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>> Mayor Reed: Good afternoon. I'd like to call San José city council meeting to order for September 29th, 2009. I start with our invocation. Councilmember Herrera will introduce the invocators.

>> Councilmember Herrera: Thank you, mayor. I would like to thank the Sikh Gurdwara hymn singers for their joining us today, and I'd like to introduce this group and have them go ahead come forward, starting with their leader, By Man Mahan Singh, and By Man Mahan is joined by Hemat Baniwal, who will play the tabla, which is the drums down there, and a student at San José State. Nadeep Karer will play the harmonium and is also from San José State, and also Balshara. Karer. And I want to thank their families for joining us, as well. Today this group will be singing "I see no stranger, I see no enemy." While the Sikh community's native language is Punjabi, this group will sing in English today. This song title refers to Sikh scripture which quotes Sikhism's fifth guru, Guru Ajun Dev Jee. This scripture is a message of peace, reminding us to value the lives of all people. The Sikh community is an important part of the social fabric of District 8 and San José. The San José Sikh congregation has an estimated 3500 registered adults with approximately 10,000 people affiliated with the community in San José. It was originally founded in 1984, and the first phase of construction of the new facility, which by the way is a very beautiful iconic structure off Quimby Road, which you should all come by and see, was completed in 2004. This building and this community are a significant part of the landscape of my district. Sikh Gurdwara sits on 40 acres in the east foothills looking toward our great city with spectacular views. Eventually this structure will total 95,000 square feet. I'm grateful for the active role that the Sikh community plays in our community, from putting on wonderful events such as National Night Out this year to the charitral work that their members do every day. Through these efforts, the community stresses the Sikh community's central tenets: Hard work, sharing, and the remembrance of God. I'd like to thank the Sikh Gurdwara hymn singers for joining us today, and with that I'd invite to you begin the song. [Singing] [Singing] [Singing] [I see no strangers I see no enemy I don't think I don't think no one do I hate or condemn no one do I hate or condemn I see friends I see religion cast all I see shining face all I see was shining face it's smiling face his precious face his smiling face his gracious face I see no stranger I see no enemy I see no stranger I see no enemy wherever I look, God is all I see wherever I look God is all I see I see no stranger I see no enemy I see no stranger I see no enemy it's just as beautiful, all his design accept as beautiful all his design I learned this truth I learned this truth one word resounds, me and you one word results in in me and you in me and you in his being heard in me and you behold in his life I grow like a flower enjoying the light I grow like the flower in joy and delight in joy and delight in joy and delight I see no stranger I see no enemy I see no stranger I see no enemy wherever I look God is all I see wherever I look God is all I see

>> Mayor Reed: Please go ahead, please do.

>> Thank you sir. Honorable mayor and council, I do thank you City of San José, the council and the mayor and all the officials to give this opportunity to us. And the message was today, there was no enemy, what they're singing right now, everyone's equal. In the Sikh community, believe everyone's equal, all the nationality, all the country, everyone. So there is no horror, peaceful, everyone can eat breakfast, lunch and dinner, everyone. Very much, know, mayor knows more about its, so I will take no more time and thank you for everyone to being here and give us this opportunity, I'm Bob Gill. Thank you very much. [applause]

>> Mayor Reed: Thank you. Everyone please stand for the pledge of allegiance. [pledge of allegiance]

>> Mayor Reed: Our first order of business is the orders of the day. One modification to the printed agenda, item 3.4 will be heard before 9.2, when we get to 9.2. We will essentially hear those at the same time. Any other changes under orders of the day? Motion to approve the orders of the day. All in favor, opposed, none opposed those are approved. This meeting will be adjourned in memory of Donna ward, a senior librarian who passed away September 14th, 2009. Jane Light and Councilmember Chu have some remarks.

>> Jane Light: Thank you, mayor. Donna passed away on September 14th, at the age of 44. She worked for the City of San Jose as a children's librarian from 2001 to 2004, and then she became the middle school librarian Harker School. She came back to the city as a branch manager in July 2007. She had most recently served as the branch manager at the Berryessa branch and the pearl avenue branch libraries. Although Donna's tenure as a city employee was short, her positive impact on library customers, her coworkers, and library volunteers was both immediate and lasting. Everyone who knew her misses her quick sense of humor and her hearty laugh. She was

forthright and caring, an excellent listener, a first rate librarian who was also an outstanding manager and supervisor. Her staff especially appreciated her mentoring and encouragement to continue their educations and develop their careers. We extend our sympathy to her children, Miles and Grace, her husband, Grand Ward, and to her mother, Nancy Pritchard, a retired city employee.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, Mayor. The entire D4 team and I, especially my team members Stephanie Fong and Kathy Young, were deeply saddened for the passing of Donna Ward. We met Donna when she first started with the city at the Berryessa branch library in 2007. During her short time working in Berryessa, Donna quickly became an integral part of district 4, actively engaged and involved in the community. Donna was a strong caring woman and had been a great pleasure to work with. Our thoughts and prayers are with her family and her loved ones. Thank you.

>> Mayor Reed: Thank you. Next item is the closed session report. City Attorney.

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

>> Mayor Reed: We'll now take up ceremonial items. I'd like to invite Councilmember Constant, Nancy Kline and the owner of Stevens Creek Toyota, Steve Cornelius, to join me at the podium. Today we're recognizing a family-owned business that has been part of San José for over 38 years. Stevens Creek Toyota, which owns the Scion or Scion -- we're going to find out in a minute -- and Volkswagen dealerships that participated in a cash for clunkers program, Councilmember Constant has some more words because it happens to be in district 1.

>> Councilmember Constant: Thank you, mayor. We're very honored in district 1, to have Stevens Creek auto row, which you've heard me speak of many times in council meetings, it's important to our community for a number of reasons. The biggest being how much it contributes to our city's economic base with the volume of cars that are sold along Stevens Creek Boulevard. We have with us Steve Cornelius today who not only has multiple dealerships on Stevens Creek Boulevard, but has also been instrumental in bringing them from the Santa Clara side over to the San José side, which is really important to us. So we wanted to thank you, Steve, for all you do for the residents of all over the valley that get to come now to San José to buy their cars, whichever brand it is they choose to get from you. We're just thrilled to have you, and we wanted everyone to know how much we appreciate you individually, and your business's contribution to our city. [applause]

>> Thank you, Pete, thank you very much. It's a tough act to follow without musical accompaniment. I just want to say thank you to the City of San José. It's a great place to do business. It's been very good to our family. We've been able to expand and now have three locations on Stevens Creek Boulevard in San José. California may become the most difficult state to do business in, expense wise, for auto dealers. And I would just like to make comments that I hope the city remembers that the cost of doing business in San José needs to be commensurate with the communities around us. And it is a very -- the word is competition. And it's what we really thrive on, and exist as independent small businesses. So it's been a great run in San José and continued success for all of us, thank you. [applause]

>> Mayor Reed: Now I'd like to invite Councilmember Chu, Nancy Kline and Dr. Demotor Redi, founder of Solexant, to join me at the podium. Today we are recognizing Solexant, a company that's helping drive San José's Green Vision forward. Solexant is a winner of the 47th annual R&D 100 Award. Their solutions helped optimize energy achieving cost savings up to 50% compared to other photovoltaic technologies. And I think Councilmember Chu is going to say a few words, because they're in District 4.

>> Councilmember Chu: Thank you, mayor. In addition to all those great things you just mentioned, on the Solexant's high efficient, low cost, nanomaterial based solar panels, will enable commercializing of solar panels that are not dependent on government subsidies. Dr. Redi received his Ph.D. in physical chemistry from Osmania University in India, and has conducted postdoctoral research in University of Denver, and Princeton University. Dr. Redi has held technical management roles at Dow Chemical, Raychem, and Rockwell. So with great honor let me introduce to you, Dr. Redi.

>> Thank you, mayor and city council for this commendation. We're actually very happy to be here in San José. In this lean economy this year, we actually added employees to our company and we hope to grow in the City of San José. And the city is a wonderful place to do business. When we set up our pilot manufacturing line, all the permitting process was streamlined to single conference room where all the permits were very quickly authorized for us to construct the business. So to construct our plans So we're quite happy with the way things are going on. So a companies like us are a in a lot of pressure. When we think of building higher volume manufacturing lines, we get calls from all over the countries to set up our factories over there because they say if set up in a city, in another state, there is no sales tax, on the equipment you buy. So there are some tax benefits provided to companies like us, which actually encourage us to stay here and grow. So we encourage the city council to consider things of that nature. [applause]

>> Mayor Reed: Now I'll take up the consent calendar. Are there items the council wishes to pull for discussion? I have a request to pull item 2.5, agreement for public art at the airport, 2.8, funding commitment of CDBG funds to Legal Aid Society, and 2.10, regarding SB 402 on recycling beverage containers. Are there others, Councilmember Campos.

>> Councilmember Campos: Actually, I was going to ask you to pull 2.10, so I'd like to speak on that one.

>> Mayor Reed: Any others? Motion to approve the balance of the consent calendar. All in favor, opposed, none opposed, those are approved. Item 2.5 is the agreement for public artwork at the airport. I wanted this pulled because I think this ought to be deferred for a week. The artwork itself has not been posted online for public viewing. I think that's important before we spend \$300,000 so I'd like to defer this for a week. Get a motion on that. Motion is to defer nor a week. All in favor? Opposed? None opposed, that's approved. Item 2.8 is a funding commitment of CDBG funds to legal aid society of Santa Clara County. Leslye Krutko.

>> Leslye Krutko: Thank you, mayor. Leslye Krutko director of housing. I did need to read into the record some comments. Yesterday, September 28th was the close of the public comment period on the 2009-10 consolidated plan amendment which is to make this amendment to fund legal aid. So during the comment period, we did receive two comments by 5:00 yesterday. Both from the law foundation of Silicon Valley. One of them was requesting information about the City's decision to fund legal aid, and the second was to share the opinion and concerns that they had over issues and shortcomings of the services provided by legal aid. And so we will include these comments in our consolidated plan amendments submittal to HUD. And just in response to those comments, we have been working closely with legal aid, over the last few months they've gone through the QLBS process with our city staff, and are developing a program to respond to their funding issues, which is really what has been their difficulty. Once they lost the county contract they've been struggling. And they now feel a little bit more secure and has been able to continue to provide the services, and with this fair housing money, will be able to continue the fair housing services at their current level. So we are recommending your support of this today. But I did need to read those into the record.

>> Mayor Reed: Thank you, I do have a couple of questions, I think. Councilmember Campos did you want to speak on this one?

>> Councilmember Campos: I wanted to speak on 2.10, thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I just wanted to commend legal aid society because they provide some wonderful, wonderful services to people that wouldn't get those services otherwise. I do want to recognize the leader of the group here, Tony Estramera. Thank you.

>> Mayor Reed: Understand Tony has no objections to this. [Laughter]

>> That's correct.

>> Mayor Reed: So I think that's it. Any other discussion on this? Is there a motion? Motion is to approve, Councilmember Campos made the motion. All in favor, opposed? None opposed, that's approved. Item 2.10, regarding Senate Bill 402, recycling beverage containers, redemption payments and restoration of funding. I have about a half a dozen cards from the public people who want to speak on this. Why don't we do this and then staff can respond to any comments or questions from the council. Is that okay with you Councilmember Campos? Okay, we'll take the public testimony on this first. Joel Corona, marina Blanco. When I call your name, please come on down. There are plenty of seats down here. You'll be close to the microphone.

>> Thank you mayor. My name is Joel Corona with California Waste Solutions. We're speaking in support of SB 402, because we believe it will help rebuild the essential funds for sustaining the curbside recycling programs as well as the redemption programs, that it does support core programs and projects for the state in recycling, and as well as the California conservation corps, and all fully redeemable by those consumers who return the containers. Thank you.

>> Mayor Reed: (saying names).

>> Good afternoon, council and mayor. My name is Gina Garcia, San José Conservation Corps deputy director and most importantly, former student. I come before you to speak to SB 402, ask the city move from a neutral position to a position declaring support. This bill is important to the San José Conservation Corps program, and as students it will be very impactful. With the final signature of the governor this will restore San José Conservation Corps funding to the recycling program and continue transforming lives as it has done for the past 20 years. I know this program works. As a former student, I too worked in the recycling department, depending on everything the program offered, including a small income to get by on. Most importantly I gained the support and confidence I needed from this program. I started and finished my VA while in the corps. Since we received the 85% cut this year, starting in July, from the bottle bill funding, I've had the most heart wrenching job to lay off 40 corps members and not to mention three staff. Corps members that I've seen made great progress in their lives. Those students who were unfairly cut by this disaster wait on the sidelines to get back and finish their job training opportunity. Unfortunately I even know some who couldn't wait no longer and have fallen back into the only way that they know how to survive, illegally. Well, the City of San José's support in favor of SB 402 to prove to the youth of San José that they have done everything possible to create positive opportunities for them, one letter from the city could make the difference between the governor signing or not. Will you make that commitment to those needing a second chance? Thank you.

>> Mayor Reed: Gina Garcia, Bob Hennessey, Steve Jones.

>> Good afternoon, councilmembers and mayor, my name is Marina Blanco and I'm here to support and to especially ask you to please support SB 403. The reason behind this just as Gina Garcia mentioned before, I'm a former student of San José Conservation Corps and charter school. I first graduated about 15 years ago and I was the former deputy director and now the principal of the Conservation Corps and charter school. I just want to mention that if you know, last year, we graduate 200 students out of the charter school. That means that we saved the city \$35 million for preventing dropouts, and to validate that data, I do have data, it's research done by the University of Santa Barbara. I would love to give you a copy of that because I do think it's important. I do ask you to support SB 403. Without the recycling department many of our youth will go back to the streets and will do all kinds of stuff we all know, criminal and behaving bad. I was one of those back in 1989. And I believe this program works because I was born there, I grew up there and I continue, continue, and educating myself through that program. Please support 403. I'm representing here 300 students also from the charter school. Thank you.

>> Mayor Reed: Thank you. If you want to give that research to the clerk she'll make sure it gets distributed to us. Bob Hennessey, Steve Jones, Gil Chesso.

>> My name is Bob Hennessey, the executive director of San José Conservation Corps. We're aware that these are tough economic times for the city. It's tough economic times for nonprofits, tough economic times for San José Conservation Corps and charter school. But it's particularly tough for the participants, the young men and women, that belong -- that are members of the corps. It wasn't their fault that they were born into poverty. It wasn't their fault that they were raised by a single parent who worked, 24 hours -- who worked to support them full time. It's not their fault they dropped out of high school. It is not their fault that they're involved in gangs and

drugs. All that they need is a chance to get out of poverty, to get an education through our charter academy, to get job training through our recycling program. So I urge your support in SB 402. We have made numerous trips to Sacramento to talk with the legislators to get this bill to the governor's desk. We know he's waiting for support from the cities. Most cities have signed on to support this bill. So the toughest decision we had to make as Gina said was to lay off 40 of our students in July. These people are back in the streets. A number of them. A lot of them are waiting, come in every day, wondering, when are we going to get back, full funded, through the bottle bill? The San José Conservation Corps 21 years ago was founded on the strength of the bottle bill, and for the past 20 years we have brought more than \$30 million to the City of San José through the Department of Conservation, division of recycling. This is an important piece of legislation for us. It's important that the governor signs it and it's important that the city supports it. Thank you very much.

>> Mayor Reed: Steve Jones, Gil Chesso, Michael Gross.

>> Mr. Mayor, members, Steve Jones with Garden City sanitation. I think it's important that everybody knows that the City of San José didn't have any impact on the \$518 million that got borrowed from the Department of Conservation's fund. Those are dollars that people have been putting away for a long time but they support a lot of programs, as you've heard. I think a letter from San José is important, for the support, and I think it's important that what Joel said is every penny that is collected in a CRV is also redeemable. So if somebody wants to take it back to a buy-back they'll get their money back. It's those excess funds that pay for the programs that you heard about today for those people that didn't want to do it. And I think that -- I know you're fiscally very aware of what's going on now and I know this may be hard. I don't think there's an impact to anybody here and I think it's important so I would ask you to support 402. Thank you.

>> Mayor Reed: Gil Chesso, Michael Gross, Marlene Rodriguez.

>> Mr. Mayor, council, my name is Gil Chesso. I'm with allied waste and republic services and I echo what's been said by Steve and Joel. We strongly support SB 402 and urge the City of San José to join the municipalities, the recyclers, the environmental community retailers and businesses to help support this bill. Help increase diversion rates and providing jobs in the local community. Thank you.

>> Mayor Reed: Michael Gross, Marlon Rodriguez and Lilo Kozuma.

>> Good afternoon, mayor and council. Michael Gross, representing Green Waste Recovery. Once again, I, like everybody else here, would strongly support staff's recommendation in supporting a letter to the governor regarding 402. When the bottle bill is established, it really did help us recyclers, it funds programs, that we currently have, and that we're currently able to bring up types of recyclables into. For instance, glass bottles. Glass bottles, the redemption value on glass bottles is a nickel or a dime depending on the size of glass bottles. But glass really doesn't have a lot of value. If we didn't have the bottle bill, and it's put into 402, this glass would probably not be recycled by us. Because there's really no economic incentive to do it. The reduction the governor, actually everybody else seemed to talk about, the reduction of 85% just killed a lot of our programs. And so we're really in support of sending this letter and, you know, the City of San José's been out there for a long time, let's go green. And this is one way they could really show it. Thank you for your time.

>> Mayor Reed: Marlon Rodriguez, Neil Kozuma.

>> Good afternoon, my name is Marlon Rodriguez and I was one of those 200 students who graduated from the San José Conservation Corps this January 2009. I really believe as a former student that the San José Conservation Corps and the recycling department is big impact on youth, on dropouts, as I was, as a single mother with two kids I got into the Conservation Corps and I worked in the recycling department, and I think it has a lot of value. And I'm asking for your guys' support for SB 402 to help us out and help dropouts get a second chance in getting back to school and obtaining job skills and working their way up. Thank you.

>> Mayor Reed: Neil Kozuma is our last speaker.

>> Good afternoon, Neil Kozuma. SB 402 is sitting on the governor's desk right now and any moment he'll make a decision. The reason why he will sign it is cities like the City of San José wants the governor to sign it so that's

why we're asking for your support. I think SB 402 is a good environmental decision and a good fiscal decision. As you know, that state legislatures have taken millions of dollars away from cities, and this is a good opportunity to get money back from Sacramento. Because the funds will go into the City's recycling programs. And because we, the City of San José, want to continue to be green and because we want to help the at-risk youth in the City of San José, SB 402 is a good environmental decision, and a good fiscal decision. Thank you.

>> Mayor Reed: Thank you. That concludes the public testimony on this item. Councilmember Campos, you wanted to speak on it? I think staff has some comments before we start with council.

>> John Stufflebean: Yes, John Stufflebean, director of environmental services. I'll just add a couple of quick points to that. One the direct impact to the city is about \$200,000. That money is used to fund our events, greening which is a really important program we have and as you know we won a national award for that. Also, it supports parks recycling and go green schools program. So it's important to us. We also recommend support on this. It will preserve thousands of green jobs around the state, help us achieve our zero waste goals and help with littering for these particularly problematic materials that are now being added to the bill. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. John, thank you for those additional comments. So I do not sit on the Rules Committee and did not watch that meeting, so I'd like to understand why we received a memo that the Rules Committee would like to stay neutral on this particular item. And I don't know if you were there, or a staff member or maybe somebody can explain to me why the Rules Committee recommends a neutral position on 402.

>> Ed Shikada: Sure, Councilmember Campos, Ed Shikada, deputy City Manager, as one of the staff for the Rules Committee, perhaps the best way I could describe the discussion was, making note of a few issues with the bill, and I think there was some discussion that it was not an ideal bill. And I think that the stakeholders would agree with that. My understanding is that it was a final day gut-and-amend so there really was not an opportunity for stakeholders to be engaged in the process that led to the item that was passed through the legislature. So there was some concern about that. And other members -- members of the Rules Committee might want to amplify on any particular discussion that was held in the Rules Committee.

>> Mayor Reed: You want to hear from the Rules Committee members, Councilmember Campos, or is that --

>> Councilmember Campos: You know, I know that -- yes, I would, but before we do that, I know that, Ed, when we've had bills that were not perfect we've been able to take a support position. And I'll look to John Stufflebean to say, if there are items that -- because I know that your department is recommending support. So if there are items that were not fully vetted that we have concerns about, we could take a position to support with maybe additional comments to that. Is that feasible to be able to do something like that?

>> John Stufflebean: Sure, we could do that. I guess the fact that the bill is at the governor's desk that would make that a little more difficult, but we could certainly make additional comments beyond support.

>> Ed Shikada: If I might add, I think that that was a particular point of discussion, given the fact that the legislature has already passed this bill out and it's now on the governor's desk there is not really opportunity for amendment of the bill. That was an issue of some concern.

>> City Attorney Doyle: Councilmember, there was an actual motion to support with amendments, and then it was discovered that the bill was actually sitting on the governor's desk. So it was too late to bring the amendments forward and so then they decided to take a neutral position.

>> Councilmember Campos: I don't know if any of the members of the Rules would like to add any comments.

>> Mayor Reed: I wasn't even present at that meeting, I was attending a meeting in Washington. I'm not sure who was attending that committee meeting. And Vice Mayor Chirco is absent, sick today. Councilmember Pyle.

>> Councilmember Pyle: Thank you. I would just like to say that I didn't think the presentation was as clear as it might have been. It wasn't clear that the damage had already taken place, and you know, I got a 30-page summary of the -- not a summary, but the bill information. There was not enough time to absorb all of that. And I now understand, belatedly, that it was part of the '08-'09 budget in which the moneys were taken away, and this is a -- this would be an attempt to help restore some of those moneys, which we obviously eagerly want to do. So from my own perspective, and maybe Councilmember Pete Constant would like to speak on that, as well, I did a 180 totally.

>> Councilmember Constant: Yeah, I think the Rules Committee had questions that weren't able to be answered. And that's why we had thought the support with amendments would really be appropriate. But then of course because of the timing, that wasn't an option. So we wanted to move forward to council to have this discussion and get some of those questions answered. I know I've gotten lot of more information at my office that is a legislator more illuminating. In the outcome section in the beginning it refers to how the restoration of funds to the city and how the impact would be. But then when you go to the area that talks of the specifics of the bill, there was no discussion of that. So we were looking for, what were the mechanics? How would it actually work, and what would it mean, and that wasn't answered. So we didn't feel comfortable just sending it through on the consent calendar and saying, okay, let's just support it without having those questions answered. I think between the conversations we've had with staff and the conversations we've had with the individuals that have spoken today, there has been a lot more clarity in the last six days.

>> Councilmember Campos: Thank you, councilmember.

>> Mayor Reed: Councilmember Campos would you like to place a motion?

>> Councilmember Campos: Thank you mayor. I'm glad we had so many people that wanted to talk on this. I would like to make a motion to actually support SB 402, the recycling bill. Thank you.

>> Mayor Reed: Motion to support with three seconds, Councilmember Liccardo was the quickest by a nanosecond, which is a shored period of time but first nevertheless. Councilmember Liccardo.

>> Councilmember Liccardo: Well, I think now it's all been said. So I'll refrain from saying anything more. I know I wrote a letter from my own office. I'm not sure if we're allowed to send letters without full -- when the council makes a recommendation of basically no recommendation. So actually I was hoping to clarify that if possible. Maybe Rick, if you have any insight, can we actually send a letter if our council doesn't support?

>> City Attorney Doyle: Well it depends on what the letter says. If you are representing the city, if you are representing that you're representing the city, it's a problem.

>> Councilmember Liccardo: But if it comes from little old me?

>> City Attorney Doyle: I think it's the issue to have the council speak as a whole. And let the issue run its course.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: First of all, I'd like to thank all the speakers, I notice that 90% of them are from my district 4. I'm a strong supporter of SB 402. I believe it provides an opportunity for the state to have a more comprehensive recycling program as well as restoring some funding for our local recyclers. So I'd be happy to support motion.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Does this recommendation include a letter from our city? Are we all going to sign it?

>> Councilmember Campos: We can, yes, we can include a letter from our council and mayor to support this. But I'm hoping that Betsy will let us know what we can do at this limited time.

>> Betsy Shotwell: Thank you, Betsy Shotwell, director of Intergovernmental Relations. I would say time is of the essence. He has until October 11th to sign or veto the legislation on his desk. I would recommend as in the past that the letter be signed by our city lobbyist or if there is time, as the Mayor said, just in the interest of time.

>> Councilmember Pyle: So we could e-mail it and mail it.

>> Councilmember Campos: So what I'm thinking, because the time is very crucial, that maybe the mayor can be the signature that says, on behalf of the City of San José and the mayor and the council, I think that would be sufficient, and we can e-mail that, or fax that over, however we can get that as quickly as possible.

>> Mayor Reed: That's how we usually do it.

>> Betsy Shotwell: Right, very good.

>> Councilmember Campos: That would be included in the motion.

>> Mayor Reed: And usually, Roxann Miller delivers a copy to the appropriate office immediately. Motion to support SB 402. All in favor, opposed, none opposed, that's approved. I need to go back to 2.5, I had a request to speak which I overlooked, the agreement on the public artwork on the airport. Sharon Sweeney wanted to speak.

>> Good afternoon, mayor and city council and thank you for allowing me to speak today. Because next week I'm going to be camping in one of our public treasures, Yosemite. So I wouldn't be able to be here. I'm speaking on 2.5 because the public arts staff has kept me in touch with each art project for quite a while now. And I've had the pleasure of meeting the artist for this particular week, this particular work, several times. And just as I know you didn't get a chance to see the artwork, but I've been there since February talking with this artist and dealing with her, and this is just one of the renderings. And true to the west wing rhetoric, decisions are made by those who show up. So I thought I'd show up today. Debra's proposal allows many of our community members to participate and have a personal connection with our airport. It's one of the most democratic pieces I've ever encountered and it allows each of us to share our own memories on a wonderful scale. It's well worth the cost. None of us know what those memories can bring but this is an idea for which anyone can contribute their own memories, and in turn, inspire others. For those of you who would like to participate, and that includes each and every member of the council, here's a list of, I have a list here of photographs of the artist, Debra ashheim would like to include. I don't know if -- it's just a little bit much to put up on a screen so I'll just pass it out to each member of the council.

>> Mayor Reed: To the clerk, please.

>> Thank you very much. Do you need me to explain any of this stuff? It seems to me that the arts staff can handle explaining things later.

>> Mayor Reed: If there are any questions next week, I'm sure they'll do a good job of explaining it and you enjoy your camping trip. Mr. Signorino, do you want to give those to the clerk, please? You want to speak on this one? Ross Signorino is our last speaker.

>> Ross Signorino: You know, I was -- I was looking at this artwork, and I did smile a little bit. And I'm just wondering to myself, what was it? You know, looks like wire all tangled up, is it a freeway that's going in and out, off ramps and in ramps, I really cannot make out that kind of artwork. That's not me, I'm the kind of person, don't even mention Picasso to me because I'm not a Picasso fan. I think you have to ask yourself what is it we're trying to do with artwork, is it something that we recognize? I got to throw something else to you maybe a zinger. When you first put up this hands business over at the airport I saw it in the newspaper. I was looking at it. Tragic as this may sound what I'm about to say, I identified it with hands in concentration camps and the barbed wires, people asking for hem and so on. So I think it should-d artwork to me should be warm, receptive and something that people can understand. Thank you.

>> Mayor Reed: That concludes the public testimony on this item. Does the council wish to consider its previous motion to defer for a week? There is no requests to reconsider so this matter has been deferred for one week so we can get this piece of artwork online so we can consider it before we vote on it. That includes the consent calendar. Report of the City Manager, 3.1.

>> City Manager Figone: Thank you, Mr. Mayor and members of the council, I have a good news report, I am happy to report that the City of San José was honored with three significant awards last week during the Business Journal Structures 2009 awards. Two city projects were honored, the Terminal B concourse project at the airport, and the Roosevelt Community Center. The terminal B concourse project received two awards. It was recognized as both the public civic project of the year and as the project with the largest community impact. The public civic project award came as a result of the new concourse B's outstanding architecture and the City's success in managing this very complicated project, keeping it on schedule and on budget while the airport has remained fully functional. The community impact award recognized the large scale and dramatic enhancements that the new airport facility is bringing to San José and the Silicon Valley. The design and construction, innovative use of technology and the sustainable green features will create a modern airport that is convenient, comfortable and competitive for all of our residents and businesses. The Roosevelt Community Center received top honors in the green project public sector category. This award is a direct result of environmental foresight of the city council's building policies. The center includes unique design features including the special handling of storm water runoff that will protect our creeks and streams, the innovative uses of recycled materials, and an energy efficient heating and cooling system. I want to particularly acknowledge the three directors who have guided these projects, Katy Allen, Bill Sherry and Albert Balagso, as well as their staffs, and all of the private sector partners who worked hard to make both of these stunning new facilities such great assets for the City of San José. And finally, congratulations to you, mayor and council, as these are ultimately your accomplishments. And that concludes my report.

>> Mayor Reed: Our next item is 3.2, report of Rules and Open Government Committee for September 9th, 2009. Motion to proven. All in favor, opposed, none opposed, those are approved. Item 3.3 is report of Public Safety, finance and strategic support committee, September 17th, 2009. Councilmember Nguyen is the chair.

>> Councilmember Nguyen: Thank you. The minutes have been circulated, if there are no questions I move for approval.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion and second. All in favor, opposed, none opposed, those are approved. Item 3.5, amending retiree health care agreement with the city association of management personnel.

>> City Manager Figone: Mr. Mayor, just a quick comment. This recommendation amends the retiree healthcare reopener agreement, and it extends the reopener agreement from January 2010 to 2011 to CAMP. This is being done in recognition of CAMP's agreement to forgo the 1.5% scheduled general wage increase for fiscal year 2009-10 and take a true wage freeze and we do appreciate camp's leadership in this regard because it was one of the first bargaining units to agree to the true wage freeze and we do look forward to working with them not only on retiree health care but also on the substantial broader fiscal issues that confront the city.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I just wanted to thank the leadership from camp as well as the city staff for this resolution. I think it's appropriate. I think we had to make some difficulty choices and camp was part of that for this scholarly and it will also be helpful to have a collaborative discussion with some of the bargaining units as we start to discuss some of the issues surrounding retiree health care. I just wanted to extend my thanks to camp as well as city leadership. Thank you.

>> Mayor Reed: I have no cards to speak on this item, right? Is there a motion?

>> Yes.

>> Mayor Reed: We have a motion to approve, Councilmember Constant and a second, Councilmember Pyle. All in favor? Opposed? None opposed, that's approved. Thank you, camp and your leadership, we appreciate it. Item 3.6, agreement with Prudential insurance company of America for a group plan regarding long term care insurance. Motion is to approve. All in favor, opposed, none opposed, that's approved. 3.7, audit of the park trust fund.

>> Sharon Erickson: In 2006, Department of Parks, Recreation, and Neighborhood Services reviewed the administration of the park trust fund and found several thousand dollars in in lieu and a crewed interest that had not been committed in compliance with city ordinances. The department corrected the situation, implemented new policies and procedures and asked for an audit of their new procedures. Our overall finding was that the department has improved the administration of the park trust fund, and can further strengthen its policies and procedures. No instances of noncompliance were found. But we did make 14 recommendations to improve various aspects of trust fund policies and procedures, and to strengthen controls. One of the recommendations, number 6 was to secure interest accrual on approximately \$8.1 million in the in-lieu fees that had not yet been paid by the redevelopment agency. Although it's customary for government agencies to charge interest on the unpaid obligations in this case we estimate the interest at about \$1.6 million. Annual cooperation agreements between the City and the redevelopment agency have deferred repayment of this debt without requiring interest accrual. The Public Safety, Finance and Strategic Support Committee has recommended acceptance of our audit recommendations with the exception of recommendation number 6. Happy to answer any questions.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, mayor. First of all I just want to thank our City Auditor and our staff for this wonderful audit. The Public Safety, Finance and Strategic Support Committee supports all recommendation put forth by the City Auditor except for recommendation number 6. The committee feels strongly that the amount that the RDA contributed to support City services surpass any amount of interest that is recommended to be paid into the park trust fund. Also, there was nothing in the agreement between the city and the agency that stipulates that the agency has to repay any accrued interest. For that reason, we didn't think that it was reasonable to ask the agency to pay any unpaid interest at this time. So having said that, I would like to move staff recommendation.

>> Mayor Reed: We have a motion to approve the recommendations with the exception of number 6 as recommended by the Public Safety, Finance and Strategic Support Committee. Councilmember Pyle. Okay, Councilmember Constant.

>> Councilmember Constant: Sorry, I forgot to turn my light off.

>> Mayor Reed: Okay. Enough of that. I just wanted to note that I believe the redevelopment agency has committed and spent more than \$100 million for parks in the City of San José. So even if it's just the parks trust fund we're talking about, the agency has transferred a lot of money. Well beyond the amount of this interest. I'm going to support the motion. Councilmember Liccardo about.

>> Councilmember Liccardo: Thank you, mayor. I also will support the motion. Thank you, Sharon, for all your hard work. I do want to recognize significant progress that's been made, and I think it's particularly the best on page 9 of Sharon's -- or of the report from the City Auditor. Noting that the auditor did not identify any instances where PRNS needed to refund in-lieu fees which is great progress over where we were in '06 as well as the fact that they are actively reconciling the data on the fund. The one concern I have here is the lack of implementation of the internal notification system. Matt, I see you're here. I assume you're here to field questions. I was wondering when we can expect that to happen.

>> Thank you Matt Cano, division manager of Parks, Recreation, and Neighborhood Services. That has already been implemented.

>> Councilmember Liccardo: It has been, okay. So when we see in recommendation 8, where it says formalizing document within trust fund policies, does that require council action or has that already been -- already happened through --

>> It's already, we anticipated that council would be approve that recommendation as part of today's action so we already implemented it internally with the City Auditor a few months ago.

>> Councilmember Liccardo: Fabulous, thank you very much.

>> Mayor Reed: I think that's it. We have a motion to approve. All in favor? Opposed? None opposed, the motion is approved.

>>> Our next item is 4.2, modification of the ordinance amending the procedure for initiating a city landmark. Joe Horwedel has a presentation.

>> Joe Horwedel: Thank you, Mr. Mayor. Joe Horwedel, planning director, and Aconi Danielson, our principal planner for historic preservation environmental review. We wanted to go through and walk through a flowchart on three different versions, the current version, as well as what the Rules Committee had asked us to go off and work on. And then during that work, staff identified a second option which we think actually needs desire of the council better so I'll have aconi walk through those.

>> Thank you, Mr. Mayor, members of council. So the exhibit that's up there now is the current process of title 13 of the Muni code, and it's a fairly convoluted flowchart that consists of a nomination process, whether that's by a private owner of property, by the landmarks commission or by the city council. The city council shall initiate when a nomination has been filed, and then there are landmarks and then finally a council meeting. So under this current process staff believes that there are too many hearings, the hearings are redundant and the process overall is too time consuming. The council has no discretion as to whether to initiate the process or not. It says shall. For a privately initiated landmark nomination there are at least three hearings, and in the case where the landmarks commission or the council is initiating, there are four. The process clearly needs to be streamlined and there are opportunities to do so. So then responding to the Rules Committee direction earlier this year, staff worked with the city attorney's office to draft an ordinance that would be a relatively simple fiction, changing the word shall to may under the initiation process. And unfortunately, the implication of this don't quite go so far in terms of streamlining as we had hoped. This would provide the council the discretion to terminate an initiation. So when the council wanted to stop a nomination midway this would stop the process. However in the case of a privately initiated building, that would be stopped by council before any landmarks initiation whatsoever and the landmarks commission expressed concern about that. Staff believes while this does give the council the discretion it's been seeking, and however doesn't streamline the process enough, that there still are multiple redundant meetings and in cases where the council is in support of a designation, it's still a lengthy kind of consuming process. And so looking to further streamline it in a way that provides input, but keeps the council's discretion, and minimizes the overall process, staff has come up with this third figure which would eliminate multiple redundant hearings at either landmarks or council, it would allow for landmarks input to all applications and would provide council discretion on the outcome. The case where a private property owner or the landmarks commission were initiating, there would only be two hearings. One landmarks commission and one council meeting. The most lengthy process would be when the council were to initiate, there would be the initial council action, a landmarks commission input, and then a final council action. So staff believes that this proposal is the most streamlined of the options that are before the council today and has the most clarity associated with it. So staff is available for any comments.

>> Mayor Reed: Thank you. I had a couple of questions about the process. I'm going to support the staff recommendation because I think the streamlining is important to everybody. The quicker we can get to the answer, yes, no or whatever the answer may be is beneficial. But there's a lot more work that staff is doing around this issue. This was the easy step. And I'd like to know when staff thinks they'll be done with the rest of the work that came out of the study session we had last year, in October, where we talked about the need to get to an objective standard regarding the tally sheet, and a process that is not only streamlined but has a little more clarity and certainty in it. And I know that staff's been working on it, been a lot of stakeholder and outreach meetings. What would be the schedule for getting that completed and back to council?

>> Joe Horwedel: Staff is completing the stakeholder process right now. It is our schedule to be back with the council before the end of the calendar year. With the changes necessary for the tally sheet, the process about

consolidating potentially the city landmark standards and the state of California landmark standards to collapse those, as well as looking at the issues of structures of merit inventory, that's been probably the most contentious for the city council on land use applications. We have done as you've noted outreach individually with the stakeholder groups and then more recently we've been doing it as consolidated with everybody in the room together. We've made progress. There's still not total consensus on that, but we've got another meeting scheduled here in the next week, October 13th is our next meeting with the stakeholder groups. So it's our goal is to bring closure at that meeting, and if there's some areas of disagreement, be able to refine those, but be able to get to council before the end of the year with all that.

>> Mayor Reed: Thank you. I want to thank everybody that's been engaged in this from all different sides of this issue, a lot of different opinions and important to get everybody at the table and staff's done a good job of that. Looking forward to having the bulk of the work coming back to us. In the meantime I had one question about the existing process and the process that would be in place if we approved the staff recommendation. That is on the nominating step, as I read the staff report, nominations may be done by the city council, the historic landmarks commission or a property owner. And by city council, that means us. That's not the same thing as the City. So the City staff does not initiate.

>> Joe Horwedel: That's correct.

>> Mayor Reed: It would be by council acts to initiate.

>> Joe Horwedel: That's correct.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I just want to thank the staff for their work on this and make a motion to support staff recommendation.

>> Mayor Reed: Motion is to support the staff recommendation. I have a couple of people who have requested to speak on this. We'll take the testimony now. Judy Henderson and Brian Grayson.

>> Good afternoon, Mayor Reed and members of the city council. My name is Judy Henderson and I'm the president of preservation action council of San José. Our group has looked at this ordinance change and we are supporting staff's recommendation. We feel it takes care of your desire to streamline the process and also our desire to have enough public hearings so that people can be heard on the issue. So we are also recommending that you support it. And then, just an aside. We have also been active participants in the stakeholders meetings and I want to thank council for that opportunity. I think we're coming together with what you might consider our adversaries and I think we can come to you in the future, with the same recommendation as to how we might make it work better for everyone involved in our landmarking process. So thank you.

>> Mayor Reed: Brian Grayson.

>> Thank you, Brian Grayson, preservation action council. Just briefly echoing Judy's comments. We do support the staff recommendation. We believe it supports the council's goals to streamline the process, we are supportive of it and keeps the public aspect intact, the other policies don't meet the council objectives or the concept of keeping the public input involved so we urge your adoption of the staff recommendation and I would also echo what Judy was saying in terms of the stakeholders meeting. It has been a good number of sessions and I think we're finding, all sides are finding at least a fair amount of common ground if not a lot of common ground and it's just a matter of everybody understanding whether the rules tell us what they are and let everybody play by the same rules and I think everybody walks away reasonably satisfied, and that's everybody from developers to consultants to planning to preservation community. So we are hopeful that the end result of that will be a recommendation that everybody is comfortable with. Thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion to approve the staff recommendation. All in favor? Opposed? None opposed.

>> Joe Horwedel: Mr. Mayor, just a clarification, because the item did have an A and a B. The staff recommendation is item B on the agenda. Everybody's asking was it A or B so we will clarify that for the record, or two.

>> Mayor Reed: See, we had staff report which is option 2 alternative 3. The council agenda was option B.

>> Joe Horwedel: Looking what's up on the agenda here is B allowing -- so it's kind of clear. It's the staff recommendation.

>> Mayor Reed: It was the staff recommendation.

>> Joe Horwedel: We'll make sure it's clear in the record.

>> Mayor Reed: Was it clear for the council, did I figure that out right? Okay, enough clarification? Okay, Joe Horwedel is okay with that. That concludes that item then. We will move to item 6.1, report of the transportation and environment committee September 14th, 2009. Councilmember Liccardo chairs that committee.

>> Councilmember Liccardo: Thank you, mayor. The minutes are in the packet. I'd move for approval.

>> Mayor Reed: Motion is to approve. All in favor, opposed, none opposed, that's approved. Item 8.2, approval and agreement for the consortium for please leadership in equity. Also known as CPLE. We have a motion to approve, seconded by Councilmember Nguyen. Councilmember Nguyen, you want to speak on the motion?

>> Councilmember Nguyen: Yes, thank you. I wanted to take this opportunity to thank city staff, especially Deanna Santana, for working so diligently in bringing this agreement forward. I also wanted to thank Chief Rob Davis for introducing CPLE to the City of San José, and also to Dr. Phillip Gough of CLPE and his team for taking on the task of reviewing San José police department's practices and policies as well as various issues and concerns that residents have raised during these past 18 months. Dr. Gough provided an update on the work that CPLE has been doing this far at the Public Safety, Finance and Strategic Support Committee earlier this month, and I'm very optimistic that his research will shed some light and hopefully help us develop solutions to various issues that have been brought forward. I understand his team will also conduct extensive outreach to many different neighborhood groups groups and organizations throughout the City of San José to ensure that all voices are equally represented in the research. At this time I would also like the public note that the Public Safety, Finance and Strategic Support Committee will be holding our first community meeting on October 14th from 6:00 to 8:00 p.m, here at council chambers. The purpose of the meeting is to hear from members of the community and gather public feedback on the City's efforts to address issues relating to public safety and policing in San José. I work forward to the City's continued partnership with CPLE and I'm hopeful that we will be able to find solutions to some of the issues that are being raised. Thank you.

>> Mayor Reed: Anyone else on that? I'd just like to thank the chief for taking the lead and all the people that are getting engaged with us on this project. That is I think noteworthy, that we're doing this on our own, that we're not being forced to do this. That our police union is supportive of this, as well as the administration, and that a great many members in our community are going to participate in this. Because I think we have an opportunity to do something that will be influential nationwide, as we try to cope with the issues that are presented with us, we see other cities that have same problems across the country. And I think this is a unique opportunity for us to figure out a few things that will be good for our police department, good our our city, and good for the country. So I'm looking forward to seeing the result of the research. I want to thank the CPLE and UCLA for being willing to come in and do this. Did I mention, they're not charging us for this? That's always important they wanted to be independent so they're funded by third parties and other organizations. So that is a doubly good deal for us to deal with these issues. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor, is there any public comment anticipated?

>> Mayor Reed: I have no cards at this time.

>> Councilmember Kalra: Otherwise I would have waited. Thank you mayor. I just would make a statement that I encourage folks to certainly participate in the process, as if there are going to be hearings or so on and CPLE will be reaching out to folks and organizations in the community, I think it can only be helpful that they have as much information as possible from a wide spectrum of the community. But I just wanted to make a comment that as I have in the past that this cannot and should not be what we're relying on as a city to try to determine how to improve our policing. I know that's not something that police chief Davis has stated. He has indicated that this is just one tool that will be used and to that extent I think that is appropriate. But, you know, the reality is that it's a good thing that we're doing this on our own, and that we're not being forced to. But I think it would be somewhat naive to suggest that we're just doing it because we feel like doing it. We're doing it because there was a concern, has been concerns from the community, and so it's not just that we're doing it on a whim. We're doing it as a reaction to issues that have come up over the past months and years. I do believe that we have a fine police department, and I think whatever we can do to improve the quality of the service that we give the community, we should definitely pursue. As stated in the memorandum from Chief Davis, that part of the goals include trying to determine how the best data, how to interpret that data, as well as ensuring positive communication between the racially and ethnically diverse communities of San José and the police department, and those are all the things that we should continue to work on if and when CPLE makes recommendations. And so I just want to make that comment that we should continue and we should not cease in any way our continued outreach to the community, or working with all -- all members of the community even those that may be more vociferous in their objections to some of the things we do as a city and we should not rely solely on CPLE or any group particularly any group from the outside to come in and tell us that okay, this is what the problem is, and this is what we have to do to fix it. I'm hoping that we do get recommendations out of this but we have to make sure that we're not in any way using this as a tool to set aside any concerns other organizations might have. There are local organizations that Dr. Gough indicated when he first came and presented on CPLE that it's critically important that we do not cease and we do not stop the engagement we have with local organizations and local agencies and local communities. And so I just wanted to make that clear from my perspective that I'll do everything I can to participate with CPLE but I would also like to continue to engage other members of the community as well on these various issues that are very important so we can continue to have and improve upon the police force that we have. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I also wanted to join in the thanks to the chief, and to the POA and all the folks in the department who got behind, and I know chief, you initiated this effort and got behind this effort to subject the entire organization to this kind of scrutiny. I think the reality is that any organization that's subjected to this kind of scrutiny is probably going to -- there's going to be some evidence in an organization of insensitivity, racial bias, I think that's true in just about any organization. And so that's -- to subject oneself to this kind of scrutiny I think is certainly both important and courageous, and I appreciate the willingness to do that. I want to build a little bit on Ash's point. Because I think even if at the end of this process, and I have no idea what the results are going to be, but even if there's essentially a clean bill of health here, what I think the issue I think we all deal with in the community and I know chief's well aware of this is that it's not simply the reality but also the perception. And I know that San José PD may be doing all kinds of very constructive things to deal with the reality of what's happening in the department but the perception that the community has is yet another issue that we need to continue to work on. This is an important step a very critical step but of course the other work will continue because the perception is so important. Thank you.

>> Mayor Reed: Thank you. City Attorney has something to --

>> City Attorney Doyle: This is just for the record, but the actual agreement is with UCLA. They run the research institute which is CPLE but it's actually with the regents.

>> Mayor Reed: I'd like to just add a couple more things to the comments. This is not the only thing we're doing. This one is significant important. But there are other initiatives that we're taking as a city to deal with some of the questions. We're also cooperating with La Raza round table and the Harvard law school clinical programs. So we have both UCLA and Harvard helping us out. And so the Harvard Law School effort with La Raza Round Table is to focus on the reasons and solutions to the disparity of Hispanics in the criminal justice system, not just our police department, so we're now engaged in that in a community process, and they'll be

working with us over the course of the next year as well. And then of course our Public Safety, Finance and Strategic Support Committee, which Councilmember Nguyen discussed earlier, has on its agenda a series of issues because we have things that we can do, we don't need UCLA or Harvard law school to tell us everything we need to do. To the extent we can identify things to do we will move ahead and do that, as the chief has already done, as this council has already done. There's still work to be done and that Public Safety committee is an important place for people who are interested in these issues to watch their agenda, participate in their meetings and I think October 14th is an evening meeting Councilmember Nguyen mentioned, of an important place for people to get engaged, look at what we're doing and help us figure out if we are doing everything we need to be doing and if we're moving along on the right direction. That's an important meeting. I would urge people to get engaged and participate. City Manager.

>> City Manager Figone: Yes, just to add one more point of clarification. Although Dr. Gough has been the face of this project I would just like to point out to the council and community that in the MOU, projects or section numbers 2.1, 2, 3, 4 and 5 actually represent five different research projects. So to the pair's earlier point, CPLE is really advancing a very significant research project here with many dimensions and five teams. So I think that we're very fortunate to have their interest in the City of San José and I think we're really going to be at the forefront of this research. So I just wanted to add that for the.

>> Mayor Reed: Anything else on this item? We have a motion to approve by Councilmember Nguyen. Councilmember Herrera.

>> Councilmember Herrera: I just wanted to echo what's already been said and also say that I think -- I just wanted to say something to the public, I think by and large there's a fantastic perception of our San José police department. They do a wonderful job and I think it's a great -- a great thing that we are going to be able to work with CPLE and I applaud the chief and everyone involved to put us, as the City Manager said, on the forefront of this research. But we have a great police department, and we're constantly improving. Constant improvement should be the name of the game for everyone. Thank you.

>> Mayor Reed: I think that concludes our discussion. We have a motion to approve. All in favor, opposed, none opposed, that's approved. We now need to take up some matters jointly, redevelopment agency and city council. First one is item 9.1, that's a policy on implementation of inclusionary housing. Positions to approve, was there a second? Is there a question? Councilmember Liccardo.

>> Councilmember Liccardo: I have a question for Leslye. Certainly I understand this is an important piece of the policy we're about to consider, I appreciate the timing for when we would want to implement this. The concern I had was, essentially who picks the appraiser. And it sounds as though under this policy, it would be the developer could choose the appraiser, and I know that in the past, there has been a lot of controversy about the wide variable and what kind of answer you might get out of an appraiser, depending on I think like in any profession, there may be varying levels of confidence that we might have depending on which professional it is. Is there any mechanism by which the city can have some confidence that the appraiser is going to give us an answer that really reflects our assessment of market value?

>> Leslye Krutko: Councilmember, Leslye Krutko, director of housing. The way we have this set up the city staff would need to approve and do the analysis to make sure that we were -- that we believed that the units were valued at that level. We would do it in a number of ways. One is, the easiest way is recent sales so we'd just do a cost comparison. These are all new construction projects. They'd have to show us, that's now what we're selling our product for. The other would be actual appraisals to show us that recent sales have shown these appraisals. We would require that kind of information. We wouldn't be hiring an appraiser or expecting them to do that. We'd just need that kind of data to show that that's the price.

>> Councilmember Liccardo: Okay, the mere showing or the mere presentation of a couple of appraisers' report or one appraiser' report is not going to suffice to establish the market value to city staff, is that what you're saying?

>> If we believe that's the asking price for these and that's what they were getting in the normal marketplace, we would do that analysis to see what information we had to show that that was the case.

>> Councilmember Liccardo: My concern is and I'm sure you've been thinking of this well in advance. But my only concern is getting down the road into endless battles over valuations and whether or not we've just got a very basic process that we feel confident in, that the process doesn't become the argument that in fact we all feel confident about how we're doing the evaluations.

>> Leslye Krutko: Right. We have real-life situations right now that we're dealing with where we know that the units are selling for prices that we would consider affordable. Originally the hopes were that they would be sold at a much higher level and the prices have come down. That creates difficulties for selling these affordable units. We can see that, we can gather the data to show that and feel comfortable. That's what we would require in the future.

>> Councilmember Liccardo: Okay? Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: So, Leslye, thank you for that information. I'm wondering when your department and the redevelopment department has to look at whether a particular unit can still continue to qualify for a waiver. It takes both of you to be in agreement, is that correct, both City Manager and the executive director? Or how is that process going to work?

>> Leslye Krutko: It's a good question. We're working out that process between us, between the agency and the housing department. But for the most part the housing department would be looking at these projects and determining whether or not the affordable housing price had been reached.

>> Councilmember Campos: So it would be your department, so the city side, let's just say the city side that would determine whether it should continue to qualify for a --

>> Leslye Krutko: In the implementation piece of this, yes, it would be.

>> Councilmember Campos: So it would just -- go ahead.

>> City Attorney Doyle: The resolution requires both the City Manager and the executive director, I think for all practical purposes, the housing department takes a lead on this.

>> Leslye Krutko: Right. And we coordinate with the redevelopment agency. It is a staff to staff coordination that happens.

>> Councilmember Campos: Okay. Thank you for that clarification.

>> Mayor Reed: I think that's it on the questions. Let me check my cards here request to speak. I do have one on this one. Tally Robinson. Okay, Tally Robinson is going to pass. There is no other public testimony on this. Is there a motion? Motion to approve. We already had a motion, that's right, Councilmember Liccardo got the second. All in favor, opposed, none opposed, that's approved. Next we're going to take up two items together, the 3.4 ethics update and 9.2, the policy for distribution of tickets or peace to city/agency officials because we don't need to hear it twice, the staff presentation once and we'll have to take action on the policy when we're done. I'll turn this over to the City Attorney and his staff.

>> City Attorney Doyle: Mayor, members of the council, we're here today to talk about, as part of the quarterly ethics update, to talk about the sort of overview of our gift ordinances and state requirements. But more importantly, and primary focus of this presentation will be to talk about some new FPPC regulations, how they impact tickets such as the arena, the arena box, and also tickets like Cirque du Soleil and tickets like that that the city gets as part of the sponsorship of an event. There are new, and this is very important and many of you have seen those from the City Manager's office and our office, a new ticket distribution policy is on the agenda for adoption to comport or to comply with state law. But there have been major changes. The FPPC has made efforts to sort of revise what they think or what they have seen as sort of an abuse. And we have worked to try to get that

mitigated along with cities such as Mountain View, Anaheim, other cities, that -- and I think the regulations sort of meet everybody's satisfaction. Just a brief overview, to sort of tee it up. The -- we have both city and state regulations. The state regulations require disclosure of any gifts over \$50. The gifts over \$420 are prohibited. And in the event that there are gifts reaching that amount, and this is an aggregate over a 12-month period. Not a calendar year. It's an aggregated 12-month period. That there is disqualification on any matter that would influence the maker of the gift. The issue here is, the number is tied to a cola so that \$425 does increase on an annual basis. But you noticed to be mindful, as I mentioned it is on a rolling basis, and you need to -- to the extent that you may be the recipient of a dinner or a couple of events with a individual or a company, that it doesn't get above the 420. On the next slide, the city regulations which are independent of state regulations, you have the limitation on gifts of \$50 and over. And there are a number of exceptions. And just to be advised that some of those exceptions under the City's policy may still qualify under the state law as a gift. And that's why the disclosure into state law is triggered. So you needed to be mindful of both. And while I think the council made great strides to have the two laws mesh, and be in pretty much parallel, there were certain exceptions that the council adopted or certain areas where the council adopted that, makes it different than State law and you just need to be mindful of that. The other issue is family reporting. When you fill out your Form 700s you're aware, there's a form that gets filled out, I guess to members of your family that don't necessarily count as gifts to you but you need to at least disclose it, that it has been given to a member of your immediate family or a spouse. Next. The new FPPC rules I'm going to have Patty Degnan give this presentation. She has been working as I said very closely with the FPPC on this and it has been something that's been in effect since the beginning of the year. And with the adoption of the policy in place today, we'll have formal adoption of the process. Patty.

>> Thanks, Rick. As Rick mentioned, over the past year or so, due to the fact that there's a new chair of the FPPC, whose focus has been on what he perceived as perks to elected officials, and he wanted to make sure he was closing loopholes. And there are several new rules that came into effect over the past year that we wanted to go over. I'll go over -- I'll go in more detail as to most of these. But the first is the valuation of admission to certain events. The next is the distinction of a gift to the city, as opposed to a gift to an individual city official. The third is the new gift limit that we won't need to talk anymore, but it's 420. And then the fourth is regulation to admissions to events received from the city. So first thing we wanted to talk about, is valuation of admissions to events. And you wouldn't think that this would cause a big change in how things are done. But we realize just recently that it does. I want to emphasize two specific changes. One is that now tickets to 501(c)3 fund raisers around to political events are now limited to one ticket per person, for individual use. And the -- it needs to be from the organization holding the fund raiser. Previously there were unlimited tickets that you could accept and it was from anybody. These type of events, political fund raisers and nonprofit fund raisers. This rule, we realize, impacted us specifically on how we accounted for gifts to the Compaq barbeque. And it's a little bit complicated, but I want to explain how that is. Because there is a difference, and most of your offices we have talked to and explained it to, but I wanted to explain it again. Since we look to the FPPC rules for interpretation of rules that are not specifically outlined in our ordinance, we looked to those rules for valuation. Because our ordinance doesn't tell you how do you evaluate a gift? So previously, we interpreted the value of the ticket to a political event at zero, regardless of the source, and regardless of how many. Now, since the ticket to an event from a third party is valued at the true face value, this year, and in many cases, it will be above the city's gift ordinance, and therefore you wouldn't be able to accept it. It's a little complicated. If you have any questions, I'll be happy to answer them before we get onto the next issue. But the point I wanted to make is, the change to this specifically affected the way we interpreted our gift ordinance. So that's an important point to make when we're looking at the two sources of these rules. So when you are -- the other strange thing about this reg is for 501(c)3 fund raisers, you're allowed to take a single ticket, for personal use, but you're still limited over the course of the year to \$420. So anything valued over \$420, over the course of the year from the same donor would need to be reported on your 700 form. That same limit doesn't apply to political fund raisers, so that's another little quirk in the rule.

>> City Attorney Doyle: If I may chime in, this comes up as a practical issue quite frequently. And I want to -- to the extent that you get a ceremonial event in 501(c)3, under our ordinance, if it's from the sponsor, it's not a gift. But then you have to look at the state law, and you have the \$420 limitation. So you you need at least be aware that there's two sets of laws. And while it may not be a gift under the City's law it is under state law, and you need to at least be cognizant of that fact. And the other thing I want to mention is, we don't make it up when we're saying that we're interpreting using the FPPC's interpretations. The ordinance itself says that to the extent that it's not contained in the city's ordinance, that we follow the political reform act or the state law.

>> Okay, thank you.

>> Councilmember Constant: Can I jump in with a question there, Mayor?

>> Mayor Reed: Sure.

>> Councilmember Constant: On the valuation, is this -- I know it used to be there was the retail value of the ticket and the portion that is the value of the meal. Is that no honoring part of the test?

>> The value of the ticket is the face value of the ticket, minus any donation to the fund raising event. If the ticket is \$500 dinner, and \$400 is going to the organization, then you would claim the \$100.

>> Councilmember Constant: So it's basically the meal, about the meal part?

>> The meal, right. And for the most part at least for 501(c)3s they tell you away your donation amount is. But sometimes you do have to go calling them up and trying to figure that one out.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: I just have a clarification commission. What if you get invited but you just go there to shake some hands and say hello and leave, not really have dinner or lunch, do you have to disclose?

>> City Attorney Doyle: If you're not -- and that happens quite a bit. There's an event at the Fairmount, and you go to a cocktail party in the lobby. You're not eating the dinner, you're not taking part in the two-plus hour ceremony, it's part of your community in essence as councilmembers but you're not partaking in the event.

>> Councilmember Nguyen: Thank you. A related question, old rule versus what's changed. Used to be that if you're participating in the event and they're feeding you to get you to come and participate in the event, that's not a gift.

>> That's correct. That hasn't changed.

>> Mayor Reed: Okay. Councilmember Nguyen, do you have anything else on that?

>> Councilmember Nguyen: No, mayor, thank you.

>> Mayor Reed: Okay. Go ahead, I think that was questions for the moment.

>> Okay. So now, is the next rule change, and this is related to gifts to the city. And in the past, well, when we first looked at this rule we thought it was not a big change, that was just a procedural change. Because in the past we have made the distinction between, for example, the Cirque du Soleil tickets. And as part of a ceremonial event, the council would accept, you know, 200 tickets to Cirque du Soleil on behalf of the city and the councilmembers would get them, and city employees who worked on the deal would get them, and that was not considered a gift to the employee or the official because it was a gift to the city. They last year decided that procedurally, they wanted to make sure that it wasn't the elected officials making the decision as to who gets the tickets. So they specified that the City Manager, or the highest administrative head of the organization, would be making those decisions. Unless the City Manager wanted it for herself. But they are requiring procedural changes there as to who decides how the tickets are distributed or the gifts are distributed. It's not just tickets in this regard. And then also, they require reporting. And you have to fill out those -- the City Manager or her designee will fill out a Form 801 and it has to be posted within 30 days on the City's Website. Luckily, we haven't gotten too many of those this year, and there's -- there is a procedure in effect, an administrative procedure in effect, and we're kind of working through the details of that. It -- so after they promulgated this rule, the FPPC came out with interpretations of this rule. And it's in those interpretations that things seem to really -- it seems that they really change more than what it looks like in the reg. So the interpretations of the rule, basically say that if there is any benefit to any employee, well, first they need to look at the donor intent. And if there's donor intent to give to a specific person, then it is not a gift to the city. It's a gift to that person. So this is the change in what we had previously advised. The fruit basket

that comes in to the department head, and we've said in the past the department head accepts on behalf of the City, puts the fruit basket in the kitchen, invites everybody to partake, that's a gift to the city. Can't do that anymore. If the department head's name is on the gift basket, that's a gift to the department head. And no matter what she does with it, she can't -- unless she gives it to a charity or gives it back or doesn't accept it as a gift, it's a gift to her, she needs to claim it on her 700 form, assuming it's over \$50. The other issue, though, is that -- is whether there is a personal benefit at all. And that deals with determining whether it's a gift to the city or the individual. So if you have any questions on that, I mean, it's basically -- they're looking more into the intent of the donor and who actually gets any kind of benefit. And if there's an official gets any kind of benefit, it's basically required to be reported on the 700 or the 801.

>> Mayor Reed: I have a question about the valuation and the reporting of gifts by the city.

>> Uh-huh.

>> Mayor Reed: Or arena tickets.

>> That's going to be the next slide.

>> Mayor Reed: Okay. But -- I think you've covered parts of it.

>> Okay.

>> Mayor Reed: If it's a gift to the city --

>> Uh-huh.

>> Mayor Reed: That a city employee uses --

>> Uh-huh.

>> Mayor Reed: There can be a gift-reporting requirement.

>> Right.

>> Mayor Reed: In some circumstances.

>> If there is a gift to the city, that is a benefit -- that a city employee uses, so say, the gift to the city, it's a gift of travel, that happens a lot as a matter of fact. An outside company, one of our vendors wants a city employee to come and look at something onsite. They give the gift to the city. As long as they don't specify who that city employee is going to be, and we accept the gift, and we report the gift, but gift reporting says who the beneficiary of that trip is going to be, but if all that happens, then the city employee doesn't have to report it on their 700 form. However, change the circumstances a little bit, and this is a real, live situation, our planning director was invited to a program at Harvard. And that's a program only for planning directors of big cities. You can't send anybody else in your stead. In that case, as long as it's authorized travel, and we report it as a gift to the city, oh, no, I'm sorry, we can't report it as a gift to the city. It doesn't fall under this category, it's a gift to him and he can't give it away. He has to report it on the 700 form. Even though it's related to work, it's reported to the city, he still has to report a benefit on his 700 form.

>> Mayor Reed: Never gets easier, understand, always gets harder. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you. And I appreciate that the FPPC is giving us all the clarity of the IRS. But on this gift to the city issue, my understanding is that the Cirque du Soleil tickets still fit under the gifts to the city category, is that fair to say?

>> We will probably at this -- we will at this point be considering -- they will be considered, no, I'm sorry they won't be considered gifts to the city because in this year, in light of all of these rules, we changed the contract with

Cirque du Soleil and required them to give us tickets as part of the contract. So with the compensation thing, it's not a gift.

>> City Attorney Doyle: Yeah, we have historically from Cirque received tickets in two forms. Consideration is part of the agreement, and in addition, as gifts, if they've sent separately as gifts. This year, all the tickets are coming per the agreement and that's the next slide to talk about the limitations on those tickets owned by the city. It's like the arena box is owned by the city. The arena seats the city has are their tickets. They're not being gifts. There are separate rules that apply to those.

>> Councilmember Liccardo: I'll hold my breath for the next slide.

>> That's a very important point. Because of these rules we are looking at how to deal with -- in contracting situations to actually kind of purchase the tickets instead of getting gifts. I think it makes it easier. Okay. So we'll talk about -- there's gifts to the city again -- talk about admissions to events from the city. So this is basically gifts from the City to the public officials. And again, public officials in the context of FPPC rules means officials and designated employees. So it's a pretty widespread, pretty broad definition. So this new rule was really pretty controversial, because it basically said that you can get a gift from your own employer or your own city. Which is a very strange concept, actually. They decided that -- well, I'll step back. What the rule is, and I'll give you some history as to how we got to where we were. So tickets owned by the city, for example, are arena tickets, Cirque du Soleil if we get them through a contract or if the city decides to buy a block of tickets for some event or we get sponsorship benefits, this rule would apply to those types of tickets. And they're not considered gifts to the official, as long as they're distributed pursuant to a city policy some an adopted policy. There's a public purpose to those tickets, it's limited to a single ticket for the official's personal use, and it's reported within 30 days of receipt of the ticket. If you get a ticket that doesn't fall within that scope, then you report it on your 700 form as a gift. Unless, and this doesn't happen in the city and I don't know if I should even bring it up. But unless it truly is considered compensation, then it's reported as compensation on your IRS forms. And I know there are some city recognition bonus type much things that are reported on the -- to the IRS as compensation. So that wouldn't be considered here. But we have not done that and I don't think we want to start doing that for arena tickets. They've given us this -- this procedure and I think it -- once we get the hang of it, it will work pretty well. The other thing I wanted to make clear is that these are tickets to what I consider fun events. I call them fun events because it's only tickets for entertainment, amusement or recreation. So I know that a couple of months ago, there was some event at the arena that was like a networking event, it was more of a business type event, and we looked at that and said, nah, this is not what this was designed to cover. It's intended to cover concerts and sporting events and fun things that people want to do. So anyway, that's the rule, I can answer questions or we can go into what we're proposing to deal with that.

>> Mayor Reed: We may have some questions. I think.

>> Yes, mayor.

>> Mayor Reed: I had one, and that's arena tickets, if somebody goes to five arena events, using the city-owned tickets, is there a \$420 limit on the value of those?

>> No, there's not.

>> Mayor Reed: Okay.

>> Because if --

>> Mayor Reed: There's a reporting requirement but there's no upper limit on --

>> That's right. It's not considered a gift per the FPPC if we -- if it's under this policy. So there's no limits, you don't have to put it on your 700 form --

>> Mayor Reed: Well then, the alternative one, if you don't report it within 30 days and you have a report, it's form 700, is there a dollar limit?

>> There's no dollar limit.

>> Mayor Reed: Because it's like the City's --

>> That's correct. It's not like you can stop, you're disqualified from making decisions that affect the city, because you've done it --

>> Mayor Reed: Have to abstain on everything.

>> It's sort of a loophole in the loophole closing process but yeah.

>> City Attorney Doyle: The big difference is on the FPPC, is one, you've had to have a policy. We've always had a policy on the tickets to the arena and the box. We're asking to extend that to such things like Cirque and others. The big difference is you only get one ticket. That's the big difference. In the past we said one ticket is okay. The FPPC has limited that to personal use.

>> Mayor Reed: All right, and just to follow on that, if I go to an economic development event, we did this with some of our solar companies, a sharks game sometime, I get one ticket and if we follow this policy and these rules it's not considered a gift, it gets reported, et cetera. If my wife goes with me and occupies another seat in the box, what about that one ticket?

>> That would be considered a gift.

>> Mayor Reed: Okay, so that's a gift.

>> That's a gift.

>> Mayor Reed: From whom? The city?

>> The city.

>> Mayor Reed: That gets reported on Form 700 because it's not subject to this rule.

>> That's right.

>> Mayor Reed: Okay. I'm always looking for very simple ways to do these things. So I have two simple things. I just want to verify that they're still somewhat simple.

>> Okay.

>> Mayor Reed: One is that if it's less than \$50, in most cases there's nothing to report or do.

>> That's correct.

>> Mayor Reed: In most cases. I think there's some exceptions even for the \$50, lobbyists giving you something.

>> The same dollar value within the year.

>> Mayor Reed: The \$50 rule is a good place, almost a safe harbor. And second rule is, if you write a check for it then it's not a gift. Because you paid for it. Okay?

>> That's right.

>> Mayor Reed: Okay. Councilmember Liccardo.

>> Councilmember Liccardo: Trying to understand better the distinction between fun events and not-fun events, for purposes of reporting.

>> Mayor Reed: Is that a subjective thing or do you determine that in advance? Can council make a resolution before the event that this is not going to be fun?

>> Mayor Reed: My personal opinion is that every event in Downtown San Jose is fun.

>> Of course.

>> Councilmember Liccardo: I'm not sure the FPPC agrees. Is there a bright line somewhere?

>> There's no bright line. Again, the words that the FPPC use is entertainment. Entertainment, amusement and recreation. And similar events. So -- [Laughter]

>> Councilmember Liccardo: To --

>> Mayor Reed: Well, when Sam Liccardo is in the dunk tank down on first street where would that fall under category, entertainment or --

>> Councilmember Liccardo: I paid for that seat, I tell you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor I appreciate all the facts and details, but as long as I can still e-mail you asking questions?

>> Please, please do. Because it takes a while to go through these I'm sure.

>> Mayor Reed: City Manager.

>> City Manager Figone: Patty, this kind of question kind of builds on what the mayor clarified, but for purposes of the recognition events that we hold them at city's box, whether they be for employees or community members, can you just recap briefly how that should be thought about? I know we're going to be putting out guidelines to the organization, but I think it's important to clarify that.

>> We'll get into it on the policy on the next slide but just briefly, especially I think it's probably mostly the arena events, that deals with the recognition. The person who is in charge of reserving the box is called the responsible party under our policy. And they are the ones that are going to be required to fill out the 802 form. It's the 802 form as opposed to the 700 form. And because the reg says that the city has to follow, has to file this report, not the recipients but the donor basically which is the city has to file the form. So if you're reserving the box to recognize a community group, you or somebody in your office is going to have to fill out the form. The tickets will be coming from the arena authority, with the form attached, and with some instructions on how to fill it out. I guess the most important thing to remember is you only have to fill it out for people who are city officials. So designated city employees. And commissioners, councilmembers, et cetera. More paperwork, and poor Lee is bearing the brunt of this and she can chime in later when we talk about --

>> Mayor Reed: Can we give Lee a free seat at the city box to compensate her for the extra paperwork? Would that be a gift? Or would that be compensation? Councilmember Campos.

>> Councilmember Campos: Thank you. I want to go back to the mayor's question about, if you receive two tickets, and one of them is for your spouse, you need to -- that's a gift. And for the single members, I'll set you -- so they don't feel left out of this conversation, what if you have a guest but I'm really focused on the spouse, do you have to report that within 30 days as well?

>> No. Because that would be -- that's a gift, no matter what.

>> Councilmember Campos: So it just goes on the 700 form?

>> It goes on the 700 form. Now, there is a variation, I mean, if the -- in most cases, the sponsor of the event we're talking about here will say, here is a ticket for you and your guest. In the original arena policy, you're allowed to have a ticket for you and the event -- or you and the guest. We're going to be recommending changing that because of this -- because of this rule. But if -- if your spouse is invited separately by whoever's organizing the event, so not -- it's not a ticket to you and your spouse, but a ticket to you and to Neil, separately --

>> Councilmember Campos: Oh, let's personalize it, okay. [Laughter]

>> Then that would not be a gift to you. It's the intent of the donor. Does that -- is that clear?

>> Councilmember Campos: Yes, it is. Thank you Patty.

>> So that ticket would have to be on the family reporting gift form, not on the 700 form.

>> Councilmember Campos: Thank you.

>> Another form.

>> Mayor Reed: So They all circle back to the same place, and that's the Form 700 eventually. Either you put them on there, or you don't, but they all get accounted for.

>> Uh-huh.

>> Mayor Reed: Okay, Councilmember Pyle.

>> Councilmember Pyle: Well, I guess I've been hanging out in the wrong circles. I'm not getting any of these freebies. I don't know where they're all going, but they're not going my way. And I would like to say that when you get back to the beginning of all this, were there a lot of problems that are causing these new, tighter controls to be put into place? I mean, I'm glad -- it's nice that you have a new person that's heading this up. But what is this based on?

>> Well, I attended a couple of the hearings up in Sacramento. And all of the examples seem to be coming from Southern California. So.

>> Councilmember Pyle: We know it. [Laughter]

>> There was talked about the rose bowl was a big bone of contention, Rose Bowl parades tickets and Rose Bowl game tickets. There was also some issue going on, I think it's Orange County Fair Grounds that has a really nice concert events venue, and the fair grounds commissioners get a lot of tickets that they give away. And it was really aimed towards collected officials getting a lot of tickets to give away to people. And the good news is, actually, though, when we went up in, and I testified, and I brought them our arena gift policy, because it basically deals with all of these issues, they took that and they kind of crafted the policy around our already-existing policy. So except for this reporting, the fully-day reporting requirement, which actually we have a quarterly reporting requirement, but it's -- we don't -- our arena policy already conforms to the -- this new policy. So that was a good thing.

>> Councilmember Pyle: But that's my whole point. I mean we're spending almost a half an hour on this and I really fail to understand the urgency of the situation. I also have to say we are spending more and more and more money out of our own pockets to go to the events in the community. It's either that or those community people don't get supported. So -- that's where I'm coming from. I'm really rankled by this, because I think it's totally overkill. Thank you.

>> Mayor Reed: Okay, you wanted to get into the policy part which is item 9.1. I have one request to speak on 3.4. Anybody else got a -- that's it on the cards. We'll take that testimony now. Ross Signorino.

>> Ross Signorino: Mr. Mayor, members of the council. I'm glad it took a few moments to get down here to the podium to be able to speak to you on this subject to give you a movement to relax. Because I think after all that you certainly need it. And I hope finally that you got this clear. I know I did. I'm sitting back there, whoa, this is really great, you know. But you know, this issue here, even on 3.4, you're talking about ethics and the ethics issue and gifts. Well, this is kind of a thing in reverse. Not what's happened in the past that it's unethical, not at all. But I do want to bring it up again, I think it was brought up during the campaign, the mayoral campaign, that are you have the ability, I don't know how much there is in that fund that you have, the able to give money away. Now, if you recall, when we had the veterans fighting over there in Iran, and so on, and you were generous enough to supplement the employees' pay here that were over there. But then they were overpaid. And then the City Attorney, Rick Doyle, made an investigation on that, and he said that we have to get that money back, because we cannot give taxpayers' money away. Now, in reverse, I would like to bring out the point that, when you're giving money away for good events, legally what you're doing, nothing unethical, I think to save yourselves a lot of trouble, I think you should cut that out. You wouldn't have the burden of people asking, you would say, and then you wouldn't have the burden of offending other people, saying, well, this person got something, the other person got something, and so on. I think you should cut that out completely, too, to save yourself a lot of headaches because you just had a lot of headaches right here with this. Thank you.

>> Mayor Reed: That concludes the public comment on these items. Staff, I had one more question about sort of the practical world we live in and how to deal with this. There is another option that comes into play on some of these things, and that is to use the \$10,000 annual allocation of funds that each office has that the community has to pay for yourself and your spouse. That avoid all of the gift issues, because it got paid for with public funds. So that's still a good, simple rule.

>> That's still viable, right.

>> Mayor Reed: So on to the policy recommendations.

>> Okay, so on to the policy recommendations. Because of this new change in the policy we had to take a look at our arena event policy. And as I mentioned previously, the policy for the arena tickets really didn't have to change too much. But we wanted to broaden in. To apply to nonarena events. So the policy really, the public purposes in the policy, we haven't changed. Those public purposes are for ceremonial welcoming, visiting dignitaries, economic development outreach and recognition. And I have been noting that about 90% of our use of the boxes for recognition events, either employees or community groups that are those types of events. We thought that that covered all of the bases. I don't know if there's anything we want to add to that, there wasn't anything we could think of. But we think the policy's been work just fine for the past 17 years it's been in place. We -- the policy now has -- allows, as we discussed before, one ticket for the official's public -- or personal use and one guest, we've limited as one ticket for personal use and extra tickets need to be treated as gifts now. As I mentioned before, requires the responsible party to submit the form 802 within 30 days. Because we have this new 30-day reporting requirement, and then it's not only submitted to the clerk's office but it's posted on the Website, we have changed the policy to relieve the arena authority from their quarterly reporting that they have been doing. It would have been redundant and we figured that it's one less thing that they need to do. And then there's another tweak that we made to this policy that has nothing to do with tickets and nothing to do account FPPC rules. And that is, when the policy was initially adopted, there was a clause called residual use of the tickets. And that basically said that if the tickets were not being used, the city can sell them and use those proceeds to supplement the arena authority activities. In your budget discussions in June, you directed staff to sell all of the non-box tickets. So there's I think 16 arena seats that we also have use of, that instead of being distributed under this policy, the city is going to be selling them and using the proceeds to supplement the arena authority budget. In the original policy, though, it limited what the city can sell it for face value of the tickets. So now, there are -- it's my understanding anyway, that the sharks have a season ticket Website, where you can bid -- put your tickets out for the highest bidder and many times it goes higher than face value. And we didn't think that we wanted to limit ourselves to the face value of the ticket either, if everybody else can sell theirs at whatever the market will bear. So we eliminated that provision from this proposed policy. And those are the changes to the policy at this point before you.

>> Mayor Reed: Okay. On the policy, the initial questions or comments, Councilmember Constant.

>> Councilmember Constant: Thank you. I had a question as it relates to the posting. I know that we, on page 5 of 6, on the memo, we're not currently posting them on the Website because of the lack of resources. Would it be possible, or even feasible, for us just to post those on our Websites? I know, I do, on mine. Any time I file something with the clerk, I have a page on my Website that's designated for disclosure so people don't have to figure out where to go to get them. Just they're on my Website. If they want to get them, three can get them. It's relatively easy, we all maintain our Websites to just put up a link to do it. Would that suffice putting an additional link on the clerk's Website? I'm throwing it up as a suggestion to do. It really doesn't take that much more time. So I'm just throwing that out there.

>> I don't think that it would hurt. Especially if somebody's really looking for just information. If a question ever came up, FPPC might say, well, that's not the official Website of the city. And that's where these are supposed to be posted.

>> City Attorney Doyle: I think until we get maybe set up it's not a bad idea but again the filing needs to be with the City Clerk and it would be incumbent at some point on when the clerk has the resources to sort of put that on the Website. But again, it wouldn't hurt.

>> Mayor Reed: What is the minimum requirement under state law is that we file the form with the clerk?

>> It's that we file the form with the clerk. If we don't have a Website to post, at least there's the paper form there that's open to the public.

>> Mayor Reed: What I'm getting at is, if you blow it, you have got to put it on the Form 700. So I'm trying to figure out what's the minimum we have to do under the state law so that we don't have to worry about putting it on the Form 700? So that's to file, go to an event, whoever's in charge fills out the form, the 802, and files that with the clerk.

>> And files it with the clerk. The filing needs to happen within 30 days. I'm not sure the posting has to be in 30 days but that could be splitting hairs.

>> Mayor Reed: If the requirement is to post it on the Website or you file the form 700, we just need to know that.

>> Lee Price: Mr. Mayor if I could, the regulations don't even indicate that the City Clerk shall be the filing officer, only that the forms shall be filed in a prominent -- on a prominent Website. But as we work through this policy and procedure, you know, it made sense that my office become the filing officer since we're the filing officer for so many other things including your Form 700 and campaign disclosure statements, et cetera. There wasn't a mandate to the office of the City Clerk but I agreed that it made sense. In other cities like Mountain View, the City Clerk has become the filing official for the Form 802.

>> Mayor Reed: Can we give one of those club seats to the City Clerk so she can sell it and fund the filing and the posting?

>> Well, you can use that money that we get for these seats however you want.

>> Mayor Reed: Any other questions on this? We do have a recommendation on the policy and I would like for the staff to make sure that we're 100% clear about what we've got to do in order to comply without having to file the form 700. And on that point, there is a note in the staff report back on page 5 of 6. It says, since we haven't adopted this Reever policy, we don't fall within the rules offered by the state. Therefore, everything that's been done at the arena since February 7, 2009, should be disclosed on a form 700. Because it's already beyond the 30 days. And we didn't have the policy adopted.

>> But that was for non-arena events.

>> Mayor Reed: Oh, it's at non-arena events.

>> Right, and I'm not sure that we -- I think it says since the current policy didn't cover any other events --

>> Mayor Reed: Okay, tickets to other -- those events, it refers to other events, the non-arena events. Okay, so if I went to the Sharks game last week, which I didn't, they didn't even have a game last week, and I fill out the Form 802 properly and get it filed properly, then it does not go on a Form 700.

>> That's correct.

>> Mayor Reed: Any other questions? Councilmember Constant.

>> Councilmember Constant: Well, Mr. Mayor, I think you actually touched on what might be a good point. We have been saying that we're going to sell the club seats and use it to offset or augment activities at the arena authority. Should we not be thinking about perhaps that money going to the City Clerk to implement the policy? I don't know away it takes to do that, but I think that's something significant. 16 club seats, with the number of concerts and events, and especially the sharks tickets, being able to be sold at little more than face value, we could easily get one FTE out of that, I'm sure.

>> City Attorney Doyle: I think it's an issue we need to sort of confer with staff on. It is General Fund money ultimately, but there's been budgeting. So I think it has to come back. I would note on the 16 tickets, sometimes on play recognition events, it allows you to bring more people into the box, because there's only so many seats in the box. And it's been used for that purpose in the past. And so I don't know if all those tickets are available for all events. So that's something I think we need to consult with staff and get back to you on.

>> Councilmember Constant: If it's okay, I would like to make a motion for the staff recommendation that we have in front of us with the direction to return with that type of follow-up information.

>> Mayor Reed: The motion is to approve the staff recommendation with the return on this budget issue with how this seat ticket revenues might be allocated.

>> Mr. Mayor, the other thing we can look at is having the arena authority do the posting and then, I mean, it's the same type of thing. Because the arena, if it's posted on the arena authority Website it would satisfy the same requirements.

>> Mayor Reed: Okay, that's a good alternative to look at. Let the clerk consider that one, as well. Any other discussion on this item? Everybody clear? Councilmember Oliverio, what was that e-mail address you used to get your questions answered?

>> Councilmember Oliverio: That would be Leeprice and Rickdoyle.

>> Mayor Reed: This is an awareness session. We'll have to ask the questions until we get it right, I'm sure. All in favor? Opposed? None opposed. That new policy is approved. We now have a couple of items on the redevelopment agency agenda to consider. Some staff shifting, first item is the consent calendar. Are there any items councilmembers would like to pull off the consent calendar for discussion? We have a motion to approve the consent calendar, all in favor, opposed, none opposed, that's approved. We have item 8.1, which is the second quarter funding requirements for scholarly 9-10 city support services. Harry Mavrogenes, executive director, are you going to take that?

>> Harry Mavrogenes: Yes, sir, Mr. Mayor. This is follow-up steps. When we initially approved a budget in June, one-year budget, we set aside funding for first quarter, assuming we would be back to September. Due to the state take away and other issues we are undertaking now, we need to continue the funding for another quarter, this recommends the funding for the rest of the calendar year. There is a supplemental issue also from the City Attorney with regard to one item with regard to the park fund moneys that we are going to be discussing with the city also. We recommend your approval on this so we can continue the city funding.

>> Motion to approve.

>> Mayor Reed: We have a motion to approve. All in favor? Opposed? None opposed, that's approved. That concludes the agenda item. We have open forum at this time. Kathy Brandhorst.

>> My name is Kathy Brandhorst, Lisa Marie Presley, Jonbenet Ramsey, John Steele, and I'm also the United States president. Gee, I don't know where to start! I'm still homeless. The house across the street takes in the homeless women and children for -- because they are low income. But there's been a situation where Arlene is still running the house over there. And these people have been beaten, hung, and now they are skeleton skulls. So I just wanted to bring this up. Those women and children do feed help. Also, I just wanted to let you know, the entertainers are all homeless, outside. And we are singers, too. Little orchard still needs help. Because we are victims with Scott Brandhorst, he has been splattered, tortured, thrown apart, ripped apart, we are victims because of this. We are thrown out on the street from little orchard because we're becoming victims. And I just wanted to let you know, Scott did arrest a black man, and these black people are still torturing him to death on the sidewalks on the streets wherever Scott walks. There is also a Julie Vega who works for the Courthouse. She has court orders to put death row back together, and this has been a big problem for all of us, who try to execute.

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

>> Okay, thank you.

>> Mayor Reed: That is the end of the open forum. That concludes our meeting. We're adjourned.