

The following transcript is provided for your convenience, but does not represent the official record of this meeting. The transcript is provided by the firm that provides closed captioning services to the City. Because this service is created in real-time as the meeting progresses, it may contain errors and gaps, but is nevertheless very helpful in determining the gist of what occurred during this meeting.

>> Mayor Reed: Good morning, we have a quorum. There is no update. No labor update. And I have no requests from the public to speak so we're going to adjourn into closed session until 1:30.

>> Mayor Reed: (gavel strike) Good afternoon. I'd like to get the San José city council meeting called to order for October 2nd, 2012. Our invocator will be introduced by Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Judy Rickard describes herself as a lifelong lesbian. These are her words, please keep in mind. A U.S. Citizen and a nearly lifelong resident of California. And I'm proud to say that I have the pleasure of representing her as a District 9 resident. Judy has worked for civil rights and LGBT rights since coming out in 1973 and has strengthened our community by serving as a board member for an LGBT political action committee in San Francisco's South Bay for nearly 15 years. She astounds me with her strength her openness and candor quite often. She has worked with mayors, clergy and university presidents on diversity committees and special task forces, among other civil rights activities. She has worked with candidates and elected officials to educate them on LGBT issues and worked to elect numerous openly gay or supportive candidates for local county, state and national offices, myself included proud to say. Currently Judy and her wife Karen are working to achieve equality in a way that most of us don't think about. As a binational company -- I'm sorry -- couple, not company they are work through immigration proceedings to allow Karen to stay in the United States. The defense of marriage act prohibits Judy for sponsoring Karen's residency for them to live together permanently, even though they are legally married in the State of California. I asked Judy to join us today because October is national LGBT history month, and in my mind Judy herself is history on some of the changes that have been made to make America a more equal place. I'm thankful for her place and her voice in the community and honored to have her today. Please join me in thanking her. [applause]

>> In honor of October being lesbian gay bisexual and transgender history month, I have selected a poem. I will read the first few stanzas. Although this poem has been set to music, I will not sing, I promise. It is important to share this with you today, I think, so we can all learn something new, like I did. Thanks for allowing me to share today, Don, I really appreciate it. This poem was written by Katherine Lee Bates, a Wellesley professor of English, a poet, and an author who had a 25-year relationship with another professor there, also named Katherine. Bates lived from 1859 to 1929. Her partner died earlier, in 1915, of cancer. The poem: O beautiful, for spacious skies, for amber waves of grain. For purple mountain majesties above the fruited plain. America, America, God shed his grace on thee. And crown thy good with brotherhood, from sea to shining sea. O beautiful for pilgrim feet whose

stern, impassioned stress, a thoroughfare of freedom beat across the wilderness. America, America. God mend thine every flaw. Confirm thy soul in self-control, thy liberty in law. O beautiful, for patriot dream, that sees beyond the years. Thine alabaster city's gleam, undimmed by human tears. America, America, God shed his grace on thee. And crown thy good with brotherhood, from sea to shining sea. There is more to this poem, but I won't share more now. Yes, it's America, the beautiful. Something we sing all the time. The next time you sing it, remember that it was written by an American lesbian. Share this story to help others learn about gay, lesbian, bisexual and transgender historical figures. Thank you for listening. [applause]

>> Mayor Reed: Please stand for the pledge of allegiance. [pledge of allegiance]

>> Mayor Reed: First item are business are the orders of the day. There are a couple of items we need to defer to October 16th, which is our next meeting. We do not have a regular council meeting next week, special meeting to talk about priority-setting. Item 2.2 H which is final adoption of an ordinance regarding retirement boards and personnel to October 16th. And item 2.3A the transportation and environment committee report of September 10th, again, to October 16th. Any other changes to the printed agenda? We have a motion to approve orders of the day. And I'm not yet operational on the electronic signals. Anything anybody else wanted to -- we have a motion to approve orders of the day. On the orders, all in favor, opposed, none opposed, that's approved. As noted in the orders, we're adjourning this meeting in memory of Leigh Weimers, Mercury News columnist who passed away in August 30th at the age of 76. Leigh was raised in Napa and attended San José State University where he was an editor for the Spartan daily school newspaper. Honing his skills at an early age, he began his career as a general assignment reporter for the Mercury News in 1958. He became a columnist for the paper in 1965, and of course, most of us remember him for his regular columns. He retired on his 70th birthday on November 11th, 2005, after a 47-year career with the Mercury News, and he continued to write for a local magazine and for his blog. His wife Gerri Weimers, along with his friends and family, are here today. We appreciate them coming so we could officially and formally acknowledge our sorrow at the lost of Leigh Weimers, a great person in San José. Thank you all for being here. Next item of business would be the closed session report. I have one item to report. The council authorized me to negotiate a new term of office for our independent police auditor, Judge La Doris Cordell. I will do that. Compensation will be discussed on a council agenda

sometime in the future before the end of the year, when her term expires. Anything else on closed session, City Attorney?

>> City Attorney Doyle: Nothing more to report.

>> Mayor Reed: Take up the ceremonial items. I'd like to invite Councilmember Constant, District Attorney Jef Rosen, Al Stansbury of Cintas document management, and Evelyn O'Donnell of green mouse recycling to join me at the podium. Today we are declaring the week of October 20th-27 as national protect your identity week in the City of San José. Councilmember Constant has some of the details.

>> Councilmember Constant: Thank you, mayor. Once again we're declaring this week in October, this year it's October 20th to 27th, as national protect your identity week. San José continues to remain committed to protecting our residents against identity theft. Identity theft is one of the largest and fastest growing crimes in America. In fact, identity fraud increased over 13% last year. And claimed 11.6 million victims. Think about that. The cost to U.S. consumers is about \$17.8 billion over the last two years, and the average per person is \$631. But really, it's months and months and months of aggravation recovering from this type of crime. We remain committed to educating the public about the dangers of identity theft, helping individuals learn to avoid becoming a victim. The national protect your identity week gives us this opportunity here in San José and throughout the nation to raise awareness. For those of you who, like I used to do, use the same password and pin number for everything you have, let me give you the first tip: That's not a good thing to do. You need to have multiple passwords and pins and you need to change them regularly. I know it can be a hassle remembering all those different passwords and pins but it's really, really, really important. Of course it goes without saying to be very cautious about information that you put out on the Internet whether it be through e-mail or on social media sites or other sites. And of course when you're using public open hot spots out there, in different places, be aware of who else is using those and how they can gain access to your computer. And of course making sure whenever you're shopping, you're shopping only on sites that use secure, protected, encrypted connections. But one thing you can do right now to help yourself is, go through your office, go through the areas of the house where you keep those shoe boxes of records and personal documents, gather together and join us on the 13th of October at 9:00 a.m.,

from 9:00 to noon on Winchester boulevard where the big marquee is across from Santana Row, and across from the Winchester mystery house because we're going to be hosting our shred athon like we do every year. We have a huge industrial shredder that will cross-cut and so you won't have to worry about having your identity stolen from your home or wherever you keep those documents. We will also have Green Mouse recycling there with us so that when Cintas is shredding your documents, Green Mouse can help recycle your electronic waste, your computers in a safe, protected environment. That's really important. On October 15th at 5:00 p.m. if you have nothing to do, because I know that's a day that nobody has anything on their calendar, there's going to be a twitter-fest on identity theft at 5:00 p.m. where you can join experts from around the nation to have a chat about identity theft. So you can enter #PYIW, that stands for protect your identity week, and you'll be able to join the conversation. With that, Mr. Mayor, if you can present the proclamation to our District Attorney, I believe he has a few comments for us as well. [applause]

>> Thank you very much, Councilmember Constant, and Mayor Reed, for inviting the District Attorney's office to partner with you in your efforts to help people protect their identity and encourage them to take steps to protect their identity. I think that this event that's happening this Saturday, the shred-athon, is a terrific opportunity to get rid of documents that can compromise your identity, and also a good way of recycling some of your e-waste and disposing of it in a responsible manner. If you ever have questions about how better to protect your identity, or if you have concerns that you think your identity has been stolen or compromised, of course you can call the San José police department. You may also call the District Attorney's office at 408-299-3099, and ask to speak to either Scott Sway, or anyone from our consumer mediation unit, and we'll be happy to help you. And I should say when you call that phone number, somebody will answer the phone. We don't have phone trees at the District Attorney's office, and I can tell you that I call that phone number myself once a week just to make sure that somebody picks up the phone, and they do. So again, thank you very much, Mr. Mayor, and thank you very much, Councilmember Constant. And to Cintas and green mouse, it's a terrific opportunity to partner with you. [applause]

>> Mayor Reed: Next I'd like to invite members of our disability awareness day committee to join Councilmember Constant and me at the podium as we declare October 12th as national disability awareness day in the City of San José.

>> Councilmember Constant: Thank you, mayor. We have a host of folks joining us today. I'll introduce them as they are coming down. We have Scott Shields, who is once again the chair of our disability awareness day committee from valley medical center. Francisco Valenzuela, from the San Andreas regional center, Liz Best from the Mayfair community center, Nick Holmer from Micelli Financial Partners, Nicole Kim from the college of adaptive arts, Dominique Paculba, sorry about that Dominique, from the City of San José PRNS, Otiba Torrez from the disability advisory commission. I didn't look to see if they are all here, but hopefully they are standing behind me. We are really excited to declare October 12th as national disability awareness day in the City of San José. This will mark our fifth annual disability awareness day festival at City Hall. If you haven't been to one, I hope you can take the time to come join us out on the plaza in front of City Hall. Over 54 million people throughout the U.S. live with a disability and face challenges within our society on a daily basis. From limited access to resources, to special needs that they have, and opportunities that they're unaware of. Since 2008, I've worked with the folks behind me to help them organize an annual event to raise awareness about these challenges. They have done an incredible job over the years, putting together an event that features free educational workshops, resource fair that has not only governmental, nonprofit but also for-profit resources that people can get information about, and hopefully, connect with to help them in the future. We have demonstrations of Paralympic sports, and all of this is done with a goal of providing the public with information on how to support and empower those with differing abilities and ensure that everybody knows that there are resources out there. This group that has been so dedicated to standing behind me, it's not just them, there's a bunch of us that work together on this but these are the ones that pull the heavy load. They achieve our goal by providing these access to resources, continuing to provide rich educational sessions and employment opportunities and quite frankly increasing everybody's appreciation of people with differing abilities by showcasing their talents and their unique gifts. I strongly encourage residents throughout our city to educate themselves. We make it real easy for you. All you have to do is come here and enjoy the day with us on October 12th, from 9:00 a.m. to 2:00 p.m. right here at City Hall starting out on the plaza. There's entertainments and all kinds of fun stuff. So I hope to see you

there. So Mr. Mayor, if you can present, I believe it's Francisco who's receiving on behalf of all of us, the plaque declaring October 12 as national disability awareness day in the City of San José.

>> Hi, I'll be brief. Thank you very much. Thank you Pete, Mayor, council. We've been very blessed, for the last five years that the city has hosted this event in front of City Hall. It's a perfect match. You have people with disabilities, you have organizations that support individuals with disabilities, and then you have a city that really cares about people's needs. It's a great opportunity for everyone who lives within the city, as well as in other parts of the county, to come out and enjoy a festive event. Learning from programs that provide services to people with developmental disabilities, physical disabilities, mental health disabilities, as well as networking with one another. Each year this event grows. Fortunately we're going to have good weather this year. We kind of got stuck in the rain last year, so we had to move everything in. But it looks like this year will be very festive. If you haven't been to one of these events, as Pete was saying, it's a great opportunity. We have a lot of groups that will be doing a lot of amazing stuff. Lastly, I'd like to thank Scott, Scott has been our chairperson for the last five years. He's been doing a great job. Scott is a man of many words, but he's being shy today. Thank you Pete, I'm going to change my passwords, wherever you're at, thank you very much. The planning committee, not everyone is here, but a lot of people are doing a lot of work who deserve a lot of recognition, and I'm just thankful that I'm able to speak on their behalf. Thank you very much. [applause]

>> Mayor Reed: Next I'd like to invite Councilmember Herrera, Councilmember Constant, our department of transportation staff, Sal Vargas and local elementary school superintendents and principals to join us at the podium as we declare October 3rd international walk to school day in the City of San José. Councilmember Herrera has the details.

>> Councilmember Herrera: Thank you, mayor. We have several members of our community here that are going to come down and join us on this international walk to school day proclamation. We're recognizing today, October 3rd, as international walk to school day, and along with my colleague Pete Constant I want to introduce representatives from Evergreen elementary school district and some of the 25 schools that are participating in events. First we have superintendent Kathy Gomez from Evergreen elementary school, Dr. Hedrick Rucker,

principal of Montgomery Elementary School, we have Easterbrooke discovery school represented by Danielle Perselin and Kendra Perselin, we have Patricia Piziole, principal of valley vista elementary school, and Brenda Serrano, their PTA president, and we really appreciate PTA presidents. Paul Pereira, one of our own who also works for the city, from millbrook elementary school, Laura Alvarez, vice principal of Vida Jew, and Carolina Osario, eighth grade student council president, Gina Wiress, principal, and RT Eifalon and Anita Preval, PTA president, from Caroline Clark Elementary School, and from D.O.T, Department of Transportation at the city, we have Anna Lee, Devon Giacondoni, and our director, Hans Larsen, who is in the audience, director of D.O.T, and Sal Vargas from the Lucille Packard children's hospital. I want to recognize all these folks because they're making -- they're doing something very important for our children and for our community. International walk to school day is a great day to promote healthy, safe and walkable communities, and tomorrow, October 3rd, 25 schools across San José are joining communities across the world to promote walking and biking to school by hosting a number of events. Walking school buses, bike trains. Where parents coordinate safe routes and meet at points for the children to walk and bike into campus together. And once they get to school, many schools are hosting student assemblies with banner contests and other fun activities. In fact, I had a couple of children from Caroline Clark call me up on my home phone asking me if we are going to come down here there so they are very, very excited about these events. But these events tomorrow would not be possible without a strong partnership between the Department of Transportation's walk and roll program Lucille packed Children's Hospital and our schools. The hard work of all our parent champions are the heart of this program. These staff coordinated this event citywide. This program is possible because of an MTC grant the city applied for in 2010. So thanks to MTC, Metropolitan Transportation Commission for helping to make this happen. Walk and roll San José enables children to have healthy and active lifestyles through participation in walk buses and bicycle trains to and from the school. The goal of the program is to improve the health of children by increasing the level of physical fitness children receive in a fun, safe and social environment. Because physical fitness has been shown to increase self esteem and academic performance while reducing rates of absenteeism, obesity, and diabetes. But there are environmental benefits, too. By walking and biking to school we also improve the air quality in our community by reducing the number of vehicle trips. And finally, the program aims to improve safety in our neighborhoods by reducing the number of vehicles driving around school zones. Which all of us would like to do to make it safer for our kids. Those are the great reasons for walking to school, and I'm proud to say that six schools in Evergreen are

part of the program. Now I would like to ask Mayor Reed to present proclamations, and we are going to have proclamations to all the groups that are represented here. But we'll start with superintendent Kathy Gomez, if we could start handing out the proclamations, and I think we're going to ask superintendent Kathy Gomez from Evergreen school district to say a few words.

>> Thank you, Councilmember Herrera, Mayor Reed and Councilmember Constant. We know that children don't get enough exercise and we also know that schools are incredibly busy places in the morning when cars, parents are dropping kids off. Walk to school day, the celebration of walk to school day is something that Evergreen school district is standing behind 100%. I would like to thank the city for everything they have done to promote it with the walk and roll program we are looking forward to this catching on and becoming more than just a day. Thank you.

>> Mayor Reed: Thank you. [applause]

>> Mayor Reed: Thank you all for joining us. [applause]

>> Mayor Reed: I'd like to invite Councilmember Liccardo, and Bonnie Mace of the Silicon Valley leadership group and Jeff Wrangle of Brocade to join me at the podium as we're recognizing the applied materials Silicon Valley turkey trot for their dedication to raising money for local charities. Councilmember Liccardo has some details. I just wanted to say before we start, I've already signed up for the turkey trot.

>> Councilmember Liccardo: We got one. And this of course is the magic Turkey I guess. So we are of course celebrating the fall and what would the fall be now without the applied materials Silicon Valley turkey trot which has become a fixture since 2005 when it started it was just a few hundred runners and I recall being out there. And thinking it would never become something like it has today. I think last year we had over 22,000 runners. Over 22,000 runners over the period of this event it has raised over \$2.2 million for three organizations. That do extraordinary work in the community. That includes the housing trust of Santa Clara County, the Santa Clara County children's health initiative and second harvest food bank. To give you an example

what this event does just last year alone because of the assistance of this event 440 people with emergency -- who needed emergency housing assistance got it as a result of these efforts. We know that certainly Carl Guardino is the face of Silicon Valley leadership group but Bonnie Mace is doing all the work and Bonnie and Trisha Fornezi really are forces of nature in making this extraordinary event happen. We're grateful for all their great work. Jeff Wrangle with Brocade, and formerly, I think, with applied materials, two great companies that have been strong partners in making this happen, and Ken Zwick, the executive director of the housing trust. We wanted to thank them for being a part of what has become a phenomenon and we hope will continue for many years to come. So I'm going to ask the mayor to present this to Bonnie. [applause]

>> Well I want to thank Mayor Reed for signing up, and I want to encourage you all to sign up, I'm going to say ten seconds here so I can leave my colleagues a little space. This year we aspired to have 25,000 of you signing up. The city of San José won last year. We want them to win again, and now I'm going to introduce Jeff Wrangle who's going to talk a little bit about the mayor's cup.

>> Good afternoon, Mr. Mayor, vice mayor, councilmembers, city manager, city staff, Brocade is pleased to sponsor the Mayor's Cup challenge as part of the sub-race within the turkey trot. It is really an opportunity to demonstrate our commitment to building strong public-privately partnerships and to encourage our elected officials to be out in the community with their constituents and participate in this great community event. The mayors cup challenge again invites companies based on their population -- or excuse me, cities based on their population to win the chance to display this lovely trophy. I will actually wear this during race day, so this doesn't come with the trophy. But you can display that, as you have for the last couple of years, in your lobby. This year you'll be able to register, and as you register, you earn points based on that participation. You'll be competing with other large cities, including those with the Santa Clara County staff, as well, for the honor of that trophy. So we look forward to seeing that once again. Last year I had the pleasure of taking a picture with many of you at the podium, after the event. We'll see if that happens this year based on your participation.

>> Mayor Reed: Jeff, thanks very much. Thank you all. Appreciate it.

>> Mayor Reed: Next item is the consent calendar, which I think is shaping up as perhaps the longest item of the day. By the time we get through it. We do have some council memoranda on the consent calendar so I know that some will be pulled including 2.10, the state ballot initiatives, 2.5, the travel report, I think Councilmember Campos you want to pull 2.9, correct. And are there others that councilmembers wanted to pull? I think 2.8. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I guess looking at the agenda 2.10 will cover for me. I don't think there's the the necessity to pull 2.11 and 2.12.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: I was going to ask for 2.12.

>> Mayor Reed: If one of those is not mentioned you want to speak on it now is the time. Councilmember -- councilmember.

>> I think it's mayor wall.

>> Mayor Reed: President wall.

>> I'd be in trouble then. 2.7. We had this ongoing contract with Weiss construction service incorporated for construction management assistance on affordable housing projects. This must be a pretty sweet gig for this organization because they continue to get these amendments. I particularly think that these construction management assistant issues should be reviewed by Public Works, since we have some outstanding people that do this work all the time, and I've reviewed that you should cancel it. I did not hear if 2.11 was pulled. Is that correct, has 2.11 been pulled?

>> Mayor Reed: No.

>> 2.11 has not been pulled. Well, then 2.11 is should be voted against. I believe our good friends down at the Santa Clara Valley Water District have got enough money that they've abused over the years. Personally, I think that they need to reorganize their complete organization before any more public moneys is given to them. Their latest stint on trying to give the board of directors health care for life on the public's dime is enough to curtail any more taxpayer money going in to their regime. In addition, they have a chronic history of not cleaning the -- the streams and creeks. Throughout the City of San José, relying on the City of San José to abuse the storm service use charge for cleaning up these vagrant encampments. In addition measure B really doesn't benefit the City of San José versus other municipalities within the county. So I think this should be reviewed by the council to see how much money actually, if measure B does pass, you know, first of all you should do your homework to find out how much money does come to the City of San José versus the City of San José subsidizing the rest of the county. That will be enough until the other items that I've filled a card for, thank you.

>> Mayor Reed: All right, we have -- let me just go over the ones that will be pulled for discussion. 2.5, the travel, 2.8 pawn shops. 2.10, the state ballot initiatives, and 2.12, one of the other ballot measures, and 2.9, the environmental innovation center.

>> Councilmember Constant: Mr. Mayor.

>> Mayor Reed: Did I get them all? Councilmember Constant.

>> Councilmember Constant: Yeah, I thought you originally said 2.11 was going to be pulled, so I'd like, since we're pulling one, we might as well pull them all, and then I can speak to that when it comes up.

>> Mayor Reed: Okay, any others? Is there a motion on the balance? Motion is to approve the balance of the consent calendar. On that motion all in favor, opposed, none opposed, we'll start with 2.5, travel report, Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. As you're all aware I serve on the national league of cities crime prevention and public safety committee as their vice chair. We had our meeting last week. We had a bunch of different things. I'll go over them really quick. We had a legislative update, a presentation on the federal role in EMS first response. We reviewed the policies on medical services, emergency medical services and how that might be input into the national municipal policy of the league. We had a presentation on the administration -- the president's administration perspective on synthetic drugs and the impact they're having throughout the U.S. And then we looked at updates of substance abuse policy, public safety broadband network policy, the mental health and public safety policy, DNA evidence policy, human trafficking policy, black-on-black violence as a pandemic. No actual NLC action will be taken until the meeting in Boston in November or December, I forget exactly when it is. Thanks.

>> Mayor Reed: Anybody else on travel report? We don't take action on that so we'll move to the next item which is 2.8, that's the pawn shop ordinance modification. Councilmember Liccardo.

>> Councilmember Liccardo: I'd like to move the staff recommendation.

>> Mayor Reed: All right, we have a motion to approve the staff recommendation for the modification. I have some requests from the public to speak. Councilmember Kalra. Did you -- okay I'll go ahead and take the public testimony first. Pat Saucedo, Janice Snyder and David Wall.

>> Mayor and council, Pat Saucedo for the San José Silicon Valley chamber of commerce. Here today I know you've received the letter that the chair sent. Would encourage approval of the committee recommendation to allow this modification to the ordinance. I think key for this is, for government, whenever and wherever possible, is do no harm and get out of the way. We have a local business person that wants to go and expand their investment in the City of San José, employ people, put them to work, drive an economy, and they're located in our downtown, which as we know, we really want to see more business opportunity, more growth, more opportunity in our downtown. We strongly encourage the approval of this, this arch, to allow this opportunity to move forward. We relate this to like a McDonald's franchise that's going out and another franchise might -- owner might

want to take over that business. You wouldn't want to deny that opportunity. We say, don't deny this opportunity either. Thank you very much.

>> Mayor Reed: Ann Snyder and then David Wall.

>> Good afternoon, mayor, councilmembers. I just wanted to give you some facts about our business which you are probably not aware. Last year our pawn revenue represented only about 20% of our entire business, the rest is retail sales. We're retail sellers that also provide collateral loans, that's the pawn side of our business. Pawn has allowed us to survive in this down economy, when many other retailers have had to close their doors. Our sales tax we collected in 2010 and 2011 were over \$31,000 and this year to date in the first three quarters we've collected over \$21,000. We have over 2,000 customers in our database that are outside of the three downtown zip codes. So other parts of the city we're serving now and it would be more convenient for those people if we had another location. We provide six jobs, that doesn't include my husband and myself because we haven't taken a salary from our business since 2008. Our longest employee is with us for ten years. Our newest employee has been with us for 13 months and that was a job that was created by our business. He wasn't replacing someone else. We went from five to six full-time employees. We paid over \$230,000 in wages and commissions in 2011, and we've paid 194,000 year to date. We create retail careers, not just jobs. Another location would enable us to move some of our long term employees into management positions and pay them more money rather than have them remain as retail clerks. We're not payday, we're not bail bonds, we're heavily regulated in the state of California and I would ask you to approve this measure so we can grow our business in the City of San José. Thank you.

>> Mayor Reed: David Wall.

>> I oppose this ordinance modification on the grounds that I believe it is a variation of a payday loan. And I would also like to thank Councilmember Kalra for his analysis that a lot of councilmembers like to rush their agendas through the rules committee instead of coming back to council for full public discussion and then joining the public with their opinions as well. I also applaud Councilmember Liccardo for his passion as well as for his dedication to

service constituents. Myself, I just think this thing should be shut down on the grounds that, one, it starts to create a monopoly in this type of business, and two, more importantly, that you didn't pay any attention from the San José police with reference to the material that comes into these pawn shops. With reference to the last speaker perhaps that's an honorable organization, I do not know. But I do know that pawn shops have a very sultry reputation for being fencing opportunities for criminal element. With multiple pawn shops under one organization, you have the ability to transfer product material from one store to another, which makes it burdensome and oppressive, if not impossible, for the San José police to track stolen properties. You also have to continue to communicate to the public the various increase of burglary rates within your specific districts. All being said, the argument monthsed by the chamber of commerce could be argued what's going on on first street with pimps and prostitutes, their business is expanding too and will they come forward to ask for a modification of city ordinances to expand their business. Thank you.

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

>> Councilmember Kalra: Thank you, mayor. I brought this issue up more in terms of process than anything else. I'd like to speak to the substance of it if I'm inclined to put it in a substitute motion simply on my memo to defer and then, if that fails, then I will speak to the substance of Councilmember Liccardo's underlying motion. We're going to limit the discussion to the deferment action and if I get a second on my motion based on the memo.

>> Mayor Reed: We have a second, the motion is to defer, to a date unspecified?

>> Councilmember Kalra: That is something that can be fleshed out just depending on what the inclination is of the council. But I do know that this was before, this came before rules September 19th, I believe it was deferred from a couple of days before that. It was first deferred at rules, put over to staff to bring forward an opinion on whether this is a minor ordinance or not. There was about two minutes of 45 seconds of discussion of this overall item when last it was, that the City Manager's office felt it was a minor modification, and Dent didn't need any further analysis?

>> Ed Shikada: Councilmember, Mr. Mayor, members of the council, Ed Shikada, assistant City Manager. Yes, Councilmember Kalra, really based upon the input from the police department, staff concluded, and with also coordination with the attorney's office, that this was a very minor amendment to the ordinance.

>> Councilmember Kalra: I understand the reasoning that it's not increasing the number. But the fact that there was no staff report that was provided, it was just an oral report, that was given, and you know, we know that as has been referred to even in Councilmember Liccardo's memo, this is a heavily regulated industry. There's a reason why you know back in the mid uses, you had the mayor and ten councilmembers that decided to put in these caps and these regulations in terms of whether one individual can own more than one. And so I understand Councilmember Liccardo's response to my memo in that who are the stakeholders what have you. But ordinarily with ordinance changes, and I know that the time that I've been in office, every time that I bring forward any suggestion of an ordinance change, that we go through a much more -- a much more intense process in terms of getting a written staff report and discussing the origin of it. I mean, here the discussion basically is, well, we're not adding any more, it's just a change from one number to another, so it's not major. Well, yes, I understand the change of the text is not a major change, but it is a change of an ordinance. So that's really -- the reality is that when I went through the whole process with payday lenders, obviously that was a much -- I acknowledge even in my memo that was a much bigger change, it still was a process that reached out to stakeholders, including those that were very concerned about proprietary payday lending, and there was at least you know a vetting of it in a much more thorough manner. I wouldn't suggest that that would be needed in this case. But there are businesses on that street that I just -- I visited the shop, it's on post street, the business is still open, but there is a lot of revitalization of post street, and what are the opinions of the businesses that are investing all the money, including the restaurant right next to it, and the club in the corner, and the wine shop, and there's a salon there. And so that's why, when -- that's what I meant by stakeholder was that, as well as the same coalition involving the predatory payday lending, and whether there was a full opportunity to vet it with the understanding that we get some background on why these caps are in there to begin with. Because it's been acknowledged, both by Councilmember Liccardo as well as by staff, that yes, it's a heavily regulated industry. Well, why is it a heavily regulated industry? I think that's what demands us to at least have a fuller discussion of this to allow for

community input. That doesn't mean that the end conclusion will be different by the council, but it just seems like this is being treated much differently than other ordinance changes, in order to benefit an individual business. Again, not reflecting on that business, because just like there are responsible payday lenders, responsible pawn shops, and responsible businesses, there's no reason to believe that this is not a responsible owner that would like to purchase another one, it's not about that. It's more about the process and whether this has been fully vetted, as other ordinance changes would be.

>> Mayor Reed: Councilmember Rocha. I'm sorry, Ed, did you --

>> Ed Shikada: Certainly, Mr. Mayor, members of council, Councilmember Kalra, if it would be helpful, perhaps Lieutenant Tom Sims from the police department could comment as to the nature of the discussion that did happen within the police department, to just give us a sense of that issue. That said as the lieutenant is coming down, from a staff perspective, quite frankly, I think that our conclusion, based upon that discussion within the police department, was that it was a nonsubstantive change to the ordinance, and on that basis really did see this as relatively minor amendment.

>> Good afternoon, Tom Sims, commander of our permits unit at the San José Police Department. To Mr. Shikada's point, we did have some discussion with regard to the ordinance. I spoke with Chief Moore specifically about the changes that would occur, including the one owner operating multiple businesses, or no more than two businesses. And he was comfortable about that aspect. But as far as that went, that's the only discussion that we had.

>> Councilmember Kalra: Okay, thank you. And so Ed, I guess the reasoning for my putting this forward is there is no written report. There was a discussion for a couple of minutes during the rules committee, and it's put forward here. So I appreciate the police department, you having an internal discussion with the police department. But none of that was reflected prior to the rules committee, and even then, just very briefly in passing. And I do think that there are stakeholders that would be interested in this issue, particularly when it comes to pawn shops in Downtown San José, when we're trying to revitalize downtown. And I'd be interested in

knowing what the neighboring businesses would feel about it as well. So that's the reason for my deferral. If the deferral does not pass, and it goes back to the original motion, I would then, despite not feeling that I have all the information, I'd have further comment. I'd have further comment on it as well. Let me say there's no limitation in terms of concentration of pawn shops, are there? In other words, I think there's a limit of six.

>> Ed Shikada: There is not, only underlying zoning and lands approvals.

>> City Attorney Doyle: Just a cap of six.

>> Councilmember Kalra: And is there any -- do we know why the original limits were put in place? Do you have any background on that?

>> City Attorney Doyle: I'm told that this ordinance has been in place since 1985, and there is no legislative history that reflects any discussion about why six or why more than one person holding more than one permit at the time.

>> Councilmember Kalra: Okay.

>> Mayor Reed: I was part of a couple of rules committee discussions on this. This has been out in the public domain for well over a month. I'm not sure when we started on it. My first question is, well, is this a really big deal, or a really small deal? That was the focus of the Rules committee discussion. Because if it was a major policy issue, then it would have to go through the usual drill of prioritization. But I think you have heard the description. This is about as minor nonsubstantive change as you can get, because we are not talking about whether or not a pawn shop stays or goes or expands. It's two existing pawn shops, just talking about the ownership of it. So it would be hard to get something less minor than this, I think, and the staff has explained that. And the other thing is, in all the years I've been on the council, and as mayor, I've never heard anybody complain about pawn shops. So I don't think there are any substantive issues around this other than the

ownership issue. And that's why I supported just putting it on the council agenda and bringing it forward for this public hearing, of course, then anybody who wants to can come testify. So Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. For me, I'm comfortable moving forward today. I don't believe I'll be supporting the motion to defer. I think the necessity for that might fall on some other issues as far as I'm concerned. I think moving today on this to allow the business to proceed would probably be the best act. But I think to Councilmember Kalra's point, as far as questions for me, I guess looking -- a monopoly was used by a member of the public, and if we are allowing a change, so an individual would own two, that's a third of the market. I don't know if that's the problem. I'm not well versed enough in that issue to suggest that that is or isn't, but I think that's a valid question to ask: Should we modify any other components of this ordinance to make sure we're doing good practices for businesses, whether it's to expand other businesses, whether it's to expand the number of pawn shops. Again, I'm not going to get up here and suggest one or the other, but as part of this action, maybe there's a referral to staff to bring back any potential suggested changes for the ordinance as a result of the action today. But again, I'll be comfortable moving forward and thank Councilmember Liccardo for his work on this.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you. I seconded the motion because I had some questions, I guess, one question was raised regarding why we're having this limitation back in 1985. That seems to be unknown to me. Several other questions, how many abandon brokers or pawn shops do we have in the city, do we know?

>>> Ed Shikada: I believe we have the limit of six and believe we are fulfilled.

>> Councilmember Chu: So we do have all six of them. So why owner to own two pawn shops, doesn't seem to be a problem for the PD as well as for the city staff. And will one owner own three pawn shop become an issue for the city staff and the PD, can I get a -- I mean, changing from 2 to 3, would that be a problem?

>> Ed Shikada: Perhaps just by way of relating the conversation we had among staff, that if it were three, it would require us to look a little bit more deeply as to whether the issue trips a threshold. The underlying issues, I've heard it from the Police Department, of the potential for transfer of property among different stores or properties is one of the areas of potential concern at some point. But again, simply going from one ownership of one shop to two shops, was felt by the professional perspective of police staff, that that did not trip that threshold. That said, as again our discussion went, the fact that the City's regulations would not limit the ability of one owner to have a shop within San José and a shop outside of San José, also is another -- or realization of the limitation of our ability to regulate some of these activities. And so within that overall context the change from the limitation of one to two, did not appear to be a substantive change.

>> Councilmember Chu: Okay but from 2 to 3, it would be? Or have we done the thorough research to conclude that from 2 to 3 would be?

>> Ed Shikada: We have not done that research.

>> Councilmember Chu: But you feel comfortable we have done enough research to switch, to change from one to two?

>> Ed Shikada: Again, based on the experience of the police department, it was concluded that would not be a significant change.

>> Councilmember Chu: I'm still a little bit uncomfortable of changing that without a thorough analysis or public input.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I just wanted to provide a little background based on what I was able to learn. When this issue first came up, the conversation that I had with Jan, you know, I asked folks in city staff and

city attorney's office why do we have these restrictions, and really nobody had a very clear answer. I don't think any of us know why they picked six and not seven or eight or four or five. This was a decision made in the mid '80s, and we all know that there are lots of antiquated ordinances on our books. And where those antiquated ordinances prevent people from doing basic things like expanding businesses that we want to encourage, for the most part we do what we can to make these go away. Now, it is not uncommon for us to see minor changes in the ordinance on -- in any ordinance on a consent agenda, where we don't anticipate there's going to be a significant amount of public concern one way or another. And let's face it, eBay is by far the largest pawn broker in the city of San José. So if there's any concern about monopoly, I think we can put that to rest pretty quickly, that brick and mortar is not going to be out there stealing a lot of market share from eBay. I don't pretend to know what the correct number is, in terms of whether two or three stores should be owned by one person or four or five. I'm not sure it matters that much. I think frankly we don't need any of this restriction. Because my understanding is, since the city has first regulated this, the state has significantly increased its regulation of these businesses. And so really, most of the regulation is largely duplicative. For instance, Jan and her business is required on a routine daily basis to file reports with the police department as property comes in so the department knows exactly what property is there and what property is being sold. And so as a result of all these concerns about fencing and so forth, I can tell you there's far more documentation that come out of this business than ever comes out of eBay about what is moving where and why. So the concern about regulation and so forth is being handled in Sacramento. This is not the case we had with payday lending where Sacramento simply wasn't stepping up, because the legislators were being heavily supported by the industry or whatever it was. We've got heavy regulation from the state, and I'm sure Jan can fill you in on all the regulations she has to deal with on a daily basis. This generally is not an area where the city spends a lot of energy or time regulating, and I think you could probably tell that based on sort of the responses we've had from the city staff and city alternatively. We don't spend a lot of time on this, because it's not really our area of regulation.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Yeah, I won't support a deferral because I don't see anything that's really making a huge change here. We're not exceeding the six, this is a business that's going to take over another existing

business and probably improve it. I've been in -- I've visited R and J jewelry, and it's an impressive store. It is well maintained, I think we have a great business owner who's got decades of experience here adding value to our community. And I think referring this for more work, as Councilmember Liccardo has already pointed out, is unnecessary, and it would just cost our city more money and more staff time. So I think we should approve this today and let our businesses get on with their business.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thanks, I'm just join the chorus, that I don't think we need to defer this. As Sam noted in his memo, his memorandum -- in his second memo, his first memorandum has been out for six and a half weeks, and that's ample time for people. It's been noticed at the Rules Committee, it's been noticed here. If we had 50 people saying that they weren't notified and they have this burning desire to give their input, it would be one thing. But what we have here, as has been said very clearly, is a very minor change. I think we should go ahead with it today. I won't support the deferral, but I will support the original memorandum.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. So Ed, is there time sensitivity for this, as to one of the reasons why there seems to not be a will to defer it and talk to other stakeholders?

>> Ed Shikada: Well, certainly not from staff's standpoint. The -- one point I should have made earlier is just in terms of the concentric circle of how big an issue to make of this. We did, among staff, discuss whether it would be worth considering repeal of the chapter altogether, and getting out of the business of regulating the pawn business, recognizing the other priorities that the police department is engaged with. That said, our conclusion was, that was too big an issue to take on and certainly would clearly want to engage additional stakeholder outreach and the like. So on that basis, again, the staff discussion and conclusion was simply a minor change, we are okay with it, as proposed, and to simply support it as proposed.

>> Councilmember Campos: But would you know from the buyer, from the seller, is there some time sensitivity to needing this have done, or is it just --

>> Ed Shikada: Staff has not gotten involved in any of those discussions.

>> Councilmember Liccardo: I could way in. Yeah, I know -- Jen can speak to this better than I can, but my understanding is, there is a transaction, obviously it's contemplated, I think, I believe this month, if I'm not mistaken, yeah, so obviously, they would like to get moving.

>> Councilmember Campos: Is it a take it or leave it type, if it doesn't happen in a month then you can --

>> Councilmember Liccardo: I can't say that is the case, no.

>> Councilmember Campos: The other question I have, getting back to the numbers that can be owned by an individual, if two more pawn owners came to the city wanting to buy two other existing, would that be allowed? Which would basically mean three would own all of them in the City of San José, would that be allowed?

>> City Attorney Doyle: Can you repeat that again? I'm sorry.

>> Councilmember Campos: So if two other existing pawn shop owners say two other -- or approached two other pawn shop owners, so that makes four, those two want to buy the remaining two that are out there, would they be able to do that, making it three pawn shop owners controlling all six in the city, would that be allowed?

>> City Attorney Doyle: So if I understand it, I own one, you own one, and we come together in a partnership to buy a third?

>> Councilmember Campos: No, I own one, you own one, and we decide to buy Dennis's and Pete's. Would that be allowed?

>> City Attorney Doyle: Well, you could buy one, and I could buy the other.

>> Councilmember Campos: So that would be allowed?

>> City Attorney Doyle: Right.

>> Councilmember Campos: So there isn't a, okay, we're only going to make this for this one situation.

>> City Attorney Doyle: No, this is for any person, this is general rule.

>> Councilmember Campos: Okay, and then my last question would be how -- and again, staff, if you can answer this as best as possible. In terms of backgrounds being done on product that's coming in. They send it over -- or they send over the documentation not police department, how long is the wait in order for that product to be able to be sold? Is there a lag time?

>> Ed Shikada: I actually could not speak to that. Not sure if the police department could speak to that or whether it's the subject of state regulation.

>> I'm coming back down, I don't know the answer to that either, to be honest with you. I know it's a pretty quick turnaround time as we process the information that comes through to us. But understand also that the slips of paper that do come to us as receipts, as Mr. Liccardo commented on, as far as the property that is being bought and sold, that information is sometimes very vague. So it's not very specific as to the type of jewelry other than maybe a gold chain or something like that. So the information is sometimes very generalized as it's described to us. So there's not a whole lot that we can go with it anyways.

>> Councilmember Campos: And the reason why I'm bringing that up is, I was just at my Cassell neighborhood association meeting, and one of the questions that came up was what can the city do? Would the city ever put an ordinance that would require jewelry stores to thoroughly check out what product has you know is it stolen? You know is it legit? You know, again you can feel for folks because you know I mean we don't have a burglary unit anymore. And houses are getting broke into. They're often you know crimes of opportunity. People go in pick up stuff that's just lying around. Lot of that happens to be jewelry, iPods, iPads, they're out. I mean it's, it's an issue. So -- I'm not asking you to answer I'm just making a statement. Thank you.

>> Mayor Reed: I would like to note that speculating about the origins of this ordinance from 1985. In those days there was no eBay, there was no craigslist. I think there was a flea market. So there's a lot of alternatives to pawn shops if you want to dispose of stolen goods that didn't exist some years ago. But I still think this is a really minor change. Councilmember Herrera. Anything -- so we have a substitute motion on the floor. Does anybody else want to speak to the substitute motion? So the substitute motion is to defer. On that motion, Councilmember Chu.

>> Councilmember Chu: Well, I can wait until this -- substitute motion is --

>> Mayor Reed: On the substitute motion all in favor, opposed, I count opposed one two three four five six seven eight. So Kalra Chu Campos in favor of the substitute motion so it fails on a 3-8 vote that leaves the underlying motion which was to approve the staff recommendation made by Councilmember Liccardo. On that motion Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. The question again I would like to ask the commander if he can come down. Is he still in the room? There we go, thank you very much.

>> Mayor Reed: Just a little closer this time.

>> Councilmember Chu: Thank you. It's pretty much the same question. I feel in order for me to support to have one owner occupy, to own two pawn shops, I will be supporting one owner to own six pawn shops. Does the staff

or the PD have any problem to just get rid of that limit, total six, anybody want to own one two three four five six be able to do it?

>> So I did have that conversation with chief Moore. And again, he was comfortable with one owner, owning two shops but no more than two. We didn't go into too much further discussion on that. As Mr. Wall actually pointed out, the issue becomes the transferring of property from one shop to another making it more difficult for us to track. But nonetheless the chief was very comfortable with one owner having two shops.

>> Councilmember Chu: But not more than two.

>> But not more than two, that's correct.

>> Councilmember Chu: Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. You know, I had issues with pawn shops -- my issues I had with predatory lending were not related to the individual owners of the predatory lending shops. Similarly, I don't have -- bringing this forward is not an issue with the individual owner, it is the issue with pawn shops and the impact they have on the community and on neighborhoods. It doesn't -- and I would certainly in public make it very clear, because there's been discussion from different folks about fencing, and there's no reason to believe that R&J Jewelers is anything but a reputable store and pawn shop. So there's no evidence of any of that. With that being said, as I mentioned, they are there for a reason, the mid 80s we know what downtown was like, we knew downtown was not a place where any of us would want to go. I was a young teenager at the time, we certainly never came downtown because there were a lot of issues regarding downtown and that made it an undesirable place to be. We've seen since then the decades since a revitalization, but we're not there yet. And we know that with pawn shops there's a reason why they do well in down economies and with all due respect or reference to eBay and what you have, the business model for an eBay and the clientele is very different. I mean there's been studies

shown that over 65% of pawn shop customers earn under \$25,000 a year and that pawn shops, similarly to low income consumers pay more because of the greater reliance upon alternative high priced financial service companies including check cashers, payday lenders, pawn shops and auto title lenders, and that's from Brookings Institution report. We also know that when it comes to pawn shops, it's not a matter of the responsibility necessarily of the owner, although you want to make sure certainly the owners we have are responsible, it is a matter of whether we want them in downtown, to what level of concentration. We currently, if it's true that 80% of the business is nonpawn shop related, then that store is available for retail. For retail, with the same owner having a pawn shop about 100 yards away. So there's already access to pawn shops in that same area from the same owner. My concern again, and if question I would pose to all of us, since we don't have background as to why that was put in place to begin with, but we know that although -- although Councilmember Liccardo refers to pawn shops by saying that they often provide financing as last resorts to residents and can leverage assets to make through a spell of unemployment, I think that's a very positive spin on the situation that a lot of people are in, when they go to pawn shops. Again not everybody, not 100% of them, but we know there's a reason why there are pawn shops all up and down the Vegas strip, we know why there are pawn shops in low income neighborhoods. We know that is just part of a business model, similar to a payday lender, it's part of the business model, part of their clientele, it doesn't mean they're a bad business or bad ownership. The question then becomes why are we in such a hurry to amend an ordinance so one business can own a third of the pawn shops in the city when we know that's a street that's being revitalized. Right next door there is a restaurant that's going through renovation, there's a salon that opened up across the street, is this what we really want, a proposed street with those new businesses, and businesses that are now starting to turn around? Shouldn't we be trying -- I understand the concern of empty store fronts. Right now the business is in operation. But what other alternatives are there besides a pawn shop? And that's really what it comes down to for me, with the limited information we have today, is this the best that we can do? Rather than another kind of business to help revitalize downtown? And so if the rule of the majorities that a pawn shop remaining in operation is good for the downtown, and good for surrounding businesses then that's fine. I'm certain that RNJ will be responsible owner of this one just as they are of the current one, but I just don't like the idea of an opportunity we have here to have something other than a pawn shop go into that establishment and we're just giving up that opportunity so we can quickly get another pawn shop in there at an extraordinarily quick pace rather than exploring alternatives.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I just wanted to say that I think I know why they put the regulation in there in the first place is that city councils love to over-regulate. Just because we over-regulated in the past doesn't mean that we need to continue and we need to look at ways to optimize our municipal code. Ash made some great points if we were expanding from six to 60 pawn shops. But when we're keeping the exact same number of pawn shops and we're keeping existing businesses in existing locations, businesses that are legal and have been legal and both of these businesses have been there a long time, it's not like they've just come into downtown. I can tell you that as a beat cop downtown, in the late '80s as a street crimes officer downtown in the '90s I think lieutenant Sims and I worked there about the same time, we didn't have problems with the pawn shops and we still don't have problems with the pawn shops. If the chief came in here and said I've got 60 cases that we don't even have manpower to investigate because we have this big problem with pawn shops he we'd have a different discussion. But we have regulation that is in addition to heavy state regulation, we have pawn shop owners that we know and have had businesses here in our city for a long time. And I don't see any substantive change. I urge my colleagues to approve this. Let's get going on this. It's a simple thing to make businesses work in San José. Help businesses continue to employ people and keep our economy moving forward and thanks Sam for bringing this up.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: And I don't think we should suggest that we should stop a business from selling its business and transacting that, that city council doesn't make a determination what businesses are going to start and flourish that when they live under the regulations so this business is fulfilling its obligation it's living within those regulations, it's heavily regulated by the state and I just think that the suggestion that we're going to interfere with another business attempting to expand, and the other business transacting its business, I think we should stay out of it.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: We're not staying out of it, we're actually making an ordinance change to get involved to allow the transaction to happen. Staying out of it would be leaving the ordinance the way it is, and it comes down to whether we want two pawn shops within 100 -- we finally have a chance to remove the concentration of pawn shops in an area we're trying to revitalize, one is at the mouth of fountain alley, the other is on exactly where they are as a pawn shop and now we have an opportunity to do something different on post street and this is giving away a business it is the matter of us changing an ordinance in order to maintain a type of business that I think we can do better.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Mayor Reed I'd like to call the question.

>> Mayor Reed: All right the question's been called. The question is whether or not we stop talking about this and vote on it. So the calling the question is not debatable. So but it takes two-thirds of us to say we're going to stop talking on this and vote on the underlying motion. So on the motion to stop the debate all in favor? Opposed, one two -- I count one opposed, which is Councilmember Rocha who was the only one left with a question --

>> Councilmember Rocha: I want to disclose I did not meet with RJ but I have purchased merchandise there.

>> Mayor Reed: I have watched pawn stars many times. The motion to close the debate stop the debate passes we are now going to vote on the underlying motion made by Councilmember Liccardo on that motion all in favor? I count two opposed, Campos and Kalra. The motion passes on a 9-2 vote. Not done with the consent calendar yet. Next would be item 2.9, actions related to the environmental innovation center. Councilmember Campos you wanted to pull that?

>> Councilmember Campos: Yes. So I just wanted for staff to give us, to just go over the reasons that -- or what led up to this, these unforeseen, what it sounds like in the staff report these unforeseen circumstances and the displays that will occur?

>> Dave Sykes: Mr. Mayor, Dave Sykes, director of Public Works, thanks for the question. As far as the delays, we are still in the process of trying to determine that. Our attempt will be to abate the lead as soon as possible and minimize those delays. I will tell you that the specifications that we put out failed to disclose the amount of lead that was in the building. But we do now have a plan for abating it and that's what's before you today.

>> Councilmember Campos: So is this the only thing that's causing the delays of this project being completed, and being open to the public?

>> Dave Sykes: No. The project as been delayed by other issues. As the council is aware, we've had concern about the performance of the contractor Applegate. And so it's important that we don't let this -- the presence of lead translate to an excuse for further delay. And so we're going to do our best to manage that.

>> Councilmember Campos: Okay, thank you. I just wanted to make sure that that was part of the public record, that you know, given this bump in the road here, that there are other issues with this -- with this project. And you know I don't want to see things as being -- all the things as -- all the fingers being pointed back to the city for the delays of this project finally being opened and completed. Thank you.

>> Dave Sykes: Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I had a question, related question not about the action today, but related to the item we heard in T&E about a month ago which you had presented to the committee asking for input to expand the authority of the director of Public Works in terms of contracts and awards an et cetera. Could

you share with me how that would play into that should that recommendation have gone forward as suggested? I guess would we be hearing this item today?

>> Dave Sykes: Potentially not. Well actually you would in this particular case because today we're not executing a change order. We're asking for permission --

>> City Attorney Doyle: .

>> Councilmember Rocha: To do a new contract.

>> Dave Sykes: Engage in cleanup work so this.

>> Councilmember Rocha: What was the threshold again suggested?

>> Dave Sykes: What we proposed and still doing work on is allowing change order authority to within the contingency amount for that particular project. So contingencies are different for different projects, depending on the policy level. So the proposal would be to allow change orders within the contingency amount.

>> Councilmember Rocha: What about new contracts, was there a suggested proposed change for new contract amounts for the authority of the director of Public Works?

>> Dave Sykes: No, we're maintaining the current \$1 million threshold.

>> Councilmember Rocha: Tell me, if this is a new contract, but we're using the contingency of an existing contract that's not a new contract -- well technically it is a new contract but it's using the contingency right?

>> Dave Sykes: Right we will be reducing the contingency of the contract with Applegate. That contingency is our money, the City's money and in essence we can do what we choose with it. So we're in this case choosing to pull it from the Applegate contract and exercise a contract with another contractor to do the abatement work.

>> Councilmember Rocha: But it's not the authority for a new project so to speak it's just --

>> Dave Sykes: No that other contract is on call so we've already gone through a procurement process, they're on stand by if you will for remediation type issues so today we're moving the money over so there's capacity in the contract to do the work.

>> Councilmember Rocha: I understand that part. I was curious how that suggested changes was going to play into this, or would it.

>> Dave Sykes: So in this particular case, the changes we presented to you in T&E would not have factored into this solution today.

>> Councilmember Rocha: Thank you very much.

>> Mayor Reed: I think it does point out the importance of having the stand by contractors because if we had to go through a bidding process to find it would be quite a bit delayed so the prework the staff has done is helpful even though we hate to have to call in another contractor at least we have one contractor who's willing to do it. That's good.

>> Dave Sykes: Thank you.

>> Mayor Reed: I have one request to speak, Mr. Wall.

>> Classic story of I told you so and fingers should be pointed to the city. You recall the history of this horrible project the environmental innovation center, it was spawned from the bastard loins of trying to capitalize on a financing scheme from the federal government called the new markets tax credit. City of San José had to have a contractor on board that had the necessary bonding and insurance. At the time the window of opportunity was collapsing and the City Manager had no other contractor online that had those requirements. Applegate Johnson had just screwed up fire station number 19 so badly, they had \$448,000 in liquidated damages in which the city waived to have Applegate Johnson perform this contract with the environmental innovation center. Of course we ask how did that foreseeable action happen on a 1958 building when the city has remediation of lead based paint and asbestos throughout its history. You add the cost of the consultant agreements at \$3,206,581 for this project alone, nothing about lead-based paint or asbestos was even written into the project contract language. So there is another grievous rrors. So we ask ourselves how can this happen? Then we look to the contractor's estimate is just talking for the contingency fee is roughly \$152,000 but can go higher. The change orders alone out of this contingency fee, city money is \$572,318 -- \$572,318. So with the \$440,000 plus the \$572,318 that's well over \$1 million of public money that is thrown out the door. And nobody is held accountable to it. Then we have the issue of liquidated damages pending, whether or not it is going to be a 90-day liquidated damages or six months.

>> Mayor Reed: Sorry, your time is up. That concludes the public testimony in this matter. We need a motion.

>> Councilmember Campos: Move approval.

>> Mayor Reed: Motion and second to approve, all in favor, opposed, one opposed, Oliverio opposed, motion carries, Councilmember Liccardo votes aye, carries on a 10-1 vote, motion is approved taking us to 2.10, statewide ballot initiatives oon the agenda with recommendations from the staff on three measures. Before we get into discussion of these three measures I just wanted to, for discussion purposes, say that the three recommendations in front of us are the ones that staff think are directly related to the City of San José. That's why they brought them forward. However there are obviously other measures on the state ballot and other local measures that might be -- might have an impact on San José might be important to San José and that's ultimately the council's decision. So I know there's some interest in at least a couple of the councilmembers in looking at the

others, and so what we typically do is deal with the ones the staff thinks are important and if there are others we give direction to the staff to bring them back in this case probably two weeks, on October 16th, and then we'll have a council vote on those. So that would be my recommendation councilmembers if this is something you're particularly interested in you think we should take a position on just if we can get six of us that want to take a position on it we'll refer to it staff they'll bring it back in two weeks and then we can have an official vote on it. So as you go through the conversation I understand there are other things that people want to talk about and we can certainly do that in the context of this. But we wouldn't vote on those others today. Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I'm -- I want to discuss this in reference to the fact that this is something that it has logistical consequences. For instance when we support the county we're more likely to get support from them. Probably in two years our city will be ready to go out with a sales tax because we will absolutely need help by then. So I think it would be something -- I just want us to consider this as a possibility, in light of the fact that we're going to need all the help we can get. They certainly would appreciate the help. But I would like to have further thoughts about this, after we have our meeting with the county, which is scheduled for I believe this Friday. And that would certainly you know, help us to decide what it is that we want to do. So I guess I'm asking for two weeks seems like such a long time. Thank you. Should I stop while I'm ahead?

>> Mayor Reed: Let me verify, you're talking about the county of Santa Clara tax measure A, you're saying defer it for two weeks?

>> Councilmember Pyle: It would have to be two weeks. No matter what we do.

>> Mayor Reed: There's no meeting next week.

>> Councilmember Pyle: Right right right.

>> Mayor Reed: Let me table that motion, and let's try to get through discussion on all of them, and then take up motions on them individually, because I think there's some cross discussion.

>> Councilmember Pyle: I wanted to point out, a lot of the services we all know I'm not telling you something you don't know, are also services that ever single one of our taxpayers takes advantage of at one point or another in their lives so it is going to be happening all of us. Valley med is very much in favor of it, the realignment with the county reentry program is involved, the city-county partnership to end chronic homelessness and of course the downtown medical clinic all would be of incredible help to the community at large so that I quill --

>> Mayor Reed: The motion on 2.12, one of the ballot initiatives 2.10 question has three and 2.11 which has the Santa Clara Valley Water District, Measure B on. So let me just table that motion and get the discussion on the others and then we can go through and take some action on them individually. I do have requests from the public to speak on both, all three agenda items so we need to get that in as well. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I was just going to make an attempt to proceed in the manner you had suggested, and that would have been to make a motion to recommend staff's position for 30, 35 and measure B, I believe. And then if I understand you correctly then we could maybe move to the other items where we don't have a staff recommendation or maybe a consensus.

>> Mayor Reed: Yes, so we have a motion to approve the staff recommendation on proposition 30, 35, and measure B. We have a motion to defer two weeks, the county measure A. And then there is a state ballot proposition 31, that is one of the staff recommended --

>> Councilmember Rocha: I left that out, I was just going to move on the ones where we had individual.

>> Mayor Reed: By the motions ?

>> Councilmember Rocha: So how do we handle two motions at the same time? Do you want to move on one and then move to another?

>> Mayor Reed: I'm sorting this out as we go through this trying to get it organized in a fashion.

>> Councilmember Rocha: If we could just vote on each individual motion then move forward.

>> Mayor Reed: I think that would be best. And instead of voting on all 30, 31 and 35, we should just all vote on them individually. Because you had a motion for 30 and 35, but then we got 31. So I think the best way to proceed is, to take whatever public testimony there is on this and then come through and vote individually on 30, 31, 35, A and B with the various motions. So why don't we take the public testimony now before we get into the council discussion. Because I do have request to speak on each of those items. So we'll just take them all, where they're talking about 30, 31, 35, A or B doesn't matter. So let me ask people to come down when I call your name so you're close to the microphone. Ruth silver Taub. And then David Wall and pearla Florez. This is time to speak on all of the ballot measures whether they're state or local, whatever you want to talk about. Prop 35, Ruth silver Taub. David Wall not sure which one doesn't really matter we're taking them all, that way you don't have to sort out, just come down and tell us what you want.

>> Good afternoon, mayor councilmembers, thank you for this opportunity to speak today regarding issues in opposition to prop 35. My name is pearla Florez and I'm a program director for community division a south Santa Clara County for 30 years now. As my capacity of domestic violence sexual assault and human trafficking prabs human trafficking survivors since early 2004 and was a founding member of the South Bay coalition to end human trafficking in February of 2005. The coalition is comprised of local community based organizations local and federal law enforcement agencies, national and international human trafficking organizations faith based leaders et cetera. And the coalition is because it does take all these different service providers to comb together since no one organization or individual can fully support all the diverse needs of human trafficking survivors. Since the coalition's inception our goal has been to uphold the victim centered and collaborative philosophy and this framework is very much in line with the attorney general's four piece models of protection for victims, prosecution for perpetrators, prevention of trafficking and partnership amongst the different organizations that are providing support to human trafficking survivors we are very concerned that this victim centered philosophy is not -- and the collaborative philosophy is not one that was taken into account when putting together in proposition and we have

many concerns around this proposition. But above all again that it does not recognize collaboration as a key element in protecting victims, prosecuting offenders and preventing human trafficking. We are going to ask that you not endorse prop 35 attorney general's 2012 trafficking in op Ed that the Mercury News printed on Monday regarding our concerns in detail around prop 35. Thank you for your time.

>> Mayor Reed: David Wall.

>> I have a question on procedure sir. We're only dealing with item 2.10, is that correct?

>> Mayor Reed: No, we're doing 2.10, 2.11 and 2.12 all at the same time. So speak on all of them.

>> I would like to give decades by council. Council at some point in sometime created the intergovernmental relations group to tell you what issues at the state that are good for you to vote on or federal issues. And those issues that don't get put forward to the council for discussion. So I think that the staff is deciding or leading council by the ear or the nose or whatever, instead of council being the decision maker on issues. So I would think with all those consultants that you have in Sacramento and Patton Boggs what have you on the East Coast that you have a perfect argument to get rid of them and then just leave you people to do the jobs you were hired to do. With reference to supporting Santa Clara Valley -- Santa Clara County's tax measure A I don't support that at all. I think the five county supervisors are some of the worst politicians that have ever been created. They're spend thrifts, they're generally so incompetent that there are really no words that polite society can use to describe them. This meeting Friday is going to be just -- just another continuance of their substandard performance with reference to that reentry program, right next to the police station's garage, T&E cutting the lighting of the police station's garage, and of course, not even notifying the community, the neighborhoods they're going to have a bunch of these scum bag criminals coming into their neighborhood under this reentry program. And there are other issues with the county that deserve to be thoroughly lambasted which time and polite society and the code of conduct prohibit me from analytically describing to you today. Thank you.

>> Mayor Reed: Federala Florez, Ross Signorino John Vanick.

>> I'm Ruth Silver Faub. Pearla just spoke.

>> Mayor Reed: Okay.

>> I'm Ruth silver tab. I yet it's virtually ignored by this bill. Although I'm speaking in my individual capacity I supervise a workers rights clinic where we see victims of human trafficking and in the forced labor human trafficking. These cases are horrific examples of modern day slavery and they involve unimaginable abuses. Yet this bill creates lower sentencing standards for labor trafficking. Under current federal and state legislation, all enslaved individuals forced labor and sex are acknowledged to be equally to be victims of human trafficking. In addition, the proposition provides that fine would benefit victim service providers which would mean that there would be less money for restitution and under the California statute, you'd get damages. There's a civil provision. But there's also wage and hour violations, there's torts like false imprisonment, intention at infliction of emotional defense and huge deterrent to traffickers that you can't get only through criminal prosecution. And this would dilute the deterrent. The other thing about a proposition is that once it's enacted it's very difficult to modify or amend. I did want to point out that Kathleen Kim who is the author of this civil human trafficking statute came out against the statute victims service providers, law enforcement prosecution academics and advocacy organization and it has to be victim centered so that it will protect victims and it will finish traffickers.

>> Mayor Reed: Sorry, your time is up.

>> Thank you.

>> Mayor Reed: Ross Signorino, John Vanick and Rachel Gibson.

>> Thank you, Mr. Mayor, members of the council. I come up here I like to think of myself as a normal, well-grounded human being who has a mind and thinks. Like yourselves of course. Regarding the county tax, I like what Councilwoman pyle said, that point is all right I don't take it that way. I take it this way. I said this to Don

Gage when he was sitting on the county board. That they should bring out all the services they provide for all the people here. In the county of Santa Clara. We don't know those services, they're hidden. And I told him we should bring this out more bough the only railway they get tavmentd if I'm not mistaken is through property tax. I don't think that's enough obviously because they got the city, the city hospital, county hospital, and then you got the legal system, there's so much the county does that we don't know even I can't even think of them now with the great mind that I have you understand. But I think that that particular one, regard to the county, that tax I think it should go through. I'm not in favor of taxes by no means but I think there comes a time when we have to face up to the responsibility that we have an obligation, not only to the city, the county, and to the country, to pay our taxes, diligently. I think that's important. That's what patriotism is. That's what keeps this whole system going, this whole ball of wax. So we can't just disregard this and say it's tax we deny ourselves. I say certain things yes we must approve, thank you.

>> Mayor Reed: John Vanic, Rachel Gibson, Rick calendar.

>> Thank, mayor and councilmembers. My name is John Vanick, retired San José police department lieutenant federally and state funded task force, and the lead law enforcement agency within the South Bay coalition to end human trafficking. Since 2004, the coalition has established a statewide and national reputation for our response to human trafficking in Santa Clara County and the South Bay. The experts open the response to human trafficking that make up the coalition worked closely with other antitrafficking organizations across the state and many of us oppose prop 35 evidence code in one overly broad and ambiguous proposition united States best practice policy of a victim centered response. Here's just a couple of examples. Prop 35 places a focus on higher sentencing but it does not add human trafficking to the list of crimes for which prison sentencing is mandatory. There is, higher sentencing is not an effective crime prevention tool and it can actually decrease the discretion prosecutors need to be successful. Prop 35 creates a new system of fines where the money, with the money going to law enforcement and prosecutors and the state before the victim even has the opportunity to collect from their trafficker wages owed restitution or damages. Two very critical changes to the California evidence code experienced trafficking prosecutors argue these changes could actually reduce their ability to show forced fraud or conversion in court ability to prosecute offenders. Opposing prop 35 does not mean neglecting the

issue. Human trafficking is a scourge upon humanity, we need to oppose slavery but it is an amazingly complex issue requiring a careful response.

>> Mayor Reed: Sorry, your time is up.

>> I'm happy to be a resource to any of you, thank you.

>> Mayor Reed: Rachel.

>> Oft available to answer any factual questions you have about measure B and also answer the ever important question what's tonight for San José. So just a few of the projects measure B would provide for San José. 45 million for the Anderson dam retro70th. This is our largest water supply reservoir in here in the county. 41.9 million for the upper Penitencia creek flood protection project, \$.

>>> To clean up legal encampments as well as graffiti and litter along our rivers. \$11 million for the interagency urban runoff program that reduces 23.5 million for grants and partnerships to establish trails and other access points along the rivers. \$20 million for the shoreline protection project and 18 million for I should note that these three flood protection projects once they're completed will protect more than 15,000 homes schools and businesses and the over the 50 year span of measure B it will generate 3,000 jobs. With that I'll stand open to any questions.

>> Mayor Reed: Thank you, if we got questions we'll come back to you. But probably Rick calendar will answer them all before they're asked.

>> Good afternoon, Mayor Reed and members of the county, Rick calendar yes safe clean water for our future. I'm going to be the first one to admit yes, the Santa Clara Valley water strong and sore the accountability portions of this measure. This measure contains an independent watchdog committee that would allow for -- that would be looking at this measure year to year and reporting back to the public and only money that comes out of

the measure will be utilized two independent audits that would be mandatory that would be conducted over the course of this measure. It's a continuation it's not a new tax this is a continuation of an existing tax at this same exact rate of which the public is paying for. The previous speaker spoke anderson dam would result in about \$30 billion to the South Bay's economy. It would -- a failure of Anderson dam would get well within the heart of San José. This includes the project, the shoreline project which protects the community of Alviso as well as the golden triangle. Provides for subjects such guadalupe join the Silicon Valley leadership group, the San José chamber of commerce, the South Bay CIO, thousands and thousands of San José residents and elected officials throughout the valley in supporting measure B, please I request your support for measure B.

>> Mayor Reed: Thank you, that conclusion the public testimony on all of the ballot measures. So let's go back and try to take them up one at a time and get a council position or not. Councilmember Rocha you wanted to make a motion on -- or you did make a motion on proposition 38 because I'd like to bifurcate all of the motions so we deal with these one at a time. On proposition 30 Councilmember Rocha. State ballot initiative which is --

>> Councilmember Rocha: I recommend approval of the staff recommendation.

>> Mayor Reed: Okay, motion to approve the staff recommendation on proposition 30 which is temporary taxes to constitutional amendment on that. So let's talk about that one before we take up the others and just if there's a debate on this then let's do that. I just like to say that I'm going to support this. I want to thank governor Brown for the work he did around pensions. I think that was important work, a significant first step although there is just a first step although there is work that needs to be done, I know this particular work is important to him. I do appreciate the why this could be supported by the public so I am going to support it. Councilmember Kalra.

>> Councilmember Kalra: I will be joining you mayor in supporting the staff recommendation and it's not just the issues on pensions it's also the difficult choices he's made in terms of cutbacks, the difficult choices that he's made in terms of redevelopment, whether you liked it or not he had really tough choices and I think pretty much upset everybody to get us to this point to get us through this very painful period and I think this is a part of this overall reforms is that we need revenue in order to keep our state afloat and the dramatic impact especially to our

public education system that almost an extra month -- loom month of school will be cut from most of our public schools and the impact on our U.C.s and public schools will be so devastating. It's true that the it's clearly a step backward if we want to remain competitive globally.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: So I just wanted to say thanks to Don for his memo because I had much of the same questions. And I think that from our perspective our residents like the minimum wage, and other issues that are right on our own ballot and for us not to do that but to be taking positions on other things, I think is wrong. So I think looking at the process it's important. I'm glad we're looking at each of these individually, I'm not going to editorialize on any of these.

>> Mayor Reed: Think about the question because I don't remember exactly what the answer is. When we vote on these, there are abstention or not abstention requirements are different than when we're doing leablition. So I at least need to have a passive -- ordinarily we cannot abstain. If you're here you got to vote but I think on ballot measures there's something that's dint.

>> City Attorney Doyle: I think we've taken that position historically. it's you're being asked whether you want to support it, oppose it or just not Fay a position. Judge is the voting is a little different the way people can be nuanced in their positions probably more than we get a chance to do. Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you. I also wanted to voice my support for proposition 30. My concern is obviously if this measure fails, we are potentially looking at students paying 20% increase in tuition, I don't think that is anything the ooms support position for this and individual councilmembers if possible can campaign to make sure this measure passes. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. My preference is it's a very narrow perspective on when the council acts on measures facing the city and projects I don't want to get into items that are larger, I may choose to abstain on some of these, I know the pension debt is 117 billion and away away passed nor legislature over, effective nonetheless, the city is stealing money from municipalities left and right. I will be voting yes on each one.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Though we need a band-aid we're in triage and as a teacher of at least three decades plus, I would say the fact that we would lose a month a year is absolutely deplorable. I think the fact that we don't put an emphasis on education, as we should in this state, has made us fall into incredibly low standards for this state. I think we have to do everything we can to help protect kids. That's our most valuable resource literally and other countries are recognizing that and have moved ahead dramatically. Thank you.

>> Mayor Reed: Okay, I think that concludes the discussion on this. So the motion is to support proposition 30. And voting will be either yes, no or abstain which is I guess to take no position, that's how we would count those, the recommendation is to support on the motion on proposition 30 all in favor, opposed? I count one two opposed Oliverio and Constant. Any abstentions? So that passes on 9-2. Proposition 31, does anybody want to make a motion on that? That is the state budget state and local government staff recommendation was no position.

>> Councilmember Liccardo: I'd like to make a motion to approve.

>> Mayor Reed: Approve the staff recommendation?

>> Councilmember Liccardo: Sorry, I'd like to make a motion to support. Thank you.

>> Mayor Reed: We have a motion to support proposition 31. On that motion, discussion? On the motion, I'm going to support the motion. I think it's not everything needs to be done in governance in California but it would be a step in the right direction. Councilmember Oliverio.

>> Councilmember Oliverio: Could staff explain what the requirements goals performance goals will be on local budgets? As it's labeled in prop 31?

>> Betsy Shotwell: Thank you, councilmember, Betsy Shotwell, Director of Intergovernmental Relations. As stated, there isn't a whole lot of specificity with regards to that. That would have to be further refined, defined as you may have noted in the report, this was a legislative item before it became a proposition. And whatever the outcome of this measure I would imagine that you will see what we call cleanup legislation dealing with some of the specifics with regards to the performance based requirements and what that might look like.

>> Councilmember Oliverio: So considering this is a constitutional amendment would clean up legislation could that affect the city negatively?

>> Betsy Shotwell: Excuse me, one moment here. Well, it takes a two-thirds vote of the legislature to change and make modifications. One would hope that we would be -- continue, city could continue being at the table with regards to this measure if it were to pass and if it doesn't that if the discussions continue and go back to the legislative venue that again, cities would continue to be participant in this discussion.

>> Councilmember Oliverio: I appreciate the answer but it also tells me that it is clearly not a firm answer.

>> Betsy Shotwell: There is unknowns.

>> Councilmember Oliverio: There is clearly floating and I'd prefer to abstain.

>> Mayor Reed: City Manager.

>> City Manager Figone: I think Councilmember Oliverio woven referring to the box the last checkpoint requires state and local governments to evaluate the effectiveness of the programs and to describe how they meet objectives, the question may be what they're going to require of us. And I guess Betsy what you're telling is, that's to be determined.

>> Betsy Shotwell: It's uncertain. .

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: We know California forward has been working on a bipartisan basis I think two years or more now on severalty reforms to try to fix what we all know is very badly broken in Sacramento. No proposal is going to be perfectly recognized, made additional burdens as I see what we're required to do in our own local budget to comply with this frankly I think we're doing it anyway in the enormous voluminous budgets that we're already begin. I think it's all in there. You know how we organize that is certainly we may end up reorganizing it in some way that may address the specific requirements of prop 31 but I would be very surprised if there's additional information that's already critical for the state that we get a grip on our budgetary challenges.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I disagree. I think the statement that was made saying staff strongly supports reforms of the state level but the unknown impacts of the required reporting requirements staff recommends the city take no position. Who's popped to this peace officers the league of women voters, California nurses I get nervous because they have extremely, well, they have very well informed groups and so I'm absolutely not going to vote for that.

>> Mayor Reed: On the motion, this is on proposition 31.

>> Dennis Hawkins: Excuse me Mr. Mayor.

>> Mayor Reed: Yes,.

>> Dennis Hawkins: Could we clarify the seconder of the motion. Thank you.

>> Mayor Reed: Vice Mayor Nguyen.

>> Dennis Hawkins: Thank you.

>> Mayor Reed: We have a motion, on that motion, Councilmember Chu.

>> Councilmember Chu: Thank you very much, mayor. I will not be supporting the motion, I think this proposition is Hayesily put together, there is devil in the details, the vast way to achieve the intention of proposition 31 is through legislative process, I will not be supporting the motion.

>> Mayor Reed: I think we're done with the discussion. On the motion to support proposition 31, all in favor, opposed, I count opposed, Councilmember Chu, Campos, Pyle, and Rocha, that's four opposed, any abstentions, one, two, three abstentions, Kalra, Oliverio, and Herrera abstaining, so I don't know what the math is I wasn't keeping track but the motion does not pass. So the motion was 4-3-3, 3-4-4, didn't get to 6.

>> Dennis Hawkins: Motion fails.

>> Mayor Reed: Do I need to -- four affirmative votes.

>> Dennis Hawkins: If we could clarify that, please. Affirmative votes.

>> Mayor Reed: The affirmative votes? The people who voted in affirmative, so that was constant cd, Reed, Nguyen and Liccardo voting yes on the motion. You got the rest?

>> Dennis Hawkins: Yes.

>> Mayor Reed: That motion fails. Lets take up proposition 35, the human trafficking penalties initiative, Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I really appreciate the speakers here including former police lieutenant with our department. I think on the surface I think we all can and should agree that human trafficking is nothing short of modern day slavery. But unfortunately I don't think this -- the way that this proposition is written is the solution. It is not a comprehensive solution. It goes back, harkens back to how we treated, how we created these penalties that look at the penalty and not at the comprehensive solution to our very complex problem as our attorney general says it's not about being tough on crime it's about being smart on crime. I'd like to give her the opportunity -- she's right in the process of putting together a comprehensive approach to human trafficking that will be done shortly. I think that we need to give her the opportunity as she's working with law enforcement, she's working with victims groups and she's doing it in a comprehensive manner. Proposition 35 is not the right solution, it's not going to lead to better outcomes. And I think that as was very well articulated by the speakers that were here both from domestic violence groups on law enforcement and as we've seen especially the last couple of weeks as people are realizing as we approach the election a lot of domestic violence groups a lot of folks who actually spend every day of their lives to actually help victims of human trafficking are coming out against this. Not only do I hesitate to support this I think we should take an opposed position. However I do understand that we've heard from speakers today, and the staff recommendation is support. I think potentially the most prudent way to approach this is to have this as one of the items brought back in two weeks, with staff bringing to us the arguments against as well as the opinion of the attorney general and some of the domestic violence groups. Because I do understand this is a very important issue that affects residents here in San José. We certainly have had many victims of human trafficking here and so rather than do a complete 180 based without all the facts here, I would suggest that we ask staff to bring this back in two weeks, at the moment, and kind of just

come back with either a different recommendation from staff or at the very least opening arguments some of which we've heard here today. That would be my motion.

>> Mayor Reed: All right, the motion to bring this back in two weeks. Councilmember Constant.

>> Councilmember Constant: I just wanted to say that the league of California cities Public Safety committee spent a lot of time on this particular issue, and a number of the members of the committee are police officers and police chiefs from throughout the state. You'll see in the support that the California police chiefs association, the California narcotics officers association, PORAC, state regional and local law enforcement groups have supported it. So I think we -- if we're going to have a discussion in two weeks I have no problem punting for two weeks. We should really be in contact with several of these so we can make a truly informed decision. Because the conversation at the league was very much in depth with a lot of folks speaking on behalf of it, speaking on both sides but at the strength of the arguments on the pro side were very strong and very passionate from people who are entrenched. And that is not to diminish anything anybody said here especially lieutenant banick, I know your position and your passion on it here, I think we should stay out of it and get all information on both side.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Can I ask lieutenant banick a couple of questions?

>> Councilmember Liccardo: Certainly.

>> Councilmember Liccardo: Thank you for taking the time to come down.

>> Thank you sir.

>> Councilmember Liccardo: I know you're no longer being paid to be in this line of work so I appreciate your advocacy and I also appreciate the work you've done in the department and I heard about your work when I was in the assault unit in the D.A.'s office.

>> Thank you sir.

>> Councilmember Liccardo: My recollection is prop 35 primary advocate is a South Bay attorney, you are part of Chris Kelly about the details of the measure?

>> I've not -- had no conversations with Mr. Kelly. Actually the main proponent of prop 35 is an accountant by the name of Daphne Fung who launched California against slavery about three and a half years ago after seeing an MSNBC video about sex traffic in the United States. Mr. Kelly offered his financial support of nearly \$2 million earlier this year or late last year to support this.

>> Councilmember Liccardo: Okay, I'm just wondering has there been any engagement with the proponents of the measure prior to it coming for signatures to get on the --

>> Yes, sir there have. Among I've had personal conversation over the years with Ms. Fung and I also was at two months ago at our South Bay coalition of human trafficking meeting she attended for probably at least the second or third time that I'm aware of to promote the ordinance. You know our position is that while I have immense respect, I think we all have immense respect for Daphne's passion and commitment to this topic we really looked and see who are doing the work and where does the expertise lie. And to Councilmember Constant's comment I would suggest you're absolutely right, there's tremendous support from law enforcement related organizations. But I also tell you, having been involved in training law enforcement for the last six seven years, the number of law enforcement officers that truly understand what human trafficking is in the entire state I would estimate to be about ten or 15%. So I really think that many of these organizations they don't -- they have not had the opportunity because to your point, sir, the proponents have not invited in the opposition to give their arguments.

>> Councilmember Liccardo: Okay. I heard some concerns, I don't think you raised them but I think one of the other speakers did that somehow or another this was softening the blow against or the penalty against trafficking, those who traffic for nonsexual reasons, for labor.

>> Yes, sir.

>> Councilmember Liccardo: My understanding though it increases the penalty from five to 12 years so I'm trying to understand how it softens the approach.

>> What it does in our opinion sir on two different tiers. As a response, we believe that at the base of all human trafficking, is, one, slavery. And two, some type of forced labor. We believe that the labor might be working in a sweatshop. The labor might be working in a brothel. The labor might be getting pimped on the street or via the Internet. But at its core component, trafficking is about slavery and compelled work. So we believe that we should not have this binary approach. And by virtue of the name that they put to the initiative, the Californians against sexual exploitation they are placing that on a higher level and we have just as much compassion for the victims of all trafficking. We believe they should be measured the same.

>> Councilmember Liccardo: As I understand it if prop 35 were to pass someone who is prosecuted and convicted for trafficking for purposes of labor, gets the same 12-year maximum sentence potentially as someone who is convicted of trafficking a minor, without force. That's 12 years. My understanding is, it's only with force against the child or adult that you see enhanced penalties beyond the 12 year maximum, is that right?

>> That is another area where I believe they conflate the issues of force fraud or coercion and not having force fraud or coercion visible genuine sexual exploitation of a minor does not need to show forced fraud or coercion. For all types of labor trafficking and for all adults form of trafficking you do have to show force fraud or coercion. At the federal level there is this difference. As a trainer of investigators I have to think that being able to articulate force fraud or coercion should actually be pretty easy once you've received the training trafficking case

and then how to articulate it to present it to a prosecutor so it can be shown in court. Now if I might I have the -- okay for a labor case the prison sentencing standard for an adult would be five, eight or 12 years and a fine of not more than \$500,000. So for a victim of sex exploitation it would be higher. Okay? But so we think there's a problem with that difference in.

>> Councilmember Liccardo: But not if it's sex trafficking without force. You're saying only if it's with force is there a higher standard.

>> That's correct, I will grant you that. If I may though, there's another problem with that raised sentencing standard. Obviously I'm not an attorney. I'm not a prosecutor. But I'm in communication with prosecutors with experience in this area from San Francisco county, Santa Clara county, San Bernardino county, San Diego county, their concern perhaps you can reflect on this sir is that by raising those standards is actually going to remove their discretion. And they are concerned that there will be challenges by the offenders, because they will take the risk that their minimum sentence made be let's say in the case of an adult in labor trafficking of five years, and take the hope that at the end of the day, when the court views the totality of the circumstances that they're going to be sentenced to probation instead of prison. The attorneys, the prosecutors that I'm talking to, believe that, one, we actually don't need to raise the sentencing because one, it has been refuted as a crime prevention technique. Two, it allows the prosecutors less discretion. And I'm sorry I forgot my last train of thought but I think you understand where I'm going with this.

>> Councilmember Liccardo: Thank you. Sounds like if we may be -- if this motion prevails we may be revisiting this. So I don't want to.

>> Betsy Shotwell: Mayor, is also in the audience Karl Oke is in the audience for any questions.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Obviously it is a complex topic that probably needs beyond the scope of the city and I acknowledge Councilmember Kalra's attempt to you know bring back more information for the council. But I don't know if -- because I'm sure the other side has some arguments on as much an emotional topic. My preference is we don't have staff do that work, that we just decline from making a comment on this proposition because my guess is staff could do some other type of work on something else. But I'll prefer at this point in time if the option was to vote I would have to abstain because I don't have all the forecast and nor do I think it is the role of the city to do so.

>> Mayor Reed: I agree with Councilmember Oliverio. I'm not going to support the motion to bring it back in two weeks. I think we should just stay no position. We can do that today. We do have Councilmember Kalra's motion to bring it back --

>> Councilmember Kalra: And I any information from any side they're welcoming to bring it back to us.

>> Mayor Reed: The motion to bring it back in two weeks, on that all in favor, opposed? I count one two three four opposed, Oliverio, Captain, Liccardo oop we'll see it back in two weeks. We have two more items with staff recommendations then we'll circle back to talk about other referrals that we might bring back in two weeks. So the next item was measure B I believe. I got these in the right order. Measure B which is the Santa Clara Valley Water District ballot measure.

>> Move to approve.

>> Mayor Reed: We have a motion to approve the staff recommendation of support. On that motion, all in favor? Opposed? One opposed, Oliverio opposed constant abstained. Motion passes on a 9-1-1 vote. And then the other measure which is Santa Clara County measure A. A sales tax measure. Councilmember Pyle you wanted to make a motion on that which was to defer for two weeks.

>> Councilmember Pyle: Yes, that's the motion.

>> Mayor Reed: Okay, so we have that one, I don't know who had the second, we have a second on that? Got more than one second here. Councilmember Constant gets the second. Okay, motion is to bring it back in two weeks. Councilmember Kalra.

>> Councilmember Kalra: Thank you, I don't know if Councilmember Pyle would consider this but right now, the election's coming pretty close. The absentee ballots will be out next week. As opposed to some of the statewide propositions, this proposition has critical impact on our residents. The county provides such important services both in health and human services, the hospitals, public safety and a number of others, that you know, this funding is critical. We already opted not to do a tax for city. When you have a chance for the county to do a 1/8 cent tax for the majority of health and human services and the hospital system. I think we should just do I put forward a support right now so that they at least will have that in terms of the campaign and this gives them the opportunity to say the City of San José is behind the effort to bring more services to the residents, to the county residents. So Councilmember Pyle rather than doing a substitute motion I'd ask if you consider the essentially drawing or putting in another position on just adopting today a support position?

>> Councilmember Pyle: I would love to support it today, I hope the support is there Many I hope pretty much know what -- I'd be happy to -- in fact if we could get one today I'd be much happier.

>> Councilmember Kalra: Is that a motion?

>> Mayor Reed: You heard the motion you going to modify the motion?

>> Councilmember Pyle: I would amend the motion to handle it today.

>> Councilmember Kalra: I will essential and I think that as opposed to the proposition, this is an issue that's local that much more information has been made available and we have all or better ovens of what the county

services are than main some of the nuances of some of the statewide proposition, I would urge support for these services that are extraordinarily critical to our residents in San José.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I support the motion. I think that it's very important that all residents realize that VMC, everybody at some point is going to use that service. It is a state-of-the-art hospital. If you have the unfortunate instance that you have to be treated at the burn unit, you're going to go to VMC. It is one of two trauma centers that we book end in our city. It is one of the reasons why our homicide rate suspect higher than it is now because they're saving a number of folks that without it would not be with us today. It is also a center that serves as the primary health facility for the working poor that have no other option but Vice Mayor Nguyen to go see a doctor. So you know, it's critical that we pass measure A and that this city support that. Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I'll be supporting it but I had a couple of other comments and questions, I guess. I believe this is the last one that's listed for us to take a position on.

>> Mayor Reed: It is the last one that that we might want to refer to them to bring back.

>> Councilmember Rocha: So there will be an opportunity to speak after this, we're not going to move into the next item?

>> Mayor Reed: No we'll have a discussion on the --

>> Councilmember Rocha: Around Councilmember Oliverio makes a commitment not to call the question? I'll wait on that.

>> Mayor Reed: But you need eight councilmember Pyle.

>> Councilmember Pyle: It also serves the president of the United States if he happens to be in this area and there's any kind of an issue, somebody takes a shot at the presidential, that's where the president would go because of the state-of-the-art facilities that are available. Thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: First I'll share with Don I won't vote on when he calls the question again. First of all I was a little troubled with some earlier comments about trading endorsements on measures, that's not a good thing to talk about in the public. But I think that what the county really needs to do is address some of its major issues which it really hasn't done. And we have to think about those in our city who are being just piled upon with all these additional taxes. And for those of you who support a tax in the future in San José remember, it's going to be in the context of one of the highest sales taxes in the state if this thing passes. So I don't think it's in our city's best interests, I don't think it's in our residents' best interests and I think the county of Santa Clara has a lot to do in regards to their spending habits and some of their problems that they have internally in the county before they start asking for more money.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I'd be willing to support a deferral but not a support at this time.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Since the vote is today I'll be voting no. I don't believe the county has done anything near the City of San José's reforms in their attachment dollars better.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I would have been willing to support the deferral but not voting on this today.

>> Mayor Reed: I would have supported the staff recommendation taking no position on it so I'm not going to support the notion of support. I think we're ready to vote on that. We do have a motion to support the measure A county of Santa Clara sales tax. All in favor, opposed, that would be Oliverio, constant Reed Herrera opposed that carries on a 6-5 vote. Those are the ones that the staff have recommendations. If there are other of these initiatives et cetera that councilmembers think are important that we should take a position on, now would be the time to discuss those, the staff will bring back in two weeks to take whatever action staff wants to take at that time. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I had just some general questions about the process and I saw the supplemental memo but I'm still up to a few questions, generally probably some of the same questions. Begin if process and the fact that we have had the league of California cities and the national league of cities, why didn't we take a position earlier so they had the opportunity to bring forward a city position and again it's not that I have a problem with the positions they took and who took them, I would have expected that we would have been prepared so they can go forward and present the City's position whatever that might be .

>> Betsy Shotwell: Again, Betsy Shotwell, Director of Intergovernmental Relations. I -- thinking about that and going forward would try to make every effort. It's very difficult at times to review and go to council with items before these meetings take place. Often you don't even know the agenda until right up you know, right a week or so before did meeting. So I don't have a response to that. I certainly rely heavily on league staff for the information that's provided to the council and the mayor. And that was not finalized until the week prior to the league conference. And so I do have always relied heavily on their expertise. They do a really good job of research to Councilmember Constant's point. And so I don't really have the resources and the tools prior and then I have the resources when the league has their -- has their meetings to discuss or determine about measures. They are just discussing and reviewing fewer and fewer each cycle. I think they have found best to stay to the league legislative

priorities similar to how we -- how I've phrased it as well and of course the measures is covering a lot of other areas that are beyond municipal or city concerns as well .

>> Councilmember Rocha: OBI Uning O&M this is typical hospital we go forward, that in the past we don't get the information ahead of sometime in order to be prepared to take a position as a city. This is pretty standard a month out of the election?

>> Betsy Shotwell: Well, it depends, it's always on taxicab a position on the related legislation. I think AB 32 the greenhouse gas emission is a typical examples. As the measures were moving through league process they had a very good analysis and review and council. So it really is case by case. It can pen depends on the year we're in. Inas for the other measures, we have a few of them before us but also a few that I listed in my memo as to opportunities to take positions that I thought might have a direct impact on the City of San José. And looking backwards you didn't recommend those and your memo spoke a little too it but I'm looking at the language in sum of these, even like, prop 36, I can't remember how much money, significant amount of money for local law enforcement to harchl homicides and rape cases, \$100 million. So I don't know how that is not considered a direct impact to us as a city.

>>> I would probably have to rely more heavily on my counterpart in the state and the city as well with regards to corrections and activities. And I don't know what specific direct impacts to the city that would have or our own activities. My understanding is, it's not measurable as to the point of where moneys would go to helping the county, the courts, the correction systems deal with changes.

>> Councilmember Rocha: And then prop 32, which is new campaign mayor races and I'm not sure how that's -- I guess this threshold of direct, at the end of the day, honestly, I'm a bit frustrated and disappointed. I feel that you're making the decision for me. Prior to me having the opportunity. Because you could have listed all these as I understand it and given a position that no action no position no recommendation recommend poaf any of that. But you don't have the ability to act on a number of these which we can always refer these to October 16

which I units you we can take positions individually. But I feel like the decision was taken away from me or at least the opportunity. And I don't understand what the cost is to list them all rather than you make the decision as staff.

>> Betsy Shotwell: Well, that's why attached to this of course is the complete packet of legislation. There is the opportunity for council to refer measures through the Rules Committee to staff i don't think I should get into the specifics of these measures, perhaps 32 are distributions, I just would say that there is an opportunity for continued dialogue on other measures and if the councilmember wishes to.

>> Councilmember Rocha: Did you have --

>> Ed Shikada: If I may add also councilmember, mayor, members of the county, one of the areas that Betsy and I have discussed in preparings next year's legislative agenda and what would comment before guidance perhaps and identification of those windows of opportunity for whether it be council as well as staff, involvements. So to your point, perhaps up front identifying the window within which the staff would be bringing forward positions on blood measures so that should you choose to put forward on ment before the fact clearer before the fact as to how and when we'll be coming forward, and which items we'll be carrying.

>> Councilmember Rocha: Thank you, and appreciate the information you gave me in terms of the local measures and if you wouldn't mind expanding. Because the memo wasn't as -- I guess the explanation I got from you was a little different than the explanation in the memo. Initially we thought we couldn't take positions on local measures?

>> Ed Shikada: Yes, council, it was after the Clinton voted to place a local, a city measure on the blood William that was the end of the council's review of the many in response to your 340EU6R7B8G9SDZ, I realizes, and was educated by the attorney that the council actually can could take positions on for example the minimum wage or card room measure before the quite frankly news to me.

>> City Attorney Doyle: And I if I can just chime in, I think there was some confusion and I think it's understandable, this is really the first time I can remember that an initiative has been put on the ballot. Normally it's the city council that puts the measures on the ballot and any other cases we've either repealed the ordinance we've adopted the, which is uncommon so I think there was a reason for the confusion, at the staff level.

>> Councilmember Rocha: Okay, thank you. And for me, I'm not -- my interest in this is not advocating for any individual progression or ballot measure, federal or state or whatever the issue may be. My interest here was the process and able rather than me wanting to be advocate, to make decision and go through the exercise as we did today. I would repair that, because having to go through rules, when on any given Wednesday when we have three members on a good day unfortunately we don't items is of value to the council, I'd rather hear the full 11 councilmembers opinion on the merit of them, of course with staff's analysis on that so thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Hi, I'd just like to suggest that on a reulings meeting tomorrow, that this for companies that are based here in the Bay Area. Just want to ensures that they are not as disadvantage to our other, outside the state it also wrote provide additional revenue from that though ought of state companies for schools and oashtd needed services here in the state.

>> Mayor Reed: Why dontg you put that in form of a motion then we can vote on it. Six votes and when we -- prop 39, discussion on that not the substance but whether or not we ought to bring it back in two weeks or not. That's really the motion. On that notion all in favor? Opposed? Count one posted that would be me. Okay. Bring it back in two weeks staff, take the position? Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I have a custom, as well. One I'll start with is prop 36 orour three-strikes law to keep in mind that our different is one of three in the state that is current three strikes law doesn't week as intentsed, it's overbroad and also because of the cost savings. And that it still while not in any way

release criminals, opportunity for a discussion if the potential support position for this in two weeks and the interim we can either get a letter or a statement from the District Attorney, farce his.

>>> There is a second. On appropriate 36. Unked bringing it back or not, all in favor -- I'm sorry. Councilmember Rocha.

>> Councilmember Rocha: I mentioned in one of the committee meetings that it might be helpful to ream out to the police chief o, and get his feedback. Did we get any feet back from him? Request.

>> Betsy Shotwell: Yes, I have been in discussion with the chief and he has reviewed my analysis per our discussions and he felt that it was important to stay neutral on those two mushes.

>> Any-no reason?

>> Well acknowledge I was providing my reasons or the lying's-staff analysis with regard to impacts to locality cchts did you review the death penalty have a history on that issue which we don't as a city.

>> Councilmember Rocha: Okay, thank you.

>> Mayor Reed: All right any other discussion before bringing back prop 36, so on the motion to pri gabbing twroch 36 on all in favor, opposed, opposed, constant and right so that come back in two weeks an 9-2 vote or eight -- 2 vote.. Councilmember Constant.

>> Councilmember Constant: Thanks. First of all, I'd like to say that for the future, I think we need a much more clear and defined process, as I think Don has spoken to. I think that we should be doing this a lot earlier, quite frankly, I think it's almost useless that we take a position this week or two weeks from now, and I just think that there's no reason we should be doing it this late, when the league of cities took their action several weeks ago, all the information was available and the information has been available for quite a while. So I know we need to talk

about process for that and that's a discussion for later but we should definitely do that. I think that we should if they are taking, tangential to the City of San José, we should be taking positions on measures specifically related to the City of San José. Anything else really that we've talked about here today. So I would America a motion that our too ballot measures come back in two weeks and the council he take a position on those.

>> Mayor Reed: All right, that's a motion to bring back measures D and E in two weeks. On that motion Councilmember Kalra do you have something else? On that motion I count Kalra around Chu opposed councilmember Campos were you opposed? That's three opposed, so we'll bring those back in two weeks on an 8-3 vote and Councilmember Kalra.

>> Councilmember Kalra: Thank you. There's two more mayor, one is prop 34 which is the death penalty which we know will redirect \$100 million to law enforcement to solve rapes and murders. And save \$130 million annually within a few years ongoing compared to the current cost. And so I will not release anyone that's convicted of capital murder, it's life without patrol so they will die in prison. So I would like that also to return. My position is a support position but obviously it will be a council decision in two weeks.

>> Mayor Reed: I'm sorry is that 34?

>> Councilmember Kalra: Thrashing.

>> Mayor Reed: Is that a motion?

>> Councilmember Kalra: Yes.

>> Mayor Reed: Is there a second? Okay, a motion to bring it back in two weeks. Councilmember Oliverio.

>> Councilmember Oliverio: Hi, City Attorney I just wanted to clarify. Can the council take a support of someone running for office?

>> City Attorney Doyle: In my opinion, no. As the council individually yes. But not as a council. The -- you know you're not allowed to take use money for political purposes. When you are city council speaking up here on the dais there's case law that supports taking positions, but all those deal with measures or propositions. There's nothing that deals with candidates. So you know, I think you have to draw the line here.

>> Councilmember Oliverio: I think whoever is watching has a sigh of relief, so thank you.

>> Mayor Reed: I'm sighing relief as well. Okay. , so we have a motion to bring back 34, correct? Councilmember Kalra's motion. On that motion bring it back in two weeks, all in favor, opposed, I count one two three opposed Oliverio, constant, read opposed that comes back in two week on an 8-3 vote. Any others?

>> Councilmember Kalra: One last one mayor. Proposition 32, proposition 32 although it's being labeled as a special interest campaign proposition we all know that it exempts the main source of corporate funding and superPAC funding and so I think is extraordinarily deceptive. It certainly has impact on San José and San José residents. Considering the fact that there are literally tens of thousands of residents in San José that are members of unions that will be completely shut out of the political process based of based on the fact that they are Moss to continue to have flee rein because the political 32 return for a council decision.

>> Mayor Reed: All right we have a motion with a second on prop 32 to come back in two weeks. Councilmember Constant you have a comment on that or something else? Okay. On proposition 32 coming back in two weeks, all in favor, opposed, one two three opposed Oliverio, constant and Reed. On that Councilmember Kalra. Do you have anything else? Councilmember Constant has one.

>> Councilmember Constant: I forgot. Sorry. So --

>> Mayor Reed: You'll remember in a minute we'll come back --

>> Councilmember Constant: It had nothing to do with trying to take a position on any of these.

>> Mayor Reed: Okay, Councilmember Oliverio.

>> Councilmember Oliverio: Has the -- City Attorney has the council in the past sided with school bond measures?

>> City Attorney Doyle: Not to my knowledge no.

>> Councilmember Oliverio: Does anything preclude the council from acting on those school bond measures?

>> City Attorney Doyle: You have a policy 0-11 it's sited in one of the memos usually has to have some relationship to the City of San José. You know but it doesn't preclude the council or councilmember from asking to put it on and having that discussion.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: Anybody else on this before we finish the consent calendar?

>> Councilmember Constant: Well, I would just say that school bond measures have more impact on our residents than say the death penalty or a lot of these other things that we've decided to take positions on and I think that we have this year gone way further than we've gone many of the years that I've been on here and I look forward to the discussion where we can have a structure where we decide what we can do because quite frankly as I said most of this doesn't mean anything and we should really be spending our time elsewhere and getting a policy so that we don't have every single issue on because how many school board measures could we argue about in our 19 school districts?

>> Mayor Reed: Usually half a dozen. On any given election cycle. We do have a follow that says 0-11. Anything else on this before we finish our consent calendar and move on to the rest of the council agenda? Apparently not so that concludes the consent calendar, we're ready for item 3.1 report of the City Manager.

>> City Manager Figone: Thank you mayor and council you have briefly a quick requirement for the council and the public you will be having two special session coming up, on try morning you'll be handling your annual joint meeting with the county Board of Supervisors, it's been referenced a couple of times today, it will begin at 9, it focuses on realignment including reentry chronic homelessness and a the downtown medical center. This is discussion only and does serve our purposes each year to ensure that we continue to stay cooperated on issues of importance to both agencies. The materials have already been released and they're in the form of presentations, those are now posted online. And then next Tuesday October 9th you will have one of your periodic special meetings to discuss and set priorities for policy studies and significant ordinances. It will take place next Tuesday at what would normally be your regularly scheduled council meeting. Again, this has been a very helpful discussion for focusing staff resources, on the highest priorities, policy areas of council and then you'll also be reviewing criteria and process for scheduling future study sessions. The materials will be out by close of business on Thursday. That concludes my update.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Mr. Mayor real quick I know I mentioned this in rules committee but I think in the future, on the city-county meeting we have to be conscious of the calendar because it's in corn flict with Lafco activities and there are two county supervisors and me that have had which one of us was going to skip the meeting to fulfill the Lafco responsibilities. So it seems to be at the exact same week every time we've done it. So just for future, if we can keep that in mind as we're scheduling these.

>> Mayor Reed: Item 3.3 is the next item of business, adoption of a statement of policy and city council city council questions related to the director of Parks, Recreation, and Neighborhood Services. I have one request to speaks Mr. Wall.

>> I'm concerned on this issue with reference to the -- I think it's a little premature referencing the impending deficit and probable Draconian cuts to the parks department which is unfortunate I don't support. I want to quote something the William Rave and Associates who is conducting the recruitment period close quote. I think staff time is very valuable. But also, in this budgetary time could be redirected to other programs. The cost for this executive search is not listed in the public documents and also, the listed within the packet is of course the maintenance issue with our parks. You all have siphoned off \$100,000 from your individual parks accounts with the reception of Councilmember Liccardo who took it from the Ryland park pool account for the four soccer fields, that was your decision, fine. But the result is still, city parks don't have enough resources to take care of the parks that we have in the manner that citizens require. It is also interesting to note that you have these executive searches, national searches and then you end up hiring from within which is a good item, in some cases, with the sole exception of your dramatically foolish error with the environmental services department. So I would say no on this. For the reasons I've stated. And the fact that you have to reorganize the parks department as a function of the impending cuts that I've heard talk at rates of 85% cut for the parks. But that could be just idle political banter from the councilmember or the mayor that uttered it. Still, I think this is very premature and the cost of these executive searches should be eliminated because the City Manager should by her own accord be able to discern who is a qualified candidate from a pool of candidates just applied, thank you very much.

>> Mayor Reed: That concludes the public testimony. We have a motion to approve. Councilmember Constant.

>> Councilmember Constant: Just wanted to ask the Vice Mayor. I'm assuming that you wouldn't mind a friendly amendment to combine 3.3 and 3.5 into one motion so we could speed things up.

>> Mayor Reed: Item 3.5 was adoption of statement of policy and city council questions related to the director of retirement services. Is there any public testimony, I have no requests to people on it, I'm not really sure. Mr. Wall you want to speak on 3.5.

>> Basically want to quote again. Quote at the direction of the City Manager we are coordinating the efforts of an executive search firm alliance resource consulting limited liability company for this recruitment, period close quote. Again we have enormous resources being pushed out for another high level position within the city that in my opinion the City Manager could easily do from her vast experience of 30 or 40 years and the ability to discern who is a candidate from those that just simply apply. Therefore, saving the cost of staff time and of course, this consultant firm. What we have, what we see here, is a trend of management by consultant. Which then brings forth the issue, why not eliminate the office of the centering completely, and you folks just manage these consulting firms yourselves. That would be very interesting but it would cause you to eliminate or modify the city charter with reference to section 4.11 and section 4.11.1. I think this is another waste of money. And the previous retirement director was controversial because he was outspoken but he made a lot of truthful comments it was unfortunately he left because he made a great contribution to the retirement system that was hemorrhaging at the time because the city did not pay attention to the retirement boards and other issues that are too lengthy and too complicated for people to hear and to discuss today. So once again, you have these searches going on. At the same time, you have these impending deficits. And I think that management by consultant is something that is interesting concept because I think anybody with an average I.Q. could manage with a consultant budget and just pick somebody to run a department. Thank you.

>> Mayor Reed: We have motions to approve the policy and council questions for both the director of Parks, Recreation, and Neighborhood Services and director of retirement services. On that motion, all in favor? Opposed? None opposed, both of those are approved. Item 3.4, is the recommendation to approve terms of agreement of sick leave pay out with the association of building mechanical and electrical inspectors. We have a motion to approve. Mr. Wall you want to speak on that one.

>> This is a sick leave buy-out issue. The city in my opinion does a great disservice to the citizens by utilizing the tactics of divide and conquer with city employees. They segregate out all the unions and treat them all differently and give some people benefits and take away others. As my opinion as sick leave benefit issue you should all hang your heads in shame and not just look at your computer screens but pay strict attention. Because within the police department and fire department you're looking at a great loss of the public's investment because of this sick

time issue. I would put it to rest and just say the remaining employees should get their second leave when they're able to retire. And a lot of city employees are at least within eight to ten years of retiring. So that will not be a financial issue. I do not see any support from this council for the San José police department or the fire department whatsoever. With the exception of editorial pieces in the Mercury News that could be considered verbal flatulence. but the other union should be taken equally, with their sick time payout and also, I believe the City Manager's entitle owed to every penny of her sick leave buyout. Thank you.

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

>> Councilmember Constant: Believe it or not I get just as tired of hearing myself repeat the same thing as you guys do and just refer to the last time I referred to these items and I'll vote no.

>> Mayor Reed: one opposed Councilmember Constant opposed motion carries. Our next item is fop 1, public hearing election on community facilities district number 13 Guadalupe mines. Well let's just wait a second. Before I get to the motions. There's a dance to do because this is a creation of a taxing district so, this is so first we have a public hearing which is what this is on the formation of a community facilities district number 13. Guadalupe mines and a levy of special taxes within the community facilities district number 13. So we'll take public testimony for the formation of the district from any interested persons I have one request at this point. And we also will collect ballots for those affected by this district get the vote on it, and all the ballots must be submitted by the close of public hearing. If anybody is here and wishes to get a ballot get it in now you have about two minutes left, I have one speaker and I'm going to take the public testimony first. Mr. Wall.

>> First this is putting the cart before the horse. This project should not have been allowed to proceed without the creation of this sanitary district. What I'm concerned with is this project goes bankrupt and the city through their sewer service and use charge have to go ahead and pay for this as well as the storm sewer charge. There's no guarantees that this money will come forward is there is bankruptcy of this project. And because the city doesn't get to vote on it, this is really a special intreftd developer type program there is probably a gift related to different hookups located on page 4 of your agreement. There's also on page 5 \$10,121 sufficient funds in the storm sewer

operating fund, but I contend at T&E, the storm sewer service, storm sewer fund isn't being utilized properly because of the mup storm sewer storm drains and here it is just gifted bap I don't believe that developers should be given this type of authority whatsoever, to just come in, put their plans through PBCE, have councilmembers just brain-deadly promote these things because it's tax revenue or what have you, without thinking of the long term issues of the maintenance of this sanitary sewer pump system and all this related storm sewer maintenance issues. So I think the entire city should be able to vote on this because they're going to be potentially on the hook if this project goes bankrupt. And look at the tax per year that these individual houses have to pay. Over \$700. What happens if some these other houses default? Who pays? No, ladies and gentlemen, once again, your development fee --

>> Mayor Reed: Sorry, your time is up. That concludes the public testimony. Are there any persons going to submit a ballot? I see no people moving our way. That concludes the publicly hearing, I'll ask the City Clerk to tabulate the ballots. Do you need more time?

>> Dennis Hawkins: Yes, we do need a couple of minutes.

>> Mayor Reed: We'll allow the City Clerk a few moments to tabulate the ballots before we take action. The last item on the agenda.

>> City Attorney Doyle: Is open forum. We have a couple of speakers, Art Napoleon and David Wall and Ross Signorino.

>> Greetings, mayor. Vice Mayor, City Manager, esteemed council. I'm Art Napoleon. As founder of black Independence Day which is an caves organization for the uplifting of descendants on this created I greet you all. Can I start again. [An injustice quiet from Martin Luther King Jr. the great civil rights leader. Not more than half a city block from this very spot located on the San José State university campus, is a largest library West of the Mississippi named after this great civil rights leader, a true museum of academia, the Martin Luther King library, my favorite no doubt. As a patron it is library, I'm currently experiencing the most egregious injustices of

defamation of character and person perpetrated by the Martin Luther King staff and the San José State university police staff serving as front line in these character assassination attacks. I will frankly say to have those in authority such as officer Haring's and officer Ledezma among other using their authorized influence to child molester, a homosexual, a mental health patient or any other of their falsehoods not only endangers the safety of myself and all participating patrons it shows the height and depth of immorality indicative of a society that allows 100% employment of a race but at the same time supports another racist whose senseless review reports to be suppressed in the very same society.

>> Mayor Reed: I'm sorry sir, your time is up. That's all the time you have. David Wall and Ross Signorino.

>> This weekend first of all I want to thank San José fire department, specifically engine company 1C. Once again I raise the issue that in my neighborhood, a neighbor perpetually gets drunk. All right? People get drunk, I don't care about that. But the intention of this person when his family kicks him out of the house is to call 911. Fire company 1C medic 28, 38 responded they take him to county hospital. County hospital holds him for a few hours, the guy gets kicked out on this case he refused once he was in the ambulance not only to go to county but he did it last year several times. So then, at nighttime, I think it was Saturday, he did it again. He got -- he got you know got kicked out of his house. He calls 911. Out comes fire engine company 1C. The whole nine yards. This time they take him to county and they hold him. Now this guy I've written about and talked about last year several times. You know the fire department you should ask them how many times they're picking up routine drunks who are then taken to Stairve medical center, kicked out on the street then called back up. Now with reference to this brother of my neighbor, he does this intentionally. Because he gets a free ride to the hospital sometimes he gets to stay all night sometimes they just kick him out. He does it again and again and again. And we can't sustain this. And to add to your tool box, now the guy is a Mexican national. He's not even a citizen, all right? Now his family that comes up from Mexico they're the greatest people you ever want to see when they come visit. The father sweeps the street, we talk, it's really great but this guy here this brother has caused so much consternation to the fire department that you folks have to put an end to it. This is your ministerial duty to find out these repeat offenders who know how to gain the system of 97. If they are in the country illegally or even a foreign national,

hold them indefinitely and get rid of them because they're costing us way too much money. And I'd like to thank everybody's consideration, thank you.

>> Mayor Reed: Ross Signorino.

>> Thank you, Mr. Mayor. Not too long ago on the agenda I couldn't find prop 36 you were talking about. I see different measures but I'm sorry but I'm not educated enough to follow what you were trying to say. But what I do want to talk about is, a measure B, which contains something about 35, I should say, proposition 35. It did contain quite a bit about human trafficking. I didn't get a chance to talk on that subject but in regards to human trafficking, I want to say that I am especially proud of the president of the United States, president Barack Obama and also Hillary Clinton at the highest level of government they bring out the devilishness about this human trafficking. I recommend a book to you on one book to you and that's not for sale. It's in paper back, not very expensive. And if you can't afford it let me know I'd buy you one. But nonetheless, it deals in all the human trafficking throughout Asia and all those different countries, where they entice these young women to go work in a domestic environment but it never happens. They have their passports taken away from them and then they are in servitude pros city tugs whatever it may be. But the help these people in human trafficking they found out 30 seconds, I better get going before I hear those dreadful words. Nonetheless they tried to help these people but they found out that if they say they are Americans and if America is given financial aid to them then the governments of those countries start to pay attention to them in regards to human trafficking. I think that's a proud moment that we --

>> Mayor Reed: Your time is up.

>> Ross Signorino: That is a new symbol.

>> Mayor Reed: It works.

>> Not one finger but all five fingers.

>> Mayor Reed: Your time is up. That concludes the open forum. We need to return to item 4.1 the hearing and election on community facilities district city clerk do you have the results?

>> Dennis Hawkins: Yes, Mr. Mayor I have the results. The results of the tabulation are that property owners with a total of 18 votes have returned ballots in support of the levy of special taxes. No votes have been returned in opposition to the levy. Ballot submitted by property owners in community facilities district number 13 in support of the levy of special taxes constitute two-thirds or more of the total votes px the city council may proceed to vote on imposition of the special tax.

>> Mayor Reed: All right we need to establish the district declare the results and adopt about 18 provisions listed in the agenda A through F. Can I get a motion, motion by the Vice Mayor, on A through F on that motion all in favor, opposed, none opposed, motion carries, that concludes item 4.1 and that concludes our meeting, we're adjourned.