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>> Good morning, I'd like to call the meeting to order. We'll do our labor update and adjourn into a closed session and come back at 1:30 for the rest of the session. We'll start with the labor update, as usual.

>> Good afternoon, Alex Gurza, deputy city manager. Our presentation this morning in open session will be somewhat longer than usual given that the city received two significant proposals from five of our city bargaining units. As we do every week, I want to remind city employees and the public that information about labor relations is available on the city's internet site, including all proposals made and received by the city and bargaining units and all correspondence and other information. I want to start off with a brief reminder of the council's goal in terms of retirement savings. The council adopted a reform plan that includes more savings than simply retirement, but this is the focus of all funds for retirement. The original goal was to save \$215 million per year, and that's an important fact, it's annually, in retirement savings. And the idea there was to maintain the cost for retirement at a 2011 level and not go up to the now-anticipated \$440 million in several years. When the city manager proposed the fiscal reform plan that included retirement reform, if that had been followed as it was proposed, it would have saved a little more than the original goal, \$216.6 million. Then we began negotiations for ballot measures and through those changes, the goal has changed, and the goal has been reduced that the city has set for us. And there's a range now versus a set number. As you see there, the current council direction, as it reflected in the current ballot measure as well as the other measures will save between \$117.2 million and \$166.6 million. Again, this is an annual figure, and the reason for the range compared to the others is the most current council direction includes an opt-in program that we've discussed quite a bit, where employees will have an option to opt into a lower level of benefits. Because of the difficulty of knowing exactly how much savings would be achieved, how many people would opt in, what's the demographic of those groups, we developed a range of savings, and that's why you see \$117.2 to \$161.6. Again, significant amount of savings on an annual basis, but less than the original goal. As I mentioned, five of our city bargaining units made significant proposals last week. Those proposals were sent to us via e-mail last week, and they are the five bargaining units that have a framework where we have agreed to conclude the negotiations by October 31st. Starting with police and fire, who were negotiating with together on retirement reform, on September 28th, they provided a proposal on retirement benefits. We posted that on the city's internet site on the day that we received it, and it is in front of you this morning. Available for anyone to review. We have not met with police and fire. It's an important point,

very important point I'd like to emphasize, since we received the proposal. We have not been able to fully talk about the proposal and make sure we understand it. We meet with them tomorrow. Then, the other proposal we received was from local 21, the three affiliated bargaining units AEA, and AMSP, also provided us with a comprehensive retirement form proposal. We did have an opportunity to meet with them on Friday afternoon, and we also made to them a subsequent proposal, an initial proposal for benefits on new hires. Because there's significant interest in this proposal, the five bargaining units have estimated it would save \$467 million over a five-year period if we were to accept their proposals. I wanted to at least provide an overview of the proposals as we understand them, and I want to emphasize enough that this is based on our reading of the proposal. We very much need to have meet and confer sessions to be able to fully discuss the proposal, make sure that we understand the proposal. It's a very important point, and most importantly, that we understand how they achieve the cost savings and how that's arrived at, so this presentation this morning, again, is only based on the written proposals. We will be modifying it as we learn more and understand better the proposals that the bargaining units have made. I also want to mention that we very much appreciate the proposals and recognition that the proposals reflect on the need to achieve retirement reform. One significant component in both of the proposals of these five bargaining units is an opt-in program. Again, we have been discussing at length for the last few months, which again is where an employee is given a choice to voluntarily opt into a lower cost level of benefits of retirement plan. As I'd mentioned earlier, the city also proposed an opt-in program, which is part of the proposed ballot measures. And as the council is aware, there are two key issues about opt-in programs, among others. One is we realize we'd need to receive IRS approval to remain the contributions tax exempt. Also the difficulty of knowing an opt-in program will actually save, you can provide estimates, and we have done that as well. If no one opts in, that doesn't save anything. If every employee opts in, and there's a range in between of what the savings might end up being. There is one key difference we've noted between police and fire and IFBTE proposals, is that police and fire have proposed that new employees go into the state retirement system instead of our own independent pension plan. In addition, they are proposing their opt-in program where employees don't have an opt-in program within our own pension plan, but they can opt out of the city's retirement plan and into the state-run system. Again, we have not had an opportunity to have a full discussion with the bargaining units on these proposals, and we very much look forward to negotiation sessions we have, scheduled starting tomorrow, to have a full discussion on the proposals. So we're going to start out, again, with the brief summary of the police

and fire proposal. Again, this is not going to be about the cost savings, because we have yet to be able to talk to them about where the cost savings come from, meaning how much the savings from the opt-in program versus anything else, so what we're attempting to do in the following slides is simply compare the benefits levels for current employees, for the opt-in program, and for new hires, so you can see the comparison between our current level of benefits, the city's latest proposal, and the union's most recent proposal. So there's a lot of information. I'll try to go through it as slowly as possible. The slides, we tried to make them as big as possible, but this begins with a comparison of the current employee benefits, so those people currently in the police and fire retirement plan. And you will see under current benefit, that's what employees currently receive. Again, this is a summary, and we really cannot include every element of a retirement plan, but these are the key features, so again, this is a summary. The employee can receive a maximum of 90% after 30 years of service, and the accrued rate varies a bit among the plan depending upon how many years of service you have between 2.5% per year and 4%. And local 230, the firefighter's union is 2.5% to 3%. For retirement age, currently you can retire at 30 years at any age or 50 years old with 25 years of service and 55 with 20. The final average salary calculation is the single highest year. Retirees receive a 3% fixed cost of living increase. It's 3% per year. And the cost split for the plan, what's called the normal cost, the cost of every year of service going forward, is split as specified in the city charter, an 8-3 split. That means for every 8% the city puts in, the employee puts in 3%. In terms of the unfunded liability, which is clearly the primary focus and the concern of the city's retirement plan, the city for the pension benefit currently pays 100% of the unfunded liability, and we do currently have an SRBR, a 13th check, and that is available. So I took some time to go through that, should take less time on the other columns. You'll see in the city proposal, the most recent proposal, we're in bargaining, so proposals can and do change. The city's most recent proposal, there is no change to the benefit. You'll see status quo with the exception of the Cola, would be capped at 1% and based at CPI. The other change is in the sharing of the unfunded liability for employees who don't opt in to the, what we're calling, the voluntary election program. There would be a 50/50 split with no more than 5% per year with a maximum of 25%. That's in addition to the normal cost that employees currently pay. And the city is also proposing to eliminate the supplemental retirement benefit reserve. Now, moving to the local 230s and POA's most recent proposal, status quo, no change, no change in cost sharing, but they do indicate that willing to meet and confer, as we are doing, on the 13th check program. Now, this slide, the current benefit is the same simply so you can continue to compare it, and this is the opt-in program that is reflected in the POA's and

local 230s most recent proposal. This opt-in program, as I indicated, is proposed to be managed by pers, so simply so you can see the benefit change, clearly there are issues we need to talk further, implications of getting out of our retirement, but this is a way to see the level of benefit if employees would opt out. In the city's proposal, that would still be run by our retirement system. The benefit maximum would still be the same and what changes for the accrual rate, 1.5% per year, that's future years of service only. Anything already accrued in terms of the accrual rate in years of service would remain the same. There would be a phase increase in the age, up to 60. And you can still retire earlier with a deduction in the benefit level. The final salary calculation would be three years. And the cost sharing would be unchanged in the city's proposed opt-in program. The normal cost would stay to three. The unfunded liability would still be paid 100% by the city for the pension plan and SRBR would be eliminated. Moving to the column on the right, this would be managed by pers in the proposed opt-in program. Pers formulas work differently than San José's in mostly they are age-graded formulas, so the amount of the accrual rate you receive can vary depending on the years of service that you have. So for the formula that they have proposed, it--- you can still retire as early as 50, but your accrual rate would be 2.4%, and then it goes up, graduates up, to 3% per year that you can retire and receive the 3% for every year of service. They propose a final average salary calculation of 36 months. CPI capped at 3%, and the unfunded liability in pers plans, the amount of employee pays is usual set 7% for non-public safety and 9% for public safety, although they indicate in the proposal, again, they'd pay up to 1% more, so it would be 10%. I want to point out that's less than police and fire currently pay. I apologize for the length of the description, these are very complex matters, and believe it or not, these are summaries, we are not including discussion of survivor benefits and disability benefits, simply for ease of presentation. So now we move to the public safety POA and local 230's proposal for new employees. You'll see again the current number of benefit and the city's proposal, which the city's proposal is intended to meet the cost requirements of the current draft ballot measure, where it would be no more than 9% on the city's cost. We have proposed a defined benefit program, and it has a maximum of 45%, but the accrual rate is 1.5% per year. There's an age 60. Again, same feature to retire earlier. The highest three consecutive years for final salary calculation, then the cost sharing is 50/50 on all costs of the plan for new hires. New hires would pay 50% of the normal cost and 50% of any unfunded liability that may be created in the future for their benefit plan, and SRBR eliminated. On the right column, that's another pers formula, it's different than the opt-in formula. Again, it has a 90% maximum, and the range of accrual rate, 2.0 to 2.7. Again, that depends on the years of service. Pers

has charts you can print out from their website so you can see exactly how it works that if you retire at 50 you'll get 2%, and it grades up to 2.7%. CPI capped at two, employee indicating they'll pay a maximum of 2%, city would pay the difference, we assume from the proposal and SRBR being eliminated. The POA has, in their proposal, included a sickly payout proposal. The city has made proposals on sick leave payout. It isn't a per se retirement benefit. It is a benefit that was negotiated, and we are negotiating that. Outside of retirement reform, although this proposal has a sick/leave payout proposal in it. The reason some people think about it as a retirement benefit, although it's not, is it's payable when someone retires. It's paid out, for example, the general fund pays a portion of it or whatever, it's cash paid out, not out of the retirement system. So the city has proposed to eliminate the sick/leave payout benefit. The current benefit depends on how many hours of sick leave you have, but it can be 100% for all accrued sick leave. Police and fire have proposed to be able to purchase retirement service credit with it. It's a feature that's allowed in the pers plan. Again, at this point, we don't know the cost implications, but they have proposed to elimination it, but then instead be able to buy retirement service credit with it. Now, moving on to retiree health care. The current benefit for all employees, police and fire, the plan pays for eligible employees 100% of the lowest price plan for single or family coverage. For new employees, the city is proposed a very different structure, which pays a certain dollar amount, which is not an uncommon retiree health care benefit, depending on how many years of service. Right now, 15 or 20 years of service, they receive the medical benefit, whether you have the minimum or 30. The benefit doesn't vary. The city's proposal is to give a better benefit or increased benefit, depending on the years of service. Police and fire have proposed for new hires that the plan pays 50% of the lowest-price plan for single coverage. Because of the very, very high cost of retiree health care benefits, both for the city and employees. This is a benefit the city and employees are sharing 50/50 in the normal cost and unfunded liability. We have proposed to try to lower the cost of retiree health care by introducing what's referred to as a high deductible plan, and we have that proposal made for all--- actually, all employees fed and police and fire. Stay in the plan or opt out, it would be status quo on the retiree health care benefit. So, that's the end of my attempted to be brief summary of what we have read in the proposal. Moving on now to the proposals we received from the IFPTE local 231 affiliated bargaining units. The one thing I want to point out again, what's different, as I mentioned before, they are not moving into an opt-in program or second tier, although it has the same options. Current employees, I'd like to take a brief moment to summarize the current benefits. They are different in federated. We don't show the maximum there, but the maximum is

75% of your final average salary, which is achieved at 30 years of service. Employees can retire in 30 years at any age or at 55 with at least 5 years of service. The final average salary calculation is based on 3% a year. The normal cost, as in the police and fire plan, is set by the city charter with an 8 to 3 split. The unfunded liability for the pension benefit is similar to police and fire, currently 100% paid by the city, and we have the SRBR check. The city proposal is the same as you saw for the police and fire plan. It's reflected in the most recent proposed ballot measure. It essentially keeps status quo on all benefits for current employees, with the same exception as I indicated before. The CPI being reduced to 1% and based on the CPI. The normal cost would be stay the same in the 50/50 split-- pension only there. Yes, that is the same, sorry, to remind myself there. That is the same 5% per year increase in sharing of the unfunded liability up to an--- the unfunded liability is intended to be split 50/50, but moderated with a maximum employees can know it can increase more than 5% per year. So on the proposal that we received from IFBD, from what we can tell based on the written proposal, it is status quo throughout all of the elements, so there's no change for current employees. Now, voluntary election program, same as the opt-in program, call it an opt-in program. The current benefit again, only for comparison purposes, the city proposal--- not going to go through it again. That's the same as it was for police and fire. You can opt in the current amount an employee has accrued would not change. The future years would be 1.5. The phase of an increased age is different, however, it phases into 65 as opposed to 60 for police and fire. However, employees could retire earlier with an actual equivalent reduction. Status quo on the cost sharing, so again, on the city's opt-in program, the city would continue to pay the 8 to 3 split and all of the unfunded pension liability. In the column on the right, the proposal we received from IFPTE for the opt-in program, it would be 2% per year, also for future years of service, and instead of the 1.5 in the city's last proposal, the age and years of service would be 60, but with ten years of service, a minimum required, so that's a difference between the proposals. Average of highest 36 months, again, is similar to the three years. We talked through exactly how that works and whether there's an intended difference between the city's proposal and IFPTE's proposal. The cost sharing would remain the same. 8-3 split for normal cost and the city paying 100% of the unfunded liability and they are proposing to eliminate SRBR. I did want to point out, what we read in the proposal from IFPTE is potential incentives they wanted to explore for people to opt into it. It's undefined, but includes examples that could be wage increases for people to have to opt in, so we're looking forward to having a discuss with them, what their proposals are, so we can include that in our cost estimates or savings estimates. For example, if you provide a wage increase for somebody to opt in, that's

going to have to net out from potential savings, so until we know exactly what incentives might be, it's hard for us to know exactly how much the opt-in program would save. Now, moving to new employees. Again, I won't go over the current benefit, it's just there for comparison purposes, and the city proposal that we made to them on Friday afternoon is the same proposal we had made to the police and fire unions a week or two ago, which is a defined benefit plan for IFPTE, it is a change in the city's initial proposal, to put new employees in social security with a potential defined contribution match. We have moved from that in our proposals and are now proposing a defined benefit plan at 1.5% per year at age 65 retirement, same issue being able to retire earlier with a reduction in benefit. Three year final average salary at 1%, and the normal cost on the unfunded liability in the city's proposal being shared 50/50. Again, the new employees would be sharing 50/50 in the unfunded liability, but it would be administered as part of the city's pension plan. Moving to the right, the proposal made by IFPTE has a 2% per year accrual rate, a retirement age of 60 with ten years of service. CPI capped at 2%, you can see the difference versus 1%. The normal cost would be split 50/50, but we believe the unfunded liability is intended to be paid by the city, but again, all of these comments I'm making are subject to meet and confer sessions to make sure we understand elements of their proposal correctly, and we'll quickly adjust our summary to the council and public as we learn more about their proposal. So that's the end of my, again, brief summary of the proposal. We did want to summarize the cost savings of the city's most current retirement reform savings. If we start at the line at the bottom, the 117.2 to 161 million, a couple points to make, again, important to emphasize that the range in savings is based on the difficulty of knowing how much an opt-in program will save, so part of the savings we know from the city's proposal, if no one opts in, would come from employees staying in the current tier but paying more for that level of benefit, so we know that's a minimum savings if no one opts in. At the outer range, if every employee opts in, we can estimate what that is, so that's a reason for the range, again, how we achieve that \$117 million--- reading from the bottom up, the change in the retiree health care plan by proposing a high deductible plan would save approximately \$18 million. Keep in mind, these are all fund numbers, not just general fund. Reducing the cola to 1% for current employees and current retirees. And then the range between \$55 million to approximately \$99, that is the estimate of our proposal on the opt-in program and the additional retirement contributions. As we know, it's been reported both in the proposal that we received and also followed up in the media that the union's proposal is estimated to save \$467 million over five years. Again, we're trying to compare apples to apples. These numbers I'm showing you here are annual, whereas their estimates are cumulative over

a five-year period. So we're looking forward to the negotiation sessions that we have to understand the cost estimates that they have achieved, and most importantly where the cost savings are. There are no changes for current employees, so it must be in the other elements, and so we look forward to understanding that. One of the other issues we need to better understand for the IFPTE bargaining units, as you know, they are three bargaining units in the federated retirement system, so we need to know if the cost systems are attributable to the cost savings for those bargaining units or all employees would make that change. Those are questions we really look forward to talking with them and providing the city council and public with additional updated information as we go. These are the negotiations sessions that we have scheduled. As I indicated at the beginning, we have an October 31st time frame with the five bargaining units to reach an agreement on all matters, but on the potential ballot measure, that's a different type of bargaining that we've discussed with the council before, and that has a deadline if the council were to still want to put something on the ballot for March, we are very mindful of the time frame, so we are very mindful of the October 31st time frame, so with police and fire, we have asked them for every possible meeting date that they are both available between now and October 31st. We have made the same request of others. We have scheduled the 5th, 12th, and 20th with IFPTE, and with the other five bargainings, again, these are retirement negotiations, we have at this point only one additional one, the 12th, and the association of legal professionals picked twice a week they reserved between now and the end of the month. Of course, we are--- the city is open to adding any time for negotiation sessions that we need to be able to conclude the negotiations. And that is the end of our much longer open session presentation that we have, and we will provide an update to the city council and public at the next open session presentation.

>> Thank you. I have a few people who want to speak. John Lucar and Nancy and Jeff Welch.

>>> Mayor and council members, good morning, I'm the president of associations of architects, AEA and on behalf of all of IFPTE local 21. We are all committed to working on pension reform with the city and have signed the framework to work with the city on a costed out actually sound proposals. We hired one of the country's best, if not the best actuary to work on this. We spent a lot of money, time, and effort in developing a proposal that will reduce normal costs by almost 50%, and then we show up on Friday to negotiate with the city and get the cookie cutter proposal that was drafted three days prior. Prior to even getting our proposal, and this proposal is costed

out, city staff and negotiations said it's estimated. It was not actually verified. They rejected our proposal based on an estimated proposal. We look forward to your proposed study session on October 17, even though city staff and negotiations said it's not worth while and we shouldn't be doing it, but in the meantime, we look forward to it. Thank you very much.

>> Good morning, IFPTE 21. First, we want to support the memo authored by council members Pyle, Rocha, and Oliverio to conduct a study session. We urge you to support this memo. We believe you really do need clarification of our proposal in its best done by the actuary, so we do support that. We are--- we have actually founded over 467 million dollars in reduced pension costs, if the city would realize these proposals were accepted. And I do have to say when John McCarr said the city rejected, in two short days after receiving our proposal, the city rejected our proposal, all the work, the actuary sound and countered with a cookie cutter proposal the A, B, and C slot. We think you should value us to really figure this out. When the city team, when I mentioned the editorial and suggested the idea of a study session because it was mentioned in the editorial, and then the city staff said that it would be a waste of an hour to have an actuary in front of you because you wouldn't get it. So please, we all need to come to good sense here, and I encourage you to take me on in everything we said, because we have our whole team that had written that. We were shocked and disappointed on Friday because of our hard work. When it comes to the slides, we do encourage you to--- we look forward to bargaining tomorrow. Our attorney will be joining us. The city asks for our actuary, but at the same time they do not provide their actuary involved in those bargaining sessions. We look forward to tomorrow's session, and the dates are incorrect. We said jointly to be determined future dates in October where we'll be doing two times a week. So again, the city is not being accurate in their report.

>> Good morning, and I apologize for my attire. I just got off work this morning. Happy to address in front of you, though. It's been a couple of months, but I'm here in behalf of firefighters. I wanted to encourage you to support the study session. I think it's important we air out these issues in front of you so there's complete understanding and clarity on all the issues we're bringing forward. As echoing the comments of the previous two speakers, I would encourage you to take that opportunity so you can have a full and complete understanding from both sides, so we can compare the apples to apples. We are raising the retirement age, the opt-in portions are solid, the

actuarial studies have been costed and they are accurate. I think you can see that. You can bring all the experts on both sides and we'll have a clear and patent discussion over the issues so you can all have a great understanding, and we look forward to meeting with the city. So it's premature for comments on our proposal at this point. I think for Mr. Gurza, but we look forward with meeting him and going through the proposal in full detail so he can have a clear understanding of where we sit and what we're proposing, and I think you'll be pleasantly surprised we have the legal options to find savings for the city and stabilize the city's economy and its employees and take care of it fairly and honestly, so thank you very much.

>> That concludes the public testimony. Councilmember Rocha?

>> Thank you. I have a question on process. We rejected the proposals?

>> No, we did not.

>> Okay, their impression then is---

>> Based on the fact the city made a counterproposal pursuant to city direction on a second tier.

>> So as far as negotiation processes, isn't that seen as a rejection?

>> You can see it as a rejection, but in a bargaining process, the idea, as we would all hope, is to move the parties closer together. And making a proposal shouldn't, by itself, stop the negotiation process based on council direction. To summarize the proposal that the city negotiators made on Friday afternoon, it is--- it was related to a second tier. As I indicated in my presentation, the city's proposal we had made to IFPTE was social security. Embedded within their proposal was a second tier that was a defined benefit, that as you saw, had an approval rate of 2%, among other factors. What the city proposed was a defined benefit, so we match there. We're moving off of social security. The accrual--- the benefit, however, is not quite as expensive in the city's proposal in that it has a 1.5% accrual rate. If you take a 2% accrual rate on this side and social security on this side, the

city's proposal based on council direction moves closer to their proposal than where we were, so there's movement. If the city were to change its direction in the future and want to increase from 1.5% to more, there's room to do that. Yes, we did not accept the proposal, but we made a proposal that actually, what we believe, moves the negotiation process forward and moves the parties closer together. Rather than otherwise our proposal would have been social security for new employees and theirs would have been a defined benefit at 2%.

>> Was that explained to the folks, because for them to show up here and get the impression otherwise, as you described it, it sounds a lot more collaborative. It's apparent they didn't feel that way.

>> Apparently not, and although clearly we're trying as best as possible to provide information to the public, this proposal was made very public by the press conference and all of that. We are really looking forward to getting to the bargaining table and having full discussions. We have a lot of things we want to discuss with them about their proposal. Again, as you hear, there's an interest in having a study session on the 17th. We have bargaining between now and then, so unless something changes, we continue to meet and confer and based on the current council direction.

>> Thank you. Another question on the framework, refresh my memory, I'm not embedded as much as you are. The framework that we agreed to, the mutual agreement about costing out proposals, was that something that was in there? I don't remember, honestly.

>> Yes, there's a sentence in there that it would be supported by analysis and data, is what it says, so we have provided cost estimates of the city's proposals that you have authorized us to do, and they have indicated, as you've heard here today, that their estimates have been developed by an actuary by the name of Mr. Tom Loman. We are not requiring Mr. Loman to attend. We need to be able to answer questions from us about their proposal so we can come back to talk to you about it. They've done analysis, we have as well. We need to fully understand it. For example, how do you get to the \$467 million. If they need Mr. Loman to help us answer at the bargaining table, that would be great. We're not having Mr. Bartell, our actuary at the table, because I don't believe our bargaining team needs him there. But the most important next step about these proposals is to

get to the bargaining table, be able to fully discuss them so that we can understand them as the negotiators, and be able to continue to negotiate between now and the 31st.

>> The difference in terms between cost estimate and actuary analysis.

>> Some cost estimates do not need an actuary. For example, the city's proposals may not be actuarially based. The issue about estimates is an important one, however. When an actuary does an estimate. The reason we're saying estimates is Mr. Bartell doesn't have the full evaluation data, meaning all of the data of every participant and every employee you would do when you do a full evaluation. I don't believe Mr. Loman has that data either. They do estimates, so anything that we obtained or anything they obtained is an estimate, even if it is from an actuary, because it isn't the plan's actuary and they haven't conducted full actuarial investigations.

>> I don't know if my colleagues have more questions. I've sat up a number of times and heard the significance for pension reform, that's why I was one of the co-signers of this memo, given what I heard this was a significant pension proposal, and also to the point that right now the explanation you gave me in terms of difference of opinion, the value seems extremely high for us to do that. It doesn't have to be that date. I'm not wedded to any particular date, but I strongly believe that type of format to allow folks to talk and better understand each other, for some reason there seems to be better communication here than at the table, and that's a concern of mine. That's just an impression, but I am entitled to that impression. With that, if there's any other questions from my colleagues, I'd like to move to direct staff to find a date for study session. Thank you.

>> Council member Pyle?

>> I want to say with great, great earnestness that I really appreciate the time, the effort, the money that you put into bringing forth an offer that is very, very realistic and very, very hard won, so I just want to thank you for that. That's great.

>> On the study session idea, I think it's a fine idea as long as it's not something that stops the negotiations, because we get a lot of negotiating to do, and I don't hear anybody saying we'll stop negotiating until we can have a study session, because in addition to these five bargaining units there's another six we still got to negotiate with, and hopefully over the next week or so we'll narrow down some of the issues and we may have different proposals in front of us in ten days or so. Who knows, it's negotiations, so I want to make sure the staff continues to work and the bargaining units stay at the table in order to deal with the issues and answer the questions in all directions so that we can, you know, make some progress. But having a public discussion, an expanded discussion, like we have this morning I think can be helpful, and I think the date of the 17th is probably the most likely date, and we should probably talk about it maybe rules on Wednesday, so your motion was to have staff figure out a date. If we can have them bring that to rules on Wednesday, we can sort it out, but I say the 17th, congress member Rocha, because now and the 17th we're not going to have the entire council in town probably. Based on the travel schedules I've seen with things going on, so the 17th is probably the first time we could have a study session along those lines. That will be the first time we could have a closed session meeting most likely as well because of the absence of council members, so we need to look at the date of the 17th and the 18th and try to figure out how to get all of this work done. City manager?

>> Yes, mayor, thank you. As the council's considering this recommendation, I want to reinforce something you just said, and it kind of goes back to a comment Nancy made, and that would be Nancy Ostroski. It's critical the negotiations continue. There could be, you know, movement on either side between now and then, and the other thing that's very important to me is that the actuarial estimates and their foundation be understood by the bargaining teams to the degree of their meeting between now and the 17th, and it should not be something that is aired for the first time in front of this council. I think it puts the council in a horrible position to get into point/counterpoint, and the direction of your negotiators, which they are acting on, you know, continue to be clear in that the negotiators understand what you all hear during that public forum.

>> Council member Liccardo.

>> Thank you, mayor. Forgive me, Alex, if this was already covered. I was in late because of a class helping until this time, but I had a question about the proposal in its current form, if the council were to suddenly adopt this without any change of the charter, would it be effective, or would you still need to go to the vote to revise the charter?

>> Well, there's a few points, councilmember Liccardo. The city's proposed draft ballot measure includes many other elements beyond what's included in the proposals. That's one issue. The council would have to decide which elements would you want to move forward, apart from an opt-in program or else where. Now, as to whether or not we could accept the proposals as drafted without a change--- we need to analyze that further, but one issue that comes to mind is in the opt-in program, there's a cost sharing change and there's an 8 to 3 split on normal cost. So there's a question outstanding as to whether that would still be required. Among other of the elements in the draft ballot measure not included in the proposal.

>> Because the split is in the charter, you believe, at least at this early stage, you haven't had a chance to discuss the issue, but you believe you'd still need a charter change anyway?

>> I do believe so, but I'd defer to the city attorney.

>> The simple answer is to the extent they fall below the minimum benefits in section 1,500 and sections that follow, you would need a charter change.

>> So if we were to go to the voters in March, even with this proposal, even with the proposal put forward by the consortium of unions that have offered this, and I appreciate any creative thinking that they bring to this proposal-- or this very difficult challenge that we have, we would still have some challenges around seal beach, I would assume, about how long a proposal must be in front of a set of unions at the negotiating table before we actually can put something on the ballot and whether or not that proposal can change substantially at the 11th hour. Is that right, those concerns would still exist?

>> Well, to the extent you're bargaining and discussing the ballot measures and what you ultimately come up with, I think that's the purpose of the bargaining, so yeah, are you going to be able to meet your deadlines, I think, is really the issue.

>> Right.

>> That really is depends on what happens to the bargaining table, I think.

>> I guess the reason why I raise this question is--- where I'm going with, is at this point, Alex, has anyone communicated with you they are willing to waive seal beach requirements around the extent to which the proposals--- let me back up for a moment. I believe, if I've been informed correctly, that there are seal beach concerns raised if the city suddenly pulls the rug out and puts a different proposal on the ballot then what has been explicitly discussed in negotiating sessions, is that right?

>> Yeah, just for people that may be listening who don't know what the seal beach is, seal beach is named after a court case that talks about the obligation to meet and confer over a proposed ballot measure to the extent the proposed ballot measure affects wages, hours, and conditions of employments, which many do. That triggers our meet and confer obligations. They are different than regular retirement negotiations. One of the key differences is there is a set deadline. Since you, the city council, have a right to put something on the ballot, we know we can back up the dates and want to be concluded with our negotiations so you can put something on the ballot. We have to meet and confer in good faith with sufficient time to discuss proposals, so the question is we have been at this now for several months. The first comprehensive proposal was several weeks, fully understand these proposals, and if the city were to make a counterproposal to have sufficient time, if it brings the parties together, closer, that's great, but if, for example, we were to make a different proposal that takes us further away, that's a very different challenge. One of the questions we have for the bargaining units, which we don't yet understand from the writing, is all of this in lieu of any ballot measure whatsoever. Is it a proposal outside of any ballot measure or is it intended to be part of a ballot measure and a counterproposal to the city's draft ballot measure?

Those are questions we don't know. The reason we don't know is we haven't had an opportunity to have a discussion at the bargaining table to be able to fully understand their proposal.

>> Okay, I think I understand the quandary at this point and, I guess, my concern is obviously, we want to have meaningful negotiation and deliberation over whatever unions may propose. It seems to me, as we get closer to this deadline, we need to be concerned about our seal beach obligations, and if there's going to be meaningful negotiation, at some point require a waiver of those requirements to allow them to be able to have negotiations, or else we are going to be locked in to some extent, and that's a very real concern for me.

>> We don't have the same agreement with everyone, but with these five bargaining units, what it states is the parties agree to meet and confer in good faith and complete the negotiation process by October 31, 2011. We've been very mindful of the progress and keeping an eye on the 31st with the end of the process.

>> Council member Kalra.

>> Thank you. Thanks for the presentation, and I appreciate colleagues that put forward--- I agree with everyone up here that no one suggest negotiations stop in the interim, but rather this would be an opportunity for us to fully vet the proposal before us and to have the actuary that actually prepared it. Having an actuary from our side there, even if it may not benefit, how could it hurt? In other words, oftentimes actuaries are given information and look at that further and so on, but there may be some benefit to having a actuary from our sides there as well.

>> You're correct and we try to use our actuary in as judicious as a way as possible in terms of expense. We don't believe we need to have him at the table at this point. For example, we're not needing to get into the actuarial detail. Right now we simply need to understand their proposals in full by having a discussion. Seeing it in writing is different than walking through it and being able to ask questions. For example, does the IFPTE proposal estimated savings assume all bargaining unites? We don't need an actuary to ask that question and receive an answer. Once we understand the proposal, then we can have our actuary start looking at it, and if necessary, have Mr. Bartell and Mr. Loman talk at the table or by phone. Mr. Loman, if I understand, is not a

California actuary, he's in Maryland, I believe. So at the bargaining table, the most important part is making sure the bargaining parties understand the proposal and that's what we're looking forward to IFPTE and police and fire.

>> And I agree with that point, however, the analysis is going to require actuarial opinions from both sides, and so that's a key part of us understanding is not just, okay, I think--- I don't think it's overly complex to understand what is being offered, but the implications of what's being offered is equally, if not more important, from what my leagues are suggesting, so if they are going to have their actuary there, if they are offering something or putting something on the table, what does that really mean? Our entire budgeting, our entire--- all has to do with estimates. None is hard and set, we're doing everything based on estimates. Same thing here, they are putting forth proposals, we need to know what the estimate cost savings are and if they have their actuary there, how do we counter that, if it's just an estimate, of course, it is. Everything we're doing is an estimate. I think it may be appropriate, even if, again, even if we can't expect an actuary in all incidences. We can get a sense of whether an estimate is accurate. So it doesn't hurt to have the actuary there. If it's the matter of an expense of having an actuary there, this is a pretty big and important issue and having an actuary there for a study session just to listen to the opinion of their actuary and to be able to vet that, maybe not get an instant answer, but a week or two later, after hearing the justice session, I think they are accurate or they are not sound for this reason or my opinion is it's going to be more of this number. It seems to me it could be valuable to us, since the study sessions are for the benefit for us to better understand what's being proposed, that it could be helpful.

>> Council member Kalra, our focus is getting to the bargaining table and asking questions, and whether we have an expert at the table, part is we don't want to cause delay because our actuary may not be available, so again, our bargaining team is fully capable of asking some of these questions, and it doesn't mean there's not a value to actuarial estimates, they are very important.

>> I'm suggesting the study session.

>> One of the things we want to make clear, if you have a study session on October 17th, or whatever date you choose, we don't know where we'll be in the bargaining process on that date. In other words, we hope to fully

understand the proposal. We may have made counterproposals, they may have made counterproposals. So we're looking forward to tomorrow, because tomorrow we have bargaining sessions.

>> I understand that, but it doesn't ask the question of why we can't try to have the actuary there on October 17th.

>> I don't think we're saying we can't. I think Alex was, perhaps, describing the issue of having actuaries at the table and clearly of having actuaries if they can get their actuary here and we can get ours, we'll endeavor to do that.

>> That's why I clarified for the study session. Once the numbers--- once each side has an opinion based on actuarial numbers, that's their opinion, and you go from there. But I think it would be helpful for us when the bargaining units have their actuary presenting as to what their proposals may mean in terms of cost savings. It will be helpful for us to have our actuary there to have comments or if we have questions or if there's a difference in opinions. Especially because we're on a short time line, and in terms of, you know, the seal beach requirements and such, the seal beach requirements still require negotiations, so if they are putting forward a proposal that's a countered proposal and after you have further clarification and yes, this could be something that we put in place, that the city's suggesting that that's part of negotiation process, so I think that's what we're supposed to be doing rather than, again, holding on to the language that we have and pushing forward of October 31st date without taking in any counter proposals or any negotiation, even if what they put forward is ultimately deemed not enough, it still needs to be negotiated, or I believe that's the requirement of seal beach. It's not just the formality of sitting down at a table, it requires a back and forth.

>> Absolutely, council member Kalra, and I think as I described in the earlier presentations, your position, the city's position has changed dramatically in terms of the fiscal target has been reduced significantly as well as the first ballot measure and second, clearly we can continue to make further modifications in proposals either inside the ballot measure or outside the ballot measure between now and the conclusion of the negotiations.

>> Council member Herrera.

>> Thank you, mayor. First of all, thank you, Alex, for the presentation. I also want to thank the bargaining units for bringing their proposal. It's welcome. I think it's great that we have folks at the table representing our employees that are bringing proposals, and on the positive side of this, I do see there has been some movement, and talking about on the city side to support the idea of a defined benefit program, because I think that has been something that we have been wrestling with, and there, you know, there's definitely differences of opinion about that, but I think the idea of looking at that and trying to support that going forward, I think that is a really good example of the city moving in a different direction, so I'm heartened that there is less of a gap between us right now. I'm going to look at the positive side. I think we need to find anything positive we can, because it's going to take some good will on both sides to try to come up with a solution. I don't know if in the end--- it sounds like we're still going to need a ballot measure to move forward. In the end, we need to solve the problem, you know, we need to solve the problem, and this problem is big and it impacts all of us, our residents, our employees, everybody, so I'm really encouraging everybody to keep working at the table. I do support this study session. In fact, I called for this a long time ago, that we need to have more light on this problem, people need to understand it and I think we're still looking at that, because it is complex, and so I think the more light shed on it the better, and I look forward to having these--- having the proposals discussed and, yes, I think it's a good idea to have our actuary there too, although I heartily support what the city manager said, which was to keep the bargaining moving forward, making sure both actuaries are giving input so that continues to move forward, because that work is very, very important, but the study session, I think, will be very good in terms of us all understanding what these proposals are and having that understanding in public. I think that's going to be a good thing, so I will support the study session.

>> Council member Oliverio.

>> Thank you, mayor, I want to encourage discussions. If everything were to stop, I think the public session would not be as good as it could be. So I wanted to encourage that from all sides. Thank you.

>> Council member Rocha?

>> Thank you, mayor. One question in follow up to Liccardo's about the deadline or date we have for October 31st. I think this is more of a question for Dennis. The deadline for council decision for the March election, can you refresh my memory?

>> It's roughly December 6th plus or minus a couple days, I don't remember the exact date, but 6th of December.

>> I did want to add on to that, I read one sentence of the time frame October 31st, there's an important element in the next sentence, which says if the parties are unable to reach a agreement on retirement reform by October 31st, the parties proceed to impasse. Then it talks about the impasse. Impasse procedures are mediations, so we are very mindful and hopeful we reach an agreement by October 31st, but we need to build in time if we don't, we have the month of November to participate in impasse procedures.

>> One last comment. Whether we like it or not, next fiscal year is coming, and we're facing a disaster, that's why these deadlines are important, because one thing we can't delay, that's July 1st and implementing a very difficult budget. On the motion for the study session, all in favor. Opposed, none opposed. Okay, we'll take this up at rules, working on the dates and things related to this, and we're going to adjourn now into closed session and back here at 1:30 for the open session agenda.

>> Mayor Reed: (gavel strike) Good afternoon. I want to call the San José city council meeting to order for October 4th, 2011. We'll start our meeting with an invocation. Councilmember Rocha will introduce the invocator.

>> Councilmember Rocha: Thank you, mayor. I'm very excited to introduce today's invocation. We have Branham high school choir, home of the Bruins. The director of the chorus activities is Barbara West. She took this choir to this choir to the American Music Performance Invitational for Mixed Choirs in April in Los Angeles for a mixed benefit and raised over \$3600 for the Los Angeles harmony project. The choir will perform Je La Vu Leve, and a folk song, coffee grows on white oak trees. Thank you to Barbara and the students for taking time away from your school schedule to be here today. It is very much appreciated by me and the mayor and council. Please come on up. [∂ Singing ∂] [applause]

>> Mayor Reed: Next we'll have the pledge of allegiance. Please stand for the pledge. [pledge of allegiance]

>> Mayor Reed: First item of business will be the orders of the day. Are there any changes to the printed agenda? I have a couple. We need to add a ceremonial item as 1.5, a commendation to king Velasquez, Javier Mendez and AKA gym. And Item 7.1, the City of San José community choice aggregation initial feasibility study, we need to defer until October 25th. Any other changes to the agenda? Motion is to approve orders of the day. With those modifications, all in favor, opposed, none opposed, those are approved. Pretty note that we will adjourn this meeting in memory of San José purchasing manager Gordon Johnson, who passed away unexpectedly on September 4th. Julia Cooper I think has some additional words.

>> Good afternoon, Julia Cooper, acting director of finance. I just wanted to say a few words about Gordon. He started with the city in 2004 and was promoted to purchasing manager in 2006. During his oportune you're he supported many city departments in their purchasing requirements and worked closely with the city attorney's office on the purchasing policies and procedures. He was very industrial in working with the environmental services Department to establish the City's environmental purposing policy, EPP as it's known. His knowledge and contributions to this area are widely recognized and he spoke on the subject at various conferences including the annual California association of public purchasing officials conference in January. He was a friend and mentor

to many and was well respected by his co-workers. His personality was infectious and staff on the 13th floor in finance, will remember his greeting how are you this fine City of San José morning? He accepted all of his assignments with zeal. He was a veteran of the United States navy and served his country in the Vietnam war. He was very much a family man and I had the honor of recognizing his life achievements at a celebration his family had several weeks ago and it was very evident by all the family and friends there that he was very, very loved and appreciated. Today he's survived by his wife Marla and his children Melissa, Michael and Mara, who are here today. So thank you for sharing Gordon with us. He was a very special man.

>> Mayor Reed: Julia, thank you for the comments. Next item would be our closed session report. City Attorney.

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

>> Mayor Reed: We'll now take up our ceremonial items. I'd like to start by inviting Vijay Sammeta, Rich Davies, Chief Ron Levine and Sergeant Ronnie Lopez to join me at the podium. Today we're recognizing the month of October as cyber security awareness month in the City of San José. Cyber crimes like identity theft affect estimated 430 million people last year and cost \$388 million in losses. Every day there are people out there working to combat these types of crimes. Vijay Sammeta's team is constantly monitoring threats to the city's computer resources. Also working to combat cyber crime are the men and women of the rapid enforcement ally computer team, known as the react task force, specialized investigation and prosecution of cyber crimes. Infraguard, a collaboration between the FBI, the private sector, nonprofits and academia combats malicious software and other attacks on our information infrastructure. The most important thing we can do as individuals to protect ourselves is become educated on cyber crimes and take the appropriate actions. You'll have a great opportunity to learn what that means on the Thursday, October 13th, when councilmember Pete Constant in cooperation with U.S. Department of Homeland Security, will host San José's first-ever cyber security summit. You can register for this summit or event bright or for more information on this important educational event, visit Sjdistrict 1.com or contact the District 1 office. I thank these folks who have joined us who are laboring on our behalf every day to protect us from these kinds of crimes, and I do have a proclamation.

>> All right, thank you sir.

>> Thank you.

>> Thank you, Mr. Mayor. I'm representing about 1500 infraguard members here in the San Francisco Bay Area. And we are a public-private partnership with the FBI and we've been in existence since the mid 1990s. So we're here to help. We represent all phases of industry in the area, and the private sector. So great job.

>> Mayor Reed: Thank you. [applause]

>> Mayor Reed: We're going to try to get a photo here. Okay, thank you. Now I'd like to invite Councilmember Campos, George Max, Ernesto Moreno and Manuel Valerio to join me at the podium. So we can commend First Tee of San José and Fry's electronics in recognition and appreciation of their service and commitment to the children of San José and for hosting the PGA tour community day as part of the frys.com open week. It's coming up real soon. I think Councilmember Campos is going to give us some of the details.

>> Councilmember Campos: Thank you, Mayor. Good afternoon. Today I would like to acknowledge Manuel Valerio and Fry's Electronics for their extraordinary work in the City of San José and in the Silicon Valley for being the title sponsor of the Frys.com open that is being held October 3rd through October 9th. This event brings notoriety, prestige and focus to San José, Silicon Valley, while supporting charities like the first tee of San José. Having said that, I also want to recognize executive director George Mack and Ernesto Moreno from the First Tee of San José who have helped impact the lives of over 8,000 youth since 2005 by providing educational programs that build character, instill life-enhancing values and promote healthy choices through game of golf. In addition, I want to add that the first tee program has provided education to all children, regardless of the ability to pay for services, through its scholarship program, enabling children of all backgrounds, a chance to play golf and achieve success. Together, frys.com open, the first tee of San José will once again be hosting the PGA tour community day at Rancho Del Pueblo golf course on October 5th as a golf clinic for youth as part of the tournament week. Now I ask Mayor Reed to please present a commendation to first tee of San José and fry's

electronics in recognition and appreciation to their service and commitment of the children of San José for hosting the PGA tour community day as part of the fry's.com open week. If you would like to speak.

>> Thank you, Councilmember Campos, Mr. Mayor, members of the city council, audience here with us today. On behalf of Fry's electronics I'm very pleased to be here to share in this moment. We appreciate the recognition. We are very honored and proud to be able to bring the PGA tour to Northern California, to the Bay Area, and here to Silicon Valley. Certainly as mentioned by the councilmember, in addition to the prestige there's a great deal of economic benefit which comes to our communities as a result of this PGA tour. But having said that, it is also very noteworthy that many charities, many local charities benefit from the proceeds that are generated by the tournament. And we are very proud to partner with many of those charities and particularly first tee of San José. You've heard mentioned the wonderful work they do with the children here and the great things that they do for the community. We're humbly honored to be a part of that and to promote community day with the PGA tour and with first tee of San José. So again on behalf of fry's electronics thank you to the community and to the community of San José for this very significant honoring and commendation. We're very honored and thankful. [applause]

>> Mayor Reed: Thank you. Now I'd like to invite our disability awareness day planning committee to join me at the podium. Councilmember Constant who does most of the heavy lifting on this on behalf of the city council is not able to be here today because he's traveling. But today we're recognizing October 6th as disability awareness today in the City of San José and we've gathered some people up here to acknowledge. Disability awareness today is a celebration of unity and inviting the entire community to participate. The event promotes awareness and appreciation of people with differing abilities. It also provides educational opportunities to the general public to understand the barriers disabled people encounter. The hope is to empower those with differing abilities through providing information and workshops that provide resources. The City of San José has ensured that all new capitol projects meet the highest standards of accessibility. I and the city council have proclaimed the sixth day of October 2011 as disability awareness day in the City of San José and we are encouraging all residents to educate themselves on issues affecting persons with disabilities and Francisco Valenza is going to say some more. Francisco.

>> Thank you, mayor.

>> Mayor Reed: And I have that proclamation to give to you.

>> Thank you, mayor. I think the mayor just read my notes, because he just said everything I was going to say. Thank you mayor and thank you to Councilmember Constant. Unfortunately he's not here. A few of us there has been a larger group that has been planning this event for the last year. We have been very fortunate and blessed to work with the City of San José as well as the valley medical foundation in sponsoring this event. Myself, I work for San Andreas regional center serving -- we serve persons with developmental disabilities within four counties, over 14,000 families. Everyone here is a representative of their own organization or entity that serves individuals with disability. As the mayor said it's going to be a festive day with a lot of information. The primary purpose of hosting this event was for the community to understand the needs and the challenges as well as the abilities of persons with disabilities. So hopefully everybody will be able to make it. We welcome everyone and if by chance there's rain we're going to try to figure something out but hopefully it doesn't rain on Thursday.

>> Mayor Reed: I think the mayor is usually in charge of the weather. So no rain on Thursday, is that okay with you? Thank you. We thank you for being here, we appreciate it. Don't forget your excellence. Like to note that Councilmember Constant is the council liaison to the disability awareness foundation. [applause] Now I'd like to invite Councilmember Herrera and the Hom family to the podium as we recognize October 4 as food allergy awareness day in the City of San José.

>> Councilmember Herrera: Thank you, mayor Reed. I'm honored to welcome Brian Hom and his family to join us today. Brian is here with his wife Kathy and their sons, Brandon and Steven. And the city today is proud and honored to proclaim October 4 as food allergy awareness day. It is significant to bring consciousness to food allergies, as they can be severe, especially when someone becomes anaphylactic. A life-threatening reaction to any type of allergy, such as certain foods, drugs, insect bits and latex. To raise awareness, the food allergy and anaphylaxis network and the Hom family will be commemorating the life of B.J. Hom by hosting a memorial 5K

run and walk this weekend on Saturday, October the 8th, at Lake Cunningham regional park. B.J. Hom was the son of Brian and Kathy. A young San José resident who in 2008, at the age of 18, tragically lost his life due to anaphylactic shock, when B.J. unknowingly ate a trace of peanuts to which he was allergic. Brian Hom and his family suffered a tragic loss of their son and most of us would have understood if they spent their time privately mourning this loss and didn't do anything else but that isn't what Brian's done. Brian knowing and dealing with his grief has actually decided that he wanted to reach out and help others. And wanted to help other people who were dealing with these same kind of severe food allergies and so he has put every bit of his efforts, he and his family have worked to put together this memorial run and the B.J. Hom, memorial 5K run and walk will raise public awareness and raise funds to provide advocacy education and advanced research on behalf of all those living with food allergies and anaphylaxis. I hope we can help them meet their goal. Supporters around the country have already raised \$1.5 million and are continuing to try to reach for this \$3 million goal. They are already half-way there and continue to host organized walks to help fund food allergy consciousness and programs in order to provide understanding, hope, and networking opportunities for those affected by food allergic. And let's remember to save a life. So come out and join them, join us at Lake Cunningham regional park this Saturday, October 8th, there will be fun and games for everyone including live entertainment, a rock climbing wall, a video game van, human hamster balls, a silent auction, great raffle prizes and more. So for more information you can -- or to register you can visit www.foodallergywalk.org. Or view the calendar on my website at www.sanJoseca.gov/district8. And with that said, I'm happy to present this proclamation. I'll have the mayor present the proclamation to Brian Hom and his family proclaiming October 4th, 2011 as food allergy awareness day in the City of San José to raise awareness and help residents join the efforts of B.J. Hom's family, and the food allergy and anaphylaxis network. [applause]

>> Dear Mr. Mayor, and members of the council and the people who are in attendance here. I want to thank the City of San José for recognizing the growing problems that are occurring with food allergies. 15 million Americans suffer from food allergies, of which 6 million are children. One out of 13 children are now born with food allergies. Peanut allergies alone which killed my son has tripled in the last ten years. There is no cure. Only avoidance. It was a tragic day on July 1st, 2008, when we had planned a special vacation to take my son from his graduation from high school and 18th birthday and we flew down to Cabo to celebrate, only to find out that we went to the

resort, we ate at the buffet, and he basically told me dad -- these were his last words -- my throat hurts, can you get me some cough drops? I got him the cough drops, he walked away, and some lady came to the resort arcade and told me, sir, you need to get to the room. And when I got to him, his face was pale, his lips were blue, and he was gasping for air. So he ended up collapsing. Basically two and a half hours after our landing he was dead. So I've been dedicating my last three years to find the cure, and find the cause, because nobody should have to lose a child to food. So please join me on Saturday for the food allergy B.J. Hom memorial run and walk, and let's find the cure so nobody else has to suffer a tragic loss like my family has. Because it's something you'll never get over, and it's you'll never want to experience. Thank you. [applause]

>> I do have tee shirts to present you.

>> Mayor Reed: Thank you very much and thank you for your work. Now I'd like to invite Councilmember Kalra, Kane Velasquez, Javier Mendez and AKA Gym to join me at the podium. It is fairly common for us to recognize world leaders and world champions here in these chambers, but it usually is software, hardware, bioscience, information technology. Today, we get to do something a little bit different as we commend Kane Velasquez, Javier Mendez and AKA Gym on recognition of their athletic excellence in appreciation of their commitment to the city of San José and Silicon Valley. Councilmember Kalra has some of the details.

>> Councilmember Kalra: Thank you, mayor. I also happy to have up here with me Councilmember Xavier Campos. As the mayor said, it's always an honor to present a commendation or proclamation on behalf of the City of San José, and over the years I've done that with my colleagues to elected officials, business executives, community leaders. But it's not every day that I have the honor of presenting a commendation to a world class athlete, and Kane Velasquez is just that. A world class athlete recognized around the world. His impressive resume includes being a two-time all American collegiate wrestler at Arizona state, and since finishing his college career he has quickly risen to the top of the mixed martial arts world. Compiling an undefeated record in nine professional bouts. Culminating with his victory of course over Brock Lestner in October of last year, thus winning the U.F.C. heavyweight title. So I'm proud to welcome Kane not only for his impressive athletic accomplishments, not only because he's the first heavyweight champ in history that is of Mexican descent, but I'm also proud to

welcome Kane because he has spent his entire professional career with the American kick boxing academy which is a San José institution. In fact this past April I had the honor of attending the grand opening of the new AKA Gym in my council district in South San José. There I had the opportunity to meet Javier Mendez, the owner than and head trainer of AKA Gym, and there were other MMA royalty that are there for the opening, including Hershel Walker, the former football star. I offered to show him some moves, but he looks just like he did when he played in the pros, and I looked like this, so I didn't do that. A little more about Javier. Javier is a former two-time former kick boxing champion, not only has he found one of the most respected training facilities for professional mixed martial athletes, he has also opened his doors to anyone in San José who just wants to get in better shape, and lead a healthier lifestyle, and frankly, gain some confidence. He opened the gym 25 years ago, and that was before most people even know what MMA was, and now we can see the heights to which it has really gone around the world. And so I really want to thank Javier for making San José one of the epicenters of the mixed martial arts in the country, but also around the world. So it's certainly with great admiration that I welcome one of the Godfathers of MMA, Javier Mendez, and certainly one of our living legends, Kane Velasquez, here to San José City Hall, and it is with great appreciation that we present the both of you with this commendation and also recognizing AKA gym, and I want thank you both for your commitment to athletic excellence and to the City of San José. And finally, Kane, normally I would wish you good luck against junior Del Santos, but I know you don't need it. So anyway, mayor, thank you both.

>> Thank you mayor and councilmembers. You know, I came to San José in 1966. You know from Mexico. And I'm proud to say that this is the only home I know. And I'm proud also to say that I've been welcomed into the family of San José, so thank you very much. [applause]

>> I just want to thank San José for the acknowledgment. At AKA we have some of the world's best athletes. Every time we compete, we represent San José well and we're going to keep doing that so thank you.

>> Mayor Reed: And there's a message here for all of the councilmembers who are still recovering from last athletic injuries, don't get in the ring with this guy! Our next item of business is the consent calendar. Are there matters councilmembers want to pull for comment? I have some requests from the public to speak, we'll take that

in a minute. 2.8 I believe will be pulled for the D.U.I. enforcement awareness program. Others, right, we'll take the public comment, see if that inspires anybody else to pull anything else. Mr. Wall you want to speak on the consent items.

>> David Wall: Good afternoon, Your Honors, with reference to the ceremonial item it's kind of a bad timing event when you decide to close the Rancho Del Pueblo golf course and kick the golfers off, and then thank the PG&E folks and First Tee folks and fry's electronics. That's bad timing, I think. On the rules report of September 19th, there are all important but first taking the San José Mercury News out of the notification loop if that's the intent of going to social media, that's not a good idea. San José Mercury News provides a good service. With the exception of their editorial board. The other issue is the San José police chaplaincy program. Not many people know that it's operating on strict donations. So at this time period I'd like to see that each one of you cough up \$1,000 for that program. On the city settlement issue with Dawn Murril, this item 2.sen I'd like to thank the City Attorney for stepping in to solve this problem. But this issue should never have happened. This is an issue of substandard management at ESD all the way up to the office of City Manager for not being able to catch this. But I also put the onus on line personnel out at water pollution control that they should have reported this misconduct immediately to their supervisors and stopped this type of behavior immediately. But the date of 2005 is of interest. Because yesterday, at the transportation and environment committee, the pretreatment program was discussed. The EPA audit started at 2005, that's when the administration order was begin. Which shows a pattern of poor decision making at ESD. Councilmember Constant's trip to Korea is of interest because it deals with the incubator program another failed attempt of this city for monitoring taxpayer funds. Thank you.

>> Mayor Reed: That concludes the public comment on the consent calendar. Any items besides 2.8 to pull for discussion? Is there a motion on the balance? Motion to approve the balance of the consent calendar. All in favor? Opposed, none opposed, that's approved. Item 2.8, Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Just a question regarding the methodology of how check points are set up or spread throughout the city. If there's someone here that might be able to give us some feedback. I think this is a great program. Anything that we can do to get those intoxicated drivers off the road we have to

do. It's a good investment. But I also want to make sure that enforcement is equitably done throughout the city. Thank you.

>> Yes, thank you for inviting me to the meeting today. In regards to the D.U.I. check points, there's a couple of things that we do when determining locations and what have you. First of all, the police districts, there are four of them throughout the city and we have a policy of rotating through those four districts to spread it out throughout the city so that we are not focusing on one particular geographical area in that city. It's constant, it works in a counterclockwise fashion, so to speak. And once we get into a particular district we start to look at and analyze crashes that are associated to drunk driving. We try to make a difference by making with the checkpoints. The biggest thing about a checkpoint is that the arrest is not necessarily the -- what we strive to do. It's a consequence of what we do. The biggest point with the checkpoint is the education. That's why we have the OTS van that we purchased several years ago. We put it out there, we have the signages, we have the press releases, we want people to know where we are at and we want people to know about the D.U.I. check points, that is the foremost, the number one goal is the education aspect of it. Do you have any questions sir? Does that help you?

>> Councilmember Campos: That does. You know, a lot of times in my neighborhood, association meetings that is a question that comes up a lot. They want to know, why is there always a checkpoint in the same location? But I mean obviously that makes sense. You know you're going to look at that time statistics and where you see the problem and you know that is where you focus your attention. That helps a lot.

>> We actually have pin-mapping. We pin-map locations and traffic accidents associated with it and we hook at that data, go back to the data. In regards to specific locations we look at where it would be safe for the public, where it would be safe for the police to put up a checkpoint. We also consider those factors as well.

>> Councilmember Campos: Okay, those are my questions if --

>> Mayor Reed: Councilmember Rocha had a question as well.

>> Councilmember Rocha: Thank you, mayor. I had one question. My guess this might be for the City Manager more. Trying to find out where I read it but there was a reference to quantifying the cost to overtime and not regular pay and just want to understand that process and policy a little better if you don't mind.

>> City Manager Figone: Sergeant can you help with that response?

>> I can. Can you narrow down your question sir and I'll try to help as best I can.

>> Councilmember Rocha: Why when we budget this we budget this for overtime pay rather than just standard normal pay?

>> That is a factor that OTS determines. As part of their grant they are only willing to pay for overtime fee structure such as the officers working the actual event. The officers working the event is actually the biggest source of fees there is. But as part of that grant, that is all they're willing to pay, is the overtime fees. I do not know why that is the purpose. But essentially that eats into almost all the grant itself with the exception of the data specialists and a couple of little things we use to help support the actual events.

>> Councilmember Rocha: Okay thank you.

>> City Manager Figone: And councilmember probably operationally to add staff as opposed to programming overtime is more in the department's control is the other operational reason.

>> That's correct. We don't have specific D.U.I. teams that's all they done. We actually use our officers in collateral basis, in addition to their normal duties, we don't have the staffing to have designated teams to do this.

>> Councilmember Rocha: That's pretty much what I expected, wanted to confirm, thank you.

>> Mayor Reed: That concludes 2.8, is there a motion?

>> Councilmember Campos: Move approval.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. 3.1. Report of the centering.

>> City Manager Figone: Mayor I have no report today.

>> Mayor Reed: Item 3.3 we'll take up after 2:30, that is the interviews for appeals hearing board applicants. Item 4.1 is an agreement of the housing trust of Santa Clara County for the neighborhood stabilization program. I have a motion to approve. I think I have a request to speak on that. We'll take the public testimony first. David Wall.

>> David Wall: I'm opposed to this program, because the funding is not sustainable. Let me quote on page 2. "An increase in complaints over the last year about homeless people impacting the downtown business community has highlighted the lack of an outreach component to the county's homeless services system." The term homelessness is a very politically convenient term. It's an umbrella term. It doesn't describe criminals, it doesn't describe vagrants, it doesn't describe either the criminally insane or just the insane, drug addicts, drug dealers and what have you. I do not support giving those following elements any consideration outside of being rounded up and put in jail or some form of a municipal stockade. These homeless programs are misrepresented to the public. They don't realize exactly what they are and they rely on the compassion-ness of the term homelessness versus the actuality of the people that the downtown residents are having to deal with as well as the downtown business community. And I think honesty and fair trading is important here when you're dealing with dispersal of public moneys, that can't be sustained over time. For a project that is ill-defined. Thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion. All in favor? Opposed, none opposed, that's approved. Item 4.2 is our next item, that is funding for Destination home case managers and the continuation of the downtown homeless outreach program. Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you, mayor Reed. I just wanted to take this opportunity to thank the director of housing, Leslye Corsiglia and her staff as well as Jennifer loving from destination home and Jenny Nicholas from EHC life builders for all the wonderful work they do in trying to end homelessness in the City of San José. And I also wanted to recognize Mayor Reed and former supervisor Don Gage for their leadership to bring forward the issue a couple of years ago to end homelessness in the City of San José as well as in Santa Clara County. We all know that in time when budget are tight and resources are scarce the wonderful work that these people continue to do really will help us reach our goal in the next three years to come. So just really grateful for the work that they continue to do. And with that I move for approval.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion is to approve. I have some requests from the public to speak. Councilmember Liccardo did you want to speak before or after?

>> Councilmember Liccardo: I'm happy to wait. I just had a question for Leslye and --

>> Mayor Reed: Let's take the questions first.

>> Councilmember Liccardo: Okay, great. I echo the praise of Vice Mayor Nguyen. Leslye, I just had a quick question about the people to whom we may have access already that can provide some assistance and some help. Obviously not expecting that they're going to have the training necessary to provide case management in any way, but specifically I'm talking about the Groundworks team that works with Pbid in the downtown. I know that we have ambassadors that work through Pbid to help folks find parking, provide eyes on the street and also to accommodate obviously where folks need services in various ways. To be able to direct them to services. And I know from having conversations with some of the ambassadors downtowns, that many of the employees are familiar enough with various homeless residents in the downtown, well enough to know them by name and know who's going to be found where, et cetera. And being able to leverage that familiarity that they have with the

situation on the ground, is that something that we're in any way able to take advantage of, whether it's through this funding or in the future?

>> Leslye Corsiglia: Thank you, councilmember. Leslye Corsiglia director of housing. Actually, staff has had conversations with the downtown group, and Groundworks, about how we work together. We can provide a report back on what those -- what that conversation looks like. The response and having this downtown outreach program which we've had now for a period of time was in response to some specific, largely business needs. And we had businesses that were reporting that they were having difficulties as -- and including leasing space. And we wanted to have a more targeted approach. We need all the people we can, so we need to leverage other resources. We only have so much money. So I -- you know we can report back on how we're doing that.

>> Councilmember Liccardo: I don't want to force anyone to write any more memos than they need to. I'm just really interested in seeing are there opportunities of collaboration and if so --

>> Leslye Corsiglia: That conversation is ongoing.

>> Councilmember Liccardo: Great, thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I did read through memo and scan through it again. Trying to find a term of the program and the effort for this how long we're going to be doing funding allows for.

>> Leslye Corsiglia: I don't have the answer for that right off. Typically the term is for a year period.

>> Councilmember Rocha: Okay.

>> Leslye Corsiglia: I can get back to you.

>> Councilmember Rocha: Just curious, reading through a length that we're funding for, but thank you.

>> Leslye Corsiglia: Thank you.

>> Mayor Reed: Thank you, Leslye, I think that's question. Public comments at this time. Jennifer loving, David Wall.

>> I'm Jennifer loving with destination home. I wanted to address Item 4.2A. Back in July, many of you participated with us when we did our housing a thousand registry and during that time we identified close to a thousand homeless folks and started the beginnings of a registry. We know we have about 2500 chronically homeless folks in our community, we've identified a thousand. We're starting the services program in part with the money that we're asking y'all for today. We're matching that with \$125,000 that's been raised from the private sector for the supervisor for the project as well as we've secured 30 to 40 units of permanent housing so far. We're working on the other 20. We'll be starting with a caseload of 60 of the most vulnerable folks. We anticipate that most will be from San José, and we know that 70% of everyone that we've encountered so far has been in this city, so thank you for your support.

>> Mayor Reed: Brandon Davis, and then David Wall.

>> Hello, my name is Brandon Davis, I'm a senior case manager at EHC life builders and on behalf of EHS life builders I'd like to thank everyone for consideration of our refunding. Since its inception, the program the downtown outreach and engagement program for homeless individuals has case-managed 85 homeless individuals in Downtown San José providing supportive services and helped in various areas of need. In that time we have made contact with -- we have made 1500 contacts, and we have housed 17, retaining housing for 14 individuals. We have a shelter bed list that is filled at capacity. And we are constantly collaborating with Groundworks, downtown community members, first Christian church and various other nonprofits in the community. I thank you very much for reconsidering us for funding.

>> Mayor Reed: David Wall.

>> David Wall: Going to read something into the public record. Prior to that though the last two speakers obviously were special interest groups. And Mr. or Councilmember Rocha you should take special note that your question was not answered by a director of a department in full session, that's unacceptable. On page 2, "On January 14th, 2010, housing, urban development announced that San José was one of the 56 recipients of NSP 2, that's neighborhood stabilization program 2, this is borrowed money from the federal government from foreign countries. This funding, that part was my wording. The consortium was awarded 25 million dollars to implement various NSP 2 activities including secondary financing for income-ineligible purchasers for foreclosed homes and the acquisition, rehabilitation and resale of foreclosed properties." This is a boondoggle. This is enriching a series of people that federal government our taxpayer expense under some guise of housing chronically in-housable people. This is basically a mechanism for some people to get rich at the detriment of us all. Further let me quote. NSP 2 has a 25% set-aside requirement that requires 25% of those funds be set aside for the benefit of individuals earning less than 50% of the area median income period close quote. There has been many comments made by councilmembers wondering why we have homelessness in San José. It is because we are a magnet of giving taxpayer moneys away to people. Until you stop it make people accountable they're going to come here because they're intelligent they're going to have a free house to keep coming. All of you are pandering to this element, you should be verbally chastised in various means. But as far as today goes I hope you learn the lesson especially councilmember --

>> Mayor Reed: Sorry your time is up. That concludes the public testimony. Any questions for the staff? Is there a motion? There is a motion already. On the motion all in favor, opposed, none opposed, Councilmember Liccardo abstaining. So that motion passes. Taking us to item 7.2. Post construction urban runoff policy and related Municipal Code changes.

>> City Manager Figone: Staff is available for questions.

>> Mayor Reed: Mr. Wall wants to speak. Let's do that first.

>> David Wall: This report before you as a matter of fact some of the questions that you might ask of staff, with reference to source control activities, when you start to have -- and reasonably so, not allowing dumpsters to drip and get into the storm drain or other items that businesses will have to pay to deal with. Are they going to become permitting dischargers? That is not really looked at in here. The issue about sidewalks, for example, I've been a long proponent to do away with sidewalks. I particularly don't have any use for them. They take up land. Aggregate, from an aggregate and cumulative point of view they take enormous amount of surface area away from rain to permeate into the ground. The issue of permeable services for parking lots for example goes against the grain of environmentalness. Because a lot of these vehicles drip fluids of all sorts of oils, coolant and whatnot. And you don't want that in the groundwater, you want that into a collection facility to be treated. A lot of this looks in my opinion is a further expansion of source control, in other words plant-funded sewer service and use funded source control inspectors for non nonpoint source issues. Now there is a hybridization here as far as these new form of dischargers and I think this needs to be perked out here a little bit better than in this report. That means the report is incomplete and therefore incompetent because of the vast amount of money you are paying for these salaries at that organization. Which means the City Manager also is not paid attention to the environmental services department. Thank you.

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

>> Councilmember Liccardo: Hi, I had one -- thank you, mayor. I had the one question about how we would obtain compliance ex post said, after the fact, of -- I'm looking now at recommendation number B3, which relates to prohibiting alteration, removal or failure to maintain storm water treatment measures without approval and adjustment to the development permit. And I'm thinking about situations in which developers or land owners may believe they can somehow or another alter whatever hardscape or ground area they might have, not believing they need a permit to do so, and then realizing after the fact, oops, they didn't get the permit. Are we going to have alternative measures or in-lieu fees as we do with one portion of compliance, are we going to enable them to

do that after the fact if they fail to get a permit as well? What I'm concerned about is the extent to which we may end up boxing ourselves in, particularly are with regard to a lot of development projects?

>> Laurel Prevetti: Thank you, councilmember, Laurel Prevetti, assistant director for Planning, Building, and Code Enforcement. This provision for enforcement is essentially aligned with our regional permit with the regional water quality control board. They are asking us to have some sort of mechanism when people want to do a site change. It is not meant to be punitive, it is more meant to be record keeping so when people do a site change it is consistent with the current regulations with respect to storm runoff. We aren't looking so much for in lieu fees because it is really the outcome of reduced impervious surfaces, and better water quality is the outcome that we are looking for. So we want to work with our property owners and provide them the options and essentially record whatever the appropriate change is through a development permit adjustment, which is simply an over-the-counter permit, so this is really not intended to be burdensome. I appreciate your concern for our infill projects. We are working with the regional board right now around some definitions around in-fill development to see if we can get some additional breaks for the very development that not only San José but also our regional agencies are looking for us to do so we're hope to have those additional opportunities available.

>> Councilmember Liccardo: Okay, thank you Laurel. This is just a one day permit as you see it?

>> Laurel Prevetti: That's right.

>> Councilmember Liccardo: Okay, that's helpful. Thank you.

>> Mayor Reed: Other questions? Don't know if we got a motion. Now we have a motion. On the motion, all in favor? Opposed? None opposed, that's approved. We'll now convene a joint city council-agency board meeting for the purposes of dealing with some revisions to the capital operating budget. We have one item on that agenda. Take a moment to move the staff around. That's item 8.1 on the joint agenda. This is not a joint item I take it. Make sure I've got it correctly described. I thought it was a notice for a joint hearing. In either event it's a hearing of the Redevelopment Agency and/or the city or both. But we're all here, redevelopment staff.

>> Dennis Hawkins: I believe it's just the Redevelopment Agency item.

>> Mayor Reed: Okay I stand corrected. Ripped Keith.

>> Thank you, mayor. I want to publicly thank the mayor and board for supporting the Redevelopment Agency in this most difficult time. I also want to thank the City Manager and City Attorney and their numerous staff that helped us continue to work with the agency on dozens of financial development and legal issues related to agency projects. I have five slides to explain our budget amendments before you. We're just waiting for it to come up on the monitors here. Is it up? It's not on my screen. Oh. Okay.

>> Mayor Reed: All right. Video's up.

>> Video's up. Thank you for your patience. Next screen, please. Okay, this is a proposed budget adjustments from our June 17th adopted budget. And covers several areas, our tax increment actually went up, from June to now. 1.1 million. I'll get into a little more detail on this as we progress through the slide show. Our land sales, it really, 11.6 million have to do with two properties that were actually closed, after the expected previous date before the end of the fiscal year. We have 231,000 more in tax increment for the housing set aside, the 20% funds. Personal service and our operating budget up a million and capital projects up actually 60,000, which rounds up to .1 million. Next slide, please. The top part of this table, the top table actually shows the change in increment from 2010, this is year-over-year, 2010-11 to 2011-12. So we've dropped down, as you can see, from \$184 million to \$180 million, which is minus 2.28%. We also had a supplemental assessment of \$1 million to the good. The problem occurs, this is unfortunately offset by \$5.3 million, almost \$5.4 million, rounding up. The line item is technically called anticipated reduction in tax increment. It's unanticipated. It has prior year's tax roll adjustments and so that brings us to a minus 4.6 for our year-over-year. But this is still less than the 5% decrease we proposed, we projected in our proposed budget in June. We were being conservative then. This unanticipated tax roll, it is a multi-year tax roll adjustment, that we are working with the county to see what their methodology was, and why it's such a big hit to our tax increment. The only good point is that of the regular tax increment,

decreased far less than we anticipated, and I think it bodes well for upcoming years on tax increment that we should be flat in the current year, when the year ends, we'll get those final figures in. The bottom table pretty much shows the same data, but the most important line is this bottom right-hand corner, the 1.1 million or to be exact, 1.155, 854, is actually more than we anticipated in the June budget. So we are up slightly from that. Next slide, please. I wanted to go over some recent property sales that the agency had since May of 2000. This includes our Fairmont annex retail of 3.9 million. The paseo retail of 1.9 million closed in June and then two more recent properties, central place just closed in September, 5.1 million. Two weeks from today, all the conditions have been met for next realty to purchase the fountain alley parking lot at 6.1 million bringing the total to 16.4 million. The -- we also have a purchase and sale agreement that we intend to close by the end of December for 3.5 million underway to be purchased by green valley and Brandenburg, it is the property right across from City Hall where all that green solar activity is taking place. And that would bring almost \$20 million in revenue to the agency. The central place and fountain alley lots were rebudgeted, that's that \$11 million, 11.6 million were rebudgeted from last year. This operating budget we're increasing \$1 million and I go into great detail of the board report of the rationale of that. Just want the board to know that is not new money, that is savings from all the reduction in staff we had over the last year. The bulk of that money is for keeping the current employees and also hiring staff needed to complete our information technology and real estate asset management. But mainly from all our financial obligations and reports that have to be done. This includes, I just listed some of them. Our consolidated finance report, annual finance report, our obligation statements, both the Eops, they call them, and Rops, those two reports are required under the state legislation that was adopted that we're currently in the state Supreme Court opposing that legislation. Our statement of indebtedness, our state controller's report, this adopted budget that I'm presenting did, our annual audit that doesn't even include our monthly cash flow and payroll and other required monthly reports that we need. In addition we're also paying about \$100,000 a quarter in unemployment insurance -- not insurance I'm sorry, for unemployment for those recently laid off. And then the last item on the budget is very small adjustment to our capital budget, \$20,000 for an assessment district repayment down in Edenvale where we cover the cost of some residential properties. That figure we budgeted \$130,000, it's actually \$150,000 this year. We can -- that payment it fluctuates every year and we only got it after our June budget was adopted and then our parking lot lease payments for three lots on the Alameda that was not in the

June budget and is a financial obligation and listed on our obligation payments. With that I'd be glad to entertain any questions you have.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor and thank you Richard for the presentation. Just had two questions. One is: I see that we have a \$6.5 million roughly economic uncertainty reserve slated for the end of this year. And I certainly recognize the need for keeping money to prepare for economic uncertainties. But I know we're also all very aware and concerned about who might -- what a successor entity might do in terms of grabbing revenue and recognizing the General Fund is currently assuming some obligations we would prefer it wasn't, is there -- can I ask you first what the thinking was around having an uncertainty reserve of that size for this year? What are we anticipating in terms of potential uses or concerns that would give rise to need to have a reserve of 6.5 million?

>> Thank you. This is the exact amount that was still in the adopted June budget that the board and mayor adopted in -- at the end of the fiscal year. I would say to -- I recommend that we keep that until we know how, in January, what happens with the state Supreme Court decision. I think we could come back to you then and maybe make an adjustment, either downward, if those funds need to be set aside for projects or other obligations, plus we're still very uncertain under -- with J.P. Morgan, looking at if any further requirements on our sort of the \$5 million that we already have in insurance. It's not technically insurance, but that's set aside for their certainty, in keeping our letter of credit going.

>> Councilmember Liccardo: Richard, I think that's part of where I was going. I want to understand, we already have \$5 million set aside for potential pay-down, we think.

>> We do.

>> Councilmember Liccardo: Dependent on the 6.5, is that right?

>> We have \$5 million.

>> Councilmember Liccardo: Then at this point are we -- what I'm concerned about and maybe this is really a question for Rick is, if a decision is handed down by Supreme Court in January is it too late at that point, does this money then become the possession of a successor entity?

>> City Attorney Doyle: That's a good question because the court decision could take immediate effect which would relieve the stay or -- that's currently in existence and we'd have to operate under the new law. So it's a good question, we'll have to get back to you on that. I think the concern that I have, on really the latter, given the uncertainty of the J.P. Morgan situation, I think there's time in the next couple of months that we can deal with the uncertainty, and -- but we still need to deal with J.P. Morgan first.

>> Councilmember Liccardo: I agree, I recognize the urgency of that issue. I guess maybe I would ask for consideration of -- as we think about the coming weeks, about whether or not it's possible to encumber the 6.46 million that we currently have in our uncertainty reserve with a current obligation that's already being pushed to the General Fund and thinking for instance the fourth street garage or convention center, if there's some ability to be able to shift that funding back, after January, if the coast is clear so to speak. At least to be able to have the funding encumbered and take that burden off the General Fund, if that's the way that the judicial winds blow. Hi Leslye.

>> Leslye Corsiglia: Hi, councilmember, Leslye Corsiglia director of housing. I don't think I can completely answer your question. I think we've talked about the way that the legislation works, AB 26, is there's a waterfall of debt. So the way that that \$6 million will work is it will go to pay debt that's owed. So it will go to the city anyway. There is no way for us to encumber funds that I'm aware of now given the constraints on that but it will go to enforceable obligations and that includes the city.

>> City Attorney Doyle: You're correct, there's no way to encumber funds by incurring a new obligation but to the extent there's an existing obligation, the fourth street garage the debt to the convention center, those are obligations existing.

>> Leslye Corsiglia: That's correct it will go to the city anyway because it's part of the water fall in what's owed.

>> Councilmember Liccardo: Okay.

>> Leslye Corsiglia: So last week when you looked at what Richard referred to as the Rops and the Eops, it's included in there.

>> Councilmember Liccardo: The only concerning I have is whether the city is in front of many of our other debtors in that water fall.

>> City Attorney Doyle: When you asked me the question about the court decision it's a question of timing and the city isn't -- as you know is not first or second but is in a subsequent position so we'll have to get back to you on that.

>> Councilmember Liccardo: Okay, thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Richard I have a question about process and going forward on any future budget adjustments. Do you foresee any significant dates that you have in mind for mid year or any other budget adjustments besides these just cleanup items as we go along?

>> No, I don't foresee that. We play have a budget adjustment needed when we get our final audit but we also still have, if we are retained as the Redevelopment Agency, we still do show \$1.5 million in our capital budgets for

economic development. So that we're putting also on hold until we see A what happens to Councilmember Liccardo's point I think the need for assisting the city, with its debt payments, and are also the -- what happens with our final audit that's coming up. We're working with the city on the final audit as we speak.

>> Councilmember Rocha: Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: I just wanted to second the sentiments of Councilmember Liccardo. In that to whatever extent we can get some determination sooner rather than later rather than waiting until the 11th hour of the court decision, I'd certainly like to see any obligations towards the General Fund or any way that we can get some of those resources for some of the services that we need then to pass through as quickly as possible.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I as well would rather lock in 100% of it versus only a fraction of it so I'm looking forward to Rick's reply. Thank you. Or our city attorney's reply.

>> Mayor Reed: I have some requests from the public to speak I'll take that now, David Wall. Followed by Mark Barton. No I'm sorry, that wasn't on this item. I got myself confused. Sorry for the excitement. I brief that concludes the council discussion on item 8.1. Is there a motion? Motion is to approve item 8.1. All in favor, opposed, none opposed, we're done. That is approved. We have the code compliance or the appeals hearing board interviews, we have four people to interview. And we'll take that now. I think we're down to four because anyway Thai Gopi is not able to be here.

>> Dennis Hawkins: That's correct, Mr. Mayor we have the first applicant here for you.

>> Mayor Reed: Okay, that's item 3.3. Welcome, thank you for your interest. Please give us your name because I'm not sure who is what in what order here, I don't have that.

>> Good afternoon, my name is Rajwant Bains.

>> Mayor Reed: Thank you for your interest, we appreciate your interest in serving the city. Could you give us a few minutes of comments about why you want to be on this board and we'll ask you some questions.

>> Sure. The reason I want to be on the appeals hearing board is it's another opportunity for me to serve the city and its residents. I currently serve on the human rights commission for the City of San José. I was appointed in 26 and I'm serving out my second term right now. And so the reason that this appealed to me is because I am a resident of San José, I've been living in San José since I moved here in 1987. And I have a desire to ensure that the city remains a safe, clean, desirable place to live.

>> Mayor Reed: Thank you. I have a couple of questions. First is could you just describe how you would go about handling the conflict that comes when you have differences of opinion? Perhaps you have a staff recommendation one direction, you have community people going in in another direction and maybe you have your own personal beliefs or something that might be conflicted with the law. How you go about sorting that out.

>> I'd like to mention that I'm also a trained mediator with the county of Santa Clara. So I have mediation skills. I have communication skills. What I would do is I would evaluate the facts before me and the evidence, the circumstances surrounding the events, and make an informed decision. I think it's important to focus on the issue and the situation and not the personality of the person. And to just take all the facts and make an informed decision.

>> Mayor Reed: Thank you. Other questions? Councilmember Liccardo.

>> Councilmember Liccardo: If I could amplify the mayor's question a bit. What about the circumstances where you see that the code seems to require one result, and you feel as though that's not a very just result. How do you come out in that situation?

>> Well, I think the whole goal of the appeals hearing board is to get compliance. And there's reasons that we have codes. And so I would be willing to work with the homeowner and the residents as much as possible. But I think the ultimate goal would be to gain compliance.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: So do you feel the enforcement of fees and penalties might be the only means to address a violation?

>> I think it's definitely one of the means that is currently being used. I know that sometimes we extend the time for people. Depending on their hardship and how hard they're trying to get compliance. I believe that it's not necessarily a punitive thing, when you do have administrative fees and penalties. But again looking at the greater good and looking at the whole I think that it's important that you know each resident and each person is responsible because it does impact the neighborhood. And so I think just you know helping the homeowner to communicate what their issues are and focusing on the situation making an informed decision.

>> Mayor Reed: Thank you. That concludes our questions. You're welcome to stay, you're welcome to leave, either way you won't be impolite. Thank you very much for your interest in this. Appreciate it.

>> Thank you for your time.

>> Mayor Reed: According to my list I think Gary pelton would be the next person.

>> Dennis Hawkins: Correct, Mr. Mayor, he's on his way in.

>> Mayor Reed: We'll take a few seconds getting people moved out of the waiting room into here. Mr. Pelton, welcome. Thank you for your interest in this appointment. We'll give you a couple of minutes to tell us why you're interested and then we'll ask you some questions.

>> Well, thank you, mayor. And hello, councilmembers. My name is Gary Pelton. I've been a city commissioner for 11 years. I started out the first five as a fill in term, fill in term, fill in term, and it was kind of neat. I got quite an education. The last six year I was traffic appeals commissioner, I was chairman of the traffic appeals commission. And I found that extremely rewarding because I got to deal with people, and their problems and resources. It was great! So I want to continue to do that. And I look at the appeals hearing board. I've been to some of your meetings before in the past. And I want to do that. So anyway, I hope that you all understand all of this. Are there any questions?

>> Mayor Reed: I think we'll have a few questions. I have one to start with. You already have experience in making decisions in conflict situations but I'd like for you to just talk about how do you go about reconciling what you may have, you may have a staff recommendation, you may have the law, you may have your community and your own personal beliefs about things and often these are in conflict on some tough decisions. How do you go about figuring out what to do on these conflicting situations?

>> I have a personal habit of reducing this all down to its simplest form. In so doing, I form a committee and then I listen to the committee, sometimes we do a flip-chart but most of the time we can do it verbally until we get right down to the nitty-gritty. And say this appears to be the problem, this may be the resolution. And then I take it from there as chairman.

>> Mayor Reed: Thank you. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Do you feel that the enforcement of fees and penalties are the only means to address a violation?

>> I definitely think that there should be a lot more violation and code enforcement follow-up on a lot of the structures that I've seen lately, yes.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Just to focus a bit on a portion of Mr. Pelton, to your left here.

>> Oh, I'm sorry.

>> Councilmember Liccardo: I appreciate that it's challenging because we're all around you right now.

>> Certainly.

>> Councilmember Liccardo: Voices are coming from all directions. Mr. Pelton to focus in a little bit on a question the mayor asked. If you are faced with a situation where you believe the code seems to require one result, and your view is that that's not really the right result, that there's a different result that's a just result how do you resolve that particular conflict?

>> I have to be careful and not speak as chairman but as a member. And then, at that point I may suggest that we review it, and offer my opinion. But it's up entirely to the chairman, the head of the board. Sam, does that help? Thank you.

>> Mayor Reed: Okay, I think that concludes the questions. Thank you very much for your interest. You're welcome to stay or leave, it won't be impolite.

>> Thank you very much.

>> Mayor Reed: Thank you. Our next applicant I think would be David Parker.

>> Dennis Hawkins: That's correct, Mr. Mayor.

>> Mayor Reed: Okay. Mr. Parker welcome back.

>> Thank you.

>> Mayor Reed: Thank you for your interest in this position. We'll give you a couple of minutes to say why you're interested why we should appoint you and then we'll have some questions.

>> Thank you, Mayor. Members of the Council. I was in this spot about eight months ago to be appointed to a vacancy left by my friend and someone I respect very much, Clark Williams. When I came into this position, members of this body had their reservations about appointing me, but I think during my tenure in this body I've proven myself to be an effective member of the Appeals Hearing Board. I think one of the most important things any commissioner can get from this is, growing and moving forward. And when I was appointed I didn't know to what level I was going to be having my eyes open to the issues around appeals and code enforcement and a lot of it has to do with the human factor. And I would come into a situation with my mind sort of made up based on the evidence that was given to us in our meeting packet. But then once you get the testimony from the appellants and the neighbors and the members of the community and the city staff, then it all comes together and you have to use that inner voice to weigh what's best for the city and the community, and for the appellant. And I think that's been the biggest learning experience during this and I hope to continue my service to the City of San José. Thank you.

>> Mayor Reed: Thank you for your interest. I have a question to start with. And now that you have eight months' experience on the board you probably have quite a bit of experience already in dealing with conflicting interests or

advice or situations. So how do you go about resolving what may be a conflict between staff recommendation, the ordinance, your own personal beliefs, the community, how do you work that out in the context of making those decisions?

>> Mr. Mayor, I think a lot of it has to do with working with my colleagues to compromise on what's best for the appellants and the city. Although we may have evidence given to us by the city about the case and what the city perceives it to be. Going into a case we have to be impartial, we have to be judge and jury investigating this. It is my experience on various boards and committees in the past to narrow down the scope starting from a bigger picture narrowing it down to get the information we need to make that decision. And using that information I'll draft a recommendation with my colleagues, for approval, based on those needs.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. You know, in your opening statement you sort of started getting to the question I've been asking. So knowing that there are people that just you know, it's out of sight, out of mind, the intent wasn't to blatantly violate, have code violations and then you have the other, the other extreme. How enforcement of fees and penalties, I mean that's our hammer. So how do you distinguish between the two and have you had those types of experiences already in your eight months?

>> Councilmember Campos, a lot of it has to do with staff, and I have to commend the staff because the staff of code enforcement and the appeals hearing board they do a phenomenal job on preparing us prior to the meeting. And I think that having that information that they give us based on the staff's recommendations for fines and fees and penalties going into the meeting and starting with that as the starting point and then narrowing down to what level the fines and penalties should be I think is what our duties should be. And I've had instances where it seems like a blatant violation of the municipal code and code enforcement policies, et cetera. But as I was saying earlier, you have instances where either because of death or foreclosure or loss of job, sometimes these things are out of people's control. And it's not intentional some of the time. But it's a matter of weighing what's in the best interest of the city. So if we're going to level -- if we're going to levy significant fines and fees and

penalties, that's not going to necessarily solve the problem. Because they can use that money to get their property up to code. So what we'll do is instead of taking the staff recommendation and saying okay, you have 90 days to get your permits and then another 90 days to complete the work, if we see a financial hardship or some other extenuating circumstances we'll set the time line a little further out as a compromise. Will say okay can you get the permits within four months and then can you have the work done four months after that? And then if they agree to that prior to our findings and our recommendations, if we can get them to agree on that then we have something to work with and say okay you haven't done this by this deadline and now we're going to issue the penalties and fees. Because we want compliance. We don't necessarily want to penalize everywhere property owner that comes before us. Some times we have property owners where it is so egregious and so repetitive, for example, foreclosed properties, we have recommendations from staff where the bank owns the property and no one's living in it and I personally don't have any objection to the city fining and penalizing banks for letting these properties be dilapidated. These impact the community. These impact people's property values so I have no problem penalizing banks for properties they let go into disrepair. But as far as people who are living in properties we want to make sure the compliance is there.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. David I wanted to ask about conflicts that you resolve just between your own views and the code. Code seems to require one result. Your opinion is, something other than what the code would seem to require. How do you resolve that kind of conflict?

>> Councilmember Liccardo, I think in my tenure, I have not had an instance where my personal beliefs are that -- where they conflict with city code. And, as a member of this body, it's not my responsibility to use my personal opinion and input my personal views as far as judges a case. I have to judge it based on the evidence that's given to us and what's given to us by the staff and when we ask questions and have testimony from the property owners that's what I have to base it on. And I'll use my personal judgment, based on the evidence that's given us and the testimony. But I'm not going to use my personal views to sort of carve out what I think policy should be. I mean, I believe that there are some instances where future policy could be improved. For example, we've had instances

where property owners have a property that's in violation of municipal code because they have an illegal inlaw unit or they have an illegal pool and that was not disclosed to them when they bought the property. And what we've seen in a couple of cases is, this property has been transferred from property owner to property owner to property owner and every time that happens, the clock starts over. And when a new property owner is cited by the city, for municipal code violations they basically say we didn't know about this, this wasn't disclosed to us and then we give them a time line. If they sell the property at that time and they don't disclose it to the new property owner, that new property owner the clock starts over.

>> Mayor Reed: Thank you, that concludes the questions. Appreciate your interest in this reappointment.

>> Thank you.

>> Mayor Reed: Last applicant would be Williams Murphy I think. Mr. Murphy, welcome, thank you for your interest in this position. We'll give you a couple of minutes to tell us why you're interested why we should appoint you and then we'll do some questions.

>> Most of my volunteer work has been involved with youth activity I've been involved with wrestling and football and softball and scouting. Now that my children are older, I thought it might be a nice opportunity for me to see how else I could help the community other than just through youth sports. And so I think the livability of our city is really important. And I have had some work with some of the code enforcement officers and I thought that might be a nice area where I could make some contribution. Especially now as the economy is tough, some of the properties in my neighborhood for example, are starting to slip. And it's affecting the livability of the city and the property values and so that's where I thought this might be an area where I could help.

>> Mayor Reed: Thank you for your interest. I have the first question and that is, can you talk about how you would go about resolving the conflicts that you are faced with, potentially faced with, or almost certainly going to be faced with, when you have maybe a staff recommendation, you've got an ordinance, you've got community

interests, and you have your own personal opinions about things, and sometimes, in fact, most meetings, they're not always lined up. How do you resolve that conflict?

>> Well, the first thing is finding out what the rules and the regulations are. I'm trained as an umpire, I've spend many, many years as an umpire. And one of my pet peeves is umpires that write their own rules. And I don't like that. I mean, we're rule enforcers, we're not rule writers, and so our job is to enforce the rules fairly so that the game can be played fairly. The kids expect that of us, the managers expect that of us and I would approach this job the same way. That is, what are the rules? The rules are passed by the council and those are the rules that the enforcement division is bound by. And so from that point of view, I would stick to the rules. The second part is, and this is mostly in my job because we have to do a lot of conflict resolution in my job is being heavy handed is usually unsuccessful. You can usually win the battle, you almost always lose the war. It is much better to get people to agree to an amicable solution. That's not always possible. I work in -- almost all my work is classified government contracts and there are security rules that we simply have to follow. So there's some times when you just have no option. You have to follow the rules, you can't deviate from them, whether you like them or not or whether you think they are proper or not. Sometimes you have to explain to people, this is what you have to do, if you can't do this, you can't work here. That's very rare, less than 5% of the time. Most of the time if you explain to people what you expect them to do and why you expect them to do it I found that in my personal experience that that works just fine. They don't always understand it but they do understand why it's supposed to be done. That's the approach I follow.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. So along those lines and my question seems to evolve more as I hear more. You sort of answered my question, but you -- sometimes you see blatant violators of code violations and some that just didn't know. So how would you go about balancing that?

>> Well, I remember reading in the Mercury News just recently I think it was Mr. Matthews who is the chief of code enforcement mentioned that 85% of the reported violations are taken care of with a letter. That seems to be

the right way to go is first let these people what they have been doing wrong and give them a chance to fix it and it turns out 85% of the time they fix it. That's Pacific. It lowers the burden on staff and very cost effective way of getting our communities more livable. It seems to me that's how you start. It's true that most people don't know the rules and don't know they are violating the rules. Give them the rules and give them a chance to fix it. If they don't fix it then I'm not much for second chances. When things are explained clearly to people and they refuse to comply, then I'm not for forgiving them more. They're not going to obey the rules and then action simply has to be taken. Because people can play a delay game and they delay longer and longer and longer and things get worse and worse and worse. And these things are contagious. As one property gets worse, that seems to encourage other properties to get worse. I think if we all live up to a higher standard we bring our neighbors up to a standard with us. And if we descend to a lower standard we can have an effect in the option direction.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: You answered my question so I'm going to ask a different one. Would your experience in the central intelligence agency help us track down some of these absentee land owners and mortgage holder?

>> Do I know some people who help you out.

>> Councilmember Liccardo: That would be helpful.

>> I'm just a scientist, you know, they never really told us the secret stuff. Because they don't trust us because we all talk too much. So -- but I do know some people who can do that sort of work.

>> Councilmember Liccardo: That would be much appreciated, thank you.

>> Mayor Reed: That concludes our questions. You're welcome to stay or leave, up to you.

>> Okay.

>> Mayor Reed: We are done with the interviews, correct?

>> Dennis Hawkins: Yes.

>> Mayor Reed: Now we are down to the voting. We have three spots to choose. So we have a ballot. Everybody has got a paper ballot in that page?

>> Dennis Hawkins: No, we've set it up for electronic voting or we could do paper. Whichever you prefer.

>> Mayor Reed: Well, let's go with the electronic then. Okay, so we have three positions open. After we make the selection of the people, we'll talk about the terms. Because there's some differences in the terms. Our first task is to vote for three. Again this is one you can vote no by abstaining. Vote for three at least, or less, I'm sorry. How long are the polls open? Everybody voted? One more to go, okay. All right, the votes are in. William Murphy has ten votes, Edgar David Parker has 9 votes, Rajwant Bains has 9 votes, so those are the three that we have selected. Congratulations, and thank you for your interest in service. We now need to decide the terms, and I would suggest that we ought to give Mr. Parker a full term since he already served a sub-term, and then allocate Mr. Murphy is full term and Rajwant Bains the sub-term, just based on vote count. That's open for a motion, however the council would like to do it. Motion is to do it that way. Discussion on the motion? All in favor, opposed, none opposed, that's approved. Thank you for your service to the city you do a lot of hard work, thanks a lot. Last item on our agenda is the open forum, unless I've made a mistake, open forum is it. David Wall, mark Barton and Judy sets.

>> David Wall: Good afternoon. Today Mr. Mayor we want to discuss about your interview in vanity fair magazine. Specifically, one particular quote which I'm going to quote. Quote: This is you speaking, your quote, as it is written. Could be wrong. When did we go from giving people sick leave, to letting them accumulate it, and cash it in for hundreds of thousands of dollars? When they are done working? There is a corruption here. It's not

just a financial corruption. It's a corruption of the attitude of public service. Close quote. Now, owing the fact that Mr. Lewis who wrote this article for vanity fair had other material errors in his article, it is foreseeable that he misquoted you. Because I run across people as saying well you got to remind the mayor about his vote, Mr. Liccardo's vote, Vice Mayor Nguyen's vote and a whole host of other councilmembers on reinstating 872.9870 hours of sick leave to the City Manager which if you do the math is a little over \$104,000 and change. Since that time, as of August 12th she has accrued over 1220-something hours, and she's entitled to every penny of that, as all city employees are entitled to their sick leave buyout. Why wasn't that factor mentioned Mr. Mayor with your vote? And some people said the mayor lies. I said no, no, no, the mayor does not lie. Perhaps it is just a statement associated with, I never thought I would get caught by making it. But you can respond, Mr. Mayor, and tell the world if that statement was truthful, or was a material misrepresentation. There are a lot more statements. But we'll talk about them later. Thank you very much.

>> Mayor Reed: Mark Barton, Judy Sepps.

>> Councilmembers, mayor. I apologize, it's been 35 years sin I've spoken in front of this council. My name's Mark Barton. I'm a San José native San José businessman father husband and co-chair of occupy San José communications committee. You all have probably noticed us. The reason I'm standing here today is because security has been kind enough to come down, and speak to us last night. Give us your ordinance regarding the use of City Hall's property. We as a group would like to stand our ground on the same count we would like to get along with this city. We're not at odds with the city. There is nobody in this room who not a member of the 99 percenters that I'm aware of. That includes all of you. We don't have an issue with the city. Or anyone else here. But what we do have an issue with is our society at large. There are a lot of angry people. I would like to think that the City of San José is going to be part of the solution, and support our voice. That's my wish. I am unfortunately here to tell that you there are people in my organization who, when they heard we would get kicked out, immediately were willing to pick a fight. That is not my wish. I'm a little bit older than they are. I don't think there's anything to be gained by the city having to defend itself in a court of law against a bunch of protestors. It is a waste of City Attorney and city finance money, surely not the interest of the public. I would hope I would enjoy

the council to support us and make some sort of room for us, so that we may continue our protest in a peaceful manner. I think security will tell you we've been respectful in regards to restroom use garbage and so on.

>> Mayor Reed: Your time is up.

>> Thank you for your consideration.

>> Mayor Reed: Judy Sepps. Followed by Judy Bender and Sara Jo Larson.

>> Mayor, councilmembers, I'm here in support of the family camp. My family this year, for the first time, along with other San José families, went to this camp, and it is absolutely amazing. Bringing back wholesome family and community values and activities. We plan to go every year and hope that the City of San José can preserve this family around community tradition. I'm wondering if they've come to decision about the future of family camp. No, okay so I just want to support lots of family members would like to see this camp open. Thank you.

>> Mayor Reed: Judy bender, Sara Jo Larson. Judy bender, come on down. Sara Jo Larson, why don't you move to the front. Come on.

>> Timed it perfect. Okay. Mr. Mayor, councilmen, councilwomen, City Manager who I love dearly for Chris Reed I mean Chris Moore, anyway, I'm here because I have a real serious problem. When I came back to you in February or March, I don't remember when, about my accident, that was caused by one of the chairs with the big wheels over at willows, I went to Dr. John Massey which some of you might know who is one of the pain and well management doctors in the valley. I have a problem with the city going through this company called Mitchum who is handling all of workmen's comp. I went to Dr. Massey, the program got denied, I went back to Dr. Massey and we got the shot of cortisone for my neck and my back and then I go back to Dr. Massey again, Mitchum denies the next treatment, and I call Ken Wright, and he says call these people. Well, I called these people, and they say call Ken Wright, he's your -- the one to take care of it. So he says it's city policy I can't do anything. Well here I get another letter, I went to Dr. Massey this morning and he tells me that this is not rocket science, that all you people

are setting on here that we put in office, that you can't handle this company that's taken over worm men's comp. And I'll tell you what, when a policemen has to go get a lawyer to get scar tissue removed from his knees, because of this company, something's wrong. He had to go and hire a lawyer to get this company to move and give his okay. I don't want to do that. I just want you to take care of the business that I was promised and the doctor is having to say I got to write him another letter. Every time that he has to write them a letter, Mitchum writes him another lawyer, I could have done and had that shot.

>> Mayor Reed: Sorry your time is up. Next speaker is Sara Jo Larson.

>> Mr. Mayor, councilmen, I'm here on behalf of the seniors, especially the handicapped seniors at Southside senior center. They want to put the -- the give me the words, lord, the boutique into our very small lounge and take over half of our lounge so they can turn the area along with another room into an exercise area with machines. Are they more important than our handicapped seniors? If they do that there will be room for five handicapped seniors in our lounge. The handicapped people with wheelchairs and with walkers, will not be able to get into the room. They will not be able to reach the seats to sit down. And there are a large number of them especially when the weather gets bad, that they have no place, they have to sit there with no place to go. Maybe out in the cold in the wind and the rain. Because they can't get into the lounge area. Is an exercise room more important than that? Most of these seniors can't even go on those kinds of exercises on the machines because they're not able to. We have, I think, three maybe four exercise classes, of different types in our senior center now. And a half a mile up the road there's a 24 hour exercise place where many of the Medicare people can go free. They've even got a pool and they've got people to arrange and help them with the right kinds of exercises. I'm here to fight for our lounge so we have a place or the our seniors that are handicapped to go.

>> Mayor Reed: That concludes your time. That concludes the open forum that concludes the meeting agenda so we are adjourned.