearly so yes we are in support of this ordinance. Because we believe it will help in addressing this issue. In addition to in the long term providing the city with cost savings benefit in termination of cleanup requirements. Thank you very much.

>> Mayor Reed: Sue Vang, (saying names).

>> Thank you, good afternoon. My name is Sue Vang, with Californians to, economic benefits to this ban which I won't list here. I just wanted to go ahead and urge you strongly to pass this ban today, I know that there are a lot of other several years now so we look forward to seeing this hard work come to fruition, thank you.

>> Mayor Reed: Parwinder Dinsa (saying names).

>> Imash, my naming is Parvinder Dinsa I'm here to oppose the bag ban. And due to because we are in current economic time, and 10 cents per average customer is too much. It adds up to we get a thousand customers today and 36,500 per year and over the fee take all the convenience stores, small businesses adds up to like millions of dollars. So I believe at this time we should reconsider and look at other methods of recycling.

>> Mayor Reed: Lauren Ornellas, (saying names).

>> Hi I'm Lauren Ornellas, I'm also a resident of San José I urge you to please pass this I also encourage you not to give any type of exemption to convenience stores which I can't go into in less than a minute but I also want to add I believe it's a right for everyone to have a clean environment especially for those future generations who have no say in what we're doing right now. Thank you.

>> Mayor Reed: Teresa Navarro, Ash carvetion Kumar. (saying names).

>> And I'm with the San José flea market and I'm here to express concerns that the flea market has about some of the aspects of the ordinance. We believe it will be impossible to ensure compliance for our business, the flea market's very unique. For these reasons we are asking that the flea market be added to those businesses that are exempt under the ordinance. Just a couple of the difficult we foresee. A third of our vendors are daily, tran chept we would not want to be held responsible for their actions. Also, 99% of our vendors don't have cash registers let alone electricity and one of the aspects of the ordinance is that it asks that there be a trackable point of sale to list the paper bags, the recyclable paper bags that are sold so that would not be possible. So I've been to stakeholder meetings, talked to staff, exchanged Coyoteless e-mails and foarn calls and these issues have not been addressed so I was hope to do that today. Thank you.

>> Mayor Reed: Ashak Kumar Manuel Martinez. Bruce Wolf.

>> My name is Ashak Kumar I'd like to talk about the ordinance. I'm not talking about, but what I would like to suggest is to council to consider a transition plan when this thing is implemented for, especially for small retailers and 7Eleven stores in your area to fief them a little bit more time and support for resources such as offering them reusable bags so they can give its to their customers who often are pedestrians and they walk to the store and it's very inconvenient for them to not have something to carry they generally come from an economic status where I think where we encourage the habits change through offering them reusable bags with the cooperation of the city

it might be very useful. So please think about a transition plan for small retailers and see how we can cooperate to change our customers' habits. Thank you.

>> Mayor Reed: Manuel Martinez. Bruce Wolf, Heidi Isops.

>> Hello, I'm Manuel Martinez, I'm the founder of project green bag, I'm here to discuss a serious solution plastic bags. What we're seeing now is a transition between plastic to reusal. As new and pert products emerge, hazardous to the environment and to us. This is not sustainable and they need to be banned. Of course the debate always includes jobs. Reusable bags are a fast growing sector. It has a potential to bring big business and revenue to California's organic cotton and we manufacture them here in California. This is sustainable. We do not outsource any of our production overseas. This means every job is a green job for Californians. On behalf of project green bag I urge you to vote yes.

>> Mayor Reed: Bruce Wolf, Heidi Isops.(saying names).

>> Bruce Wolf, executive director of the regional water board. I talked to you last September in quopg the single use bag ban thus I'm pleased that you're now considering this ban and urge you to adopt it. I want to note that since last cement, the water board has adopted a regional storm water permit that requires South Carolina and 75 other permittees to implement permanent measures to reduce trash. We view this ordinance. You as one such permanent measure. Further, this would be a measure that the public would actively implement, not just a capital project that the city would have to construct and maintain. Thus we you have this as a win win for the city and urge that you adopt the ordinance. Thank you.

>> Mayor Reed: Heidi Isops (saying names).

>> I cut this in half and timed it so here goes. Thank you Mayor Reed, councilmembers for your careful research on this important ban. I'm a direct much San José, the past chair of the Jewish jewish agencies, community centers, senior facilities and cilil hill els, I knows that you have heard a lot of statistics I won't repeat them here, I

have spent time over the last few days read being the concerns about this ban and being currently use single use bags when they get home such as lining trash cans or cleaning up after their pets. Only came into widespread use in 1982, less than 30 years ago. We obviously had groceries and trash cans and pet waste for longer than 30 years and we simply have become accustomed to I would contend that we all --

>> Mayor Reed: Sorry your time is up. Our next speaker is John messin canches Marley spillman and John Skalea.

>> Hi I'm hair those rights are reserve to the people. Paper bags such as I was going to show you have been provided free by retailers in America for over 160 years. And they were invented by an American woman who didn't like your cloth alternatives. Instead of -- and opinion three, instead of playing games about whether this is a tax or not you ought to put this on the ballot and let the people vote on it. Personally I don't want to have to go to the grocery store looking like our bag lady in the back of the room. That is what is going to make me or anybody with a large family look like. This is just not right.

>> Mayor Reed: (saying names).

>> Good afternoon Mr. Mayor and councilmembers, thank you very, very much for bringing this item to the attention of our city. I'm with friends of Coyote creek and Mr. Liccardo I thank you very much. He has been very supportive as has your environmental services department. And the antilitter program, et cetera. We know that the by weight the plastic bag is not very heavy, and friends of the Coyote creek over the years has collected tons of trash so we have a long long way to go. We try to educate the public also and I appreciate the fact that the city has been distributing these blue bags. I think one of the speakers was carrying one. And the helping people to become more accustomed to keeping those bags in the trunk or somewhere in your vehicle and getting in the habit of taking them in --

>> Mayor Reed: Sorry your time is up.

>> All right, thank you.

>> Mayor Reed: John Galea, Alan hack her Stephen Ng.

>> Thank you, Mayor Reed councilmembers. My name is Joe Galea and I represent 7Eleven stores. In consideration of time. I'm not going to rehash some of the things that were said but we're opposed to the ban to the ordinance for two things. Number one, it will put our stores at a disadvantage with the bigger stores because we will thought be able to obtain paper bags at a cost that the bigger markets will be able to. So we'll drive our customers there. The economics of it also has with unemployment, single parents, seniors on fixed income, that over the course of the year, the fees that we would collect would also limit their ability to perhaps purchase food, or things that are necessities. And I think that's it. Thank you.

>> Mayor Reed: Alan hackler, Stephen Ng, Erica Stovic.

>> I'm in favor of the plastic bag ban. The availability of bags will be decreased with this law so a solution I recommend is with so many bags outs there go pick a few up and maybe a few days you'll probably have enough bags to last you the rest of your life even when this ban gets in place and for small business owners, I have a really fun slogan, the problem is the solution. If they spent half the time that they have spent to oppose this to in turn use you it as a solution to use as a marketing tool to use against the larger chain stores this could benefit them to sell bags, the Chico bags I've been using their bags for a long time, these exeant will be able to get a foothold and be an advantage for them and not a deterrent. We are in a place of profitable for them and market these things and not-d.

>> Mayor Reed: Sorry your time is up. Stephen Ng, Eric Stenojovick.

>> My name is Stephen Ng and I'm a volunteer at the Monterey bay aquarium and I go to U.C. Davis. Whatever we end up throwing outside into the environment will eventually come back too us because the plastic molecules actually don't biodegrade, they only photodegrade, they get smaller and smaller and smaller the molecule is so

tough that no organic molecule can actually break it down. These tiny molecules and pieces of plastic get mistaken by plankton. Larger fish eat those fish. What's called is biomagnification. The amount the smaller fish had gets into a larger amount in a larger fish and we eventually eat those larger fish and plastic acts like a magnet for different toxins in the ocean like DDT and different harmful toxins so it's magnified up to what we get is eventually harmful and --

>> Mayor Reed: Time is up. Eric S tervetione.

>> My name is Erica Stenovich and I want you to support the plastic ban. I disagree because it is our right as citizens to have a clean environment. And I feel it's much stronger than another person's right to carry a plastic bag. Thank you.

>> Mayor Reed: Zachary Pallen Richard Gertman, (saying names).

>> Hi, I'm not an important person, I'm a random dude that lives in the city. In any case I would like to say that I'm really excited that this ban is going through because I'm sick and tired with having to incline up these bags and there's some dirt stains with me digging myself into the Coyote creek. I really appreciate what the city is doing in terms of environmental issues. It's really important that we continue focusing on doing more about these issues. Plastic bag ban has its limits as we all know and so I'd like to see more. I'd like to see not a single plastic bag in the rivers any more in the City of San José and I know all of you share my concerns and so thank you very much for your efforts.

>> Mayor Reed: Richard Gertman Bruce Olzusky, Patricia Oluna.

>> Thank you for this opportunity my name is Richard Gertman I'm here representing the California resource recovery association which is the state recycling association. We have understand hundreds of professional solid waste managers as part of our organization and he we are here to support this oranges and EIR. I think it's important to note the plastics are important in our environment and our recycling containers are made out of

plastics and that's a really good thing but we're in favor of things that are durable and lodge last but not things that are used once and thrown away. Thank you.

>> Mayor Reed: (saying names).

>> Good afternoon, members of council, and Mr. Mayor, I'm Bruce Ochefsky. Industry has elevated the plastic bags, become somewhat of a public nuisance. So as a president of a Silicon Valley toxics coalition, a member of the technical advisory committee to the recycling and waste reduction commission and I've been teaching environmental studies for the past 20 years at your neighbor next door it is my professional opinion that the work of the city council and the staff here is exemplary, juice fantastic piece of work. They've done really supper-detail and I encourage an aye vote on the motion. Thank you very much.

>> Mayor Reed: Publish Luna Susan Marsland David Lewis.

>> My name is Patricia Luna and I'm here in support of the land. These days with climate change air pollution the ever lasting recession, it is difficult for folks like myself to feel optimistic. The vote for the plastic ban is a myself and mischildren's future and contrary to what someone else said, I will be campaigning for those councilmembers and vote in support of this ban and contrary to the prior speaker, there's no civil right for using of plastic bags just as there is no right to scream fire in a crowded auditorium. Thank you again.

>> Mayor Reed: Susan Marsland David Louis, Rhine Fraser.

>> I am the wife of David Marsland who is co-chair of the San José cool cities program. An advocate for children I'm here to speak on behalf of the ordinance of the ban on the single use plastic bags. Over two years ago I personally witnessed the city council support the plastic bags as complementary to the urban environment accord that the City of San José signed in 2005 for waste reduction goals. Banning the use of plastic bags is similar to the behavior change we have countered with San José's successful recycling program. And I personally believe that we can all successfully change our behavior as we become more educated by the impacts of the

environment. I'm just going to conclude because we've heard about all the problems with bags this one is from Cupertino, I want one from San José. Thank you.

>> Mayor Reed: (saying names).

>> Live in San José and Santa Clara County we're enthusiastic about this proposed ordinance. As you know from the EIR plastic bags litter or neighborhoods and choke our waterways in San Francisco Bay and they're costing the city millions of dollars in cleanup every year. We're proud you've reached this watershed moment because San José is now in the position to lead the state of California on this issue and we should all be very proud about that. This ordinance is not only good for San José, it's going to be a model for the county for other cities in the county and I believe for the state and the nation. And it's a culmination of two years of community outreach by you and members of the city staff. Very comprehensive process and we're very appreciative for the effort that you've invested in this process and the landmark legislation that's resulted. So I just want to thank you again for your leadership and urge you to pass this resolution for San Francisco Bay. Thank you.

>> Mayor Reed: Ryan Fraser. Okay. I think we are done with the public testimony. Get back for some council discussion. Councilmember Chu.

>> Councilmember Chu: Thank you mayor. Excuse me. First I'd like to thank all those members that are here to offer your testimony. And also this close that my staff and I have probably met one of your representatives from your different groups over the past three years. Also I have received a gift from Chico bag, all pack it into the little small packet. I use as the squeeze ball, tension release squeeze ball. So I want to publicly disclose I know it's less than \$50 in value. I want to thank the mayor. And the other Councilmember Campos for initiating the memo about three years ago. I think it's January 2008, when we issued a memo to ban plastic bag. And since then I have learned from the ESD folks all the good folks over there that paper bags are really not that friendly. It takes 14 million trees per year to produce the bags we need in this country. Just in this country, 14 million trees. The energy it takes to produce one paper bag is equivalent of burning a 50 watt lightbulb for 14 hours. It takes ten times more energy to recycle paper bags, compared to recycling plastic bags. And so we should not just put a

burden on the next generation. Plastic bags, we know it clogs our street and harm our lives. So I really, really wanted to especially, specifically thank the ESD staff and also the California grocers association, Tim Jensen there, on board very, very early and educate us on this issue. San José is taking a very bold step in considering comprehensive ban on both plastic and paper bag. This issue is really not confined to the City of San José. I have also brought this proposal to the Santa Clara County recycling and waste reduction commission, which was passed on to other cities in the county, would have learned that Palo Alto already adopted an ordinance, congratulation, and from the last meeting, last commission meeting have also learned that Sunnyvale and Santa Clara is coming right behind us, they're waiting for the decision we'll be making today. And a lot of information from our EIR, and think also to move forward for the ban. Couple weeks ago, I spoke on the capitol steps with other elected officials from different counties and the cities, along with our governor Schwarzenegger. We all made a commitment to be environmentally stewards for our community. And City of San José, we are here fulfilling that promise today with the proposed ordinance. I have one question for the staff regarding to the issue of the flea market vendors. Any input?

>> Mr. Councilmember, the flea market has been a participant in our stakeholder process from the beginning. We recognize that the flea market is unique and that there will be problems implementing the ordinance there that would be different from those in a typical retail establishment. However, there are some things to consider. One is that the casual vendors, people that are there one time only or only once or twice a year who did not have resale licenses will not be considered stores as defined in the ordinance and won't be subject to the ordinance. People with resale licenses who do business there regularly on the specific patch of ground even though they don't have a building or cash register will be covered by the ordinance as drafted. We've been pushed hard since the beginning, but a not to discriminate against them. One way or another there's going to be a differential impact. We think we can mitigate the impacts at the flea market. We've spent some time, we'll spend more. We think with cooperative buying and other solutions things can be made to work there. The landlord is not responsible will not be responsible for enforcing the ordinance no more than the owner of a regular retail store's land will be. We don't anticipate noshing this against the businesses except for their own retail stallings.

>> Councilmember Chu: Thank you for that. I really encourage my colleagues to support the motion on the floor. Thank you very much.

>> Councilmember Chirco: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, vice mayor. A lot has been said already by my colleagues as well as some of the colleagues hoer here. So I just want to talk about the positive impact this has had with families with small businesses. I know the families will not have to pay for the plastic bag that they give out free of charge for customers. Businesses can save that money perhaps hire another worker or revest that safely back into the business. We can't deny that reusable bags are easy to fold, to transport and very tourable, complementary to cheek oh bag. It can can quaver up to 25 pounds of goods and so this defendant is something that we would prefer rather than the plastic bag. So all in all this is a great example of smart policy that is good for business, good for the environment and good for city, and I hope that my colleagues will support this proposed ordinance. Thank you.

>> Councilmember Chirco: Councilmember Pyle.

>> Councilmember Pyle: Thank you. You know when I heard about the flea market I thought this is a great opportunity, Chico bag, open up something in the flea market. So at any rate I am immensely proud of all of my colleagues who worked so hard to put this together and spent three years bringing it to fruition. Thank you very much obviously and to all the wonderful volunteers out there who have been cleaning creeks and all the rest. This will give you a little bit of a rest, I hope. Thank you all and I'm very, very excited for a yes vote.

>> Councilmember Chirco: Councilmember Kalra.

>> Councilmember Kalra: Thank you Vice Mayor. I'm very excited to have the opportunity to move this forward. I want to start by thanking environmental services staff. I think you've done a tremendous job, tremendous amount of work, tremendous amount of work with stakeholders but also out in the community. I've seen you everywhere,

I've seen your staff everywhere and whether it be at potential meetings or whether it be in community events and I think that's so important, informational meetings so that we've got to this point, we wouldn't have gotten here without the tremendous work of ESD staff. Would I like my community I know for one that my staff has done a great job, Stacy Sheehan in particular in regards to doing research, going out to all the community groups, making sure they're informed, working with ESD on that and a number of stakeholders and I agree that I believe with the California grocers association and even some of the small businesses there's a great opportunity for us to work together as we go through with this. Too many community partners have been made, many of them showed up here, I just want to thank a lot of them including Save the Bay which has done a tremendous amount of work on this, this is all something we have to consider and think about I'm glad ESD has thought about it and is thinking about how to engage with small businesses, continuing to engage with small businesses and I just hope that those small businesses will engage back and that we certainly don't want to create more of a burden than we need to. We do know that from other examples, for example, in Washington, D.C, as cited in the staff memo during the same year they implemented a five cent fee on plastic and paper bag they saw a 75% drop in the usage of those bags. We know that it can work and we know we have to start somewhere to create this behavior change. And one concern is a burden on our lower-income residents and I think that's why I appreciate the exemption of those that are on WIC or CalFresh otherwise known as food stamps or California Supplemental Nutrition Assistance Program, I feel tell you once this goes into effect I guarantee they are also going to take part in reusing reusable bags. Hopefully this will give them a buffer to be part of the community movement I'm also appreciative that nonprofits and social service agencies are exempted. Although I will hope that some of our community partners will reach out to them as well, clients and customers as well because I think again it's great to have that buffer but I think ultimately we're going to see the movement spread around all our retail outlets including those that are nonprofits. Ultimately it is about creating positive behavior change, we've seen it before, they do take a while to get used to and I know that there are growing pains involved. Anything that's worth it that has valuable needs to start opportunity to take which is creating generation change. I'm very happy that Vice Mayor Chirco is here to take part of it and this will be part of her legacy. And I can't give enough thanks to Councilmember Chu for starting the process and a very long process that this wouldn't be happening today if it wasn't for Councilmember Chu starting it three years ago. And I'm just excited that we are going to create an

environment just like right now, kids that are growing up right now don't know what a phone is attached to a cord. Some day kids won't i'm very excited about that. [applause]

>> Councilmember Chirco: Councilmember Constant.

>> Councilmember Constant: Thank you, I'm not going to speak very long at all because I think everybody knows where I am on the issue. Without getting into any of the merits I'm just sad today that we will have done two things that will have increased the burden and increased cost for people in the midst of one of the deepest recessions we've seen in our lifetime, even those of us who are considerably older and that wasn't pointed at you Mr. Mayor as you walked in. And I did want to thank the plastic bag monster for making my point that these bags aren't of single use they can be reused and recycled.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you mayor. Wanted to thank staff for all the work and time you put into this and the stakeholders out there. The tenacity for years, probably decades for some of you that have stayed the course. Also wanted to thank Councilmember Chu for acknowledging the previous councilmember who used to sit here who was real passionate about this as well. I think our planet is evidence that we have to do something. And I think today it's not just a small step but it's a giant leap. I could remember back in the mid '80s when our city initiated its first recycling program and the complaints around the neighborhood and we actually have one of the best programs now and it's second nature to recycle and to you you know send yard waste to its proper place. And like Councilmember Kalra said ten, 20 years from anonymous kids are not going to know what it is to use a plastic bag. And do what other people around the world is you know you take your bag to the market. So I will bl supportings the motion.

>> Mayor Reed: Councilmember Pyle I'm sorry did you have something else? Your light was still on. Anybody else wish to speak. I think we're just about done with this. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I want to thank Councilmember Chu for starting this process three years ago. And Councilmember Liccardo for bringing up the -- and working on the latest revisions to make sure that we took care of the issues with where the -- with the reusable with the food and with the pharmaceuticals and Vice Mayor Chirco, I'm so glad that you're here today to see this passed. I think this is really important, I remember option trash at will and pollute the ire. We've seen iterations throughout the world of better vierms an as to be voting on something that's going to really set the standard.

>> Mayor Reed: I need to disclose that my staff has met with and talked with the grocers association save the bay and other people that have been engaged in this and I'd just like to close out by saying I invite all of the people who are keeping track of the number of plastic bags in our creek and our bay and our ocean however you are counting them to come back in a year and let us know how it's going. It is port prntd that we have a national impact or a statewide impact it's not enough to pass an ordinance. That's the easy part. Implementation is always the hard part and measuring the impact is always important to demonstrate that we have correctly analyzed and addressed the problem and help bring a solution president prop. So I'm others who are counting the bags and I'm looking forward to hearing the friends of Coyote creek come in and say we didn't pick up any plastic bags in our cleanup. That will be phenomenal, there are lots of them in our creeks as we all know. With that I think we're done with a motion on the floor made some time ago by Councilmember Liccardo and we need to have two votes on this because first we need to deal with the environmental part of this so we'll bifurcate it for purposes of the agenda. The staff or agenda item A is the one on the appeal of the environmental, so on that motion, all in favor? Opposed, one opposed, Councilmember Constant opposed so that passes sorn a ten-1 vows. Now on the rest of the motion made by condominium, an those item pickup one opposed, Councilmember Constant, that passes on a 10-1 vote. Congratulations, thank you very much. You're welcome to leave. Please take the conversation outside, we still have a little bit of work to be done before we're ready. The next is 7.3, Evergreen provisions in solid waste service agreements.

>> John Stufflebean: We're here to answer any questions.

>> Mayor Reed: We have a motion to approve. I have a request to speak on this item, Ann Schneider of the Sierra Club. I'm sorry folks, we have work to do here, please take your conversations outside. Ann I'm sorry.

>> I work with communities around the country and the number one thing we tell cities what they have to do or volunteers what they have to do is look at their existing city contracts and see if there is an Evergreen contract and do what you have to do to get out of Evergreen contracts because it so ties the hands of people who want to implement new contracts. I was so amazed when I saw Evergreen contracts coming back to a city that has been played a leadership role, to see that the city is encouraging it I would strongly Evergreen contracts just tie your hands is please don't support going backwards and putting in Evergreen contracts. Thank you.

>> Mayor Reed: Any other speakers on this item? Do you want to speak? Come on.

>> Great, thank you you Emily Hanson with Green waste recovery, just came to speak in supports much the staff analysis and report. Other companies believe that we can definitely create Evergreen contracts which incredible amount of flexibility for the city to have control over house the program and process develops over time. So again we're here to support the staff analysis but definitely want to hopefully see this come again in the future, thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion to accept the staff report. All in favor, opposed, none opposed, that's approved. Any cards to speak under open forum? There are none, we are concluded with this meeting. Vice Mayor Chirco, come back on Thursday, will you, special meeting on Thursday. Early, we meet early Thursday morning. We're adjourned.