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>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call the San José city council meeting to order for October 5th, 2010. We'll start with an invocation. Vice Mayor Chirco will introduce the invocator.

>> Councilmember Chirco: I would like to welcome Reverend Rob Kirk, pastor of the Cambrian Park United Methodist Church. He became the senior pastor of the church this past July. Prior to coming to San José he served a United Methodist Church in Concord. Cambrian Park United Methodist church is a progressive community, committed to open hearts, open minds and open doors, and forward-thinking without compromising the great message of hope and vision of the Christian faith tradition. It celebrates intergenerational ministry. Cambrian Park United Methodist church has a history of being a driving force in its community. It hosts many community programs including discovery preschool, boy scout troupe 374 and 373 who I had the joy of helping them celebrate their 50th anniversary. And the girl scouts, as well as the YWCA. The church's outreach includes preparing meals for loaves and fishes and they help to launch the Amanda network to fight back against violence targeted at teens, especially cyberbullying. The church is a founding member of people acting in community together. Through their efforts they have made a concrete impact on securing affordable housing, health insurance for children, and services to support the health, safety, and education of children and youth. Thank you, pastor Kirk. If you could join us up here at the podium, for being with us today and welcome to San José.

>> Mayor, council, friends of San José. Please join me for a moment of blessing. Father, we thank you for this day, and the blessings we have received from this day. We thank you for this great City of San José. With its energy, with its diversity. And we thank you for this council, its men and women whom you have called into public service. Father, your word says pray for kings and those in high places that you may dwell in peace. So today this afternoon we ask your blessing upon them. Give them your wisdom, in their decisions, give them patience, is give them efficiency, give them endurance. This is our prayer, amen.

>> Mayor Reed: Thank you for joining us reverend. We'll now do the pledge of allegiance. And I've got some Boy Scouts from District 10 according to Councilmember Pyle. From Almaden. Please join us for the Boy Scouts. [ pledge of allegiance ]

>> Mayor Reed: First item of business are the orders of the day. There are a couple of changes we need to make to the printed agenda. We're going to move from the afternoon to the evening ceremonial item 1.3, the month of October as Filipino history month. Drop item 1.4, a ceremonial item, presentation of a gift, and we need to add, approve the addition of item 2.14, agreement with NASA Ames research center for utilization of Moffitt federal air field for enforcement and emergency response capabilities, that's a late add and we need a two-thirds vote to do that. Any other changes under orders of the day, Councilmember Herrera.

>> Councilmember Herrera: I'd like to pull 2.12.

>> Mayor Reed: We'll come back to that. Any other changes on orders? We have a motion to approve the orders of the day as amended. All in favor? Opposed, none opposed, that's approved. And we have a two-thirds vote on that. Since it was unanimous so that we can consider item 2.14 the NASA Ames agreement. Next item, would be closed session report. City Attorney.

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

>> Mayor Reed: While I turn to the ceremonial items I'd like to invite Councilmember Constant and disabilities awareness day committee to join me at the podium. Today we're recognizing October 7th, 2010 as disability awareness day in the City of San José. These folks have been involved in the planning of when we're doing and Councilmember Constant will tell us something about the planning of the event.

>> Councilmember Constant: Today we're going to put a proclamation declaring okay 7th, 2010 as disability awareness day. This is the third year we're having disability awareness day at City Hall. I've got a whole group of people here to accept the proclamation. We have Laurie Urawski, Francisco Valenzuela, Lee Williamson, Stacey DeForest, Lisa Giovanetti, Liz Best, Lisa Yarn, Desiree Reyes, oh, didn't make it, and Eileen Ewing. Disability awareness day came out of some discussions that we had on our stakeholder group that plans the strategic plan for persons with disabilities with the City of San José. And we wanted to make sure that we had a very public

celebration of unity, that invited the entire community to come and participate, promoting awareness and appreciation of people with disabilities. It also provides educational opportunities for the general public to understand the barriers that disabled peoples encounter day to day. The hope is to really empower those with differing abilities with informational workshops and providing resources to them. We are going to have a very large resource center geared not only towards those with disabilities but also towards people who do not have disabilities so they can learn more about the issues surrounding disabilities. The City of San José as an organization has ensured that every building we build, meets the highest standards of accessibility. And it's our pleasure to have the mayor proclaim the seventh day of October, 2010 as disability awareness day in the City of San José, and we encourage all residents and all employees of the City of San José and downtown businesses to come down here, right here at City Hall on the plaza, at our third annual disability awareness day and learn and have fun. Mayor, if you can present. [applause]

>> First I'd like to thank the mayor and the council for this wonderful recognition. As Pete said, disability awareness day was planned several years ago for the purpose of educating the public as well as providing information for all persons with disabilities. As a representative of San Andreas regional center, we're proud to be part of the committee that has planned not only these past three disabilities awareness day events, but also in supporting the City of San José to educate the public as well as support persons with disabilities. And they've definitely done a great job. San Andreas covers four counties, and of all the four counties that we serve, the city of San José is definitely ahead of a lot of other counties, as well as cities, in providing services for persons with disabilities. And for that I'd like to thank the mayor and the council for being great leaders in supporting persons with disabilities. Thank you for that. On behalf of the City of San José Department of Parks, Recreation, and Neighborhood Services, I'd like to invite all of you to join us on Thursday. As Pete said, there are going to be a lot of organizations that will be providing some very valuable information. As well as workshops in the morning for persons, whether they are family members, persons with disabilities or practitioners. Fortunately for us we're able to utilize this wonderful facility for this. If you are interested in that or you have staff we would welcome you at 8:30 in the morning to take part in that. At noon there will be a program, there will be speakers speaking on behalf their experiences and their lives and having a person in their life with a disability or living with a disability. And I think whenever an event like this is hosted those individuals are the real leaders who should be speaking. And

we're grateful that we'll have two hopefully three great speakers presenting on Thursday. Finally I'd like to acknowledge first of all councilmember Pete Constant for his leadership. Pete, you're a great friend and have done a great job. I think he deserves a round of applause for his leadership. [applause]

>> When former councilmember Linda LeZotte termed out of office one of the concerns we had was we would need to find someone else to take on the lead for persons with disabilities. And Pete stepped right on in and Pete, thank you very much for that leadership. You've been doing a great job. In the last three years, Pete has changed a lot so he's looking good. So on behalf of the Santa Clara Valley medical foundation they've truly been a big player in this event. The valley medical foundation is along with Pete are really the two stakeholders in this event. They've done a great job and for all of us who have been fortunate to participate it's been a great experience. With that said, I'm hopeful that all of you will be here. I know there's a couple of councilmembers that are present, Sam I know you were out there last year, hopefully can you make it again. I was on the race on Sunday and good job. You were ahead of me. Sam's got some great legs. And then the rest of the council, ash hopefully will be able to make it. Oh, sorry, thank you sir.

>> Mayor Reed: Now I'd like to invite Councilmember Campos to join me and Councilmember Constant. As we recognize October as domestic violence awareness month in the City of San José. And there are quite a few things that we do throughout the year, but this is the special month, Councilmember Constant, Councilmember Campos serve on our advisory group and we have some members that are going to join us as well. Let's get them all down here and then Councilmember Campos will tell us what's going on.

>> Councilmember Constant: Thank you mayor we have a great week, this week, we have not only the disability awareness day on Thursday, but on Friday we have our disability -- our domestic violence awareness walk. And that's because the month of October is also domestic voyages awareness month and we're here to proclaim that today. Today's proclamation is being presented to representatives from the City's violence center which includes the San José police department and our onsite collaborative partners, next door solutions to domestic violence and the Santa Clara County District Attorney's office. We have with us Lieutenant John rose from the police department, Kathleen Krenick, no. James Shapiro from the District Attorney's office along with Rolando Pierre

Dixon and Chief Hober from the police department. We are happy to proclaim October as domestic violence awareness month. The San José police department and the family violence center respond to over 5,000 domestic violence, stalking and threat management related calls every year. During this month we come together in order to raise awareness and to respect those that have died as a result of domestic violence. We also celebrate the survivors of domestic violence and to the breaking the cycle of domestic violence. We can only do this by educating people, educating young people, about healthy relationships, recognizing that domestic violence can be prevented and to work together to end domestic violence within our homes and communities. And the best way to do that is by promoting awareness and letting people know that we do not tolerate domestic violence in the City of San José. This Friday, you'll have the opportunity to join us at our third -- 13th annual walk to end domestic violence. It will be right here at City Hall. The event will have a brief program featuring Ronny Lott together with a walk through downtown and a research fair and lunch. I believe Councilmember Campos has some information to share.

>> Councilmember Campos: We're here to proclaim October domestic violence awareness month. As co-chair for the City's domestic violence advisory board for many years now and I was thinking about the first time I walked which was almost 13 years ago, I have seen how committed the City of San José is to ending domestic violence. Our city is fortunate to have a staff member who is devoted to this issue of domestic violence and that's Eve Castaneda. Please stands up so we can be recognized. It is important that we publicly discuss domestic violence month because without community awareness and involvement we cannot be successful. We need neighbors, friends, and families, to be aware of domestic violence in their communities, and to urge loved ones to seek help. We have many resources, and services provided throughout Santa Clara County. And they are ready and willing to help. As policy makers it is our job to make sure that these services provided, provide adequate resources, and proper facilities, in which we can do this work. As a community, it is your job to seek help, when it is needed. No one deserves to be abused. And with your help we will end domestic violence in our lifetime. I think the mayor is going to present the proclamation to Rolanda and she is going to say a few words. Let's give her a round of applause. [applause]

>> Thank you so much for having us, and I'm so appreciative all the hard work and commitment by the City of San José. And all of our partners that are present here today. Our City Attorney, our mayor, as well, our Vice Mayor, all of whom have stepped forward over the last many years, 13-plus and stated that domestic violence will not be allowed to continue unabated in our community. San José PD, the family violence center the DA's office the advocacy community all work hard on a daily basis but I don't want to take it away from the people of this city. Everyone please come out on Friday and walk with us to continue to say in this community domestic violence will end. Thank you. [applause]

>> Mayor Reed: Next item is the consent calendar. I know there's some requests to speak on this so we'll hear this first. David Wall. Mr. Wall, you have two items listed. I think both of those are under item 2.3, the report from the Public Safety, strategic support committee. Your second one is CPLE, San José police department. That's part of that report.

>> David Wall: That's open forum Mr. Mayor if you will look at the card. First of all, it's glad to see you, Mr. Mayor, I'm glad you returned safely into our midst from Washington, D.C. I request that this report from the Public Safety, Finance and Strategic Support committee dated September 16th, 2010 be deferred because it contains material misrepresentation of fact. In laymen's terms, bold faced lies. Page 2, in which we reference the CPLE, the Consortium for Police Leadership in Equity's report, here lies that it states that it's a draft report. The term draft report is mentioned five times. We not say that that is just an error. Because it is not. One must review the video archives of that date and that meeting and you'll see not moment or one time was draft report ever issued. Here is this a complete report. At no point on this report is there draft or anything else. The only thing that Dr. Gough wished is on the archive that is not published on the city's web page because that precludes it from being published in journals. Peer review in journals. You must defer this until this record is corrected. Second is last page 4 I did not recognize and thank two San José police officers. I specifically mentioned and thanked and held out for public recognition Officer John Mcelvey badge number 2725 for an you outstanding job in my neighborhood along with two wagon masters and a host of other San José police officers doing an outstanding job. Because of the nature of what they were doing, no other further information could be made public without compromising police officer operations. I am very much insensed that this misrepresentation of these council

reports -- it's not the first time, Mr. Mayor, it has happened several times this year, to the point that where I have no confidence in the office of City Clerk. Now, I don't know what you're going to do, but thank you.

>> Mayor Reed: That concludes the public comment on the consent calendar. There are matters the councilmembers would like to pull for discussion? Councilmember Herrera.

>> Councilmember Herrera: 2.12.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: 2.6.

>> Councilmember Liccardo: Councilmember Oliverio.

>> Councilmember Oliverio: 2.11.

>> Mayor Reed: All right, we have request to pull for discussion 2.6, 11 and 12. And we also need to pull 2.14 to change a little bit of the language in the recommendation or the agenda. So that we have those items. Any others? Is there a motion on the balance? Motion is to approve the balance of the consent calendar. All in favor? Opposed? None opposed the balance are approved. Let's go back to item 2.6. That's agreement with Alaska Air Group for new air services.

>> Councilmember Liccardo: Thanks Mayor. Bill, I was hoping I could ask a question, let me have a moment. I wanted to congratulate you and your team for this focused city incentive program which obviously is having an impact. In a very, very difficult time to boost air service, Alaska is making commitments which I think are really promising and demonstrates that this is a program that's really pushing against the tide to expand our capacity there. Question I had was, at this point are there other airlines that are actively participating or do we have others on the hook, so to speak?

>> Bill Sherry: Bill Sherry aviation director for City of San José. We have other airlines that are engaged in our base incentive program. Alaska is the only one that stepped up to the plate for the focused city incentive.

>> Councilmember Liccardo: I guess the other question would be, there are other things we can do to tinker with this program from the council level that would make it more focused in the reach?

>> Bill Sherry: Well, I think generally speaking, any incentives today that help air service develop jobs and economic incentives are a good thing. I think our incentive program in comparison to other airports is pretty assertive and pretty aggressive. So it's an all-inclusive incentive program. Part of the program is we're still looking for other things. We're not resting on our laurels. We're still looking.

>> Councilmember Liccardo: Thanks bill. I just wanted to point out this retroactive benefit is similar to what's been proposed already and has gone through Rules Committee on the parking set of incentives we have on businesses, as far as expanding the incentive for businesses that have recently been taking advantage of those programs so I hope that we'll be open to it in that context, as well. I would like to make a motion to approve.

>> Mayor Reed: We have a motion to approve. I had a couple of extra comments. First I want to thank Bill and his staff for putting this together and working with Alaska to get the additional air service which everybody knows we need. Our flights are leaving full. We need more service. And this is a piece of that. I met with the CEO of Alaska airlines Bill Air on June 25th and at that time he was very supportive of San José and committed to adding flights, and you can see he's doing that. I think they're now the second largest carrier. Bill is nodding yes, so I'm correct in that, with about 20 daily departures. They've added four new flights in March, and that's more than \$1 million in new passenger revenue for the airport, that's a good thing, and they're still committed to adding more out into the next couple of years with additional revenues. When I talk to Mr. Air back in June, basically, the purpose of my discussion was, what can we do to convince you to invest in additional air service? Because it takes an investment, it's a risk on their part, and he identified some things. First, that we have to be aware of the impacts of the recession on air service. It's a tough time to be in the air transport business. It is a price-sensitive

market. Alaska is building service back up but it's imperative to keep operating costs at San José airport as low as possible. And creating competitive incentive programs to attract route expansions and service increases is critical to the airlines. So he, as basically a leap of faith, has accepted our commitment to keep the costs low and the competitiveness plan that the council has directed the airport staff to work on is something that's important, but he's taking that leap of faith and added some new investment and we really appreciate that. And I know that there's more to come. We got a great new airport. It's terrific, and I've talked to a lot of people who have flown through it for the first time. They love it, including people who say I used to fly from one of those other airports, and I'm changing my patterns, because it's a great airport and it's very convenient. So that's good news. The bad news is it's still very tough economic times. So with that I would urge council to support this and hope that we get more. On the motion, all in favor, opposed, none opposed, that's approved. Item 2.11 would be the next one. Those are city positions on some ballot measures and propositions on November 2nd ballot. I had some questions on that, I don't know if any other councilmembers did or not. Staff, in looking at the multiple measures on the ballot that we're looking at, 19 in particular, which is the legalization of certain kinds of marijuana usage, recreational use. We have our own ballot measure on measure U dealing with a potential tax on medicinal or recreational marijuana. And then we have this proposition 26, that is on the ballot, that would require us to go to the voters to set fees, which we are contemplating as part of our regulatory program for medical marijuana. And I know that all of these could win, all could lose, or some of them could win and some could lose. I'm concerned that the right combination of these things being approved or not approved, if they all win, we will have our ability to tax medicinal or recreational marijuana. But the state will have opened the flood gates to recreational marijuana facilities of some kind and we won't have a regulatory system in place on November 3rd. The day after the election. And I'm concerned about the potential land rush for people, because we've seen it over the last year, around medicinal marijuana, that people have gone out, trying to figure out where they should locate their businesses. We have a whole bunch of enforcement actions that we've had to take because people located in bad places and in violation of our rules. So how can we protect ourselves and our ability to control what happens in our city, starting in November, if 19 passes and 26 passes? If 26 passes we've got to go to a vote before we can have a regulatory fee and that might take some time. I don't know how quickly we could try to get a regulatory fee on the ballot and when that night happen. I'm just worried about this interim period before we know what the

rules are because proposition 19 is not a regulatory scheme. It leaves it up to local cities like us to sort it out. So could staff just talk a little bit about what we could do to protect ourselves in that period of uncertainty?

>> Deanna Santana: We -- I think your comments are well taken and we, too, are concerned. In fact there are a couple of other categories from a policy perspective that make the unknown of the potential passage of prop 19 more uncertain. And recently, as late as last week, the governor signed who bills that also impact the ability to possess marijuana, as well as medical marijuana bill that we need to reconcile with council's recent action. And out there there's a recent development that the league of California cities is trying to develop a policy framework, in the absence of policy framework put forward by proposition 19 so that we don't have 500 different types of regulatory frameworks if proposition 19 were to pass. So we have been working over the last week and a half, given a recent field poll result, that suggested that there is some likeliness that proposition would pass, so that we could bring back to council potential policy options at the appropriate time.

>> Mayor Reed: Well our best case scenario is both 19 and 26 lose and we could move on with our regulatory system that we've been working on under our own ballot measure that we hope will pass, I guess that's the best case scenario but we can't control the outcome. And if we don't have a regulatory fee in place, if props 26 passes and we don't have one in place, I know we're already incurring some substantial expenses just trying to control and regulate medicinal marijuana. We have got fires, we've got code enforcement actions, we got lawyers all trying to get control over it.

>> Deanna Santana: We have about six different departments that have dedicated significant resources just to understand and develop policy around the current state. I have a quick reference, I don't think anyone from fire is here but of the recent eight fires that we are tracking, roughly about 3,000 marijuana plants have been involved and those are just house fires. And so we are -- we are concerned about the significance. I could let deputy chief Hober speak to any trends and themes from the police department perspective. But we are concerned about the amount of resources, as well as tracking sales tax and business taxes and understanding that environment towards developing sound policy, if 19 were to pass. So with the amount of resources and a window of -- if it were to pass a window of absence of regulations knowing that the league of California cities may put forward a

framework for the state to adopt and the uncertainty of how the recent bills that the governor passed informs the work that we've already completed and the outcome of measure U and proposition 26, there is a lot here to unravel and to seek clarity around. So that we can prepare ourselves for the December study session.

>> Mayor Reed: What's the date of that study session?

>> Deanna Santana: Right now we're targeting December 13th.

>> Mayor Reed: Okay.

>> Deanna Santana: David Dave, would you like to offer any additional questions or if the council is interested in --

>> Mayor, to address some of the issues that deputy City Manager was talking about, we have seen eight fires between January of 2010 and August of 2010, obviously fire responds out there. But then police follows up and goes out there. And we have found approximately 3029 plants with those fires. And speaking for fire a little bit, one of our biggest concerns is what they are doing is they are circumventing the actual circuit breaker box and going into there. So we have great concern about that. We've had just talking in general about some of the issues that we're seeing, I believe there's just over 80 of the collectives, and with that we've seen three armed robberies of the collectives. I understand we're just talking about 19 now, but I just want to lay a little bit of the framework. In one of those cases we had people that came to California from Arizona and when we interviewed them, they specifically said they came to California because they knew the quality of the marijuana here would be very substantial. And positive for them to bring back to Arizona. Additionally, the Santa Clara drug team has recently done some investigation into some of the delivery services of marijuana. And with that, what they've found in interviewing some of the subjects they were from out of state as well and they talk about what they're calling the green rush which is similar to the gold rush of the 1800s and the fact that they are coming here because they know that there's money to be made in California under the current circumstances and if prop 19 were to

pass. There's some other issues that I could talk about, but to keep it brief that's basically what I wanted to cover on public safety issues.

>> Mayor Reed: City Attorney did you have a comment?

>> City Attorney Doyle: Yes, mayor. On the prop 26 issue, there -- and the proposed fees that we would impose, I don't know if they would be subject to voter approval because generally these would be cost recovery fees. However, I think your point is well taken that given the uncertainty of prop 26 and how it ultimately would be interpreted I think it really requires some study and really standstill until we're able to give you a better definition.

>> Mayor Reed: I don't think we can wait until December to get working on this. It is not on the agenda today to sort this out but if we ask the staff to try to figure it out and bring it back to us, can you do that before election day, before whatever changes happen are effective or --

>> Deanna Santana: We would be looking at October 26th, or November 2nd, and we could bring a report forward by that time.

>> Mayor Reed: Okay.

>> Deanna Santana: Is there a preferred date or --

>> Mayor Reed: Well, if we introduce something it ought to be effective on or before election day so we don't have this green rush without some thought to it. But either one of those days probably would be as good as the other. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. As I've shared a few times here on the dais, that I don't really support voting on items that are not direct San José issues. I feel I was elected to oversee local issues. I believe all the statewide propositions that are before us today are really for the California voters to weigh the facts and

then to vote. If I personally support or am against one of these propositions, then I may choose to endorse for or against that particular proposition and furthermore campaign for or against that particular state proposition. For example I personally endorse prop 22 and ask people to vote yes, which would ban the state from taking or borrowing money for the city of San José, even though my own political party is against prop 22. I supported this on the council since it was specific to San José and what has San José's experienced many years from the state. Since I'm not allowed to abstain from these types of votes I'll be voting no. Not that I don't have a personal opinion on these items, however I do not think my personal view or city management view reflects my district, San José, or the voters of California on three very different state propositions.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor, thank you, Councilmember Oliverio for bringing up proposition 22. I was listening on the September 29th Rules Committee meeting but I remember earlier this year I have presented a prop 22 to the Rules Committee, and there was a unanimous vote to support the proposition 22. So I guess my question is, how can we get the support position of yes on 22, into this agenda item?

>> Mayor Reed: I think we're already on record.

>> Betsy Shotwell: Yes, Betsy Shotwell Director of Intergovernmental Relations. As my second paragraph under the recommendation does imply that on February 23rd the council did take a support position on proposition 22, and that information has been shared with the appropriate parties and interested parties. I will also be, as I always do, a short info memo indicating council action on measures that will be distributed.

>> Councilmember Chu: Great, thank you very much.

>> Betsy Shotwell: Thank you.

>> Mayor Reed: Certainly don't want to forget proposition 22.

>> Betsy Shotwell: Absolutely.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I just wanted to ask, the effectiveness of any of these propositions would not be in place until January 1st of 2011, is that correct?

>> City Attorney Doyle: No, it's effective once it's certified, it's effective as of the date of the election.

>> Councilmember Pyle: Immediately.

>> City Attorney Doyle: It's immediate. State election doesn't usually take effect until the following year.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. Betsy, I know this is not the time to consider legislative priorities but I hope that as we look at the potential impacts of prop 19 passing and even whether it passes or not, it's a deep concern to me that there's absolutely no FDA regulation whatsoever of marijuana because it remains on schedule 1. There's been to my knowledge no long term longitudinal studies of the health effects of marijuana. We know enough about what cigarettes do to health. Certainly we can speculate about what marijuana might do, if consumed in significant quantities over long. And I think we all have friends who have experienced that and we could probably tell stories about how that might or might not affect them. But the truth of the matter is there's very little medical information out there that's reliable. And there's absolutely no federal regulation of this drug. And it's a psychoactive substance that should be regulated at the federal level. Right now drugs like co-taken and amphetamines are regulated and marijuana is not. Because of the blanket prohibition schedule 1. I know that

requires action by the U.S. attorney general and the Department of Justice. I think it's really critical that we make this a legislative priority to get some pressure from our federal representatives to push this into another schedule so that FDA can be involved. And if 19 doesn't pass, hopefully, the world we will be looking at eventually is one in which marijuana is distributed at pharmacies by doctors and not by fly-by-night cooperatives that are on every street corner. I think that's a far safer way to go and one that will result in a lot less impact on our communities.

>> Betsy Shotwell: Councilmember I am in the process of beginning to take the legislative guiding principles for next year to all of the council committees as well as we'll be going to Rules and the full council in early December so there will be opportunities for further discussion.

>> Councilmember Liccardo: Great, thanks Betsy, appreciate it.

>> Mayor Reed: Councilmember Chirco.

>> Councilmember Kalra: Thank you mayor and I just wanted to express my disagreement with Councilmember Oliverio, that we shouldn't be engaged in the discussions on propositions of this nature, really in regards to all three of them. We don't live in a vacuum. These propositions do affect our million residents and to pretend they don't I think is disingenuous. I think particularly proposition 23, you know, our economy in San José is so much dependent on emerging technologies and green technologies. And to not speak out against it as has been done on a lot of the regional boards I'm on including BAAQMD and we'll be doing that soon on CalTrain because it directly affects the core service they provide, and it certainly affects our ability in terms of making sure our companies are competitive and provide jobs to our residents and provide tax revenue. And I similarly agree with the position on prop 26, in opposing it for similar reasons. I think it will have a detrimental effect on our ability to provide for our residents. In regards to proposition 19, in looking at the summary, I don't think it adequately looks at the positive impacts for the City of San José. In terms of -- and I certainly understand and agree that there could be a dramatic increase in cost in law enforcement but it also doesn't take into account the dramatic decrease in not having to enforce many of the simple possession and other marijuana laws that really burden our police department inordinately and our county which we're all taxpayers to anyway so it really burdens our

residents in that sense, as well. Additionally, I think that it still allows for some local control, we're already going through the process of analyzing what the -- you know, how we can tax marijuana. And I think that's important that we're doing that. We're taking the right steps in doing that. I think what Councilmember Liccardo indicated in terms of pressure on the FDA, I think that that could potentially be a positive impact because that will force the FDA or at least force the federal government to engage in this discussion. I would certainly be more comfortable with the no position on it. Especially if there's so many unanswered questions. And since you know, that right now we know that the current state of the law is not working. And we know that the current state of the law has caused a lot of people, particularly poor people, to be locked up in jail over a substance that the rest of the world has been analyzing and studying in such a manner that, for mostly political reasons, our government has not allowed. And so if these propositions are bifurcated I would be certainly happy to vote, with the recommendations on proposition 23 and 26. But otherwise, at this time I'll vote no because I don't feel strongly enough at this time to have the city take a position on 19.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I too think it's very important that we discuss these issues in public. These kinds of proposed laws are going to affect everyone and I also think it gives us a chance to at least call for education of those out there potential voters so that they'll learn more about this. So I do think it's very important. Proposition 19, I can see some merit in the idea of trying to reduce the criminal penalties and reduce some of the way we deal with that, deal with marijuana now. But I think we're kind of throwing the baby out with the bath water or proposition 19 because there is no regulation, not setting up any framework it leaves a lot of burden on local communities to deal with it. I'm especially concerned about, and this is where I think it adds burden to our police officers, the inability to really determine when you're intoxicated on marijuana. Whether smoking a joint, whether taking a few puffs are you going to be intoxicated? Where is that limit? If an officer is stopping someone, how are they to determine if that legal limit is for marijuana? So I am going to be supporting the motion. I'm very, very concerned about the impact of proposition 19, and I think, you know, I think we need to find -- there needs to be some other way to deal with the other issues in terms of the criminalization. I think we should address that separately and not make this blanket choice here. Thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. I agree with Sam, it's pretty much the same points that I brought up when we were dealing with our ballot measure relating to the legalization of marijuana, and the dispensaries and the taxing and all that. The biggest problem I see is the incongruence between state and federal law. And we're going to have a situation where people have a illusion that everything is okay and they can be doing in and then federal DEA agents are going to be coming in and taking action in our city because it's still against federal law. And it really is about the classification of the drug. And as well, I agree wholeheartedly we should treat it like any other medicinal product. It should go through rigorous testing and go through the pharmacy. And all the arguments you can give for why it's okay are the same arguments you can give for opium or cocaine. The exact same arguments. And I just think it puts our community in a perilous state when we have conflicting laws and we have other people coming in to enforce our laws in our city because of our state creating all this uncertainty, so just I think it's bad news. I could go either way, quite frankly, on whether we take action as a whole council or individual people, as taking positions on each of these ballot measures but I do think that we should take a vote on each one separately so that we can each indicate our personal preference on each of them.

>> Mayor Reed: Vice Mayor Chirco.

>> Councilmember Chirco: I believe there's no motion on the floor right now, mayor.

>> Mayor Reed: That is correct.

>> Councilmember Chirco: Then I would like to respect Councilmember Kalra and Councilmember Constant, and make a motion on each of them individually. I believe there's not enough structure for 19. I do believe it should be medical. And I wish the government would move on that. But that being said, what I would do is to move approval of item A which is adopt an opposed position for proposition 19.

>> Councilmember Pyle: Second.

>> Mayor Reed: All right we have a motion on the floor on 19. Any other specific comments on 19? I'm going to support the motion. If you really want to legalize marijuana you wouldn't choose this proposition as a way to do it. The regulatory scheme and the inconsistencies and the craziness in it is enough to say this isn't the way and it will create huge troubles for local government once again coming down from the state so I'm going to support the motion. Councilmember Liccardo.

>> Councilmember Liccardo: Yeah I just wanted to add in summons to a good point made by Councilmember Kalra, I think it's important to distinguish decriminalization and regulation. Legislature has already taken the move with the governor to essentially decriminalize to the extent that now, small amount of possession is essentially punished by citation; isn't that the case now?

>> That is my understanding as to what he's done, I can't give a specific direction on that. Maybe the City Attorney can comment on that.

>> City Attorney Doyle: I think the governor just signed a bill, and that would be effective January 1 of next year.

>> Councilmember Liccardo: The point is to whatever extent the people look at the impacts of criminal justice system, the reality is this is not a priority in our department of putting people in jail for small amounts of marijuana, and certainly under the current change that can't happen anyway. Really there's a big difference between decriminalization and legalization.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I just wanted to thank the vice mayor for bifurcating the propositions and just a quick comment on comment made by Councilmember Herrera in regards to the challenges of being able to test that exists today. Already today it is already an issue, in terms we don't want

people driving around under the influence of marijuana today whether it's legal or not. So those issues exist now, they will persist, and those are challenges that working with the law enforcement and medical community we'll have to figure out ways to reconcile that.

>> Mayor Reed: On the motion regarding proposition 19 the motion ask to approve staff's recommendation to oppose proposition 19. All in favor, opposed to the motion, Councilmember Kalra, Councilmember Oliverio, so that passes on a 9-2 vote. Vice Mayor.

>> Councilmember Chirco: I'd like to make a motion to adopt an oppose position on proposition 23.

>> Mayor Reed: Proposition 23, the recommendation is to oppose 23, that is the motion. Further discussion on 23? All in favor? Opposed, Oliverio opposed, Constant. So that passes on a 9-2 vote.

>> Councilmember Chirco: And on the last one, mayor, adopt an opposed position on proposition 26.

>> Mayor Reed: A motion to oppose proposition 26. All in favor? Opposed? Two opposed, Oliverio and Constant. That passes on a 9-2 vote. So all three of the staff recommendations are approved, on a variety of votes. That concludes this item 2.11. We'll move to item 2.12. Councilmember Herrera I believe you wanted to pull that off for discussion.

>> Councilmember Herrera: Thank you, mayor. I --

>> Mayor Reed: I'm sorry let me just say for the record for people who can't -- only hear this, this is a report on a recruitment application process for public members to the Police and Fire retirement boards. Councilmember Herrera thank you.

>> Councilmember Herrera: Thank you, mayor. So this -- the reason why I pulled it off is I'm concerned now, about the additional word in the language in this and that word would be "works." We had discussions on this in

council and I believe I was the one that actually made a motion to move forward with this, and I think there was some discussion. And the additional wording allowing someone to -- the appointment of somebody who works within a 50-mile radius from the City of San José City Hall was added. I think it's important, and I did at the time I made the motion, I reluctantly accepted that, thinking that it wasn't that much of a change. But on reflecting on it, I think it is. And it's obviously caused some concern among the bargaining units. I think the history of this is we worked really hard, the city and the bargaining units to come together with some consensus on structure for the retirement board governance. I also sit on the Police and Fire retirement board. We worked on lots of issues and in the end there was agreement on consensus and part of that was that language of the 50-mile radius. There was question of it simply by looking at maps and practically making that happen. So there was some question about how to word it. But I feel it's important to stick with that because that was what was discussed originally. So I would like to make a motion at this time to defer 2.12 and send it back to staff to change that language to reflect, to take out the word "works."

>> Mayor Reed: City Attorney.

>> City Attorney Doyle: Yes, I would -- if that's the desire of the council I'd appreciate a direction to staff to come back with a revision to the ordinance as well which would delete the work within 50 miles language as well.

>> Councilmember Herrera: I would add that to my motion, to come back with the ordinance.

>> Mayor Reed: Rather than defer it we'll take action directing the staff to do it.

>> Councilmember Herrera: I wasn't sure if I could do that. I asked City Attorney and I had received advice from the attorneys --

>> City Attorney Doyle: The item before you is to approve the application form. But the sense I'm getting is the desire to change the ordinance requirement that says work or reside and deleting the work language.

>> Councilmember Herrera: Correct.

>> City Attorney Doyle: You can do both but the application would have to change to reflect, would probably take the work language out as well.

>> Mayor Reed: Okay. I think Alex Gurza wanted to --

>> Alex Gurza: Good afternoon, Alex Gurza, Director of Employee Relations, with me today is Aricelli Rodriguez and my staff. It might help if I give a little bit of background on this item. As the council knows we went through a very extensive process on retirement reform starting out by a consultant report, consultant by the name of Cortex. Cortex did not recommend any type residency or any type requirement at all on board members. When the council directed administration to go work on this issue it was the administration it was us who considered recommending a requirement at all. We actually thought of not recommending any requirement. No residency requirement or work requirement. And the reason that we thought about that is because these are very unique positions. We were looking for trustees that are going to manage a pension fund that are going to have specific education requirements an very extensive requirements and we didn't want to limit the council's pool of potential candidates in that regard. The reason we ended up proposing a 90 mile requirements was because we were concerned that if somebody were to volunteer to be a trustee and they lived let's say or worked very far away that they might not be able to make the meetings and actually meet the obligations of the board. So our original recommendation to the council was a 90-mile residency requirement. That was modified by the council, when it was adopted to a 50-mile residency requirement. As councilmember mentioned made the motion that was in the ordinance to modify that to live or work. We have been work very hard with the Clerk's office and retirement services to implement all of that. I think the advantage it gives you to live or work is it makes a broader pool. So you know in Silicon Valley we have a lot of people who may be excellent candidates for this who may live 55 miles away but may work in Silicon Valley and be the exact type of applicant that you're looking for. So I just want to give that point of background. The other thing about a delay it would require a change of the ordinance and as you know the ordinance process takes time. It has to come back, have a first reading second reading and all of that process. And I think the concern we just want to raise is that it will delay the seating of the new boards. We've

been working hard to target the January board meetings to have the applications due, people selected so that you can have the new board. So we just wanted to provide that background for you.

>> Councilmember Herrera: I want to speak to the things that you raised. The additional portion of adding near where you work was added on the fly at the last meeting. It was not something that was thought out and been part of some you know agreement or discussion. So it was just added in and hit not been it would have passed the way I'm suggesting now so I'm very concerned about keeping our word. My word means a lot to me. And we were -- we had an agreement, I think that we should stick with that, and not add that additional word. I think it -- I think it gums things up and confuses things. I think we should stick with what we have about. obviously if we had no limit we could attract people from all around the world. So of course if you have greater radius there is more folks. But if we have a situation where we're not getting the right candidates we can always go back and expand the pool.

>> Alex Gurza: Yes.

>> Councilmember Herrera: Also I'm more concerned about getting this right that be necessarily having to be in January. Yes, the sooner the better but we have a board in place right now who are doing the business of the Police and Fire retirement board. We are not in imminent danger right now of decisions not getting made. So I really think that we need with my motion here that we make this change.

>> Alex Gurza: Councilmember you're exactly correct that council modified it on August 10th. And clearly we will do whatever the council chooses to decide to do on this issue. I did want to mention, you mentioned that there was concerns raised. You know these items in the ordinances have been out since August. I received indirectly a letter that local 230's attorney sent to the council expressing concern on this item. We have not received any other feedback about the live or work or concern from any of the other bargaining units or from the Federated plan about the live or work. From the administration's perspective, we think there -- when the council made that change, we thought it was a very positive change because we thought it allowed the live or work within 50 miles.

>> Mayor Reed: We did hear from the retirees association because they were here at that meeting as part of that discussion, and we did have a pretty lengthy discussion about it. I had a question about the letter that you just mentioned from lawyers for the local 230, the firefighters. They're demanding a meet-and-confer on this matter. As they assert it's a mandatory subject of bargaining. And I believe our position has been, and remains, that this is not subject to meet-and-confer, not subject to bargaining. Because if we make it subject to bargaining then it becomes subject to arbitration and we'll have an outside arbitrator telling us how we ought to structure our retirement boards, boards that can make decisions that will, can and have cost the city a lot of money. And so I definitely just want to clarify that it is still our position this is not a meet and confer item, is that correct, City Attorney?

>> City Attorney Doyle: That's correct.

>> Alex Gurza: If I can, I just received a copy of this letter this morning. It does indicate on behalf of local 230 they are demanding to meet and confer over this item. We have been very consistent from the beginning of this process that it wasn't something that we had to negotiate, although there was tremendous amount of collaboration and stakeholder outreach in consideration of all stakeholders whether bargaining unit, employees, retirees, retirees' association. So we do think it's important to have -- to continue to clarify that who the council chooses to put on the board especially as replacing you as councilmembers on board is up to the council and not subject to negotiations and arbitration.

>> Mayor Reed: I had another question following up on Councilmember Herrera's motion. What I don't want to do is to stop the process because we have been at this for a long time. Do we have to stop the process if we make a change in the ordinance? Couldn't we just tell you, get people that live within 50 miles, even though the ordinance says the eligibility is broader? Because ultimately don't we have to make the decision of who to appoint?

>> City Attorney Doyle: Yes, I think if we get direction today, to come back with a very minor change in the ordinance, I think we can work with the Clerk's office to change the application, to take out that work language in the application and just have reside within 50 miles. I think you can move down the road simultaneous.

>> Mayor Reed: Because I think that would be bad if we have to delay another six months or three months. Because I know there's a search process but I am concerned that we're going to limit the pool. And how do we evaluate the pool if you make the limit smaller? I mean we discussed this last time and there was good reasons, good arguments to include the work part of this, which carried the day when we discussed it. But we don't know what the pool is yet. Because we haven't done this process yet. And if we decide the pool is too small, then we got to go back and change the ordinance again. Couldn't we just leave the ordinance in place, back to my question, leave the ordinance in place, tell you to just bring us people who live within 50 miles, see how we do, rather than having to change the ordinance, then see what happens, then come back and change the ordinance again if we want to expand the pool?

>> City Manager Figone: Mr. Mayor, one option might be you cast a net broadly according to the ordinance and then only consider those who live within the 50 miles, and keep the kind of a second grouping in the background in the event you need to draw upon them. That might be one way to handle this.

>> Alex Gurza: Or alternatively give primary consideration to those that live within the 50, but you still see what's out there. At this point, you're right, we don't know what the pool will look like, and you can give the primary consideration for live within 50.

>> City Attorney Doyle: This is a council decision obviously but if you are going to go out and solicit people who live or work within 50 miles, and you get a lot of people that work but don't reside, and they apply, and then you say, well, never mind. I think that really is a difficult situation to be in. I consider -- this is a fairly minor amendment. We can sit on it until you get the applications in and are consideration it and we can make the conforming changes at the same time. We can see how this goes. This is something we can come back with at the time you are looking at potential candidates. At some point in time you want to make the ordinance right to

what you want it to be. But maybe you go out with this language modification in the applications and see what you get and go from there.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I -- well first of all I support anything that keeps the process moving. I've done everything in my power as a board member to get myself evicted from the board. And so I hope that we can move forward in any case. I know that I lost the debate last time. I really didn't want to have any kind of geographical restriction because I'm concerned about whether or not we're really going to get caliber of candidates that I think we all want to manage multibillion dollar funds. We know that there's really little or no compensation here to sit on these boards. We know that there are very strict conflict of interest rules as there must be. That automatically excludes a whole lot of folks from spending many, many hours of their time being good fiduciaries for the plans. So any desire to cast our net less widely I think is going to be really detrimental for the plan. And I think that we ought to consider that frankly, there are many active members of these plans that live well beyond those radius restriction, some who even live out of state. So we really ought not to get too hung up on this. I understand that some folks made commitments. I understand that certainly council made a minor modification in the last go-round. You know I'd support a compromise along the lines that the mayor suggests but I really think we're going to be spinning our wheels here if we continue to constrict this pool unnecessarily.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Twice in a row, I almost agree exactly with Sam. This is a good day. You know, we had a pretty thorough discussion of this when we talked about it last time. And I really cannot see why we're trying to constrain the selection. We should be looking for the best. And I understand you have to have season constraint. You don't want people maybe you know coming from New York. But I do think it's hypocritical that we can have people who show up to work four or five days a week that live far further away than this, and as Sam mentioned, out of take it, yet someone who has to come in once or twice a month has to live within 50 miles. I don't understand that. I don't think those two thoughts are congruent at all. I think I'm going to call it what it is. It's

another just delay, obstruct tactic. Let's do whatever we can do to make sure this doesn't happen. Let's give it one more shot of delaying. And it's obvious, we've known about this for months, and it shows up this morning, for a change. And it's disingenuous. We -- I think we should go forward. If somebody lives in Marin county and is twice as qualified as someone who lives in San Francisco County and we're not letting them apply because we artificially wanted to constrain the pool, why? We have active employees that can be on here, that can live a thousand miles away. We have retired representatives that can live a thousand or more miles away. But we can't have a professional who knows what the heck they're doing live further away? It just makes no sense at all. So I'm going to make a substitute motion and that is, to approve the staff registers -- or the Rules and Open Government recommendation and go forward as-is.

>> Mayor Reed: Okay, there's a substitute motion on the floor. We have some additional requests to speak.  
Councilmember Pyle.

>> Councilmember Pyle: Thank you. I just wanted to bring up a point of confusion, and that is on the city application for this job, it clearly states, do you work or resides within 50 miles of San José City Hall? So I can understand why, when it changed to only residing, that it was a problem. So I don't know if this is a clerical thing or what it is. But I agree with your -- I agree with your proposal.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. This is really not a huge distinction, that we're talking about. We had this argument before the last time it was before all of us. I do appreciate and agree with the comments Councilmember Herrera, that particularly because you know this is going to be something else that will be fought over and this is something that doesn't make a huge -- I mean if it was a question of 50 miles versus no restriction, clearly that's a huge difference. 50 mile resident slash work versus 50 mile resident, certainly it will make a difference but it is arguable as to how much a difference. Certainly we can find plenty of qualified people with a number of universities and financial institutions that we have within the 50-mile radius. So I don't feel particularly passionate about it but I still will vote against the motion. I agree with more the initial sentiments of

Councilmember Herrera to make sure that all the stakeholders that were involved from the beginning feel comfortable with the end result or at the very least, discuss it in greater detail, as to what the real impacts will be if we go one way or the other.

>> Mayor Reed: I do have to say that I have never had -- I do have to say that I have never had explained to me why the 50 mile radius is important. I'll just accept the fact that it's important to some people for reasons that maybe I don't appreciate. Councilmember Herrera.

>> Councilmember Herrera: Well, I'm not going to support the substitute motion and I think and I appreciate Councilmember Kalra's comes. It is a minor change. This additional wording was added on the fly. It was not thought out. It was just added and it adds possibly a few more people to the pool. But we had agreed at 50 miles. It wasn't a question of, you know, having a knowledge larger area to look at. We'd already narrowed it down to 50 miles. I just think in the spirit of the original relationships that we work together, you know, why have one more thing to fight about? Why not just you know, work with what we had originally agreed to and that's why I'm being you know stubborn about this one. I really think that we should honor that original language.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I just want to be careful about when we say we agree. Because the only thing when we agree, is when we take a vote. And we agreed on 50 miles work or reside, that's what we agreed on. Any other agreements that people made along the way quite frankly, it's not an agreement until we vote. And to say otherwise is to presuppose a future vote if this is to come back with a new ordinance or an ordinance modification. We had the discussion, we made the vote. And at the last minute, the 11th hour and 59 minutes, an opposition letter comes in and we're supposed to just throw everything up and say okay and give direction to change an ordinance which maybe or maybe won't delay. But I guarantee you, if we try and go forward and the ordinance hasn't been changed there will be another attempt to delay and obstruct again. We'll be back having this same argument in a couple of months. We had the discussion. We heard from all the stakeholders, everybody, that came together in a council meeting where we had a public discussion between us and our 10,000

closest friends who were watching on TV. And we got input from everybody and we took a vote. That's what we agreed on. And now, next thing you know there's going to be other people that now want to be consulted and we're going to be back having this discussion again. And as many people have pointed out, it's a minor difference. But I just want to point out, again, how hypocritical it is if three people at the table or four people at the table can live in another state but people who know what the heck they're doing have to live within 50 miles. It's arbitrary, it makes no sense. If we want to take advantage of those institutions of higher knowledge and the financial institutions that means we want to take advantage of their brain power and their brain power is what comes to work every day and they may live outside the 50 mile. If we want the best and the brightest we vote on the substitute motion, we get the thing in process, it's already been going on for years. Let's get this going, let's go on with what we agreed with and go forward.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I just wanted to clarify that I wasn't intending to say the council had made a decision. What I was referring to and I should have been more clear was the discussions of the working group that put this together. And one good thing about one thing I like about being part of this council, and our city government is that we are able to work with the bargaining units. We don't always come to agreement but I was very proud of the way that we worked at this governance process. We had the Cortex report, I was actually at some of these public meetings. I wasn't at all the meetings, we worked with tough issues and came out with something we could agree on. We are now talking about making a very minor tweak in this as to whether we'll get the best and the brightest from 50 miles I don't know. Hopefully we'll get some good candidates. Whether it is -- I think the City Attorney has suggestion how we can move in parallel process. My idea is not to slow things down or prevent this from going forward as suggested by Councilmember Constant. It's to move -- I want it to move forward but I think we need to move forward in a way that preserves integrity as well as getting this job done. So I'm certainly open to how we can do this parallel, or in parallel. But I stand.

>> Mayor Reed: Okay, we have a substitute motion on the floor to approve the form as in front of us. All in favor, opposed, Kalra, Chu, Campos, Pyle, Nguyen and Herrera, I think I count six opposed, three, three on each

side? Can I see the opposed again? Councilmember Chu. You're voting -- okay. So that's six votes in opposition five in favor so that motion fails on a 5-6 vote. We have another motion previously made by Councilmember Herrera. Councilmember Liccardo.

>> Councilmember Liccardo: Yes I would just like to acquire Councilmember Herrera as the America of the motion would she be willing to consider something of a compromise position that the mayor suggested I think allowing the change in the ordinance to go forward, simultaneous with or concurrent with our effort to move forward with this selection process?

>> Mayor Reed: Actually my suggestion was that we tell staff we want people who live within 50 miles, don't change the ordinance, evaluate the pool and that way we don't have to change the ordinance and change the ordinance if the pool isn't big enough.

>> Councilmember Liccardo: Yeah, you're right, that would probably be the easiest thing to do. So that would be then the modification with us setting a date in January after we have a pool and we've evaluated all this, we can decide whether to change the ordinance or not at that time.

>> Councilmember Herrera: I want to ask the City Attorney what you had in mind in terms of moving forward in a parallel process. I'm not sure that I would be accepting of that addition. I want to understand what the city attorney's saying.

>> City Attorney Doyle: Again, as I mentioned that the matter, the issue before you is approving the application as provided by the City Clerk in that it is work or resides. What I would suggest is, you delete the word work in the application, and at the same time, direct staff to come back with a modification to the ordinance taking out the word work so you would delete that requirement. That was my suggestion.

>> Councilmember Herrera: And that is my motion.

>> Mayor Reed: Okay, I don't know who had the second. Councilmember Nguyen has the second on that. On the motion, Councilmember Herrera do you have anything else? Okay. Councilmember Constant.

>> Councilmember Constant: I just wanted to ask Councilmember Pyle for clarification. I could swear she supported what I was saying and then voted against it so I'm just confused as to what your position is.

>> Councilmember Pyle: I agree with you in concept but as far as the motion itself is concerned I don't.

>> Councilmember Constant: Okay. I guess that's like voted before, before I voted against. Okay I got it.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: If we could have a restatement of the motion please, I would appreciate it so I can make it very clear.

>> Mayor Reed: Okay, let me see if I got the motion. Modify the form which is in front of us today, to take out the word works.

>> Councilmember Herrera: Take out the word works, correct.

>> Mayor Reed: Direct staff to bring back a modification of the ordinance because that's not in front of us today but we can direct staff to bring something back to modify the ordinance.

>> Councilmember Herrera: That's correct.

>> Mayor Reed: I think that's the motion.

>> Councilmember Kalra: I will support the motion, thank you.

>> Mayor Reed: Anybody else on that? On the motion, all in favor, opposed, Reed opposed, constant opposed, Oliverio opposed, Liccardo opposed, Chirco opposed, so that passes on a 6-5 vote. Correct? Got my math right, 5 and 6, 11. All right. Everybody's here, nobody's absent 6-5 vote on that motion. That concludes item 2.12. Of the consent calendar. Item 2.14 of the consent calendar is on here to make sure that we can continue to use the NASA Ames facility for our police department training, but there's a change in the language of the staff recommendation that we need to consider before we take action on it. At least it's a change from what was originally noticed. I'll let staff explain that.

>> Ed Shikada: Okay, thank you, Mr. Mayor, members of the council, Ed Shikada, assistant City Manager. We just had to correct one of the figures that's on the agenda language. The report itself is accurate. Rather than \$16,000 per year as indicated on part B it should read \$32,600 over two years. So with that correction.

>> Mayor Reed: Two-year deal would be better than a one-year deal, so that's good. Any other questions or comments on this? Is there a motion? Motion is to approve noting the amended language. All in favor? Opposed? None opposed, that's approved. That does complete the consent calendar. We will now take up joint city council San José financing authority matters. Primarily actions related to the San José financing authority lease revenue bonds series 2008 A B C D E series of projection.

>> Good afternoon, mayor and members of the city council, Julia Cooper, assistant director of finance. Just going to make a really brief presentation. In terms of the actions before you today. We're -- the actions before you today are approval of letters of credit for four finance projects. They're listed there, the civic center, the civic center park garage, Hayes mansion and the ice center. Bringing forward this presentation to just kind of briefly discuss again variable rate debt and its advantage and also talk about the importance of disclosure and speaking to the market. We did do a -- yes.

>> Mayor Reed: I just need a reference for a second. Councilmember Pyle is a member of CalSTERS and I think they provide financing and so she wants to --

>> CalSTERS is no longer part of this financing.

>> City Attorney Doyle: If, assuming that the matter goes through. If it doesn't, they are. So out of an abundance of caution, we advised the councilmember to recuse herself.

>> Mayor Reed: Sorry to interrupt.

>> That's okay. We did do a brief overview at the council assistants' meeting last week, discussing these items with your assistants. The table there in front of you just provides a brief summary of the four projects that we're bringing before you. It is a total par A letters of credit totaling just over \$174 million. The banks that are going to be replacing the existing banks are union bank, Bank of America and union bank together on the civic center park garage, U.S. Bank and then another combination of Bank of America and U.S. Bank. Part of the changes that have been occurring in the marketplace in addition to increased fees, that banks are asking from issuers to pay for their services is the issue of having two separate letters of credit as opposed to being on a letter of credit together. Hence you see the series for two of them being bifurcated into two separate series. The letters of credit are ranging from 95 basis points to 110 basis points per year. In terms of variable rate debt, just as a quick refresher, the letter of credit is needed as liquidity before the variable rate bonds, so that gives the bond holders the ability to keep or sell their bonds on a weekly basis, if they don't like the credit or they don't like the interest rate that's being set. And it provides them, if the letter of credit provides the liquidity in case the bonds can't be resold to another investor, then they're placed with the bank. The advantages to the city are long term budgetary savings while in short periods of time there maybe -- interest rates may be higher than fixed rate generally over if long period of time the city does save many, and it also provides the greatest flexibility to the city in the facts that we can repay the debt at any particular point in time which is important for projects such as the Hayes mansion and the ice center so that we can take advantage of opportunities that may come to us in the future. In terms of thinking about why, why discuss disclosure? We've had several presentations to the council. And the S.E.C. continues to take actions against government agencies and officials. We have talked in the past about Orange County and San Diego, and you may have read some recent articles about the State of New Jersey. The overall

reaching message from the S.E.C. to local agencies is disclosure is important. The legislative body must be familiar with the documents presented before them and it is very, very important not to have any misleading statements or to omission of any material fact. I also kind of -- there's been an expanded focus. Last week I was up in San Francisco. The SEC is doing hearings all around the country related to the municipal market and disclosure and Arn and I were up there listening to some testimony being given the land is definitely perception that there needs to be more disclosure from municipal market. With respect to securities fraud, section 17A of the securities act prohibits as I mentioned make any untrue statement of material fact or omitting any material fact in the offer or sale of securities. And it's material if there is a substantial likelihood the disclosure would be considered significant by a reasonable investor. So thinking of yourself, if you knew that information would it impact your ability or your reasonableness to make the decisions to buy the bonds or not. In terms of speak to the market the issuers of municipal securities have an obligation to ensure that their financial information contained in the financial documents is not misleading and it allows the investors to understand and evaluate the local Health of the municipality in which they invest. We speak to the market with the initial offering documents through our annual reporting and the presentation of our audited financial documents as an example of when we speak to the market. In terms of the documents that are before you and if there's a lot, it's a big binder like that of documents, the elements that need to be considered, looking at the remarketing memorandum and appendix A are the purpose of the bond issue, the sources of repayment, the risk that the sources of repayment maybe insufficient to repay the bonds, and any other events that could affect the deliberation of a reasonable investor. In term -- in your review of the documents have we, staff, identified the risk and events been brought to your attention and if you think there isn't you need to tell us. And have they been disclosed and what is the rationale for any nondisclosure? In the introduction section of the remarketing memorandum it does describe the purpose and the repayment. There's more detailed information in several other section in the document. We don't expect elected officials to be fact-checkers. That's what staff's responsibility is and we do a lot of fact-checking. So you should feel fairly confident. One of the issues just as an example, there is a supplemental memo before you today where we give some information related to the center for performing arts, an issue related with the fire alarm system. That is something as an example that came to our attention after the documents were published. We felt that it was important, we brought it to your attention and it is enclosed in a supplemental memo to you and will be included in the bond documents. So in summary your responsibility if you know anything that we haven't talked

about in these documents, we ask you to tell us now so that we can evaluate that and include them in the documents as appropriate. So thank you.

>> Mayor Reed: Thank you. We'll have a couple of questions about what's in there. I don't have that whole binder in front of me and I don't have time to figure it out from the dais. So I'm going to ask you. We are later on this agenda going to be considering our response to the report of the Santa Clara County grand jury regarding how to control employee costs and a need to restrain them. City must rein in unsustainable employee costs. Do we have in the disclosures, the kind of information that the grand jury has put in front of us, that describes the issue that the grand jury has identified, because ultimately the bond holders have to worry about uncontrolled costs, I think. And wouldn't that be important, and if so, do we have that information in there?

>> We have a fairly extensive discussion about the pension disclosure, which is one of the biggest issues of costs related to compensation. And we also talk about the budget and structural deficits and the city's plan to eliminate structural deficits over the period of time and including retaining -- curtailing employee costs. And the impacts on this last year's budget cycle.

>> Mayor Reed: Okay. And more specifically, we don't have in front of us yet for council review but we have received the City Auditor's report on pension sustainability, rising pension costs threaten the city's ability to maintain service levels, alternatives for a sustainable future is that really catchy title that they've given it. And there's a couple of startling bits of information in there, and I want to make sure that we haven't overlooked it in our disclosures. Page 16 the auditor says over the past 20 years total pension benefits paid out of the retirement funds have grown sevenfold. Sevenfold. In part because the average annual pension benefit increased by about 175% for Police and Fire, 150% for Federated, and in part because of the number of beneficiaries is two and a half times larger than it was in fiscal 1990-91. There is a chart on page 3 that shows the progression of that over time. It's sevenfold. If we keep that up, at that rate, rough calculations, in 20 years we'll be down to about 600 employees, given the rate that we're shedding employees in order to pay those rising pension costs. It may be tough to pay debt service when we run out of money. So clearly, we can't continue at that rate. It is unsustainable. And I want to make sure that the people that are putting money into these bonds understand that

we recognize we have a problem, and we're working on it. And I just don't know if the magnitude of that comes out in the disclosure documents. I mean a seven fold increase in 20 years is incredibly huge.

>> And in answer to your question we knew that the report from the City Auditor was on the horizon so we actually placed a place holder language in appendix A. Now that the report has been released the city attorney's office and bond counsel and ourselves are working on draft language to include bringing to the forefront some of the highlights of the report. But then also just letting investors know that the report is available.

>> Mayor Reed: Okay. Councilmember Oliverio.

>> Councilmember Oliverio: Actually mayor you covered my questions. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I had a quick question to follow up on the issue you identified. Pages A-48 and A-49 in the appendix where we talk about the extent of the actuarial accrued liability and the unfunded liabilities that are listed there, certainly I recognize the data that's on page A-49, relating to pensions about collectively about 1.1 billion if you add those two columns together and then the 1.4 billion on the health and dental. Since the time that this was printed I'm sure we've seen now, our auditor come out with higher numbers. We have some obligation to be reporting those hire numbers question A. Question B is I know that we are seeing GASB looking to alter the accounting not just on the health side but now on the pension side to adjust for market rates, rather than -- I'm sorry to adjust to market prices, to -- when we're accounting the unfunded liability, as opposed to I think whatever actuarial method they were using previously and there's a lot to figure out there that's going to boost the numbers. My concern is that we're not reporting the larger numbers that we may be obligated to report.

>> In response to your question, it's quite a considerable effort that goes into putting the appendix A together and it included a team from retirement services and it also actually included them taking the language that we would

worked on as a draft and bringing it to both actuaries in both plans and letting them vet the language. So the tables you see represented here the two you referenced are actually new in this appendix compared to past Appendix As, and we did it because we wanted to try and give a sense of the historic perspective of what's happening, and the escalation of what's happening. In relation to GASB disclosure, I know that we do have a section that speaks to some of it. Ideologic we're speaking to the GASB I can't remember the number but where they're suggesting that we have to put on our books the market rate as opposed to an actuarial rate.

>> Councilmember Liccardo: That's on --

>> Pending legislation.

>> Councilmember Liccardo: I don't think the plans have calculated what those numbers would be if in fact GASB requires us to make the switch. But I'm just concerned about us not at least including language in there saying, hey, under new accounting rules these numbers are likely to increase, something like that.

>> City Attorney Doyle: And that is something we can look at. It is a -- well, we'll have to look at. Because I'm not familiar enough with the GASB regulation as to when it takes effect in the calculation but to the extent it's material we'll have to disclose it.

>> Councilmember Liccardo: Yeah just even a sentence that might at least identify it or flag it for the markets that would be helpful. And then secondly on page A-28 and 29 this treatment about revenue from local agencies. And by the way, I know this is incredibly thorough and very detailed, I appreciate all the work that's gone into this. In an abundance of caution I wanted to flag these issues. Regarding the reimbursements from the agency, particularly convention center, the 4th street parking, and so forth, I'm concerned that the language is not strong enough about the likelihood of risk that the city may be having to forgo those payments in any time in the next -- well, through the duration of this financing. The language that I see is that recent declines, in fact it's incremented in diversions, put agency's ability to continue making these payments, these reimbursements and other payments under pressure. And I'm concerned that we're not being sufficiently --

>> These are exactly the types of comments that we're seeking.

>> Councilmember Liccardo: Okay.

>> On that particular comment we have flagged it and we'll go back with counsel and vet the wording again and see if the narrative as stands is sufficient or if we feel we should put in some additional narrative.

>> Councilmember Liccardo: I appreciate it. It is ultimately a council call that we will hopefully never have to make. But in terms of what we ultimately do, but at least to fully flag the issue, I think is important, both as to that as well as to the CRAF payments as well. That's on page A-29, thank you.

>> Mayor Reed: Other comments? No discussion, I have no cards from the public to speak on this item. What do you need for us to do today? Need to take some action?

>> Problem of the recommendation.

>> Mayor Reed: A series of actions. Can we do in as a group or do we need to do them individually?

>> No you can do them as a group.

>> Mayor Reed: Is there a motion? Motion is to approve the staff recommendations on the financing authority items, taking into account the council comments, and those changes are going to be made in the documents to accommodate that. Further discussion? All in favor? Opposed, none opposed, that's approved. I think that's our only financing authority item. So we'll take -- move back to the regular city council agenda, all the way to item 3.1, report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor, members of the city council. I have two matters to report on. First of all I wanted to take a moment to talk about the recent operational changes at the police department that affect the metro and violent crimes enforcement team, which is also known as VSET. As you are aware, we recently distributed an information memorandum about these changes. However as the departmental changes continue to be the subject of some information related to the measures on the November ballot, I think it is important for the community to have the facts. In the most recent budget cycle, the city eliminated 89 sworn vacant positions in the police department, including two sergeants and ten officers in the metro unit. To address the reductions and maximize flexibility in enforcement the department has combined the metro unit and the VSET unit and has transferred an additional 20 officers to patrol. I do want to emphasize however that while the new combined operation is now called the metro unit it does continue to prioritize the VSET mission of gang suppression and other duties. I've asked the department to develop a reporting mechanism with updates on the ongoing work of the new metro unit along with comparative data showing the current work against the work of the two units under the previous configuration. The second item is an area that I'll be issuing an info memo on this afternoon. I want to let you know however that we have received informal notification that the city will be awarded a \$7.2 million federal COPS grant to fund 16 officers positions over three years. Now while this is good news I'd hate to rain on the good news. But as your City Manager I am concerned that the initial notification does include some conditions that will require further analysis. Since they could tie the City's hands as we address continuing deficits that we project will cost the city at least \$86 million over the next few years. So we are evaluating the conditions of the COPS grant. We are in communication with the COPS office. Once we have received the final grant award notification we will further analyze these requirements to understand their impact. And again, I'll highlight these things in the -- these concerns in the info memo this afternoon. I do want to express appreciation to the department for pursuing the grant, and we will do all that we can to understand the strings that might be attached. And if there is any opportunity to mitigate. So I wanted to just bring this to your attention because we have had some press contact on this matter. So that concludes my report, Mr. Mayor, thank you.

>> Mayor Reed: Our next item is 3.3, it's a response to the Santa Clara County civil grand jury report entitled cities must rein in unsustainable employee costs. I believe there will be a presentation on this.

>> City Manager Figone: Yes as the staff is coming before you I did want to make a few opening comments. First of all, what is before you is our recommended response to the Santa Clara County civil grand jury report regarding employee costs. And I do want to highlight that this report looked at all cities in our county, not just San José. As you know, personnel costs have increased significantly over the last several years. We've taken steps however, in the right direction, to identify and begin to reduce and control total comp costs but there's still a lot more work that needs to be done to confront our fiscal reality and to reverse the trend of rising costs outpacing revenue growth. As we begin to confront these issues, I do want to emphasize that our city employees are not to be blamed for this problem. Our employees are dedicated to this city, and they work to provide quality services to our community. And I do appreciate everything that they are currently doing to adapt and to excel in this very difficult time of change and constrained resources. However, a significant factor contributing to the situation that cannot be ignored among many is the rising cost of retirement benefits. So it is important that all of our stakeholders be fully informed about this issue so that we can work together to identify potential solutions to our challenge in the City of San José. Now, work is already underway to educate and inform all of our parties about the significant problem. This education is taking many forms and it does include the City Auditor's recently released report on pension sustainability, which is really her recent audit, which will be presented to the General Fund structural deficit elimination plan task force group, which will have its second meeting tomorrow night, and this audit will be the topic of that meeting. So with that set up I will turn it over to Alex for a brief presentation on our recommended response to the Grand Jury.

>> Alex Gurza: Good afternoon, Mayor Reed, members of the city council. Alex Gurza, Director of Employee Relations. With me this afternoon from my staff is Gina Donnelly and Marcus Hermanson to assist me if there are any questions that you may have. The City Manager mentioned the grand jury issued a report, on May 26th, entitled city must rein in unsustainable employee costs. Before you this afternoon is our memo that details our recommended response. We tried to be very detailed and thorough in our memo. And so we're not intending in the presentation to go over all of the recommendations of the grand jury and our response. But we do want to briefly go over the main items. The broad topic is rising total compensation costs, both in employee salary increases, rising medical costs, rising pension costs. They also made some specific recommendations on binding arbitration and although the grand jury report as the City Manager mentioned applies to all cities in the county

they had some specific recommendations to San José in terms of binding interest arbitration and they had additional cost savings recommendations that we're going to briefly highlight later in the presentation. So overall, our recommended response is to accept or partially accept all of the recommendations made by the Santa Clara civil grand jury. I think it's important to note, of the success we already have in some of the recommendations and that we have made progress on many of the recommendations that they have made. As everyone knows we have been asking our employees to reduce total compensation. We've made very significant steps in prefunding our retiree health care, although it will take a long time to get there, and we have had employees agree in every bargaining unit except for the firefighters to start prefunding our retiree health care liability. We've changed health care plan designs. And what we mean by that is starting to increase our co-pays. And we've done that over several years. We've made some cost-sharing changes, where employees are now sharing more of the cost of health care. And lastly one of their recommendations is, that public entities and councils should hold public meetings to discuss labor negotiation and we're proud to say that is something that we've done now for several years where we come before the council in a public setting prior to engaging in negotiations so that the public can be aware of the upcoming negotiations and provide input to the city council before the city council provides authorization and direction to the staff to negotiate. So speaking of the progress I think it's important to note that 1800 city employees, and officials, took a 10% reduction in total compensation in this fiscal year to deal with the over \$118 million shortfall. The Police Officers Association also gave a little bit less than a 4% total comp reduction, which served to avoid the layoffs of police officers. We do have two bargaining units however that had contractually obligated salary increases because their contract extends through this year. We'll be in negotiations with them next year. And lastly we have the firefighters union which is TBD, because we still have yet to reach an agreement with them. But again, important to note the employees that are and have taken total compensation reductions. But unfortunately as the City Manager mentioned, there are more work to do. These are the four out years, the forecast that shows unfortunately continued deficits with 11-12 showing a \$40 million shortfall and other shortfalls progress in the other years. So we definitely have challenges that we still need to confront. There's a lot of historical information that both the grand jury mentioned, about historical increases in cost and also, we have been doing this analysis now for several years about our increasing costs. And this looks back to the year 2000-2001. In terms of our total compensation costs. You can see there that base pay makes up about 80% of the compensation costs and I want to point out specifically retirement benefits which at that time made up

12.2%. That is the City's contribution into the retirement system in that year. Then as a point of comparison we flash forward to 2010 and 11. In addition to the increase in the average costs of an employee there's one thing that we wanted to point out here, which is the larger -- the growing share that retirement benefits are taking of that personnel cost pie. So whereas retirement was 12% of total compensation in 2000-2001 it grew to 22.8% in 2010-11. But the other thing to point out when you look at the average cost of an employee in 2000 and 2001, this is all employees sworn and unsworn, back in 2000 it was approximately 74,000 per employee, that's total compensation, base pay and benefits. Whereas in 2010 and 11 it grew to \$137,000 per employee, which is an approximately 87% increase. And as has been mentioned earlier, one of the significant challenges the city faces is, our retirement costs. And the increase not just that we experienced from last fiscal year to this, to this one, but what the projections are for the future. And again, these are projections that will be adjusted by the retirement board actuaries as we move forward. But look forward here, you can see that in 2014, our Police and Fire plan, the City's contribution will be 74% of payroll for both pension and retiree health care. Just for those that don't know what 74% might mean, if you pay a police officer 100,000, that means the city has to contribute an additional \$74,000 into the retirement system. And that again does not count what the employees are contributing. That's only the city portion of it. And that's again on top of other, other benefits. Our Federated plan although it looks like good news in comparison is still significant increase when you go from 30% of payroll in 2010-11 to projected 45% of payroll in 2014-15. So as I've mentioned already and the City Manager in beginning we already have retirement reform efforts underway. There is a stakeholder group that has reconvened on the specific topic of retirement reform. Had one meeting already and the second meeting tomorrow evening. In addition, as the City Manager mentioned the City Auditor recently released a report on pension sustainability. That will be presented to the General Fund structural deficit elimination plan, long title, stakeholder group, tomorrow evening. The City Auditor will be present to present that report to that group. And then October 21st the City Auditor is going to present her report to the Public Safety, Finance, and Strategic Support Committee. All of these efforts on retirement reform will be provided so that the city council can have this information and use all of this information in guiding principles and goals for the retirement reform efforts. I mentioned that the grand jury had specific recommendations on binding arbitration. The one specific to San José was San José city council should make binding arbitration open to the public. I think in the past when we have had interest arbitrations, with our Police and Fire units they have not been open to the public. And then the other

recommendation was that the city council should prepare a ballot measure asking voters to repeal charter section 1111 that addresses binding arbitration. As the council is aware, there is a ballot measure on -- in November that modifies but does not eliminate binding arbitration and would make it open to the public. And lastly, I mentioned that the grand jury also made other additional cost savings recommendation. For example, outsource activities to private industry where it could be done for least cost. Consolidating services with other cities, optimizing job functions and the duties that are performed by certain employees and lastly, introducing lower cost pension and health care plans for new employees. So in terms of next steps as I mentioned, the City Auditor is going to present her report to the stakeholders group on the 6th and the 21st to the committee. On November 18th the council will be holding a budget study session and then next year starting in January, we have negotiations with virtually all of the city bargaining units. I say virtually. Definitely ten out of 11. Our negotiation with the firefighters are unsettled yet as to whether we will have a contract that extends through next year or not. And so our recommendation is that the city council approve our recommended response to the grand jury, and with that, I'd be happy to answer any questions you may have.

>> Mayor Reed: City Manager.

>> City Manager Figone: Yes one other key date in the lineup Alex. I believe Sharon is hosting a brown bag session for our employees to take them through her report. So again to advance that education process with our employees.

>> Alex Gurza: Yes, and we have notified all city employees of that and that's next Tuesday from 11:30 to 12:30 here in the council chambers.

>> Mayor Reed: I have a couple of suggestions. I think the report is fine. Staff is going -- has done a good job responding to it. But when we transmit it to the grand jury, I'd like to add a couple of things, just to bring to their attention. Most of the data in the staff response is based on 2009-10 data. And we're now into the 10-11 year and we've got this budget. And I think what you just said was the average cost per employee has gone up about 20% in this last year, because in the report we have it showing 64% increase through 2009 and 10 and I think it's now

87%, for the full decade. And so I'd just -- I want to respond to the grand jury that's '09 data and it's gotten worse, we understand it's gotten worse in some respect. We don't want to rewrite the report but we want to acknowledge that there's additional data for 10 and 11 that's not included here. And the second thing I want to refer them to the auditor's report on pension that you mentioned, we should send them the link, I assume it's posted someplace and they can go look at the link. That has some additional information. The auditor's report does raise one question about our data, again we're using data for 9 or 10 years here. The auditor's report here looks at some data back 20 years. And on page 3, there's a chart of retirement other post-employment benefits payments for both plans since 1990. That's based on the CAFRs, comprehensive annual financial reports for both plans. Although, one of them is in draft, I guess, for '09-10. That rate of increase, which is seven fold, in I guess it's 19 years, maybe it's 20 years. I've got to figure out which year is zero and one year is 1. Maybe it's 20 years. A sevenfold increase is startling and unsustainable by anybody's definition. And those are payments out of the plans. And that's a little bit different view than what we're paying into the plans. And but I think what we're paying out of the plans tells us some day we're going to be paying more into the plans. So is that what's driving the increase of contribution rate projections that we have in our charts here? Page 14, 15, or so of the staff report, that shows rates going up up up. I mean, if we're paying more out of the plan than we're putting in the plan, that will drive the contribution rates up, it's just a question of when we get to them.

>> Alex Gurza: Sure, mayor, these projections that you're referring to on pages 14 and 15 of our staff report are estimates provided by the actuaries. And I think there are many factors that go into those increases. Clearly they look at assets and then liabilities, meaning how much do they have to have, the plans have to have to pay out the benefits. But many factors and assumptions go into what drives those rates. For example, one of the significant changes they made, there are changes in assumptions like for example even longevity, how long they expect to pay out the benefits. Things like that all contribute to the increases. So I couldn't answer you today. We could look into that as exactly all of the elements that drive those costs.

>> Mayor Reed: Well, some of it is projections, and there's always ways to worry about projections whether or not they're right. But some of what you presented and the chart you had on the PowerPoint, there's no doubt that

the contribution rate ten years ago was 15% for Police and Fire and now it's 45%. So that's tripled across a decade. And it's going from 45% according to the boards to 75% in a few years.

>> Alex Gurza: Yes, absolutely correct. If you look back on our chart here we started on 2010. If you go back several years you would see for Police and Fire as you mentioned the contribution rate was 14% of payroll. So even comparing the 14 to 44 is just very significant. But then you look at the trend line going upwards and it's continuing to go up is what it's projected.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. The timing of the grand jury report was I guess you could say very well timed since we already had the pension sustainability audit going. And while it's starting for many people to look at read the grand jury's report, I guess the good news for us is, this is something that we saw coming for quite a while. And I know I mentioned this last year in one of our meetings, that -- and we've talked more about pension issues in the last three and a half years than the previous councils did I think in eight or ten years. And I think the focus on these issues is needed. And this report continues to validate that the direction the mayor is leading us and the council actions that have happened so far is that we are going in the right direction and making the tough decisions that we have to make to be able to get this city on a sustainable path. I know that there are people who question what the definition of sustainable is or should be as it relates to either this particular report, or the City Auditor's report, or the work of the new reconstituted deficit task force. But clearly, just looking at this chart alone can tell you something about sustainability. I think you could just look at our last budget cycle to see we weren't able to sustain services the way they were before, primarily because or significantly because of a \$50 million increase in contribution. So I -- I'm glad to see that the administration agrees or has started to make steps in almost every single one of these areas. And I want to make sure that we recognize the staff from the City Manager on down including Alex and his team and the retirement boards and the retirement department. Because there's been a lot of work done on this. But we all know it's a long road ahead of us. And I think we're starting to get on the right path and as we know, the next 30 days will be definitive on how much further we can go down that

path. So thanks everyone, and I'm not happy about the contents of the report. But I'm happy about the attention we've been giving it and the direction that we are going.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I wanted to make a motion to accept the staff response to the civil grand jury with the modifications you had suggested.

>> Mayor Reed: All right we have a motion on the floor to do just what Councilmember Oliverio said.

>> Councilmember Oliverio: Yes and with that said, we've heard it multiple times from multiple sources, I think everything is validating that we do certainly have a very challenging times before us, and it's only going to happen if we confront it. Alex I did want to make one suggestion in your presentation you showed fiscal year next year of having a deficit of just over \$40 million, between 41 and 45 is what I've heard but we're not counting the fact that there's 23 million of services that were only funded for one year, and those will expire, 62 police officers, park rangers, libraries, et cetera, so really we have a deficit of near 65 million.

>> Alex Gurza: Yes, Councilmember Oliverio I should have pounded out that in that chart that I showed the 10% reduction, half of that and all of -- almost all of the Police Officers Association concessions expire at the end of next year. So the services and the positions that that savings was able to save or preserve was preserved only for one fiscal year. So if the council wanted to continue those services, that's on top of the deficit we were showing earlier.

>> Councilmember Oliverio: Thank you. And finally I'm just happy out of all the things that came out of the report that the civil grand jury recognized the benefit of having union negotiations as public meetings. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I'll support the motion. I know that this report doesn't really represent any particularly new information. I think we all have been talking about this and debating it and haggling over it for many months if not years. I think as we go forward it is important as we obviously affirm the great severity of these problems that we do acknowledge that the source of these problems isn't necessarily implied by our recognition of them. That is, there are major factors and forces at work here that are beyond the control of any are the participants here at the city, any of the unions, et cetera. The fact is that health care costs have been skyrocketing for two and a half decades and that's driving a lot of these costs on the health care side. We know people are living longer, that's a good thing. It also means our pension costs will escalate considerably as a result. We certainly know we incurred severe market losses in the retirement plans, and as a result of that we are paying -- well, obviously, we've got huge unfunded liabilities that we need to work on partly as a result of this market losses, though certainly not wholly as a result of those. So I think it's important that we acknowledge, at the same time as the severity problem, that in fact pointing fingers isn't the answer. I think the simple fact is we need to work together on this and so I hope we can do that in a constructive way.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I just had a quick question. For the longevity, this would seem to leads to discussions about retirement age. That is something in the future that maybe a source of discussion. But in reference to the health care cost, has there been any talk at all or any actions throughout the United States, or anywhere else, regarding coming up with a bigger base? In other words do you know of any situation where all the cities in the county for example, form a block that has a little more power than one city? So that we can be more forceful in getting decent rates?

>> Alex Gurza: Councilmember Pyle we do know where certain employers, especially small employers may get together to be able to be a larger buyer of services. And I know our HR department has looked at that although we are a very large city, and are a large sort of customer of health insurance. But I think that is something always to be looking for and I think our human resources department has looked at that and there are examples of that going on in other places.

>> Councilmember Pyle: So you don't really bargain with the medical companies or how does it work?

>> Alex Gurza: Well we did recently went through an RFP process to go out to the marketplace and again, our human resources department works very hard to, again, get the best possible price but again as Councilmember Liccardo said, healthy insurance costs have gone up significantly. I think the good news is our healthy insurance costs are still going up in 2011 but not as much as in other places. There are still increases but we had a very good job of not having them go up in as much as they could have gone up.

>> Councilmember Pyle: There comes a point of diminishing returns for them and for us and I hope that this year is sort of a watershed year in reference to those costs going up. Thank you.

>> Mayor Reed: Before we vote on the motion, where are the PowerPoint slides you just presented, posted?

>> Alex Gurza: Not yet Mayor Reed, but we would be happy to post them. We could post them right after the council meeting today on our Website which is City Manager's office and employee relations and we'll have it clearly marked there.

>> Mayor Reed: Okay, that would be good, helpful.

>> Lee Price: Mr. Mayor, City Clerk Lee Price. Just a notation that all PowerPoint presentations that are made at council meetings are linked the following day to the Granicus view. So we're already doing that for you with each and every PowerPoint.

>> Mayor Reed: Okay, so if somebody wants to find them, they can look at the agenda for today's meeting, and they get posted with that agenda tomorrow?

>> Lee Price: Right, if they go to the meetings broadcast section, and they pull up the video and all the agenda and the staff records, et cetera, the PowerPoint will be there as well.

>> Mayor Reed: You will also post them on your Website?

>> Alex Gurza: Yes, we will.

>> Mayor Reed: Okay, shouldn't be too hard to find. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I appreciate Councilmember Liccardo's framing of this whole thing in terms of trends that have been going on in our society. I think it's very important to note that. And as well, the entire deterioration of our economy has put even more focus on I think on public employees. That said, though, I found the response to the grand jury report very thoughtful and thorough. The combination of the grand jury findings and the auditor's results I think really lend credibility to the direction we've been taking as a city. It's just really critical that we reform the employee costs as we balance the budget you know to maintain services. If we're ever going to be able to hire more employees and deliver more services that are critical to the community we've got to get, obviously get control of these costs. So I think the response to the grand jury is very complete. That along with these auditor's findings I think is a really as complete a picture as we can give right now. And I just urge folks out that are listening to this to get informed to learn more about these issues to take advantage of going to neighborhood meetings and other meetings that are going to be held to discuss what the city is proposing on that, and get informed on this. Thank you.

>> Mayor Reed: I think that's it. On the motion, all in favor? Opposed, none opposed, that's approved. Our next item, 4.1. Hearing on the ordinance amending title 20 of the Municipal Code clarifying setback regulations for industrial districts and allow utility providers to sign development permit applications. Just want to say this is another effort in streamlining the permitting process. We've made a lot of them, streamlining progress and I think Joe Horwedel and his staff are getting this done and the lawyers and everybody who has to get involved in making these changes. Vice Mayor Chirco.

>> Councilmember Chirco: I had a question because they talk about on page 3, it would require notification of owners of property, adjacent to the subject site, and that they be notified a minimum of ten days prior to submitting applications. And what kind of documentation are we requiring to substantiate that notification has been done?

>> Joe Horwedel: Vice Mayor Chirco, the notifications happened as a part of our utility permitting. And so it's something that the application process, the utilities coming in through Public Works, provide a copy of the letter, that is provided to the homeowners the property owners of the impending work.

>> Councilmember Chirco: Not meaning to be overly cynical, but having many a slip twixt cup and lip, doing notification in the appropriate areas to the appropriate parties, is something that we're familiar with having lapses in? Because I can't think of anything that would irritate me more as a property owner than to have utility truck back up and start backhoeing my front yard.

>> Mr. Mayor, members of the council, David Sykes, assistant director of Public Works. We plan to follow the same process that we do when utility companies are working in the right-of-way. So there is a notification process that's required in this case when they're working in that easement in that person's front yard, we will have a process to ensure that they are issuing the letters, and making sure those are going out so there is that proper notification process. If we see that's not happening then we can do some course correction along the way to ensure that it is.

>> Councilmember Chirco: And should radio homeowner call and say somebody's backhoeing my front yard, I know nothing about it, who are these people? Will there be a stop notice, I mean, what kind of mechanism do we have in place for some recourse, one, to hold the utility company responsible, but also, to be responsive to our community?

>> Sure. They will be working under the conditions of our permit. And if they don't follow those conditions, there are remedies for us to make sure that they correct that deficiency, if you will. And so I'm pretty confident that our permit process will allow us to remedy any issue that comes up. And certainly, as I mentioned, if they're not following through on that we will take corrective action.

>> Councilmember Chirco: Well I'll hold a good thought but having been subject to many mis-notifications, I will remain a touch skeptical, until this is implemented and we actually get some data to substantiate our model works. With that I would move approval.

>> Second.

>> Mayor Reed: Motion is to approve the recommended changes. All in favor? Opposed, none opposed, those are approved. Now, take up item 4.3, actions related to the request for proposals for the San José McEnery convention center expansion and renovation project. We'll have a presentation on it. Katy Allen is going to take the lead.

>> Katy Allen: Thank you mayor, members of the council, good afternoon. Joining me today is Harry Freitas on my right, deputy director of public works, David Sykes on my left, assistant director of public works, and Paul Krutko, chief development officer for the city. Oh, and Julia Cooper -- thank you, Julia -- in the back row. We always need the money, and we appreciate her having our back covered. On that note I wanted to mention that the action before you today has been a long time in coming. It is a report out of the rankings of our design build contractors for the convention center. Approximately seven months ago in February council provided direction to the city and to the Redevelopment Agency staff to proceed with an expansion and renovation project for the existing facility and to model the contract after that which we used at the airport. And to fund the project through non-general Fund revenue sources. And so the recommendation before you today, I'd like to cover that before I go over the actual ranking. Since February both the agency and the city staff have worked together to bring forth the step has before you today. Primarily, what we are going to do after you approve the ranking is begin negotiation of the contract, and then also, what's very important is completing our program validation exercise to

confirm the scope and budget for this project. I will mention the proposed budget at this time is estimated to be in the 115 to \$120 million range. Similar to the airport we would like council to authorize us to proceed with negotiations in the order of the rankings. You may recall at the airport that we actually contracted with the second highest ranked firm because we were unable to reach an agreement with the first -- with the highest ranked firm. So to summarize, the recommendation before you today is to approve our ranking and authorize us to negotiate the contract in the order of those rankings. The actual award will occur -- the contract, the actual award of the contract will occur after we have funds in place and we are expecting that that will occur in the December and January time frame. So with that I will put up the slide on the outcome of the rankings. I'd like to mention that all five firms were highly qualified. They went through a prequalification process. They had the financial capacity as well as the construction and design experience to put forth a proposal. We were very pleased with all five proposals. I wanted to emphasize that. And I would also like to point out that the selection panel made up of a private sector event manager, a private sector construction representative, a member of South Bay labor council, the Redevelopment Agency, city staff and Team San José comprised the selection panel. We were able to look at the written proposal as well as an oral interview and this is the outcome of that ranking. It was overwhelmingly supported by the panel, we are very pleased with Hunt Construction Group and Populous Architects. This is my last slide, and then I will turn it over to Dave. I wanted to highlight what the panel saw, when we went through the interview, so you have an understanding of some of the criteria and some of the experience that they brought to San José. First Hunt Construction Group was the contractor of the HP pavilion many, many years ago. But since that time they have been very busy. And so the first bullet reflects the long history and broad experience they have. Just on the design-build side, Hunt Construction has completed 37 design-build projects, and five of those have been with Populous. I want to go down to the second bullet. Their knowledge of the convention center business was compelling. They know what it takes for a convention center to work. They know the price point of the operations. They know what it takes to be competitive. Along that line, Hunt has constructed 31 convention centers, and Populous has designed 46. That was listed on their proposal. I'd like to highlight some of those facilities for the council. The first is the Phoenix Convention Center, phase 2, McCormick Place in Chicago, Orange County Convention Center in Orlando, Florida, Moscone West expansion in San Francisco, Dallas Convention Center, Indiana's convention center in Indianapolis, and Boston Convention Center and Exhibition Center. That is just a representative of some of the project experience that they brought to the team. And then

the final bullet is really -- the proposal resonated with the panel very, very strongly. They brought architectural ideas to our project. They were able to balance new space and old space. They well thought out the budget, where we should be spending our money and how we should integrate new space with the existing facility that we have. Very knowledgeable on back of house operations. So it was compelling and we're very pleased to bring the ranking before you. I'm going to turn it over to Dave Sykes now who will cover labor and business plans. Thank you.

>> Thanks Katy. A very important objective for the city is to get as much local involvement in this project as possible. And Hunt's proposal includes a strategy to do just that. There's really the consultants that they're going to use on the design side and then there's the contractors they're going to use on the construction side. And they've named subconsultants three of which are local. That's HMC Architects, Treadwell and Rollo will be doing geotechnical, and GMH Weiss will be doing their civil engineering. An the construction side, Hunt is proposing to use as much local subcontracting workforce as possible. They will not be self-performing, and they have named three subs, one of which is a local sub, that's Redwood City Electric out of Santa Clara. I think the important thing to mention on this issue is that they plan to competitively bid the remainder of their work through an aggressive outreach plan directed at local -- at the local contracting community. As Katy mentioned, program validation is critical and will be performed concurrently with the negotiation process that we are going to go through on the contract. The remaining contract elements remain as previously described to the council. We have a firm understanding of the cost, the scope, the schedule of the project, and we're all comfortable with what that looks like prior to making that decision to award the project. Also want to highlight that stakeholders will be involved with this validation process early on and throughout the process. And the goal is as I mentioned is that there are no surprises and when we award the project we have a firm understanding of all of those elements. With regard to negotiations, similar to the airport, we will be using a cost-plus contract with a guaranteed maximum price so we're familiar with that. The main elements for negotiation are profit, overhead, cost and schedule. We will also be negotiating other things such as incentives for early completion and penalties for late completion. And many other elements. For example, whether we're going to use an OSIP or a contractor provided insurance. All of those things will be part of our process. And if for some reason we can't come to terms with those issues then we would begin and start negotiation with the number two ranked firm. As far as next steps go, in regarding the schedule,

negotiations and program validation will begin almost immediately. The outreach on the program validation process would probably begin in the next few weeks. The plan would be to come back to the council in December-January time frame, get approval issue the bonds and award the contract. Of course the contract award would be contingent upon the completion of the bond financing. In summary, we're looking for council's approval of the rankings and authorization to negotiate the contract. And Paul, Katy, Harry Julie and I are available for questions.

>> Mayor Reed: Thank you. Well, I want to congratulate staff for getting us this far. This has been a very long arduous process I know and has taken a lot of great staff work, and lot of creativity to get here and I think probably the most important thing was the great success that we had at the airport on the design-build process and the capacity to manage a big project like that on time and on budget. This gave us a lot of confidence we could move ahead on this project even though the budget, well, it's been shrinking a lot since we first had the idea of doing the expansion. So I want to thank all the staff members that are here and I know there were many other people that participated and there were people that came in from the outside to help us evaluate and that don't work for the city and we appreciate that. Looks like we have a great team. We had a series of great teams, it is always tough to make that choice. But you're always happier making a tough choice rather than having only one choice. So it looks like we had a lot of them. I had one thing I just want to have the staff clarify. Because I'm expecting tomorrow to get accused of wasting the taxpayers' dollars by spending \$115 million on a convention center expansion. So could you talk about where the money's going to come from for this, and why we can't spend it on police officers and firefighters?

>> Paul Krutko: Thank you mayor. Paul Krutko, chief development officer. To remind the mayor and the council and the public, the hoteliers have chosen to place an additional 4% on the room rate. They've created a special district to do that. That, plus an additional 1% that could be turned on if need be to support the underwriting and the debt service on the project are the primary sources. We have informed council in the past as we talked about the plan of finance to get to the number that Katy mentioned, 115 to \$120 million, it may be necessary for us to utilize 1.5% of the T.O.T. that is currently allocated to the Convention and Visitors Bureau. We think that that structure, using -- which is essentially, if you follow what I just said, that all is coming from hotel guests that are

staying in the community. That is the source of the revenue that will be used to provide the debt services to underwrite the financing. Julia can speak if knee be mayor about how we intend to move forward with the bonds. But that is subject for a later presentation after we've done the validation and bring the project financing back.

>> Mayor Reed: Okay, but one thing related to those bonds because I know that people are concerned is that if we're not going to spend the money until we're confident that we have the project scope validated, the budget validated, so that the hoteliers don't have to worry about us getting the money and spending it and getting half of a project.

>> Katy Allen: That is correct. And Hunt has agreed to work with us simultaneously with negotiations. As Dave mentioned, we plan to start that effort in the next week or two, and we're going to work relentlessly so when we come back in December we will have met for all the stakeholders and they will understand what they're going to get for all those dollars.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. Thanks Katy for all your great work and everybody on the team. Just to put a book end on a conversation that I know we've had. From conversations I've had with hoteliers and other folks in the downtown community, concerns about whether the qualifications here should have been more focused broadly on companies, that have done large projects, ballrooms, hotels, et cetera as opposed to convention center specific projects. Given the kinds of space we're adding here, we're not building a whole new convention center. But the question is this: Would these rankings have changed significantly, in your view, if we had followed the approach that I think some have advocated, that is, not -- where the experience is not solely focused on convention center experience but rather on broader large-project experience?

>> Katy Allen: Councilmember Liccardo, let me take a minute and kind of piece together an answer. So when you are in the business of construction, the predominantly contractors tend to specialize in a certain type of

construction, whether it's public or private sector, high rise, low rise, residential, convention center. And we were, quite frankly, looking for the best of both worlds. We were looking for a contractor that knows, has worked in the public sector, because they know our way of negotiating contracts and the like. We're not saying they had to be a public sector contractor. But quite frankly there's value in -- there's a difference in the two methodologies and there's values to working with someone who's worked in the public sector before. In addition, it's also helpful to work with a contractor that has the construction experience, with all the trades and the different aspects of our type project. So if you're work in California, in a seismic area, whether it's structural or geotech or mechanical, someone that's kind of been there before not necessarily on the convention center side but certainly that they have the large-project experience. I think the convention center aspect of our procurement really resonated with the architect. It's an architect that understands the convention center business, knows the trends. Isn't looking in the rearview mirror about all the other convention centers that have been built over decades but is looking forward. Knows the business, knows what happens in the kitchen, knows how you get food from point A to point B and will give us that competitive edge. So I hope all those pieces kind of come together. It's not as simple as were we just looking for large project experience? It was kind of a -- the team that brought all of that together to -- as going to be a compelling candidate for our project.

>> Councilmember Liccardo: Katy I appreciate there are many factors that you're considering here and certainly it's hard to pull one out. And identify that as driving us towards one choice or another. The question, focus really is on the rankings. If we had gone this other path that was suggested by some, would it have materially changed the outcome?

>> Katy Allen: Sitting on the panel and so did Paul Krutko so I'll let him respond as well. I don't believe that had we gone with the requirement that did you not have to have convention center experience, that it would have changed the rankings in this case.

>> Councilmember Liccardo: Okay. Account the construction experience and the broadness and he depth of it was compelling.

>> Councilmember Liccardo: Great.

>> Paul Krutko: If I could councilmember I would concur with what Katy said. The thing that I think was very compelling to us, this was a pretty much unanimous, overwhelming choice was how the architect took us through the process of integrating a new expanded space into the old space. And the approach here was to understand the thought process. They're now going to design the facility. What we were impressed with was how they were approaching the project. And sort of the expertise that they brought to that integration of a new facility with the old facility and the improvements that we hope to make.

>> Councilmember Liccardo: Great, thank you.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, mayor. I also wanted to thank staff for all the work that you have done thus far. I think this is another prime example, this project is another prime example of how the design-build procurement process it's really working well for the city in terms of saving us money and resulting faster project completion than the normal competitive bidding procedures that we've used in the past with some of the other projects. I had a couple of questions. The top two design-build companies, Hunt, Popolous and in turn, HNTP, obviously with the list of projects that we've seen in the memo, I was wondering, did we look into some of these projects and learn whether or not they were completed on time and hopefully under budget?

>> Katy Allen: Yes, we did reference checks and so we were able to confirm some of the information.

>> Councilmember Nguyen: And then the other question had to do with the estimation of the number of jobs that this project would bring to the City of San José.

>> Katy Allen: This is an excellent question and I don't have an answer pickup but I would like to go through as we put together the construction team and understanding how they are going to organize their work I'd like to

include that in our report in December. We should have a pretty good handle on how many jobs will be generated to get to that.

>> Councilmember Nguyen: That will be good for the council to learn, I'm excited about this project, because the potential for bringing local jobs to our residents of San José. It is good to know that Hunt and Populous are also looking at focusing, working with local contractors. As a result, that would also result in local jobs here for our residents, so thank you very much. I'd like to make a recommendation to approve staff recommendation.

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

>> Councilmember Kalra: Thank you. In looking at the top two, the turner HNT, there are a couple of references to renovation and expansion. With the Hunt and Populous projects, clearly there are a large number there. Were a lot of those expansion/renovations, since we'll have to keep on operating the convention center as well, are they sensitive to that as well?

>> Katy Allen: Yes, during the interview process there's project folks that worked on Phoenix. Very much connected the importance of working with hotels and the convention center while they're doing construction. In an operating facility. It was very strongly mentioned that that is extremely important. And it was -- the way they handled it, their availability and our ability to reach them in the middle of the night if something goes wrong, really was a great response that they provided to the panel.

>> Councilmember Kalra: Well that sounds good then, the only last question I have everything else that you've mentioned so far sounds like we really landed with a good team. I really want to thank you, Katy and the rest of the staff for all the time you put into this as well as the hoteliers because this wouldn't be going forward without the commitment of the hoteliers to our downtown and the convention center and as well to the selection panel that took time out to ensure that we can find a good team, I think that it looks like we have a team that can move this project forward in a way that we've envisioned. So I appreciate it, thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I'll keep it short since so much has been said already that was on my things to say. I just wanted to acknowledge how far we'd come since we were sitting here talking about whether we could even talk about design-build a few years ago and how much progress we've made and I'm very supportive and look forward to getting this thing going.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you mayor. Most everything I wanted to say has been said, too, but design-build just seems like an everyday thing now since I've been on the council. So I guess that's saying something positive. I just want to thank Katy Allen and her team and the hoteliers as has already been mentioned. This is such an important project. This along with the airport, I see them in a synergistic fashion. I think this is going to be great. As I go to different cities, we were in San Diego and saw their convention center. I'm just looking forward to seeing our brand-new convention center so I can tout that, just like we do with our airport and the welcoming hands at the airport. So let's get it going and bring those jobs in.

>> Mayor Reed: I have accumulate of requests to speak. I'll take that now Ray Zonino from Hunt construction and Todd Vogt from Populous.

>> Good afternoon. I'm Ray Zonino, I'm a vice president with hunt construction group. I oversee our operations in the Bay Area. Have done that for the past 20 years or so. We're very excited to design this project for you, design and build this project for you sorry. Couple of items that came up as you guys were asking questions it will some many major items, I'll hit on a couple of them, schedule and budget. As we remove the RFP, producing the documents that we submitted as well as going through the interview process we're very comfortable that this project can be built for the budget most importantly and the schedule, with the scope of work that we've seen so far. The other item is on local participation and jobs, we as you guys have mentioned few of you we do a lot of large public projects for cities all across the United States and in particular the Bay Area several cities and we

have processes and procedures to utilize during the bid process to ensure the highest level of local participation in these projects as well as the workers at that level, the workers in this project will all come from the local marketplace here in San José. There won't be workers coming from other areas taking jobs here. Just to make a quick guess I may get corrected later but my guess will be the jobs created here will be somewhere from 3 to find jobs construction only they'll be over a process, because in the beginning of the process you don't have the painters there, collectively over the process, but in the range of three to 500 construction jobs for this project. Those are my quick comments. This is Todd you can introduce yourself.

>> Good afternoon, it is great to be here. My name is Todd Vogt, I'm a senior principal with Populous, and I'm also responsible for our convention center practice. We really enjoy what we do because convention centers and sports facilities is all that we do. And so we're really excited about this opportunity to potentially work with you all. And more than anything, excited about what we can do for you in your convention center. You have a tremendous opportunity to position yourselves for the future. This is something that we think about all the time in the work that we do. This is not about architecture. This is about helping you have a facility that actually works for you and works for your community. So we're really excited about that. And just dying to get started on it. This is an opportunity that doesn't come along very often so we want to make sure that what we're doing for you is what you need, what you want, and that meets the market's needs. So there's a real strong connection on the business side of it. We want to make sure that we're connecting with your business. We are also really excited about getting on with the program validation because stakeholder participation is essential to having a great outcome. So we like the idea of bringing people in, from the community, from different walks of life that will feed us information so that we can use that in the design. And we're really excited about our local participation. Dale Krohn, Dale is with HMC Architects here. He is one of our local partners, he and his team will work with us in a real collaborative fashion, and we're excited about that as well. Quickly, there are some things that are going on with trends in the industry that I just wanted to mention to you that we can bring to bear on this project. There's a focus, an added focus on customer experience like no other time in the history of convention centers. Comfort, convenience and connection. There's also a focus on innovative techniques. What better place to create innovation than in this city? You're the home of innovation. So what an opportunity. Unique meeting spaces, if we can create unique meeting spaces that are not like every other convention center in the country, we can create

opportunities for revenue enhancement like no other way. So we're thinking about those things. Revenue enhancements are really important. Maximizing revenue, minimizing cost, creating a greater net. We see ourselves as repositioning experts. We're doing it all over the country, looking into the future. And that's what we're bringing to this party and we're really excited about doing it. So -- and finally one last thing, sustainability. We cannot overlook that. That's not something that's a trend. It's what we do. And it's not only about design but it's also about operations and events and we're thinking about that as well. So we're really anxious to work with you, will be really fun and excited to deliver something spectacular for you. Thank you.

>> Mayor Reed: Thank you. That concludes the public testimony. Councilmember Campos.

>> Councilmember Campos: Thank you. I appreciate the two speakers, and one of the things that triggered a thought was, around the jobs. And I know that you couldn't commit to what number that would be. And he gave us some figures. And I'm wondering, do we -- is there a way of capturing that data as we move forward in this project? And especially, the comments that he made around local jobs? Is there a way ever capturing that data?

>> Katy Allen: Absolutely, yeah. So we keep track of all the certified payrolls, we know exactly how many people and where they're coming from so we'll be able to track that.

>> Councilmember Campos: I think that would be important information since we're always talking about creating jobs here in our valley. And in our city and to really point to this project and say that it really did meet that objective at the end of the day. I'm excited about it and I'm excited that you're committed to creating local jobs.

>> Mayor Reed: I think that's the end of the discussion. I believe we had a motion. Did we have a motion? Councilmember Nguyen had the motion. Anybody else? On the motion? All in favor, opposed, none opposed, that's approved. Good luck. Our next item is 4.4, a delegation of the authority to the City Manager regarding conducting a TEFRA hearing for Sun Power Corporation related to bonds to benefit Sun Power Corporation that will be issued not by us but by a state agency but we're required to do the hearing because we are the jurisdiction in which the project would be built.

>> City Manager Figone: Here to respond to questions, Mr. Mayor.

>> Mayor Reed: This one is something that we haven't done too often I think.

>> Paul Krutko: That's correct, mayor.

>> Mayor Reed: And I want to thank the staff for being creative and working at the speed of business. The first I heard about this idea was about a week ago. And I know that you've done a huge amount of work with Sun Power and their staff in that week while I was in Washington, D.C. with the CEO of Sun Power, so we were watching the progress as this went along. But this is perhaps not the end of this process until we get a building up, but it's certainly not the beginning. I've been working with Sun Power and their folks for months, as they looked to where they were going to move their corporate headquarters. So I've had a lot of conversations with Tom Warner, the CEO, T.J. Rogers, who is chairman of the board and CEO of Cypress Semiconductors. Jim Parker, who is here for Sun Power, Jay Schill from the brokerage, CBRE Brokerage, Scott Smithers, Lane Properties, the property owner for the Rio Robles buildings, and others. Because this is not the first site that Sun Power is considering. We hope it is the last. But we have been in competition with multiple buildings in multiple cities over the last six months for where Sun Power would make their investment to continue their headquarters. Sun Power just happens to be the producer of the world's most efficient solar cell by a substantial margin. I'm really proud to have their headquarters here in San José. Employ 5,000 people worldwide, nearly a \$2 billion company, probably will be \$2 billion this year and their headquarters are right here in San José. And they're increasing their head count over the next 12 to 36 months, and this development will facilitate that. And last week I was out at Second Harvest Food Bank as part of the switch-flipping ceremony for a major Sun Power solar installation to help them cut their costs and save them \$3 million over 25 years. And Sun Power made a very aggressively good proposal to them, and that was funded by others who made contributions to Second Harvest as well. So we really want to keep this company in San José. They're going to make investments in the building, investments in capital equipment. Notwithstanding the fact that in California you have to pay sales tax on capital equipment, one of three

states to do that, it's a really bad thing, but that's the fact of California. So they really want to stay here, and the staff has done a great job to make it possible for them to stay.

>> Paul Krutko: Mayor if I could I want to acknowledge two staff members. Nancy Kline has had lead discussions with the state on getting this financing. You're right this is a new thing, we haven't done this before, and so I want to acknowledge that. And also on Rick's team, Danielle Kenealey. We're taking an extraordinary step here. You're authorizing the manager to hold the hearing. We are doing that to meet the state's financial deadline, so we really are moving at the speed of business on this one.

>> Mayor Reed: Could you just talk a little bit about these bonds, recovery zone bonds? The first time I'd ever heard of them was a few days ago.

>> Paul Krutko: Mayor we are taking advantage of a reallocation process. These were bonds if you recall during the stimulus funding effort, which was done right after the election of President Obama, when they set up the rules for this program we, as well as San Francisco, San Diego, many other cities around the state, had not experienced our job loss. And so when they put these funds out, initially it was your unemployment in December of 2008. As you'll recall, our big hit came in January of 2009. And we were not eligible for this funding. We were tracking this working with Patton Boggs for a long time, pushing various state agencies to make a reallocation because they were awarded -- a lot of the funds were awarded to jurisdictions that couldn't use them. And so we've been watching this and pushing and looking for the right project. And I think working with our colleagues at Sun Power we identified this \$30 million financing that will enable their project to go forward. So we are -- this process will -- with a TEFRA hearing that we will hold will position us to put this application in front of the state. We're told that we have a good chance of getting the funding through the reallocation process. And so that's where these dollars came from.

>> Mayor Reed: Thank you. The bonds will be issued by the California enterprise development authority?

>> Paul Krutko: Yes.

>> Mayor Reed: Another organization I'd never heard of until a week ago, but we're happy they're there, looks like they're going to be helpful to us. So let me just ask the same question I asked last time, in case anybody is getting ready to accuse us of spending and wasting taxpayer dollars that could be spent for firefighters and police officers. These are bonds that are issued by the state of California.

>> Paul Krutko: Yes.

>> Mayor Reed: Revenue bonds. We are having this hearing because it is sited in our jurisdiction.

>> Paul Krutko: Yes.

>> Mayor Reed: We're are not spending taxpayer dollars at this one. We may have some taxpayer dollars that go into this program through our special tenant improvement program or some of the other things we've previously budgeted but this \$30 million is coming from the federal government essentially, through the state.

>> Paul Krutko: And the repayment of the bonds will be coming from Sun Power.

>> Mayor Reed: Okay, anyway I want to thank Sun Power for their continued interest in San José and all the jobs they've crated. Jim parker is here and I think I'll let him speak now. Jim, if you want to come down. Jim is also in Washington, D.C, last week as we were trying to convince the federal government to maybe change some tax policy that would be helpful to create jobs in the United States.

>> Absolutely. Mayor Reed, members of the city council, city staff, my name is Jim Parker. I'm the tax director with Sun Power. On behalf of my CEO, Tom Warner, our employees, our shareholders and our board of directors, we would like to thank you for the consideration of this proposal. Special thanks go out to Paul, to Nancy Kline and to Ru Weerakoon who were extremely helpful and creative in putting this proposal forward. Sun Power continues to be very inspired by the political leadership in San José, especially the mayor's Green Vision. We

think it's a compelling vision of future of urban development. A lot of people like to think of San José as the capital of high technology. We like to think of San José as the capital of clean technology and we really frankly can't think of a better location for us to locate our headquarters. Thank you.

>> Mayor Reed: Thank you, we appreciate that but we also know that fit wasn't going to be done in San José it was going to be done someplace else. Our staff had to work really, really hard to make sure it happened in San José because ultimately these are economic decisions that get made. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I also wanted to thank Paul and Nancy and Ru for all your extraordinary work and I know that there's an awful lot that went into this at the last minute. As I was hearing more and more about it in these tough times as we see lease rates nose dive throughout the valley and throughout the country I 92 a lot of corporate headquarters are going to shake loose of their moorings and it's great to have an incredible company like Sun Power stay here at home and also want to thank Jim parker for putting up with all of our pestering to stay here in San José. We're happy to have him here.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you mayor I want to join the chorus, great opportunity and really congratulate the staff, Paul and Nancy and Ru as already has been said. It's so wonderful having Sun Power here making their headquarters here. I was on the trip to Washington, it's great getting to work with them as colleagues out in Washington. Just appreciate the support and keep on growing and adding more jobs.

>> Mayor Reed: Councilmember Nguyen was also on the trip by the way. We are all working to keep jobs in the United States, and particularly in San José. Councilmember Pyle.

>> Councilmember Pyle: I just want to say kudos to this dynamite group that you have assembled here, Paul. They really know how to make a deal go together, and I really, really appreciate that and make San José proud. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: I appreciate the fact that council funds the positions to make the deals happen. Thank you for your hard work.

>> Mayor Reed: Vice Mayor Chirco.

>> Councilmember Chirco: Well I'd like to make a motion to adopt a resolution delegating the City Manager and the City Manager's authorized designees the authority to conduct a tax equity and equality act, TEFRA hearing.

>> Councilmember Oliverio: Second.

>> City Attorney Doyle: For the record, it's a tax equity and fiscal responsibility act. This goes back to the Reagan tax days. 1982 law.

>> Councilmember Chirco: Oh, my.

>> Mayor Reed: All right we have a motion to approve the recommendation which delegates the authority which allows us to move at the speed of business, continue moving at the speed of business on this. All in favor? Opposed, none opposed, that's approved. We'll now move to item 5.1, a grant application for Coyote creek trail project highway 237 bike way to Tasman drive.

>> City Manager Figone: Here for questions. Matt Cano is in the audience.

>> Mayor Reed: We have a motion to approve. Councilmember Liccardo.

>> Councilmember Liccardo: Just a quick question Matt. As we're look at the scenarios on page 8, I appreciate you're doing an incredible job trying to put all these grants together from various sources. But in the scenario where we're not able to land the EEMP funds, or the CDT funds in either case, and I understand that you may be looking to the local district 4 or other park fund sources. Do you have enough money to be able to cook the whole lasagna here, or is there a chance that we could end up getting a grant, not having all the money and then having to go to the grantor and say, sorry, we got to give it back?

>> Matt Cano: Thank you, Matt Cano acting director of Parks, Recreation, and Neighborhood Services. There is a chance if we get the smaller of the two grants, which is the EEMP grant for only \$350,000, and we don't get the larger \$1.1 million grant from CDT, I don't have another -- we don't have another \$1.1 million sitting around in the District 3 and District 4 park trust or C&C right now. So there is a chance we'd have to give back the EEMP grant back. If we just get the CDT grant, which is the \$1.1 million, I'm hopeful by -- through next budget cycle that we can scrounge some money together to come up with the rest of the money.

>> Councilmember Liccardo: I know as part of this motion we have to certify that we have got a local match. And so my only concern is, do we create any risk in the future of burning ourselves in terms of obtaining grants from any of these sources if we obtain one grant and don't have the other? Are we setting ourself up for problems down the road?

>> Matt Cano: I don't think so. We have been clear with -- and we will be clear with the EMP folks that this is relying on an additional grant. We do have ending fund balances of at least \$350,000 in our District 3 for C&C so the money is available but council would have to decide at that time whether we wanted to deplete those funds.

>> Councilmember Liccardo: Right, okay, that's great. And I know that we've had ongoing challenges with this 24-hour requirement, I assume that really comes from the state through the grant process. Are we advocating to change that? Because I think it's just crazy that we're being required to keep trails open 24 hours when we can't even light them when they're along riparian corridors and we certainly have no resources to keep them safe at 2:00 in the morning. Is there some move underway from cities to try to soften that requirement?

>> Matt Cano: Yes, we are working with, it's from the federal government.

>> Councilmember Liccardo: It is, okay.

>> Matt Cano: Through the CMAC, congestion management and air quality management program. We are working with the CMT up in Oakland to see if we can losing that requirement. The Department of Transportation is helping us make those contacts. So hopefully by the time we receive these grants and implements the projects we will have gotten rid of that requirement.

>> Councilmember Liccardo: Great, thanks Matt.

>> Mayor Reed: I think that's it on the questions. I have no cards from the public to speak. Do we have a motion? We have a motion. Anybody want to talk about it? Nope, all in favor? Opposed? None opposed, good work. Before we move into the Redevelopment Agency agenda we'll have the open forum for both city and agency. We have one card to speak. David Wall. I don't see him here. So we'll take up the agency agenda, first would be orders of the day. But we'll take a minute, never mind, I'm sorry. We got a couple requests, other requests on open forum. We'll take Naomi Nakano matsumoto and faith McCarthy. Wait one second, that's not on. Can we get the microphone check? Didn't pick up try again.

>> Good afternoon, mayor, and city council members. Faith McCarthy had to return to run the food pantry operations. But I'm Naomi Nakano Matsumoto, I'm the executive director of West Valley Community Services, and I'm here just to give you some information as to what's going on with the residents of your city. 2000 seniors, families with children, adults with disabilities, all have lost food and access to basic needs and emergency services because of a funding cut through the San José General Fund dollars. These are all residents who live in 95129 and 95130. Because of the emergency assistance network through the county those residents can only come to our agency. And we've had to refuse services to them as of October 1st. Unfortunately, they have nowhere else to go, and for the past three years, that has been -- we've been the safety net services for

them. There were several members of -- that were here with me earlier. They had to leave. But they were here with 2000 bags to represent the 2000 faces of those who will be -- who have lost those services. And so we just wanted to ask the city to help us partner, to find ways that we can refer them to other places, because they have nowhere else to go. They have no food pantry to access. They have nowhere to get emergency assistance if they're facing eviction. They have no other help to get utility assistance or transportation and other types of services. So thank you.

>> Mayor Reed: Anybody else wanted to speak under open forum? That was the last of the cards I had. That completes the open forum. We'll now take up the Redevelopment Agency items under orders of the day, do we have any changes under orders of the day? No motion is to approve orders of the day. All in favor, opposed, none opposed, those are approved. Closed session report.

>> City Attorney Doyle: Mayor, as I indicated this morning the council and the agency board met in closed session, there's no report.

>> Mayor Reed: Consent calendar, anything council would like to pull from the consent calendar for discussion? Motion is to approve the consent calendar. All in favor? Opposed none opposed, that's approved. 3.1 is a presentation of the quarterly project status report.

>> Harry Mavrogenes: Bill Ekern will present that to us quickly.

>> Bill Ekern: Mr. Mayor, members of the board, I've just been informed that the slide show is not available at this moment. I can do a radio show for you if you would like and walk you through some of the highlights of the last quarter. We're running upstairs to see if we can find another copy, and we can jump ahead to another item. Totally your choice.

>> Mayor Reed: Why don't we do that. Picture is worth a thousand words. It will take a lot of words to get through that slide show. If we can do it, we will do it. If not, we can take it up at another time. So let's skip to item

3.1, and move to 7.1, amendment to the building rehabilitation loan agreement with Urban Markets, LLC for San Pedro square urban market.

>> Harry Mavrogenes: We'll have Janet Kern, deputy director, present the report.

>> Thank you, Harry. Mr. Mayor, councilmembers, I'm actually delighted to be here to be able to tell you about a project that is under construction in the City of San José in this era and it is creating jobs. And in fact the police chief last week was telling me how much he appreciates the project and hopes it is a model for others, because it has reduced needs for police services. So we're eliminating blight and strengthening neighborhoods and getting a catalyst project going in the Peralta action plan area. Which is intended to connect the north and the south and the east and west right where the HP pavilion and hopefully a new ballpark will be some day. So the reason we are here before you today is to do an amendment to the existing agreement that the agency has with the developer. Before I jump into what the terms of that are, I want to make a particular point to thank the city staffers who have been working very hard shoulder to shoulder with the developer and agency staff on this project. It's been quite challenging, a lot of different issues have had to be looked at, ordinance changes, easements, Nancy Kline from the Office of Economic Development, the city attorney's office, Public Works, the office cultural affairs, Planning, Building, and Code Enforcement, all have had to get really very creative in work and making this project a reality and having it come forward. If you recall what the agency's piece of this is, the financial piece is \$6 million. It's \$1 million in public improvements. And \$5 million, two and a half in a loan, two and a half in a grant. To date, the two and a half million dollar grant has been being drawn upon by the developer to the tune of about \$1.5 million. And the loan proceeds have yet to be drawn, but are very necessary at this point. The reason they haven't yet been drawn, and what this amendment will do, will allow for the deeds of trust that were to be placed on two buildings in the project, the Lessardi building and the El Dorado building, at the time we brought this forward initially there was adequate collateral security value in those two buildings that we could put the mortgages against the two buildings. Subsequently, new valuation has been done, which shows that the El Dorado building almost will give sufficient value to cover the two and a half but not quite. The Lessardi building could contribute \$300,000 towards that amount and it needs to be refinanced at this time. So what they're asking, we're asking in this amendment is that we actually allocate the values for those deeds of trust in that fashion. So about 2.2 million

deed of trust against the El Dorado \$300,000 against the Lessardi. There is a slight risk against the agency for doing that way because we can't go against the full value of the buildings, what might be in there. We are limited to those amounts. But we believe that the value is there and it will again allow the project to continue to advance. As to the public improvements, initially we were hoping to have the \$1 million really go into Market Street to allow for kiosks along the Market Street garage. That turned out to be an overwhelming difficulty, even with all the good efforts I mentioned about city staff. And so what the developer has opted to do with the concurrence of the agency and the city is to rather activate more quickly the Perazzo corner making that a more substantial corner and then rather improving the public improvements on the St. John Street side. And so this amendment would allow that public improvement money to be utilized to improve St. John retainer Market Street side which is more helpful to the project at this point in time. Additionally, there is the ability to have the \$20,000 public art portion spent at or near the project, rather than put in a citywide pool. And again, a lot of the public art and historic -- is already integrated into this project in that the Peralta adobe is a key piece for the project. So the development is about 50% completed. It's hoped that it will begin having tenant improvements begin first of the year, with a grand opening in the spring and Steve Borkenhagen from the development team is here and can give you an update of where they are in getting tenanting.

>> Mayor Reed: Okay, take Steve.

>> Thank you, Janet. Mayor Reed some councilmembers, Steve Borkenhagen, I'm the manager of the project. Just give you a few bullet points. As far as construction is concerned, the shells will be done including the new building by the middle of December, tenant improvements will start in November and start really in earnest in December when we deliver the shell to the tenants. Economic benefits are significant for our project. The new tenants on Santa Clara Street including the moon restaurant, AP stump's reopening as Los Gatos brewery, new Mexican restaurant going into the former Blake space and also the Irish innovation center, all can be traced to the market. That was an important aspect of all of these tenants deciding to open or reopen for the first time so our project is definitely having a ripple effect in the neighborhood. We're currently contracted with 31 contractors, 95% are from the South Bay, all of prevailing wage. And ultimately will work with about 45 subcontractors involved in the project. And as far as tenants are concerned we have seven leases signed. Five more out for signature, and

another ten or more in letter of intent phase. And a lot of very positive interest. So we're really encouraged by the tremendous interest in the project in this particularly difficult economic time. John McEnery and Martin Manny were both here earlier when we thought the item was going to come up. They are both busy with market business working with tenants, so I'm sorry that they couldn't be here today.

>> Mayor Reed: As long as you're here, could you talk about the jobs, subcontractors, how many? I've been by there a lot of times. There's always people working, I have no idea what they're doing, but it's construction.

>> It's every construction trade imaginable. From you know roofers to concrete to carpenters, plumbers et cetera.

>> Mayor Reed: Local contractors?

>> Yes, 95% are from the South Bay.

>> Mayor Reed: Okay. I have a -- I did speak to the folks on the Irish innovation center, and this is an important piece of what helped them to decide this is a good location to put their Irish innovation center. So I know that people are paying attention to it. Any other questions for Mr. Borkenhagen? Thank you.

>> Thank you.

>> Mayor Reed: As long as we're getting testimony let's get Bob Brownstein who has got a card in.

>> Bob Brownstein: Mayor Reed, members of the agency board. Recognize that both the agency budget and the city budget are under serious fiscal pressure, approval of the amendments before you would be unwise, if not irresponsible. The original urban market project offered a return to the General Fund that was virtually nonexistent. Now, the council's being asked to modify the terms, to be even less advantageous to the taxpayer. In the case of the million dollars for public improvements, since the developer is either unwilling or unable to fulfill the original contract terms, this is a golden opportunity to pull \$1 million out of this lemon and use it for something

worthwhile. A million dollars pulled out of this project could be used for the agency to repay its loan from the park fund, and then, immediately transfer it to the General Fund. With this million dollars, a fire station could be reopened within weeks. I repeat, with this million, a fire station could be reopened within weeks. As regards the loan modifications, they seem to transmit a loan to a partial gift. Instead of being secured by two properties, our \$2.5 million loan is largely to be secured by a single property, with a 100% loan-to-value ratio, and with the taxpayers subordinate to any lender who refinances existing equity. This lack of protection for the taxpayers' investment is so extreme that it is embarrassing that these proposals are even being debated today. Just four months ago this city council voted to slash employee compensation despite the harm to workers' families and to close fire stations despite the risk to the public. How can you today, justify this kind of blatant multimillion dollar handout? Thank you.

>> Mayor Reed: Staff had a question about the Peralta action plan that the council approved, I don't know, 18 months, two years ago. You mentioned some of the elements of it. Creating a vibrant downtown center, check. Providing economic opportunity, check. Creating active public spaces, check. Creating pedestrian activity, well, it will eventually, I guess when we get it open. Bringing diverse people together, I think it will eventually. The one I had a question about was, positively impact sales of high rise residential apartments and retailers. I've been told by the folks who are selling those or renting the high rise residential which is city heights and axis that this is an important part of their market and the people that are investing either renting or investing in those properties, think this will be really cool to have in the neighborhood and it's just an element of that. Have we been able to verify that? How are those two projects doing? Do we have any data on them? I have heard that from the developers, I have no reason to disbelieve it.

>> Mayor, Pete Larco. Those two projects were absorbing quite well earlier in the year and a lot of the new residents were expressing a lot of enthusiasm about the market. I think it was significant in their decision making to purchase. At this point, last 30 days, things have slowed down but I think that's indicative of the market in general.

>> Mayor Reed: There is another piece of the Peralta action plan that's also moving forward and that is the superior courthouse a couple of blocks away from this, if I got that right. They're still moving it. Bill, I think you are our representative on some committee there.

>> Bill Ekern: Yes Mr. Mayor, that's true. In fact there is a meeting this week with an advisory committee to show progress anticipating I believe work to begin in 2011 on the construction.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. And thank you, Janet and Bill and everyone who has been working on this project. And special thanks to Nancy Kline as well. I know there's been a lot of work on the city side. I know there was some documents that were made that had me a bit confused. One is about the loans that are involved here. My understanding is there is a \$2.5 million loan that's what council moved and that's what we have now. And the 2.5 million is secured by two piece of real property. One is the El Dorado building that property and the other is the Lessardi building, that's all correct, right? And the owner has \$4 million in equity in those two buildings, is that right? I'm just going off of page 4 here. I'm sorry, page 5, rather. The last full paragraph. The owner has \$1.8 million in equity in Lessardi and almost 2.2 million in equity in the El Dorado. So every dime of this loan, this \$2.5 million is secured by real property with real equity, is that fair to say?

>> Councilmember Liccardo, Janet Kern. Yes, that's correct. When -- the difference that we're doing here is, we are allocating the amount on the deed of trust that we could go after, should there be a failure to pay.

>> Councilmember Liccardo: Right.

>> 2.2 million to one and \$300,000 to the other. But you are correct, there is still value in both of those other buildings that would cover it. And when we came forward initially with this project between the two buildings there was \$2.5 million in equity. But we didn't allocate a specific amount to each one.

>> Councilmember Liccardo: Okay, thanks Janet. And the value of those buildings, and by necessity then the owners' equity in those buildings, is also based upon valuations on the buildings as they are unimproved; is that right? That is, prior to the improvements?

>> It's the stabilized improved value.

>> Councilmember Liccardo: Improved value.

>> There was a recent appraisal on both of them.

>> Councilmember Liccardo: Based on improvements anticipated to be made and based on 2010 valuations in a relatively depressed market, is that fair to say? Okay, as the value these buildings we would anticipate would improve as the economy improves, so will that \$4 million in owners equity and by necessity the security of our loan, is that fair?

>> That's what we would all hope, yes, yes, councilmember.

>> Councilmember Liccardo: Okay. I think it's important to recognize that the approval of these amendments has nothing to do with the budgetary decision. That was a decision that was made in 2008. By overwhelming vote of this council. And this is a project that's very much under construction. I invite anyone to go out there and take a look. There is real construction happening and there's not a whole lot of retail construction happening anywhere in this city or for that matter anywhere in this state right now. This is a rare opportunity for us to actually get people employed and get things underway. So I'd like to make a motion to approve.

>> Thank you.

>> Councilmember Liccardo: Thank you for that.

>> Mayor Reed: Motion to approve.

>> Councilmember Liccardo: And the last question I have Janet I appreciate your patience with my questions. I know that we had all hoped to find ways to create some active use along the West side of the San Pedro garage. I think we all recognize in retrospect that if we had built it today we would have had some kind of active pedestrian use rather than sort of the blank wall there. Are those obstacles in Super Bowl, in the short run, or is that something we can revisit in the future?

>> Councilmember, I don't think we're giving up.

>> Councilmember Liccardo: Okay, good.

>> That's not in our nature. It's just a matter that it's very difficult and we wanted to get the project going and find a way to maximize what we could do in the shorter term but now we will continue with the developer to do that.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you mayor and thanks Sam for your clarifying questions because I think it is really important to put this into perspective of what we're doing. Because we heard the presentation from staff and the presentation from Mr. Borkenhagen, it is clear to me that if all things being equal with a different name on the application there would be no opposition to this project. It's just the same old story over and over again. And this is exactly what we look for, in Redevelopment Agency projects. Putting money into our city, that has economic return, that brings businesses, that brings visitors, that brings our residents, it supports our downtown, I don't care how you look at it, number of jobs created, the wages paid to those jobs. Every single box that the mayor could have went on with three or four more pages of check boxes, and everything has been checked on this project. It is just unfortunate that it gets the same opposition over and over because of the name on the application. So I just

want to apologize again for the unnecessary obstacles that you seem to continue to get thrown in front of you on a project that is of high caliber and is going to be a great asset to this city for quite a long time. So I look forward to its completion.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I can't remember which topic we've been talking about longer, pensions or this project. So this is been a long time. Janet you made reference to the police chief about this being a model project, and I'm guessing it's because the properties, were they had have been assembled for this project, eliminated three drinking establishments that probably had a fair amount of police to cover them on the week and weekends, is that what you were trying to say?

>> Yes, councilmember, that's correct. But the chief went on to say that that is absolutely the case. But he even believes the idea of it being family oriented, places where people can come and gather that that's the kind of thing that merchants are going to find is revenue generating and that he is very hopeful that that kind of a model will be repeated then throughout the downtown.

>> Councilmember Oliverio: And then I always remember public improvement sidewalk improvements being part of the original deal. This isn't something new that's been hatched aim correct?

>> You are correct. All we're doing is moving those improvements from the Market Street side to the St. John side.

>> Councilmember Oliverio: So there's no trickery that you're pulling here?

>> No.

>> Councilmember Oliverio: I would use the word witchcraft but that won't be -- and then there was a number pointed out about a million dollars will bring a fire station back on line? That's an inaccurate number. It's really \$2.3 million. Based on our staffing. I just want to correct that for the general public. A million dollars does bring other things, but it won't bring a fire crew with our current staffing requirements. Mr. Mayor you made a question on are these people renting or buying the condominiums downtown, are they looking forward to it. I don't know the statistical but the anecdotal side, I met a gentleman named Dan Stapinski, he's a teacher. He bought at City Heights, and that's all he keeps talking about. He knows it will take a while, but he's looking forward to it being completed. Thank you.

>> Mayor Reed: I'm looking forward to going to Seattle at the end of the month of October so I can go see Pike's Place, or whatever it is. I know it's sort of an idea or prototype for this, so I'm excited about seeing it. Councilmember Campos.

>> Councilmember Campos: So I want to talk about the million dollars for the sidewalk and it being moved over to St. John's is that correct, improvements?

>> Councilmember, the improvements are improvements that we wanted to do on tall sides. The initial -- the initial million dollars because we thought we were going to be able to do the kiosks along the garage, were intended for Market Street. Since we can't get the kiosks working right away on the garage, instead we are activating the Perazzo corner and that entails then needing the improvements on St. John to go earlier.

>> Councilmember Campos: So this was in the plan at the beginning then, in listening to you?

>> Yes, that is correct. I mean, this project has phases to it. And there were always intentions to do additional improvements on other sides of the project including this one.

>> Councilmember Campos: Okay. Harry, I think one of the things that in reading the memo, well there's no secret that I didn't support it the first time. I think one of the things that I'm real concerned about is that we're being

asked to split the loan into two separate notes and deeds of trust. And I think in the memo, it really states that it will increase the risk to the agency. I am not convinced that, and I'm concerned that you put that in there, and I think your voice went down when you said it will increase the risk. Because I think that there's a reason why, excuse me, I think there's a reason why you placed that in here, because now, the city is not getting the benefit, it appears now that the developer is not taking on as much risk versus the agency.

>> Harry Mavrogenes: Well, we wanted to disclose that there is somewhat of a greater risk because of the way we're splitting it. However we believe there's adequate equity in both buildings to be able to handle this. This also enhances the chances of success of the project. So we don't feel the risk is great enough to, you know, not do it because I think it's well worthwhile. But I given, taking on this project at this time, is a tremendous risk for the developer. And I think we owe it to them to give them every opportunity to succeed. And this slight amount of risk being taken is well worth it in consideration of the results. And they are busily working on the project. They have transformed that area already. So we want to make sure they are absolutely 100% successful.

>> Councilmember Campos: So you feel that we owe it to the developer to make sure that he -- the developer is successful or we owe it to the developer because he's invested and he's 30% completed?

>> Harry Mavrogenes: Well, he's definitely performed. We have other projects where we have performance issues. And again, as been stated in this economy, here's a project that is really moving ahead. On schedule, they're pushing --

>> Councilmember Campos: Is it on schedule?

>> Harry Mavrogenes: Well considering --

>> Councilmember Campos: Changes several times?

>> Harry Mavrogenes: The reason that it had to go behind was not the developer's issue. It was more or grappling with the legal issues of dealing with the public areas. This is an area that the city and ourselves had not really dealt with in the past in other projects. But thanks to the help of the attorney's office, we were able to make great progress in doing that. It's taken more time. It isn't the developer's fault.

>> Councilmember Campos: And do you foresee that this will correct the issue, or do we foresee that maybe there will be other amendments to this proposal in the future?

>> Harry Mavrogenes: Well, at this point we don't anticipate any other amendments. They're very close to completing the project. And we'll just keep moving.

>> Councilmember Campos: Well, thank you Larry. I won't be supporting the project. I think with the limited money we have in the redevelopment I would prefer to see it being spent on projects that are shovel-ready and that they are ready to go without any delays. I respect your comments, as staff and as director of the agency, and your belief this this project is a project that is ready to move forward. I have many concerns by the fact that we are splitting the note and the deed of trust. And I'm concerned that we are not looking at this project as how -- we're not look at it as a greater benefit for the agency, the fact that you even believed that there is a risk to the agency concerns me and I think it should concern the taxpayers as well. And my colleagues are welcome to comment on my comments. But I will not be supporting this amendment.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I supported this project when it first came through and I'll be supporting it again. I think it's exactly the kind of project this city needs. And I've been to Seattle's Pike's market. The San Francisco ferry building market. These are wonderful places that attract locals and attracts people from around the area. So I think -- I'm looking forwards to seeing that happen here in San José. I wanted to ask here question. Harry, is there any redevelopment project that doesn't have risks attached to it?

>> Harry Mavrogenes: I wish there was one that didn't have risk. I think they all do. We go where others don't go and that's really the punch an agency. We generally fight the fight, in areas that are blighted that are difficult to redevelop. And we're always out there generally with a risk.

>> Councilmember Herrera: I wish there was a world without risk but apparently that is the environment we're always in. And I just want to thank the staff for working with this and being creative and thank the developer for hanging in there and doing something when we don't have a lot of other things going on providing jobs and I look forward to the grand opening of this.

>> Mayor Reed: Thank you. We haven't heard the number and I'm sure there's a number somewhere but I'm really not looking for the number but I know that I have been down there when a night club that shall remain nameless was in operation there and watched a couple of dozen police officers try to control the crowd. And that was every night. That night club's no longer in operation. So that's one of the things I think the chief is referring to about the improvements in the neighborhood. I know that the crime stats in that neighborhood have fallen dramatically since this project got underway. And that's not counted in the investment of the developer. But closing down a night club that's paying rent is a pretty good hit for a very long time. But it definitely improves the neighborhood especially around closing time. Vice Mayor Chirco.

>> Councilmember Chirco: I just had a question about the splitting of the loan. Because it says there will be a deed of trust securing a \$2.195 -- 2,195,000 against the El Dorado building and that is the owner's equity in the building as I read this. There is an existing loan of \$1,405,000. And then on the Lessardi building there will be a \$305,000 note. Why not do it more equally, so that it's not 100% of the El Dorado building? Because it says in the last paragraph that if the value one property falls and the agency is unable to recover the full amount of the loan secured by the property, the agency would not be able to proceed against the other property. You know, I totally support this I think it's a great thing for San José but just as additional layers of protection, why would you put 100% debt on one building and leave equity in a second building when you might be able to maybe do 1.5 million or whatever the difference is on the second building?

>> Harry Mavrogenes: Janet do you want to respond to that?

>> The available unencumbered value in the building fall in the 2.2 and the 300,000 range. And maybe we need to try to walk through this a little better. But there isn't sufficient value to do it differently. And what they want to do on the Lessardi is do a refinancing, that is then going to -- going to take some of that equity out of it. So what we need to do, what the developer has asked what we need to do is utilize all of the available value in the El Dorado to its maximum with just the remaining 300,000 on the Lessardi. Because they now have a note that's coming up that needs to be refinanced.

>> Councilmember Chirco: Well, I kind of understand that and I appreciate that. But I don't know of any lender that will give 100% value in a building. I don't know what kind of financing they're having to look at to refinance the Lessardi. And this maybe the only way it can be structured but I'd like to know that.

>> The reason it's being structured this way is the Lessardi building is a leased asset. It's not owned by the developer. And its loan is due and in order for that building to be refinanced and underwritten to refinance the existing debt, the allocation is being made as proposed. So the developer is leasing that building and putting their improvements in it. They're also leasing the corner lot and placing a building on it. The only building they own in fee simple is the El Dorado building.

>> Councilmember Chirco: So what does it do by putting the \$305,000 lien against the Lessardi building when there's already an existing note? Or is there no note open the Lessardi building? Yeah, there's a --

>> It's the existing debt is being refinanced because the loan is coming due.

>> Councilmember Chirco: 1.1 million.

>> The loan has come due.

>> Councilmember Chirco: Oh, it has come through?

>> Come due.

>> Councilmember Chirco: Oh come due. What cost it do to the lender to the ability to refinance a building with an additional \$305,000 loan to it that's due the city?

>> That's not a problem to the lender. However if there was a much larger amount on it as you're suggesting that woo affect the underwriting.

>> Councilmember Chirco: And then I will be supporting this. But I do have concerns about 100% financing on a building. Is this figures of the -- what is the full praised value of El Dorado building? 3.6?

>> That's correct. The initial agreement you approved had a 100% loan to value ratio, what's proposed here is 100% loan to value ratio. So there's no change in security in that sense.

>> Councilmember Chirco: And I was wondering is the 3.6 appraised value of the El Dorado, is that with improvements or without improvements?

>> That is with improvements.

>> Councilmember Chirco: That is with improvements. Well I know that sometimes to achieve a goal we take steps that might not be available elsewhere. But having owned property for a long time, I've never seen a 100% loan-to-debt ratio.

>> Well, you saw it about a year ago when this was initially approved, because the loan-to-value ratio has not changed.

>> Councilmember Chirco: About a year ago I wasn't entirely all here. Neither was my hair.

>> I beg your pardon.

>> Councilmember Chirco: Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. While I know that when this came before, I reluctantly supported it and I certainly as someone that frequently enjoys the establishment of San Pedro square, and looks forward to its completion, I do have some questions though regarding some of these issues I think Vice Mayor Chirco raised some of them. The other question I have is in the terms of the permission that the developer will have to subordinate the notes and agency deed of trust to any future refinancing of any existing debt on the properties and the risk that that puts us at that will be subordinate behaving of basically to get drop down in line to get paid back, in the repayment of loans. I don't know Harry if you have any thoughts on that.

>> Harry Mavrogenes: Well, again, this type of structure, it's in a redevelopment area. It's a very difficult financing to do. That's why you don't see a lot of this kind of investment in the private sector. That's where an agency has to step in and take some risk. I think the overall benefits of this project will outweigh these risks. But there are always risks and we try to make you aware of those risks.

>> Councilmember Kalra: I know, in fact when this initially came forward we were taking a risk now we are taking an additional risk. And even though we know the economic return is nominal, the reasoning at least from what I recall of approving the project wasn't simply just dollars and cents of tax revenue. It was creating a project that could certainly add to the downtown and add to that part of town for the residents coming in. My worry is that now we're expanding the risk even further at a time in which the Redevelopment Agency cannot afford to do so, and we hear it from people on this dais all the time, how cautious we have to be, particularly the Redevelopment Agency. And it's interesting to hear assumptions that the economy are going to improve in terms of the valuation

of property. Any suggestion that the economy will improve during budget discussions were completely derided by many of the folks up here and you know we know these are uniquely challenging times and the likes of which our city has never seen before that is something that has been repeated many times as well. This time to take additional risk is an important thing to ask ourselves not whether it's a good project or not I've indicated in the past that it is, something very good for our city. Another concern that I have is that the project is changing in a dramatic fashion. One of the reasons I liked the project was the kiosks on Market Street and the garage, and now, that's being taken off the table for the indefinitely future if not permanently. So it's a different project, and we're allowing the million dollars to be used for something totally different than what I vote for certainly and what we all voted for at least what we were told was going to be a project. It doesn't mean it can't be a good project without that, in fact it would be certainly without a doubt an improvement even if you take that out of the project, there will be an improvement of what's there right now especially since those clubs some which had caused some issues for law enforcement will not be there anymore. But this is not -- this is not just a simple change that we're doing. And although Councilmember Liccardo is correct that the initial budget decision had been made this is a First Amendment dealing with those same budget issues and we're seeing a different project, we're seeing financing that's adding a much greater risk, particularly subordination issues, we're splitting one so if one defaults we can't go to the other property to try to access funds to make sure the city or at least Redevelopment Agency is made whole. So it's -- I'm in agreement with everything that everyone up here has said in terms of what a good project will be. That's not the question before us. And you know as we discussed these issues with regards Redevelopment Agency or city budget we keep coming back to what we're able to do right now in this time. Because this time is even much different than last year in terms of how we're doing with our budget and we continue to struggle with how to deal with our budget. Those are the concerns I have including the fact that it's going to be a very different -- it's not a very different project, but one portion, which is a pretty significant portion is not going to be done at least not as part of this agreement. So those are some of my concerns and I you know I hope that ultimately when this project is done it will certainly create the kind of incentives for people to move downtown and enjoy downtown the way that we envision.

>> Excuse me, Mr. Mayor, councilman. We have a clarification on the subordination. The subordination will not increase the A debt on the project. All it would do would be to subordinate to a replacement financing.

>> Councilmember Kalra: Yeah, I think that was mentioned, but thank you for the clarification.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. To understand whether or not this project is shovel ready, I think Councilmember Campos said this is not shovel ready. Bill, I've been out to that site a few times. I'm not sure if I saw shovels but I know I saw a lot of dirt and a lot of people with construction hats on and big machinery. I'm wondering could you tell us what you'd see if you walked out there today?

>> Bill Ekern: Mr. Mayor, members of the board there is quite a bit of construction activity going on both inside the buildings and setting the stage for that -- for the new building at the corner of St. John and San Pedro Street.

>> Councilmember Liccardo: We're way past shovel ready at this point?

>> Bill Ekern: In my opinion yes.

>> Councilmember Liccardo: Thanks, Bill. Secondly, with regard to risk, assuming the absolute worst in this case, it is fair to say, Janet, that the absolute worst is the RDA would end up with the title to a couple renovated buildings with historic character in the middle of our downtown. Is that fair to say?

>> I guess Rick could go through how the actual default and foreclosure would work, but that's correct. We would have to take out prior debt but yes.

>> City Attorney Doyle: Viewed to see what you -- under the circumstances what would be the best business decision if there was a default. You'd have to pay off the senior debt. To get the property. But you know or do some renegotiation there. But that's plan out worst case depends on the circumstances.

>> Councilmember Liccardo: I understand there are million and one variables as you walk down that path but the point is Redevelopment Agency has been involved in property acquisition and sale and holding of various kinds since its existence. This is not a role of some bank or lender that simply doesn't own property and doesn't want anything to do with owning property. This is what the agency has been doing for like it's 50 years fair enough, is that fair?

>> Yes, councilmember, that's fair.

>> Councilmember Liccardo: So as we look at the risks here just to be clear, every dollar of agency -- of this agency loan is secured by real property. With real equity, back every dollar. Is that correct?

>> That's correct.

>> Councilmember Liccardo: Okay. And then the million dollars, that were originally allocated for streetscape improvements to activate the space around here, is that million dollars still being used on streetscape improvements to activate the pedestrian space around the market?

>> Yes, councilmember, it is just in a different location.

>> Councilmember Liccardo: Okay, thanks.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thanks. I just wanted to emphasize one point, and it was mentioned while I had my light on and I was waiting for my time to speak and that is the loan to value hasn't changed and I think that needs to be emphasized. We're really not changing terms. It was 100% then, it's 100% now. The project may have a little bit of scope change but we see that often in projects. And I think it's clear that those who are for it,

and those that are against it are going to remain there no longer how long we argue about it up here so Mr. Mayor I'd like to call for the question.

>> Mayor Reed: Okay, question's been called. We'll vote on the call of the question. We don't debate the call of the question. So we do need a two-thirds to cut off the debate. When we call the question, that's the process. So on the motion of calling the question, all in favor? Opposed? One opposed, Councilmember Campos is opposed so the question that is been called. That ends the debate. We've got two-thirds to do that so we will have a motion on the floor. Do we have a motion on the floor?

>> Councilmember Liccardo: Motion to approve.

>> Mayor Reed: We had one. We were calling the question. Okay. On the motion, all in favor? Opposed? One opposed, Kalra two opposed, Campos that passes on an 8-2 vote with Councilmember Chu going out to a ribbon cutting at a Target store in his council district. The motion passes thank you very much that concludes the discussion open this item taking us to the end of this meeting. We do have to start again at 7:00 so we will recess until 7:00 p.m.

>> Mayor Reed: Good evening. Good evening. I'd like to get the San José city council meeting back into session. We've been meeting since early this morning, now we'll turn our attention to the evening portion of our agenda. We will start with the ceremonial items, and then we'll have a hearing on the redevelopment budget, and we have some land use items we'll take up after that. So for the ceremonial items I'd like to start by inviting Councilmembers Chu and Liccardo, Clarence Madrilegos and Ron Muriera to join me at the podium. Today we're recognizing October as Filipino history month in the City of San José. Councilmembers Chu and Liccardo are here as part of that. Councilmember Chu.

>> Councilmember Chu: Thank you mayor. I'd like to thank our city council members and also the mayor to join me in proclaiming October as Filipino American history month. Last year the California state legislature designated October as Filipino American history month. This October marks the second anniversary, as Filipino American history month commemorate and honors the more than half a million members of Filipino community in the United States. I'm proud to be a sponsor of the Filipino flag raising ceremony at the City Hall on Tuesday, October 12th, noon, 12:00 p.m, and I would like to take this opportunity to extend my invitation for everyone to join us for the celebration on October 12th at noon. Here today to accept the proclamation is Ron Muriera of Filipino American national historical society and Clarence Madrelleho. I'm sorry I murdered your last name. Thanks a lot for coming. I ask the mayor to extend a proclamation. [applause]

>> On behalf of the Filipino American National Historical Society of Santa Clara Valley I'd like to thank Mayor Reed, councilmembers Kansen Chu and Sam Liccardo and the other members of the city council for once again proclaiming October as Filipino history month in the City of San José. This is the fifth year that the City of San José has recognized the valuable contributions of Filipino Americans not only here in San José but in the South Bay region. I'm deeply grateful for the commitment Mayor Reed and the San José city council have made and continue to make on behalf of our community. Seeing this is the 423rd anniversary of the presence of Filipinos in these United States. So once again, thank you, Mayor Reed, thank you very much San José city council

members for recognizing the valuable contributions of Filipino Americans here in San José. Thank you. [applause]

>> Mayor Reed: Now we're going to take up in joint session city and Redevelopment Agency hearing not action, we will not be voting tonight. This is a hearing, the chance for the public to speak to us about the Redevelopment Agency proposed operating capital budgets. So we will take testimony tonight, and then we have another month or so before we're finished with the budget process. But this is a chance for the public to come speak to us. And if you wish to peek, please get a card in. So I can keep track of the people that want to speak. And so we'll just have our public testimony and then we'll move on to the land use items. So when I call your name, please come on down to the front. And so you're close to the microphone. There's some seats in the front. You can sit or you can stand awaiting your turn. And if you wish to speak please get in a card. So please come on down, as I call your name. Susan Hammer. Judy Whittier and then Courtney McMillan.

>> Mayor Reed, members of the city council, thank you once again for allowing me to speak on behalf of Ace Charter School and if you just bear with me a moment I wonder if all those who are here for ace would stand up. I don't know what the other folks are doing here but -- so okay, guys, you can sit down. Thank you very much. As you probably know I am chair of the ace board, and -- [applause]

>> I am chair of the ace board and I care very, very passionately about helping the children with the greatest need have a school in their neighborhood that is dedicated to their success. I understand you face difficult decisions every Tuesday especially in these tough times. I can only ask that you will be able to maintain funding for ACE in year one of your budget, as we projected as recently -- in year one of the budget as was projected as recently as June of this year. We have signed a lease with the Alum Rock school district to with your help have our new school open by the fall of 2012. That lease requires us to have all the financing in place by March. The only way we can make that time line is if you approve funding now. Deferring this funding decision to mid year or beyond could mean the end of ace, with 127 point jump in AIP. Let me repeat that, 127 point jump, which makes ace -- [applause]

>> Which means that ace had the highest increase of any school, any school in Santa Clara County, and the second highest in the State of California. So these people deserve a big round of applause. So we're proud of what we've achieved in just two short years and it would really be a horrible shame if we could not keep our momentum going. We have agreed to have a requirement that no, and I stress no, RDA funds can be spent until ace has secured financing for the entire project. RDA funding will be leveraged 4 to 1 by private sources. Please, help ace to continue to work with the families and children in the Mayfair neighborhood. And again I thank you very much. I know you have some tough decisions to make. [applause]

>> Mayor Reed: Judy Whittier followed by Courtney McMullin.

>> I'm with Bill Wilson center and I want to thank Mayor Hammer because I believe she was the beginner of the mayor's gang task force and the B.E.S.T. program. I want to say a few words. I know this is a program that's important to you as we try to prevent gang activity against our youth in this city. And I understand that you've found some other funding that's not in the RDA budget but I'm very concerned about next year. If this goes out of the RDA budget then what happens in the future year will this ever come back or will you be able to find ongoing funding to work with the youth that we work with and the groups and the individuals that all the other agencies that are part of this work with. I don't envy you. I know you have horrible decisions to make this year and every budget that you're working with but I do encourage you to work with B.E.S.T. and what it brings to this city in terms of youth development and safety for this city and I encourage you to make sure that it's funded. Thank you.

>> Mayor Reed: Courtney McMillan. Followed by Maritza Maldonado and Susan Price.

>> Hi. I'm here as a volunteer of Next Door Solutions who currently receive funding through the B.E.S.T. program to help kids who survived domestic violence make better choices in their life and avoid getting involved in gangs or nonproductive social other interactions that usually involve taxpayer money in terms of law enforcement and other such activities. As a survivor of domestic violence I can tell that you I am one of three children who ended up making productive choices in life. Two of three currently live on unemployment and starting at a young age abused other children in school, made it difficult for those children to learn, have a productive academic

experience as well as the teachers trying to provide that education. You have to think forward. Violence just perpetuates violence unless we do something to stop it, and Next Door Solutions has impassioned people on staff to provide an environment to allow these kids to learn other behavior skill sets so they can continue to be productive members of our society. Thank you.

>> Mayor Reed: Maritza Maldonado followed by Susan Price and Albert Juarez.

>> Good evening councilmembers, my name is Maritza Maldonado, a veteran leader of Our Lady of Guadalupe PACT, a former 20-year educator for the Alum Rock School District, and a founding member of ace. Ten years ago we set out to create excellent schools of choice for children and families. When we heard from hundreds of parents that they value education that it was important to them and that their children were getting short changed by their neighborhood public schools. I'm proud to say that we as a community created some of the best schools in this city. We knew that democracy is a contact sport that everyone can play a part and that a healthy democracy begins with a great education. I don't need to quote you statistics on the drop out rates or the increase in gang violence in East San José. But a million dollar investment in children's education now is a much better investment of dollars, an investment in all our futures than the millions spent on incarceration of youth. Investing in education is the best investment we can make as a society. What sets ace apart is that ace acts on the belief that the color of your skin, your socioeconomic status or your being behind in school should not define you. They believe that each and every one of their students has the inherent potential to be successful. Simply stated, they believe in their students. That is why they can boast of the highest API growth in this county. Each of us has a story to tell about how education has helped us succeed. I know that we can all think of that very special teacher that made a difference in our lives. I'm asking you to give ace charter students that same opportunity. A commitment of \$1 million in the 2011-12 budget was made to our community. We expect and need that commitment to be kept. Please tell these students and their family that honoring commitments is a value, and that students are more important than a new baseball stadium. Thank you.

>> Mayor Reed: Susan Price. [applause]

>> Mayor Reed: Followed by Albert Juarez and then Heriberto Soto.

>> Mayor Reed and members of the city council, I'm Susan Price a past leader from first congregational church in West San José and a founding member of the Ace Charter School board. We started six or seven years ago with the goal of narrowing the achievement gap by creating of a charter middle school in Alum Rock to prepare students for high school. The dropout rate in Eastside high schools is of importance to the city because it's an issue with public safety implications, and it also affects economic development in this city. Ace Charter School is about more than its 325 current students. It's also about eliminating monopolistic educational practices that limit the choices of educational opportunities of families living in low-income neighborhoods in San José. Families with sufficient funds can send their children to private school or move to an area where public schools are better. Low income families also need educational alternatives. We've already seen about the track record of ace with the 127 point increase in the API scores. My last comment is the promise of \$1 million of RDA money to ace was made over a year ago and confirmed again September 1st. The school construction plans are shell ready and will provide construction jobs now. Deferring the start of the construction will kill this project and kill the school. Why put money towards an iffy stadium project when a sure fire job creating project is in front of you? A project that cost much less than the preparations of a stadium and one that improves the education levels and employability of people on the Eastside. Thank you very much. [applause]

>> Mayor Reed: Alberto Juarez, Heriburto Soto and Mary Lee.

>> I work for Catholic charities. I was born in San José hose 52 years ago just down the street here. I'm here on behalf of Next Door to address the gang prevention funding cuts. Our Next Door youth and teen programs operate on tight budgets and can't afford the government to back out after the contract's been enacted. Here is my story and my passion behind the reasons for me standing before you, standing here in this color shirt is probably not a good idea in gang filled areas. This doesn't worry me because I don't represent I don't associate with people or places which colors determine who should be on one sides and who should be on the other. I just like this shirt. As a youth growing up in San José I became involved in programs that were funded to help troubled low income youth. I was one of those youth. I grew up without my father and I could have easily chosen the gang

life. Because the city-funded programs allowed me to meet good mentors, good people who worked in these programs and had a vision to stop violence and gang involvement. I went on to be a successful engineer, a father, a husband, a mentor to other youth. I guess what I'm trying to say is that I am actually a product of these programs. I am here to tell you that this funding is required and it works, without the funding you risk the chances of losing people that play a vital role in gang prevention. Bottom line is, in funding this program you may ask what's in it for you? Well, me and all these people who support these programs in the future of these youth looking ahead. Believe me, your return on this investment is priceless and more. Next door teen programs are vital to many youth. Please support this funding and thank you for the opportunity to speak with you. [applause]

>> Mayor Reed: Hariberto Soto followed by Marilee Armenta and Beth Gonzales.

>> Good evening, Mayor Reed and city councilmembers. I on behalf of the Ace Charter School, as a parent, I've been having the great experience and had time and strength to bring my children from below base to proficient, I help with this charter school and I'm asking you to help us build the school in our community. We need -- we want to redevelop the teaching. And I think this is a great opportunity with this school. We understand that there is very many important things like sports, and so many projects around. But for our community, this school is doing a great job. Thank you very much, I hope you will keep in mind what we are asking you tonight. Thank you. [applause]

>> Mayor Reed: Marilee Armenta, Beth Gonzales, Arelia Ramirez. Go ahead Beth you're closest to the microphone.

>> Good evening, I'm Beth Gonzales. I am a pact veteran leader and a member of the ace board of directors and a founding member of ace. As you can see behind me that there are plenty of students out there and parents who vigorously support their children's schooling. So ace was promised, promised, RDA money that would be delivered by at least March 1st. Our whole plans are based on the receiving of the money by March 1st, 2011. It's not just because we lose our deposit, it's because if this doesn't occur then we probably will not be able to build on that site. We are trying to serve the students and the parents and the families of the people who live in that

surrounding area. So I'm a public school teacher. I go to work every day, I'm still not retired, I'm working every day. Very hard. And I have students in my class who are totally unsuccessful. They did not have the advantage or the opportunity to have a school like ace. And I urge you all to visit the ace school. It is totally phenomenal. The kids are wonderful. The teachers are fantastic. And it's a special place for them because it was developed for students who are not achieving. There is not another school like this in San José. So we are a prototype and I urge you to vote for this money, so that these students will be the first students to graduate from eighth grade and be high school-ready and therefore college-ready and will be -- it's economic development. So this is RDA money. This is real economic development. This is people development. You guys know that. Thank you very much. [applause]

>> Mayor Reed: Maralee Armenta, Avalia Ramirez, Francisco Rios.

>> Good evening. My name is Avalia Ramirez. I'm a parent leader of Ace and PACT. Thank you for giving me the opportunity to voice my thoughts here tonight. I'm here to say that our kids are in need of a new facility. I wish you had the opportunity to visit our school. The kids have to walk from -- have to walk through a park to go from one class to another. The classes are very small for a growing class. Growing school. The equipment in the facility has seen better days. I've enrolled my son in the school because I want him to have a better future and a chance to attend a university after high school. I hope one day he'll have a chance to choose a career rather than to pick a job. This is his first year at ace and I've seen his grades increase. When a month and five days. Not only is he doing well academically in subjects we thought he wasn't good but he also talks to me about going to university one day and it makes me really proud because it is something that I would talk to him about. And he never had any interest. Maybe one day he'll be a politician just like you. I understand it could be difficult to make budgetary decisions and I hope you can see our visions, our plans for our kids who are our future. We the committee have voted for you to represent us and we hope you keep the community's interest in heart. Thank you for your time. [applause]

>> Mayor Reed: Francisco Rios. Followed by Han Tang and Ann M.

>> Good evening, everyone. My name is Francisco Rios. I'm the pastor at St. John Viannes church in Alum Rock. And I've been supporting Ace Charter School for several years. I'm coming to ask your support to help build the school there for our student, our children. We have a school at St. John Viannes and I love it but not all the children are able to go to our Catholic schools. So we need ace and schools like this because it is another opportunity for our children to get good grades, to have good manners, be dedicated, disciplined and at the end they will be our leaders. And so I'm asking you and praying to gods that you will be able to help to build ace Catholic school because it's going to be for our future in this valley. I love sports, I love baseball too but I think the education for our children is very, very important. So I ask you again for your support. And I will finish when I started supporting ace school, the children are successful in our school the collection will go up too. I hope you will have a great support for ace school. Thank you very much. [applause]

>> Mayor Reed: Han Tang Ann M followed by Guadalupe Cadol.

>> Hello, my name is Han Tang and I'm a junior at independence high school. I live in Eastside San José and I'm speaking against the cuts to the B.E.S.T. program. I am also representing AACI. Asian Americans for community Involvement program. I live in a low income community, so it's very difficult for me to find role models in my neighborhood due to crimes, burglaries, car thefts, drug dealing, gangs members, gambling addicts and alcoholics in my area. There was a point in time when I was not connected with school because I didn't see a purpose. I also have friends that are active gang members and it wasn't until I participated in AACI that I saw a whole new outlook in life. Why this program is important? They helped me get back into school due to encouragement they also helped me with my community service because I had truancy. They also helped me with my family problems and everything I tell them in confidential. This program brings different people with different nationalities and gangs together even through our differences. They help us stay off drugs and gangs by telling us the consequences. They help us think about our future and be productive. Because of this program I am now going to school every day, I am also catching up on credits because I want to graduate and be successful in life. I also have someone to trust and to talk about my problems and I know that for a fact that they will try their best to help me. My counselors have helped me set up meetings with the principal in school. They also help me translate to my mother in English because she doesn't know any. They also help me with my truancy problems. I

am not only speaking for myself, I'm also speaking for my peers that you guys cannot take this program away. This program brings all of us together, and we work together and get along very well. This program helped my friends and I with our problems. The dangers of drugs and alcohol has on our families. They teach us about our Vietnamese, Laos, Thai and Cambodian culture. They also teach us to see our identity. Please don't take this program away because it affects us in many ways. Thank you.

>> Mayor Reed: Ann M. Followed by Guadalupe Cadillo and Dulce Gonzales.

>> Good evening mayor and councilmembers. My name is Ann M, I'm the director of community programs and advocacy at Asian Americans for Community Involvement. I think what Han just described to you is a great example of the difference that B.E.S.T. funding is making in our community. We are pleased to be able to continue these services. We work very closely with the students in East San José working in two of the top hot spots for gang activity in the city. And our staff is working with the youth to make healthy decisions in their lives. And also, to work on individual goals. And these goals range from improving grades, which many of our youth are working on, to goals even such as leaving a gang. And I don't know, if you think back to what some of your goals were in high school, and I look at some of our youth, and some of their self improvement projects are to actually leave a gang. And that's a pretty tough endeavor. Our staff is working very closely with our youth so that they can thrive and I just really want to stress that we need to look at how B.E.S.T. funding cannot only be continued this year but into the future. So we need to look at sustainability. And I just want to express strong support for that. Thank you. [applause]

>> Mayor Reed: Guadalupe Cadillo, Dulce Gonzales, Cadilles.

>> Good evening, my name is Guadalupe cadillo, I'm a parent leader at ace charter and PACT. I appreciate you having us speak today on our concerns for ace. I'm sorry to hear that our students in our community will not have a permanent school site. We have been waiting for our site for a year now. There was a proposal granted to us and now you're taking that away from our kids. We have some concerns for our kids. Every day they have to walk to different school sites in severe, in some severe weather. My daughter and I are the first founders of ace. And

other few parents as well. We have been throughout ace's outcome from the first summer school. And through all their steps. To open the middle school and now for their own site. So it has been four years, and our dream has been to have our own. In conclusion the community hopes you do the right thing in getting what was promised to our kids. Thank you. [applause]

>> Mayor Reed: Dolce Gonzales, Graciele Gonzales. Kathleen Krenik.

>> Good evening, Mayor Reed, councilmembers, my name is Graciele Gonzales, and I'm a mother and for Ace Charter School as well and also a PACT member. And it's not a secret that we in Alum Rock and San José, teachers, parents, students and school district, we're working so hard, the past few years, to improve academic achievement gap for our children and their education. We all have worked very hard to strive and achieve major goals and yet we seem to be regressing and receiving negative response to all this hard work that we accomplish due to the economic state of affairs in California today. One major area of concern and many others is the delay we have with Ace Charter School. However, the Alum Rock neighborhood now has the opportunity to contribute to change by the arrival of a charter school has just in two years has demonstrate the ability to improve our children's academic degrees. 325 children who are now in the transition to adolescence, not to mention the one that is the most confusing stage but have shown that goals can be built but only go through if they go to university. 325 children in the short term will not be in the streets joining destructive gangs. And that in the long term, this figure is multiplied. 325 children waiting to have a permanent place where they can receive their daily instruction. And also, have every confidence that leaders like you support them to achieve their goals. And 325 children not only now, but many more families in the medium and long term, which will change the course of their lives by becoming more productive and will contribute not only to inside San José but the entire state of California. And as a result, will make this a stronger nation.

>> Mayor Reed: Sorry your time is up.

>> It is important to invest in them.

>> Mayor Reed: Grasiella Diaz.

>> Good evening, Mayor Reed and the city council. [ Spanish ] my name is Graciella Diaz and I'm a mother and leader of Pact and Ace. Thank you for giving me the opportunity to express my concerns. And to take this advantage, this moment to tell you that although the things that were promised to us one year ago. Regarding the \$1 million that was promised to us one year ago, for a permanent place for school. We have been waiting one year, for you now to tell us that it is maybe not sure. Because the money could be used for a stadium. And maybe that is also well. I am here to demand a good school for our children. And if a school is -- it is a permanent place is formed at the Mayfair neighborhood, with a high quality and sure school, expectations for our children, I think it would be a lot better, and it would help the economy, not only the economy but it would fight also gangs that now exist. I have three children. A seven-year-old, a teenager, 13 and 16 years old. And I'm here because of them. Because I am very, very worried about the education and the security in the streets. I put my hope and my feelings so that you can vote so that this dream can become a reality. I hope that you make the right decision. Think about it very well, thank you. [applause]

>> Mayor Reed: Kathleen Krenick, followed by Maria Teresa Barcenas and Guadalupe Gonsales.

>> Hi, thank you for allowing me the opportunity to speak. I'm Kathleen Krenick with Next Door solutions to domestic violence. One of the things I've noticed is how good of a business plan gangs have. They have a plan for sustainability, and they have a plan for expansion. They have a ready made pool of recruits, and those recruits are usually poor children, children of color, marginalized children, children who speak other languages and children who are not in the mainstream of our regular community activity. It is a never ending pool unless we stop it. The only way that we're going to stop it is to choke off that recruitment pool. The only way to do that is to help the kids before they get into gangs. I happen to notice that in the plan, the RDA plan it says in these times we have resources only to support those projects that leverage public and private funding, generate jobs have a strong economic impact and encourage further development. I can't think of a group that does better leverage than nonprofits. At Next Door we get \$36,000 from B.E.S.T. and we provide services that are well over \$100,000. We serve 320 youth and teens a year, and help them to find a way that's an alternative to gang

involvement. Most of those kids if not all have been exposed to domestic violence and were engaged in violence. They are ripe for picking into gangs. We ask that you support our agency and all the agencies here. It is a vital necessary component for economic growth and vitality of our communities. So thank you for this opportunity and I hope you will vote favorably. Thank you. [applause]

>> Mayor Reed: Maria Teresa Barcenas. Guadalupe Gonzales. Norman Mungia. Do you have a card in, ma'am? Did I call your name? Maria Teresa Barcenas, Guadalupe Gonzales, Norma Mungia, Lucero Arellano.

>> Hi, good evening, members of the here. My name is Maria Teresa bartenas I'm a member of Mayfair and Mayfair NAC member too. I'm here to support the Ace Charter School. Even if I don't have children going to the schools I have neighbors in it. Our kids need better education. I don't want this school go to another community. Please, I ask you for the budget for this school. Thank you. [applause]

>> Mayor Reed: Guadalupe Gonzales. Norma Mungia, Lucero Arellano.

>> Good evening, my name is Guadalupe Gonzales. I represent the SNI Mayfair NAC, and I'm here tonight to show our support to the ace school. In Mayfair NAC our second priority of the top ten is creating and supporting the small schools. We already see the difference the school is making in the kids and their families. It's creating leadership in Mayfair. And for that, I also want to thank Nora Campos for her continued support for education and to the ace school. We cannot afford to lose ace. Each time our kids deserve a good quality education. This is already the third time we come here to support the ace school. We cannot wait until year 2012. We need the money in the budget now. Nothing is more important than education, and ace is proof like kids they can make it in life. We just have to give them the opportunity, and the opportunity for them is the ace school. Thank you. [applause]

>> Mayor Reed: Norma Mungoro, Lucero Greg lipman.

>> Spanish.

>> Good evening my name is Norma Mungara, I'm here in support of the school ace. We need a school like this one and we cannot permit it to leave our neighborhood. That's why we're here to ask you for the third time to please approve the budget so that we can get this school -- continue with our school. Our children need these types of schools in our community. So they can be successful in life. Thank you. [applause]

>> Good evening, my name is Lucero Arrelano, I represent next door solutions to domestic violence. Basically, I am a representative for youth and children. It is unfortunate that our families are facing unsafe communities, we know that our youth are exposed to amazing violence messages towards drug, music, videos, and it is a struggle for us against violence that is accepted. Unfortunately for our teens we go out we reach out, the high schools try to increase, relationships, last summer we have an event with teens and their families and it was so hard for us to hear a testimony from one of the moms of our teens. She herself identify herself as being a victim of domestic violence. She say that if I will be able, if I, you know, if I had been exposed of these issues when I was a teenager maybe my life will be different. I'm so happy to hear that there are some programs like yours to educated our teens. And unfortunately, young men are killing, you know, we have kids that are being killed because they have been abused. This is a very serious issue and I really would encourage you, I have my son he is 14 years olds and really working hard to increase, wanting to have kids as well, domestic violence doesn't discriminate, age, social status. Thank you.

>> Mayor Reed: Greg lipman, Tomo Noromoto, Julie Driscoll.

>> Mayor, councilmembers thank you for the opportunity again to speak to you. First of all I'd like to say thank you to Councilmember Campos for her support of our project in her budget memo. We are here obviously all of us here to urge you to make this, this project a reality. I want to stress a couple of things on the economic ends. We heard presentations from Redevelopment Agency staff about projects at a created jobs. And I just want to underscore a couple of things about that. The ace project is 29 jobs in perpetuity. Along with a whole host of part time and third party consultant jobs. For as long as ace exists. The project means \$5.4 million worth of design and construction work starting in April of 2011. Fundamentally a shovel-ready program. And I also want to stress

something that's perhaps a little bit harder to quantify but certainly the San José 2020 project has attempted to quantify by saying that the city's dropouts over the course of their lifetime will cost the city about \$400 million. I think you have seen some of the hopes and dreams that these families have for their kids but I think it's important to recognize the real economic cost of what those kids who can't read and can't add because they can't read and they can't add, what putting them on a high school ready and a college ready track can really do. I also want to make one last comment. I think it's really important to recognize that I didn't make a single phone call. Our principal didn't make a single phone call. These families are here because they brought each other here. And for those, I think about 35 ace partisans who are in the other room, I just want to give them a little voice, as well. We come here tonight, as a unified community. To say that we believe in the other priorities that the city has and we hope we can find our way into your priorities, as well. Thank you again for your time. And the work of the Redevelopment Agency. And all your support. Thank you. [applause]

>> Mayor Reed: Timon Norimoto. Timon norimoto, I guess he's gone. Julie Borina Driscoll. When I call your name please come on down so you're close to the microphone. Julie Borina Driscoll. Megan Ciagala, Earl Seleridad.

>> My name is Timon Norimoto, resident of District 3. I'm here to urge to be -- the redevelopment agency to be more conservative with the tax increment projections as suggested by the county assessor. If the projections fall short the RDA will need to use already depleted housing funds to pay back the California state's take of the Redevelopment Agency moneys. This will effectively shut down our ability to build more affordable housing. I would like to remind the Redevelopment Agency board that we have an obligation to ABAG to construct 34,721 units of housing in the next four years. That's 3,876 units of ELI housing, 3,875 units of very low income housing, 5,322 units of low income housing and 6,198 moderate income housing. Affordable housing means safer neighborhoods, it means leveraging outside moneys that can be leveraged in our communities today. Affordable housing funds pay for 10, 20% of the gap financing for affordable housing projects. This means that sometimes 80% of the construction jobs and the moneys created for construction jobs is actually from tax increments as well as state moneys. We need those jobs today in our city. We need those development jobs to happen right now we need to get people into affordable housing today, and we won't be able to do that if our tax increment projections

are too high and we have to dip into the housing trust funds to pay for those services. I urge the Redevelopment Agency board to be conservative. Thank you.

>> Mayor Reed: Julie Driscoll, Megan Cealla.

>> Mayor Reed, councilmembers, my name St. John Viannes, pact work hard to bring Ace Charter School to our children in East San José. We are proud to say that our collaborative efforts are transforming education in San José. Less than 1 million committed to plan our Ace Charter School. Deferring ace funding the virtually killing the dreams of hundreds of our community children, of a potentially promising future. Ace Charter School is the way of closing the achievement -- the academic achievement gap and the initiative of San José 2020. Funding ace in the budget year 2010 to 2011 will create real jobs in the construction in the next six months and immediately thereafter. Please do not allow our children to be pitted against our community. It is not right. Include ace funding for the budget year 2010 to 2011. Thank you. [applause]

>> Mayor Reed: Julie Barino Driscoll, Megan Siagala, Earl Seleridad.

>> Good evening, Mayor Reed San José city council. City of San José executives, attorney and citizens of San José. I just want to comment on one thing. First of all, I will say that I am all for education. Education is our future, technologically and worldwide. It depends on what our education is like in our competition in the global workplace and also, educational level as well. Anyway, I'm all for education. However, we must realize that it all interacts together in society. I am for Redevelopment Agency projects because it builds business in the City of San José. I'm all for the stadium, for the City of San José. Why, that brings in money, a strong economic base can support our schools. Can support all of San José in various ways. I think that we need look at the bigger picture. Yes, it is important to have funding for the education right now. But it's also important to keep that perpetual, keep that income coming in. One way to do it is build the stadium, bring in the fans just like they do at AT&T park in San Francisco, or SBC park and keep the money flowing in so that our schools can be perpetually strong. Be strong and please remember, we can have our cake and eat it, too. [applause]

>> Mayor Reed: Megan Siagalla, Earl Seleridad, Jan Zumel.

>> As you know one in three teens have experienced teen dating abuse in their relationship and women 16 to 24 years old are the most -- are at the highest risk of abuse in their lives. My name is Crystal Tallytoto, and I'm the youth program coordinator from Next Door Solutions to domestic violence. I'm out in the field every day working with gang impacted youth of color who have a wide range and diversity of issues going on in their lives. Domestic violence and teenage violence is only one of those issues. I am a child who grew up in a home that experienced domestic violence, and I know, like Lucero said, that if I would have known the resources and services that a domestic violence agency has for children, my life could have been different. My choices would have been different. But I want to ask that you reconsider thinking how you cut funding especially to programs here at next door where we are one of very few agencies, domestic violence agencies that have a youth program that talks about teen dating violence and bullying in the schools. So thank you for the opportunity, and please consider not cutting programs of B.E.S.T. [applause]

>> Mayor Reed: Earl Seleridad, Jan Zumel, Elizabeth Zumegas, please come on down. I have a lot of people who want to speak and you're keeping the kids up past their bedtime. Come on down.

>> Hello, my name is Earl Celeridad, I'm here representing FYC, Filipino youth coalition. I just want to say it's like an anti-gang coalition, so it's keeping us away from that every Tuesday night we meet up at Welch park and we have activities, we meet up with our friends. It gives us something to do, something for us to do, if they provided us with mentors to look up to if we didn't have any before. Like it showed us to value friendship, more than material belongings. Like so if some people like they might want to join a gang because like oh yeah like their family needs help they need money and that's a quick way to get money. But FYC they provided us with activities that just gave us a way to vent out our feelings vent out our problems like give us something to do and the like. It - it taught us not to go towards like that -- towards like the easy way out but like how we can -- how we can solve our problems through that and like it taught us leadership skills like our activities, like we need people to run the meetings. So they led us run it. They let the students run it. Like they give us an outline and they let us run it. It's teaching us skills we need in the future to become leaders. Like I said it just keeps us away from gangs like it will -

- it provides us with the means necessary to stay away from them and just like give us what we need to live our lives without needing to come to that option. So yeah, thank you for your time. [applause]

>> Mayor Reed: Jan Zumel, Elizabeth Baregas, Jonathan Odana, Jerry Nguyen. Come down when I call your name please.

>> Hello, my name is Elizabeth Baregas, I'm a peer educator representing Next Door Solutions to Domestic Violence. I'm also a teen parent who has been educated about teen dating violence and healthy relationships. Through this program I learned I do not have to be a victim of violence and abuse in my relationships and my child will have an opportunity to be in a healthy relationship also. Thanks to the youth training and education at next door. Please do not cut funding because other youth like me will not have the opportunity to a violence-free relationship. Thank you. [applause]

>> Mayor Reed: Jonathan Adona, Jerry Nguyen, Kevin Magro, Lakota Hardin.

>> Hello, I am Jan Zumel, I actually go to Piedmont Hills High School. I come here not only representing with my peers but also my friends, my second family, and also, leaders in our community. There's not a lot to say about, you know, budget cuts that are going on right now. But what I would like to say is that not only do these communities or community activities give me a bridge, to connect from my own personal life to the society around me, a second home, a second family, and just overall, a place to talk to whenever I come to have problems with my everyday life. Growing up in the Bay Area, as a high schooler there's also peer pressure that comes around different crowds that I can get mixed into that just aren't good for me but FYC has taught me many different things about my own personal life and also my culture. They -- the people that run FYC I mean they're already going through this with cut budgets and things, they're doing this with their own money and I respect them. They give me a place to come to whenever there's daily stress and also my community and all their stress, you know? We've been given opportunities to lead within our own community. We've been given opportunities to help any problem that's come within our sources that have been providing homes or different communities for us. And I believe that FYC has become a safe haven a second home and a second family to me. I believe cutting any funds

or budgets from any of these people from any of these community activities might really hurt our community. So I hope you guys take into consideration what we all say today, on behalf of everyone, I'd like to thank you guys for all of your time and listening to us. Thank you. [applause]

>> Mayor Reed: Lacota hardin.

>>> Good evening, thank you.

>> Mayor Reed: One moment. Let me get more people moving down this way. Jonathan Nguyen, Terry Magro come on down.

>> Good evening, my name is Lacota hardin. My name is also white shell woman. I am a native person from this land and I've been living here for long time. I'm also a 53-year-old grandmother but I work at the center for training and careers. I want to thank all of you because you do a lot of work behind the scenes that we don't see. Just sitting here listening at the end of a long day I'm sure is kind of hard. All of us are here because you care about the same thing you do, our kids. When I was trying to think about exactly what I was going to say, I thought about when I was a kid, when we were, when there were buses running, I was a cheerleader, we had band practice, all these things we had that school means to us. But the reality for our young people now is it's a war zone out there. You know, when I go to see the students at home, and I drive down the street I see them getting out of school I remember we'd be laughing, talk, joking arounds. Well now I see them walking and they got to look tough, they got to be hard because it's not safe just walk home from school. And that makes me really sad and it makes me proud of the work I do. I don't get paid very much. In fact I'm constantly struggling worried about how I'm going to make it just like a lot of these people here. But we do it because we care about our kids. And all this B.E.S.T. funded agency, this ace school, we create family, we create a safe place. I love it when I see students come in they're scared to death you know, they come in and they're tough and they want to scare me, right? I love watching that transformation when they start to realize they can be themselves. I love it more when they start developing ideas and realizing their own talents and their own strengths. That's what we do in these agencies and

it's a wrap-around model where we do from prevention you know all the way up to suppression, all the way around. And we get to see the very many areas --

>> Mayor Reed: Sorry your time is up.

>> Okay anyway we're a family we're all a family. We thank you. Please don't break apart our family. [applause]

>> Mayor Reed: Jane hymns, Michael Pritchard Linda Maria.

>> Hi, I'm Don Dandona, I'm a senior at Evergreen high school and I'm here representing F YC, for the past three years I've been going to FYC, participating and keeping myself out of trouble. With the workshops I've learned from FYC I have learned as a young adult I have choices and with the choices I are, I am now on the right track to attend a four year university next fall and I would like to thank the FYC mentors for this. And I please ask you not to cut funds for FYC and other community activities. Thank you. [applause]

>> Good evening, councilmembers, I'm Jerry Nguyen, 17 from Wilcox high school. I represent FYC Filipino youth coordination. Even though FYC may be in San José and I live in Santa Clara, I come and like to have a family for those people I met and meet new people. They give us people to look up to and like it affects us. The youth. In many ways like personally, and mentally. It keep us out of trouble rather than us being on the street. And like it's a place where we can just hang out and like learn our cultural and how do -- what life is about and how we live it. So I hope you guys please don't like do the whole funding budget cut, because FYC is really like good for us youth and thank you for your time. [applause]

>> Good evening, Mayor Reed, and San José city council. I'm Ken Magro. I attend Milpitas high school and I speak on behalf of the Filipino youth coalition also. I would like to say that this program itself put Allen an impact on me as a student, and it just influences me in many ways. And again, like what everybody says it keeps us off the streets and makes it vulnerable to better lives. And also, I attend meetings every Tuesday at Welch park. This program gives us the opportunity not to just bond, but to -- not to just like also learn the Filipino culture but all

cultures are welcome and have the same lifestyles that we do. So please San José city council and mayor Chuck Reed we ask as a family, not just as a family but we ask to please don't remove this program that we dearly love and cherish for our generation and future generations. Thank you.

>> Mayor Reed: Michael Pritchard, Jane hills and then Linda Murray.

>> Good evening, mayor and city council members. Thank you for the opportunity to speak. My name is Michael Pritchard, executive director for pathway society. I'm here tonight because I'm extremely concerned about the future funding for San José B.E.S.T. Especially if this funding is eliminated from the Redevelopment Agency's budget. As you're aware of the City of San José has been a model in the nation through the mayor's gang task force and I'm hoping for your renewed commitment to these valuable services either through redevelopment or other city funds. Pathway society has been providing substance abuse school based drug treatment for at risk youth for the San José B.E.S.T. since the inception of mayor's gang task force in 1991. Pathway currently provides these services at Overfelt High School, Mt. Pleasant High School, Silver Creek High School and Fair Middle School. We provide these services to over 1500 students a year. Pathway has provided substance abuse treatment services funded by B.E.S.T. to literally thousands and thousands of students for almost 20 years. The pathway program provides treatment to youth afflicted to the truancy, increases graduation rates among those students, and positively impacts the intervention, prevention of gang issues in the communities and neighborhoods of San José. As a past member of the mayor's gang task force policy team, I urge you to continue the funding for San José B.E.S.T. in this and future years. If these programs funded by San José B.E.S.T. disappear the future of our at risk youth will be in serious jeopardy. We need to stop the cycle of addiction, we need to stop the cycle of youth violence, cutting these programs will increase both of them. I urge you to consider keeping the San José B.E.S.T. funding at its current pace. Thank you very much.

>> Mayor Reed: Jane Hills.

>> Good evening, mayor and councilmembers, my name is Jane hills and I'm the director of children youth and family development services at Catholic charities and we truly, truly appreciate B.E.S.T. funding that supports vital

programs for literally hundreds of youth in middle and high schools located in hot spots throughout San José keeping them in school and safely out of gangs. And tonight just to illustrate how important B.E.S.T. is, tonight we've been in lock down at the Washington United youth center since late this afternoon due to a drive-by shooting near first and Martha Streets. But thanks to B.E.S.T. funding our youth are safely inside the center, enjoying recreational activities at late night gym. So thank you again for keeping our youth safe and secure, and please, please ensure that B.E.S.T. funding remains in the city budget. Thank you.

>> Mayor Reed: Linda Murray followed by Serena Eichelberger.

>> Mayor Reed, councilmembers, thank you for having us here tonight. I'm here on behalf of Ace Charter School. I am a member of the board of Ace Charter School, and I want you to know that this school is worth all of our attention. It is a school that's taking first generation college going students who come to us below grade level in the fifth grade and promising that they will exit middle school, ready for a college preparatory high school program, that's so important, it is a model for our city, it's a model for communities across this nation. It's working, our performance is second to none, and we are so proud of it. I also speak to you as a lifetime educator. I won't tell you how many years but as superintendent of schools in San José unified school district I came to you and asked for your help to rebuild Horace Mann school right across the road a beautiful school. It was a disgrace to our community and now it's a beautiful school. And it shows with partnerships like this, that the Ace School will be a model as well. It will be a wonderful investment, and we are all hoping that you will be able to help us fund this very important school. Thank you.

>> Mayor Reed: Serena Eichelberger. Mike Kanule, Michael Lopez.

>> My name is Serena Eichelberger, and I am a resident here at San José and a teacher at Ace Charter. I'm speaking to urge you all to vote for ace charter and the funds. I do not envy your decisions that you all have this evening. I know it's a tough position to be in, but I can definitely guarantee that voting for ace is definitely a solid position. Not only do you get an economic gain with jobs now, but you also get really high-paying jobs on a long term basis. In addition to that, I love sports, definitely, huge fan. We provide cross country team and Wiffle ball,

disk alls so we are able to address issues of gang violence within our school. So in a lot of ways funding this project definitely helps not only to boost the city economically and to keep all those high-paying jobs here for the residents of San José, but also, education definitely helps to improve not only the society that we live in today but for the future. So I strongly urge you to vote for ace charter and I appreciate your time. Thank you very much.

>> Mayor Reed: Mike Kanule, followed by Michael Lopez.

>> Mayor Reed, members of the city council, thank you for the opportunity to speak. My name is Mike Kanule. Apologize for my somewhat casual appearance. I've been working on our new restaurant replacing the hogs the clubhouse all day long. And downtown is an amazing place. I was the first staff person ever assigned to the San José B.E.S.T. program when I worked on the staff of Mayor Hammer. One of the things that's been amazing for me to watch as a student of Silvondale High School, Hellyer Elementary, Andreon High School who went on to attend Stanford University and Oxford University is to come back to San José and see the goals of San José really becoming the capital of Silicon Valley and achieving critical mass as a world-class city. As the first staff person to ever work on the San José B.E.S.T. programs I had the honor and privilege of being able to work on the recommendations to council about those programs. I serve as the president of the Mexican Heritage Corporation and the treasurer now for MACSA, Mexican American Community Services Agency, and MACSA in particular does amazing work. And I strongly encourage the members of the San José B.E.S.T. program going. I firmly believe that as someone who grew up in this city, with never thought I would live downtown or own a condo downtown and do I and I credit in large measure San José B.E.S.T. and its prevention, intervention and community anti-gang and drug programs, with making the city not only the safest it can be, but you're getting us to that place where we truly can achieve critical mass and become that world-class center for tourism and economic empowerment that we have been yearning for, for decades. Thank you very much and I appreciate the opportunity to speak.

>> Mayor Reed: Michael Lopez.

>> Good evening, mayor and members of the city council. I also want to thank you for the chance to speak. My name is Michael Lopez and I'm the president of the board of directors of the Mexican American Community Services Agency, also known as MACSA. I'm here to advocate for funding for the B.E.S.T. program. That is a significant, significant funding source for our agency. If you take into account the money we lost last year from the general funding from the cuts from the general funding and you combined it with the funding that's being proposed that we lose from the B.E.S.T. program that would be a total hit of almost a half a million dollars in the span of about two years. That's a very difficult, a very difficult obstacle for any organization to overcome let alone a nonprofit who's struggling during the current economic times. I would think that taking into consideration everything else that's going on, with cuts in law enforcement and other areas, that we are one of the areas that the city would choose to deem worthy of investment, as we are a significant part of the fire wall between gang activity and the rest of the city. Our work in intervention and other areas is nationally known, nationally recognized. And we feel that we are definitely worth the investment, and that B.E.S.T. funding is critical, critical to our survival, and to just should be considered really a basic, very basic service to the community that we serve. So I hope you will take that into consideration. I believe in -- I believe you will make the right decision and I thank you for the opportunity to speak. [ applause ]

>> Mayor Reed: Thank you all for coming out tonight. That concludes the testimony in this Redevelopment Agency budget for this evening. We will now turn our attention to the rest of the agenda. We have some land use matters on the city council agenda. We'll take those up next. That would be item 11.1. Which is a consent calendar. And then we'll take up 11.2 which is some annexation reorganization, items, you're all welcome to leave, it's okay, please keep it quiet until you get outside please, get the kids home, get the homework done, get them to bed, soon. All right, there are four items on the consent calendar. Any item the council wishes to pull for discussion?

>> Councilmember Chirco: Move approval.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. 11.2, initiation of the annexation reorganization of Penitencia number 77, McKee number 136, McKee number 135, and capitol number 57. Some day I'm going to get a tutorial for how we name these annexations, but for tonight we'll just use the numbers.

>> Councilmember Chirco: Move approval.

>> Mayor Reed: Motion is to approve the initiation of the annexation reorganization of those four areas. There is many more hearings and work to go before we get to the end but this is the start. I have no cards from the public on these annexation initiations. Further discussion? All in favor? Opposed? None opposed, those are approved. That takes us to open forum. I have a couple of requests to speak. R.J. Castro.

>> Good evening, council and mayor. As mentioned earlier, in regards to agenda item 3.1, Debra Figone has reported a loss of officers of the metro unit patrol. The police activities league was part of this production in workforce equation and lost three officers from managing the youth crime prevention program that relies on educational, athletic and other recreational activities that cement the bond between police officers and youth in our community. Parents and youth and members of P.A.L. marched from P.A.L. stadium this evening to City Hall to show their support of programs at P.A.L. Basically we don't want these programs to be cut from P.A.L. and as a district commissioner of the East Valley P.A.L. soccer program and the vice chair of the metro P.A.L. soccer league, which includes the neighborhoods of Cambrian, Rose Garden, Willow Glen, East Valley, Santa Clara and Milpitas, I'm here to inform you our families rely on the relationship with P.A.L., as well as the low cost of programs that help our youth stay healthy, active and off the streets. If P.A.L. programs are cut, these families will not be able to afford other programs that are available to the general community. As a volunteer I'm applying for a grant from the U.S. soccer foundation, and I'd like for support from council the mayor and assistance in building this relationship and others within the soccer community to continue to provide a positive life-learning experience to the police activities league. We need your help in continuing these youth crime prevention programs and assisting our programs in receiving grant money or budget directed towards the police activities league. Without being a member of the police activities league in 1977 through 1980 in East San José I would not have been able to begin my soccer journey which has taken me to high school, college, Olympic development programs, as well

as semi professional and professional experience. I've been coaching for over 20 years, and these experiences have allowed me to develop into a community member that believes that teamwork and working together can accomplish more than one individual's efforts. Please join our team and help our police activities league. Thank you.

>> Mayor Reed: Thank you. I'm going to ask to you speak to the City Manager after the meeting, because I believe there are still three full-time people assigned to P.A.L., I want to make sure that we're getting the same information. So if you could speak to the City Manager after the meeting, because we're just about done here. No more cards on open forum, that concludes the open forum, that concludes our meeting. We're adjourned.