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City of San José city council meeting.

>> Mayor Reed: Good afternoon. I want to call the San José city council meeting into session for April 21st, 2009. We'll start with the invocation. Councilmember Chu will introduce the invocators.

>> Councilmember Chu: Thank you, Mr. Mayor, the joy of dancing studio has been entertaining the City of San José for the past 32 years. Joy of art and dance to children and adults of all ages. The dynamic dance team is a performance and competition dance team from the joy of dancing. They are celebrating their 35th anniversary this year. Joy of dancing dynamic dance team has performed at many events such as the community festivals, various art and wine festivals for one, Christmas in the park, the San José holiday parade and now, City Hall. Dynamic dance team strives to teach the dedication of hard work, teamwork to all of its members. Today they are here to perform one of the dances from their upcoming show, "just dance." Please welcome the dynamic dance team from the joy of dancing performing to rubber duckie. ¶ rubber duckie, you're the one ¶¶ you make bath time lots of fun ¶¶ rubber Duckie I'm awfully fond of you ¶¶ rubber duckie you're my very best friend, it's true ¶¶ every day when I make my way to the tubbie ¶¶ I find a little fellow who's cute and chubby ¶¶ rubber duckie you're so fine ¶¶ and I'm awfully glad you're mine ¶¶ rubber duckie, I'm awfully fond of you ¶¶ rubber duckie I'm awfully fond of you ¶¶ rubber duckie you're the one ¶¶ you make bath time lots of fun ¶¶ rubber duckie ¶¶ I'm awfully fond of you ¶¶ whoa whoa Dio ¶¶ rubber duckie you're my very best friend, it's true ¶¶ every day when I make my way to the tubbie ¶¶ I find a little fellow who's cute and yellow and chubby ¶¶ rub adub dubbie ¶¶ rubber duckie you're so fine ¶¶ and I'm lucky that you're mine ¶¶ rubber duckie I'm awfully fond of you ¶¶ rubber duckie I'm awfully fond of you ¶¶ oh, it was wonderful, rubber duckie ¶¶ ooh, wonderful, keep on going ¶¶ now, under the water, rubber duckie get down ¶¶ you better come back up ¶¶ come back up ¶¶

>> Mayor Reed: Thank you. Rubber duckie never had it so good! Please all stand for the pledge of allegiance. I want to invite some third graders students from Vargas elementary school to join us in the pledge and tell us how to do it. [pledge of allegiance]

>> Mayor Reed: Thank you. I think Vargas school is in district 1. According to Councilmember Constant.

>> Councilmember Constant: Yes, they are, from the Cupertino high school district, we're thrilled to have you here.

>> Mayor Reed: First order of business is orders of the day. Just a couple of things about the agenda order for the day. We're going to take item 8.1, the consortium for police leadership and equity item, immediately after the consent calendar. During the evening session we will have some things out of order, we'll start with 11.1, 11.2 and then we'll take up 4.2 tree removal item and then item 3.2, the library Internet access item. And I understand that Councilmember Liccardo have a memo requesting deferral of action on item 8.2. If anybody wants to speak on that item, is there anybody here who wants to speak on item 8.2? If there are no objections, we're going to defer that. Do you have a date for that Councilmember Liccardo?

>> Councilmember Liccardo: No, I'm certainly happy to take action for a date but I just didn't want it heard today.

>> Mayor Reed: There's no one here to speak so we can defer it.

>> Councilmember Liccardo: I think there was a suggestion of a friendly amendment on the deferral.

>> Councilmember Constant: I just wanted to make sure on the deferral if CPLE is not going to address this issue which based on my conversations with them, they may not, then it should immediately come back to us without any delay. And without needing a council action to come back.

>> Councilmember Liccardo: I'm certainly agreeable to that. And I'm hoping there will be some public statement of some sort from CPLE.

>> Mayor Reed: Let me suggest then that we just send this back to the Rules Committee.

>> Councilmember Liccardo: That's fine.

>> Mayor Reed: And that way we can put it back on the calendar quickly at the appropriate time after the council's heard the other items. Okay, so we'll refer that back to the Rules Committee. In case anybody doesn't know all the numbering, 8.2 was the downtown entertainment zone demographic study. And again, there's nobody here to speak on it. So with no objections, we will do that. So under orders of the day is there a motion?

>> Councilmember Pyle: Move to approve, orders.

>> Mayor Reed: Motion is to approve orders of the day. All in favor, opposed, none opposed, that's approved. Closed session report, City Attorney.

>> City Attorney Doyle: Mr. Mayor, members of the city council, the city council met this morning pursuant to notice. There is no report out.

>> Mayor Reed: I'll invite Paul Krutko and members of Rockwell systems to join us at the podium. Today we're recognizing Rockwell Collins for their ongoing successes here in San José. It was founded in 1933 by John Rockwell and others. We are here to commend them for 75 years of innovative communication and aviation services. Councilmember Chu, I think they're in your district, aren't they?

>> Councilmember Chu: Thank you, mayor. Rockwell Collins commitment to integrity are the cornerstone to their company. 25 noteworthy companies of diversity for the second year in the row. They maintain the belief that our differences create achievement. They are dedicated to enhancing education through programs with nonprofit partners that engage students in hands-on engineering experiences. Through their community partnership fund they support grant programs to local schools and gift matching to charities for their employees. Rockwell Collins supports the community in which they operate by the green community project. They have policy sored the creation of model garden, the world expo, alternative energy solutions, trail and river cleanups. So with great honor I would like to ask the mayor to present them with a commendation. And welcome to San José.

>> Thank you. On behalf of Rockwell Collins I'd like to thank Mayor Reed and Councilmember Chu and the remainder of the City Council for recognizing Rockwell Collins and we're a very happy participants in our community and proud to be here. Thank you. [applause]

>> Mayor Reed: For our next item, I would invite John Stufflebean and members of the wastewater facilities. Is that right, John? Did a great job obviously. The water pollution control plant is continually working to achieve savings, the people you see coming forward are the people who do that work. We partner with PG&E to capture energy savings through various programs offered by PG&E. The California wastewater process optimization program is one of those. By working with quest Inc. of Berkeley, we've reduced energy cost to the plant by 20%. Reducing energy costs saves us all money, so that's a good thing. Going towards our achieving our Green Vision. Examples of the many city employees actively working towards energy goals. We have someone from PG&E with a check, so I've heard.

>> Good afternoon Mayor Reed, my name is Don hall with PG&E and today we're happy to recognize the City of San José by presenting a check to the San José-Santa Clara Valley water pollution control plant for \$279,969. Besides the short and long term cost savings for the city The State of California will see environmental benefits with a reduction of 8.6 million kilowatts of energy. The power saved is equivalent to taking a total of over 1100 cars per year, or supplying enough power for over 2400 homes. On behalf of PG&E I would like to recognize Mayor Reed for his leadership with his Green Vision, PG&E depends on partners like cities and the great City of San José along with other partners, to help achieve both the city's green vision and our goals for energy efficiency, and greenhouse gas reduction. With that I'd like to turn it over to our partner from quest who has a couple of comments.

>> Thank you. Honorable mayor and council, I am John bidwell I'm with quest, the company that runs the Cal pop program. I'd like to mention the wonderful programs that we took forward, how dramatic a project this was. Our program, that we operate on behalf of PG&E, was very successful in our last contract cycle of three years, ending in 2008. We exceeded our goal by about 350%. And the project here at the plant was over half of that goal. So this was a -- the amount of savings that come out of the water pollution control plant as a part of our joint efforts with PG&E and the plant are phenomenal. And write particularly would like to recognize each member of the plant staff, as it was a joint effort, and it's really an outstanding staff at the plants. Steve Colby, (saying names) great job. This is an outstanding team you have here at the plant. Thank you.

>> Mayor Reed: We're going to take a photo. If I got this right, this is a check for \$279,969 but this is a down payment on the savings. This is a little bonus. Because we've got the savings ongoing at the plant. So we would like to thank all the people at the plant for saving us a lot of money. We appreciate that. Okay, thank you. I think John Stufflebean is going to stay up here, we're going to invite Mary tucker, Jesse Denver and John Pope to the podium. This is a little different. Instead of giving an award, the city is going to receive one. Recognizing San José as the number one large city for total solar projects installed. John Stufflebean is going to tell us a little bit about what happened in San José.

>> John Stufflebean: Sure. Just briefly, this is an award presented to the city by again, the Northern California solar energy association, the award for having the most solar installations for any big city in California. That's kind of cool. It shows the commitment that the city has in promoting solar and the fact that we, through our building code processing and inspection process make it particularly easy for

companies that want to put in solar, to install solar. I want to turn it over to Ted Pope, the Northern California solar energy association.

>> Thank you, John. Norcal solar, that's the one I can pronounce. Norcal solar is a nonprofit association, since 1975 promoting solar education, and fostering the exchange of information for the purpose of increasing the market share of solar technologies in the greater Bay Area and outside of that area. I'm very pleased and happy to be here to share with Mayor Reed and the city council and people of San José as well the city solar award from Norcal solar. City of San José has gotten first place in the number of installations of solar through 2007. There 723 installations of solar photovoltaic systems. I should mention that San José also did well in two of the three other categories ranking in the top 10 and I'm sure based on the numbers we're seeing for this year probably one of us will be back here next year with another award as well. The city solar awards started three years ago and it was Norcal solar's idea to recognize these areas of solar adoption. Another purpose was to raise public awareness generally and specifically to increase a little friendly competition between communities in the area of solar installation. So on behalf of Northern California solar energy association, as well as the sponsors of the city solar awards which include sunlight and power, quick mound PV, the Lindburn family, Sacramento municipal utility district, and my company, Norcal solar energy association, I'd like to present the mayor with this award for 2008.

>> Mayor Reed: Thank you. [applause]

>> Mayor Reed: Next I'd like to invite Councilmember Pyle and represents of the Almaden customer service realty autism golf tournament to join us at the podium. They're here, good. Today we're recognize all the work that went into making the Almaden customer service realty autism golf tournament possible.

>> Councilmember Pyle: Thank you, Mayor Reed. The Almaden customer service realty autism golf tournament, the customer service realty has chosen to raise money annually for children who have autism. The fund raiser for children and families affected by autism is how customer service realty has been able to provide training for over 250 Bay Area preschool teachers to help recognize the symptoms of autism, training for over 400 people and language specialists to screen preschoolchildren and screenings for over 250 referred children in the last six years. And so, Mr. Mayor, if we could present to customer service realty their well deserved thanks for all that you do, that would be great. Here we are. And for funding autism research and support and education to Bay Area families affected by autism. So Steve Bonafede is here to accept the award.

>> Thank. We won't be doing a rubber duckie dance, we didn't prepare. I'm Steve Bonafede. The reason we do what we do, we believe that what comes around goes around. We feel it's our job in the community not only to help people reach their goals, buying or selling a home, we believe we want to be significant. And the way we can be significant is actually make a difference in their lives at home. And that's with autism awareness. So with that being said, I'd like to say that for us to stand up and actually receive an award, it kind of seems a little bit I would say intuitive -- counterintuitive in something that we're passionate about and we do with our heart. With that being said, I'd like to say on behalf of Dr. Novak from San Jose State, and Tim Johnson who is not here, and autism tree project, and my affiliates, co-workers or co-owners, thank you for recognizing us today. Thank you. [applause]

>> Mayor Reed: Next I'd like to invite Councilmember Constant and representatives of the advantage children's Alliance to join me at the podium. As we recognize national crime victims rights week in San José.

>> Councilmember Constant: Thank you, Mr. Mayor. Today we have Melissa, to recognize national crime victims' rights week. Next week is national crime victims rights week. There are many groups out there and many people out there who are victims of crime on a daily basis. National crime victims rights association, want to make sure that the victims of crimes have someone they can lean on. We know that far too often our justice system seems to be geared towards the suspects and not towards the victims. We want to take a little time out next week to recognize that. The vantage children's alliance is a national organization located here in San José, just off of Hedding street. The children's alliance is the oldest and second largest missing children's organization in the entire United States. Advantage children's alliance has the assisted in missing and abducted children, since 1980 and of these they have documented that they have helped find 90% of those children, I think that is really impressive. And most of all, all of their services are free of charge, and are just out there for victims of crimes to take advantage of their services. So we wanted to thank you for what you do, in our community, for the victims, and thank you for helping us recognize national crime victims week.

>> On behalf of the vantage children's alliance and all the other victims' rights agency in the county of Santa Clara County and City of San José, I would like to thank Mayor Reed and the rest of the

councilmembers for acknowledging the importance of victims' rights week. And for agencies like the vantage victims assistance organization. We at the vantage victims alliance appreciate the support the community makes to assist these victims, and take a sheriff their burden. Whether it be child abduction, the city's runaways or the increasing problem that we have with Internet child luring, VCA and all the rest of the agencies appreciate your support. It is important we keep in mind especially in Silicon Valley we keep in mind the issue that is going on right now with Internet child luring and that we remember the responsibility that we have as parents, teachers, and political leaders, in our community to protect our children from the risk of this incredibly amazing educational and communication medium. But also, the risk that the exposure to it brings. I'd also like to take the time to ask you to remember the economic effect that the economic downturn is having on some of the small agency, victim service agencies right now and to continue giving them your support and in turn, support the victims through the services that are being provided through these agencies. And also, I'd like to invite you to the national victims rights week events that the District Attorney's office is putting together tomorrow 11:00 to 2:00 at 70 West Hedding. Thank you very much. [applause]

>> Mayor Reed: Next item is the consent calendar. Are there items on the consent calendar that council would like to pull for discussion, please?

>> Councilmember Liccardo: 2.6.

>> Mayor Reed: 2.6. Anybody else?

>> Councilmember Pyle: Move to approve remainder.

>> Mayor Reed: Motion is to approve the balance of the consent calendar. Had a request to pull item 2.7, the public artwork at the airport. 2.6 is the rotary swimming pool. All right. So those two items, 2.6, 2.7 we'll discuss. The motion is to approve the balance. All in favor, opposed, that's approved. 2.6, there are some members of rotary who would like to disclose their membership.

>> Councilmember Constant: I am.

>> Councilmember Kalra: I am as well, mayor.

>> Councilmember Liccardo: Former member of the downtown rotary. Nonetheless it remains the greatest rotary club. Their commitment to the downtown, they built this pool in 1926, they contributed another \$20,000 to help us restore historic elements of the pool. It's great to see the rotary participate. Tina Morrow who is here with the Vendome neighborhood, here with friends of Ryland pool, pushing hard to keep things going forward in that community. They wanted to recognize rotary's contribution by incorporating the rotary name into the pool which I think is a wonderful thing. I also want to thank Don galliardi who was instrumental in linking the community with the pool. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: I want to disclose I'm a former member of San José downtown rotary.

>> Mayor Reed: Okay, motion is to flame the pool that they built and helped us rehab, probably helps the next time we need money, as well. All in favor, opposed, none opposed, that's approved. Item 2.7, request from the public to speak to that one. That is the agreement for artwork at San José Mineta international airport. I'll take the public testimony at this time. Marta Thomas.

>> You can hear me? I'm representing myself and David hall. I'm a local artist. I've lived in San José for three years. I teamed up with David hall who's an extraordinary inventor. I teamed up with him to apply to this particular public art project. Hall is a roboteer. He's invented the camera that's used in robotics, and used for autonomous vehicles. He's an extraordinary scientist. And in fact, it's his camera who Christian Muller is going to use when he puts on his public art that's selected for the San José airport. Hall and I applied for this project, I think it's three years ago. My background as an artist is that I work a little bit in the remote part of San José where I have a studio, and I exhibit in London, New York, San Francisco, and at the national museum of Costa Rica. Hall and I submitted a concept for the airport, and were not accepted. We were not even chosen as finalists. Then recently we read about who was chosen and about the concept, and the concept was so close to the concept that we had submitted that it was astounding. And I felt, and David wanted me to come today, just to register a protest, that possibly, being from San José, that there might be some prejudice. And that there's too much looking. This would be the second German artist chosen for this project, which is supposed to be about technology. And here, we have the inventors of technology right here doing the inventions that the Germans are borrowing. And how long to we have to keep doing this kind of thing? I just want to register a vote --

>> Mayor Reed: I'm sorry, your time is up. Any other public testimony on that item? There's none. Is there a motion? We have a motion to approve, staff recommendation. All in favor? Opposed? None opposed, that's approved. That completes the consent calendar. We're now going to take up item 8.1, the

consortium for police leadership and equity item. There will be a couple of presentations on this, I think. City Manager will kick it off.

>> City Manager Figone: Thank you, Mr. Mayor, members of the council. As our presenter is coming down to the podium area, before Dr. Phil Gough begins his presentation I'd like to make a few opening comments. The goal of today's presentation is to provide some background information about the consortium for police leadership and equity, its work and next steps for the City of San José. CPLE's research is timely and necessary. As we all know over the past month there has been a lot of media coverage and public discussion about the statistics on police arrests for public intoxication, resisting arrest. These are concerns that the chief and I take seriously. The arrest statistics raise serious questions. However, put simply, it is difficult to draw conclusion on what is underlying statistics and it is not possible to clearly understand these issues. CPLE can begin answering these questions. As you will hear from Dr. Gough, CPLE is a group of accomplished social scientists from leading universities around the country. Its goal is to improve issues of equity, particularly racial and gender equity in policing both within law enforcement agencies and between agencies and the communities that they serve and let me say, having just met with Phil, clearly, the credentials that they bring are sterling. I think though that what you don't really get through the credentials is what you will hear from him and that is very practical community based experience that he has. And I would encourage him to emphasize that and encourage the council to query him on that. Because I think it brings tremendous credibility to the issue at hand. I do want to emphasize though, a few important points. And that is CPLE is independent of the city. We don't pay for their efforts and we don't control their findings. This is what was a particular interest to me, as the chief introduced CPLE to me earlier this year. And this is why I think they are the best option for moving forward at this time. Their independence will ensure credibility in their findings. Additionally as I've talked to Dr. Gough and received feedback from my staff, I know that he recognizes, and CPLE recognizes that the recent reports on arrest data is a starting point for their research work. And after our discussions, I do have two expectations that I think are very important ones. One that they will seek to receive input from across the community, including our most vocal critics. As they work to understand the police department's current practices and policies, and where there are improvements that can be made. And I am very pleased to share with you that after the chief signed the letter of intent Dr. Gough began outreaching to our community to engage in a dialogue. And also, I believe they will be honest and candid in their findings so that the police department can benefit from their work and identify any improvements that can be made. Also, CPLE is not meant to be a substitute for the work of the public intoxication task force. It will certainly complement that work and not a substitute for what the department will need to continue during the intervening time as the chief will comment on at the end of the presentation from Dr. Gough. CPLE's research and their scope will be broad and it will be comprehensive. And so in closing, let me just say that as we begin our work with CPLE, we do need to be sensitive to the fact that there is a credibility problem, for our police department that must be addressed, and this is a credibility problem that extends to the city as a whole, and so it's one that we must all share in. At the same time, the city should not transfer our responsibility to bring about a solution to CPLE. I'm convinced that if we are to both address the underlying issues that are of great concern as well as to regain trust that we must, however, build that on a foundation of fair and objective data and I believe that this research engagement is certainly a start in this direction. That is why CPLE from my perspective is so critical at this time, and I would like to turn it over to Dr. Phil Gough.

>> Thank you very much, manager Figone. Mayor Reed, members of council. I would like to thank you for having me out here. I have been instructed to keep my comments as brief as possible to allow for the maximum amount of time for question-and-answer. After chief Davis has completed I will say, it is difficult for me to get beyond my black church tradition. I hope you do understand you do not have to say amen but please nod back at me. Or ask questions. A brief overview of what I'll be presenting today. First I'll be talking about the organizational history of the CPLE. This will include previous research with an emphasis on the Denver police department model where we've had our most extensive research background. I'll be talking about key research principles of the CPLE. Here as a focus, value for all stakeholders, good timing and fit for San José and the ongoing opportunities for improvements. Okay, particularly who gets what out of this equation. The organization am history of CPLE begins in two parts, the University of Colorado, policing racial bias conferences. In around 2004, Jennifer Lynn everhart, goal of these conferences were to bring in executives from the law enforcement community across the nation and leading social scientists to have each inform the other about pressing issues, issues such as implicit bias, uncovered bias, ways in which we can use neuropsychology and psychophysiology, to help us become translational researchers,

researchers that translate what we find in the lab room to the real world, research that matters, in other words. At the same time, at the University of Colorado, my good friend and colleague Josh Correll was engaging in shooter bias, racial bias and the relationship to shooting. Denver police model, this is where myself and several researchers went into Denver and translated what happened in the lab again to the real world. And lastly, we expanded that model, in July of 2008, and then subsequent iterations from individual researchers to the consortium for police leadership and equity. Which is why I'm here speaking to you today. Okay? I have to confess a slight confusion, this is one slightly different than what I have my notes for.

>>> One principal study that achieved a fair amount of publicity. This study involved essentially showing officers a screen where they were to play a shooting game. The game was to shoot armed suspects and do not shoot suspects that were not armed. Half of the suspects were African American, the other half of the suspects were white. There are two forms of bias that this sort of research can reveal. One form of bias is how fast do they make the decision to shoot, or not shoot? So you can imagine if officers or civilians were faster to shoot the armed African Americans and faster to not shoot the unarmed whites, that you have a kind of bias. Where they are faster to shoot those who are stereotyped as criminal and faster not to shoot those who are not stereotyped that way. Does that make sense? Some forecast nodding yes. With the majority of council nodding yes I'll continue.

>> Mayor Reed: As long as you get six votes you're okay.

>> Fair enough. Important to note that this research collaboration tested officers but also tested civilians, okay? What did we find when we tested officers and civilians? We found in fact there is racial bias in the speed of the decision to shoot or not shoot. There was bias. But officers were no more biased than the civilians. Okay? Now, is that an acceptable outcome? We'd like to think no. We'd like to reduce bias for those charged with carrying guns. But it is also important to note as a caveat the officers were no more biased than the civilians. There is a second form of bias, the actual decision to shoot or not. You can imagine someone who is unarmed being accidentally shot. This is a case where research in the man mirrors all too chillingly what we find in the front pages of our newspapers from time to time. So bias in the chance to shoot, how often are they shooting particularly unarmed African Americans in this case? For the civilian we saw strong racial bias. But for the officers who are charged with capability for control of violence, there was no bias. I have to say as someone who is a keen skeptic, as I've said to many of you, I am a professional nerd, I want to know does this stuff that happens in the laboratory translate into the real world. And that's where the Denver model comes in. We said to the Denver police department, we'd like to do this translation. If the tools that the social scientists have can help pre-detective and uncover issues of racial bias and discrimination in officer stops of citizens, officer use of force and officer use of deadly force. Once we negotiated with the police department that that was something that they were interested in, our next step was, okay, yes, this is not the PowerPoint I have in front of me, our next step was, now that you've signed on, tell me who doesn't like you?

I need to know who has criticisms of you, so I can understand what the concerns are with regards to equity within the Denver police department. We had a series of meetings with community stakeholders, including religious organizations, neighborhood organizations, vocal critics, so on, so forth, I asked them, what would you do if you had this access to research, and the police department were to give you access, what would you do? That is how we formed our research agenda. In consultation with the police department in Denver, the city government in Denver and the community stakeholders in Denver. What did that research look like? Three stages, we tested officers for racial bias, we tested them for a number of factors as well, but first and foremost racial bias. We tested them on a bat riff different dimensions. We then linked individual officer information in terms of racial bias on individual officer behavioral history, history of citizen stops, which includes the racial demographics of that officer's stops and the use of physical force. What that allows us to do is say, is there a relationship between officers' racial prejudice and officer racial disparities? Is there a relationship between racial prejudice and racial bias in the police department? We weren't content with establishing a relationship there, we also did pretesting and posttesting on those entering the academy. Before they got into the academy and after officer training. We were able to compare officers, to see whether or not Denver police department was attracting police officers that had higher levels of bias than you would have in the average civilian. Does all of that make sense? All right. What this allows us to do is create a statistical picture of what predicts bias in use of force, what predicts bias in stop rates and does training make things better or worse and are the police attracting the right kind of officer? This is the first time in the history of social science partnering with law enforcement that this sort of access has been available. So in the knowing what the

next clip will bring you, let me tell you what the results are. The results preliminarily are that racial bias predicts, to some degree, stops. The news is not all fantastic. We know that racial bias is a part of what is producing racial inequality in police stops but it is not most important thing. And I say not the most important thing not at a moral judgment but as a social scientist. In fact when you factor in all the other predictors, racial bias stops being a predictor. What is the number one largest predictor of bias in stops as well as bias in use of force? Officer concern with being seen as prejudiced. That was confusing to us. We were surprised. How is an officer that is concerned about being biased be most likely to use disproportionate bias against African Americans? The reason was, we found the answer in officer safety training. In officer safety training, officers are told frequently you must control the situation in order to protect yourself, the suspect and everyone around you. You have two avenues for controlling a situation. Two different kinds of authority. One form of authority is your moral authority. I wear this badge, I'm representative of the law, you should be paying attention to what I have to say because I am a moral agent. When the moral authority is failing, in that situation, to control the situation, then there is a second form of authority, that of physical authority. Now, I put it to you, if you were an officer approaching a group of young African American males, young Latino men, and you know, you were convinced where is your moral authority with those suspects? It is not existent. As a result of a loss of moral authority we see officers turning to physical authority. And racial inequality. The position of CPLE is racial inequality is bad, we should seek to reduce it. This doesn't mean these are good results, and the police department is off the hook so to speak but rather there is an unanticipated pathway to reducing racial inequality in the way the Denver stops citizens and uses force against citizens. Does that make sense? Yes, okay. Some folks saying yes, I hear a couple noes behind me but hopefully we'll get to that in the Q&A session. So what we then did is we briefed the chief, we briefed the mayor's staff and the City Manager's staff as well as city council and at a number of public events we say, these are our findings. Here are the suggestions that the research says to put in place to remedy this. And what we were gratified to say, the retention of female officers, we had a research on that, say a mentor program would help, we went from a 25% female attrition rate to a 0% female attrition rate. As a result of the program. We found that accountability was a tremendous boon to the reduction of use of force and disparate stops and we are also in the process of redesigning the entirety of officer training not just the diversity training. So those are the sorts of things we work in consultation with Denver to accomplish, okay? So having had this happen, I then started in my professional nerd capacity to write nice things up. Trying to do a literature search, it came to my attention that no one had access and wrote these things up before. That was our drive to produce the CPLE, there are a number of organizations that are trying to do transactional research, but have never formed together to form a team of folks like this. That is where the CPLE comes from, our desire to fill this knowledge gap, for community and government stakeholders, to remedy this cycle, that in a term of five to seven years comes up in a fire storm. Our principles are, we are researchers, we want to understand racial and gender bias. Research independence, objectivity and lack of coercion. What will that mean, we will not be paid. We are completely independently financed and what that means is our conditions to coming in are we will not tolerate being coerced or encouraged to spin our results in any particular way because we don't owe anything to anyone, we are financially independent. We have endowed chairs of psychology, sociology, anthropology and history from Harvard Yale, Princeton, I'd like to say Stanford is among that crowd because that is where I'm from now. We again establish a collaborative approach. Our goal is to work with all of the stakeholders, to establish what are the research priorities to do them in that order and then last but not least, we come for the low, low cost of free.

>> Mayor Reed: You get an amen on that one.

>> Okay. To wrap up, what are the researcher guidelines? Each of the -- to round up, academics is a very difficult job. For each of these researchers we have to submit to training. Okay? That training involves making slur they use aggregate data. This allows us to collect data on individual officers without fear that any individual officer will be giving up the ghost on themselves. That means we will never know the identities of individual officers at the point we are doing the analyses and no member of the police department will be able to figure out which officers have participated and are giving us which piece of data. Officer confidentiality is rule number 1 in terms of research. Again, they must learn how to engage with community members. We then engage in research matching. We are a consortium, there are a number of different experts, we try to match expertise with city equity goals. Again, they get taught how to speak independently. What that involves is not speaking on behalf of any stakeholder, making sure we are speaking as researchers, we are not political researchers, we are professional in other words to look at the research. The boot camp for researchers, the boot camp is segment intermediate two parts. Part 1

will be done with the researchers. They'll learn how to handle sensitive data and they'll be learning how researchers have interacted with police culture. In part 2 they have a dedicated liaison with the police department and that police department liaison will walk them through a modified citizens academy and ride-along protocol. City leadership and community interviews to gain a sense again what the research priorities are. And lastly there will be a operations and administrative policy review. That is the boot camp. So who gets what out of all of this? Last slide, scout's honor. First, there is always consistent community engagement throughout the process. We always want to know what in should be in terms of research questions, so that we can help to prioritize, in what order we do the research. The way that we've done it in Denver, the way that we've done it in Houston, in San Mateo and other places that have participated in the past and other places we are establishing in the future, will this research answer your questions? And this is the order in which we should be doing these things. There will be ongoing communication with San José police department, Public Safety, finance and strategic support committee, I should get an A for saying all of that, we say, we will give you one month where we tell you what our findings are before we submit for publication. In that month, have you a chance to implement suggestions and solutions to eventually get out ahead of this. This is what we do the incentivize their cooperation with the brand-new kind of research access. In San José that is not the model we will be using because chief Davis actually against my suggestion has said he wants the CPLE to brief everyone all at the same time. So that will be the model that we will have in San José. Everyone gets to know what we find as soon as we know it. Lastly, the advantages are, because CPLE is the first organization of researchers to go in and do sampling from multiple major cities, you can go on the Website which is www.policingequity.org. We will be able to look at local issues and for those who are interested in what the CPLE gets identity of this since we're not getting paid to do this, this doesn't actually augment my salary, we will be doing publications out of this, journal articles and the occasional book that comes out of this from cleaning the data, this doesn't augment the salary much because not many people are buying books in the digital age. That completes my comments. Chief Davis will speak.

>> Rob Davis: Rob Davis, chief of police. I'd like to thank you for your efforts in approaching law enforcement agencies nationwide in this greater effort to understand social equity issues and to inform police departments on ways to improve upon our policies and procedures. Are I do recognize the comprehensive nature of the CPLE research work will mean that information from that CPLE organization will not necessarily be immediate to us during the process of doing the study. As such it is important for you and the community to know that while we at SJPD look forward to the results of the CPLE's efforts that I am committed and prepared to make immediate changes to our policies and procedures whenever we see opportunities to address the issues raised in the community about the impacts of disparate arrest rates. We have already made some changes to our policies and procedures as a result of what I've heard from community members as we've been out listening to their concerns and these are the things that include the following. We now require supervisor signoffs on all arrests, including public intoxication arrests, to ensure they are warranted. Preliminary alcohol screening test to all public intoxication arrestees. We are currently redesigning the department's arrest form for public intoxication arrests to ensure there is an enhanced documentation for any arrest. We also are continuing to work with and listen to members of the public intoxication task force on additional recommendations dealing with public intoxication arrests. We are prepared already to move forward with some additional changes once we have heard more recommendations from the task force since I believe it is important to hear their recommendations because they may very well influence the way that we proceed with some of our next steps. I would like to state again that I recognize what the community's concerns are with these issues and that I, along with my command staff, take these concerns seriously. In fact we share the concerns. We are committed, as is in the tradition of our department to take those steps necessary to make changes when and where necessary so that we can continue to maintain the community's trust that has already helped us so much in the work that we do to provide public safety here in San José. I would also like to state that I see the CPLE effort as an opportunity not to just address and inform us here in San José, but this really council is a leadership opportunity for the city and the police department. A leadership opportunity that we will be able to take steps that will help inform law enforcement agencies across the country not just in San José. We know that we are not alone in what we see happening with some disparate arrest statistics. Just on minority communities was raised in a meeting that I attended with the new attorney general Eric Holder and a few dozen police chiefs and sheriffs across the country. It is a concern to all of us, and I believe our work with CPLE may well serve as a model for how we can collectively address these concerns as a law enforcement profession. All chiefs across the country not

stepping out on this issue, I believe it is important for us to do that. I would like to underscore the fact that I do not tolerate bias based policing or law enforcing. Nor does my command staff. I will make whatever changes necessary within our department to make sure we follow this commitment. I know CPLE will help inform us in this effort and we appreciate the fact that they are independent. We want to hear what they have to say. We don't fear what they have to say. We've watched over the last ten years how all these departments across the country have generated data on these types of statistics and as we try to explain them, we realize we don't have the wherewithal to explain them. We need to have this effort coming forward with some people who really know what they're doing so we can change the policies and procedures where necessary. So I don't fear what they have to say to the extent that they are bringing forward something that we can do better, that's why we've engaged them and that's what we're looking forward to hearing. I do take pride of the men and women in the police department and we want to make sure that we maintain our status as an agency. That concludes my presentation and I believe we're moving to question-and-answer.

>> Mayor Reed: Questions and answers.

>> City Manager Figone: Mayor Reed, we leave it up to you to ask any questions you have.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Mayor, let me start by making a motion. I'd like to make a motion to defer, I'd like to explain it and then ask a couple of questions. I'd like to get some reasoning for it, if we could have a motion for a couple of weeks or so to defer any action on this item. And the basis for it is just personally, I feel I need to know more, and just for the record, Dr. Gough had an opportunity, I had a very constructive discussion with him yesterday and I was very glad to have the chance to meet him but there's still more, in terms of the methodologies and discussions that could be beyond the discussions we're having today and in addition I think we can all benefit as a council, city staff, and community members in continuing to engage with the consortium before we make a decision as to whether we should direct the City Manager to proceed forward. And so I'd like to make that motion right off the top and hope that it can gain some support.

>> Mayor Reed: Motion, and second from Councilmember Nguyen.

>> Councilmember Kalra: Thank you, mayor and if I can ask a couple of questions just in regards -- you've mentioned a collaborative approach, that is certainly important to me and I hope many of my colleagues up here, in terms of determining what the research priorities are. So can you elaborate on the importance and the method you go about in making sure you have a collaborative approach, particularly in regards to the community or just folks outside City Hall? It could be community, neighborhood groups so on, as you referred to earlier.

>> So the collaborative approach as we spoke about yesterday during our meeting is absolutely essential to the optimization of the CPLE impact for the local context. It is certainly possible to do research without listening to community stakeholders but I don't think that's particularly good research. We have done outreach either through the PD or independently to community stakeholders who are visible either through being neighborhood organizations, again religious organizations or that the PD and city government has identified, these are people who are leaders in our community. Once we have had a chance to speak with community leaders we ask them who are leaders of your community, what's called snowball technique, where you go do a source, you ask them, okay, who is the next source I should be talking to and that will build your sort of Rolodex of community interest. The goal is to ask them what are your concerns with a police department, what are your equity goals in this situation and to get from them a course of action that will be satisfying for their research goals. It doesn't mean the research we implement is dictated solely by those interests but it does us very well to inform by those interest. The length we take, we make sure every new chief that's working with us, every new department that's working with us, we set guidelines, this is how we would like you to roll this situation out, we want to make sure the community is on board, so on, so forth. Once we are on board, we continual to make conversations that will enlighten us.

>> Councilmember Kalra: As you go through this process in reaching out to folks, as you go through the research process, is that an ongoing effort, that informs your research?

>> Absolutely.

>> Councilmember Kalra: And when you ask folks, you know, who are the people that we should talk to and you know, that's a question I know you posed to me yesterday and I'm sure you posed to the rest of the council as well, as you go out into the community, is there any type of, you know, is -- in other words, it can be an organization or it can be an individual, it can be a particular critic or somebody that just

happens to you know, care about public safety issues. And so on. So what is the process that you take to kind of, basic expand your knowledge base as you go forward and determine what the priorities are? Is it just you mention the snowball effect and is there a community outreach process that you feel would be important as well?

>> Well, because the most challenging part of getting access and the ability to do this research is negotiating this with the police department that is always the first step. A little bit we're required to hope that the PDs and the city officials that we meet with early on know their communities and that they can point us in the right direction. But yes, from that point it's the snowball effect and continuing autonomous contact so that we don't have to have these conversations filtered through. At no point in time while we're doing our community outreach do we require them to report to the police department first. They can report to us so we know the information we're getting is as raw and unvarnished as possible. Just so we don't tell them it's only the truth, nothing they tell us will be reported back to the police department on. There is confidentiality of informants as well.

>> Councilmember Kalra: One final question, in regards to your experience, looking forward if you were to have this relationship with the City of San José and doing research, that do you feel that it would be important, and even potentially helpful to your process, to have continued discussions with the community, to whatever discussions have taken place, to have that kind of independent of what you're doing but continued process dialogue. The public intoxication task force has been going on. But just the idea that it's something of importance and two points, one, that this should not in any way affect anything that's already going on or may continue to go on, or, the second point is, that that could be something that could help inform your research as well?

>> Let me see if I understand the various questions.

>> Councilmember Kalra: I'm sorry for making it as confusing as possible.

>> Perfectly fine. Perfectly fine. In terms of CPLE interfering with or taking the place of something that is ongoing. That's never the goal. This is supposed to be, in addition to whatever the city is taking on. I want to say again, to stress, we are not a political consultation organization. We are professional researchers. So we should never be taking the place of anything that is inherently the political process. That would be supplanting apples with oranges, that idea. What I anticipate your question to be, is it good idea to have dialogue with community members and city organization, that sounds like a political question, I can tell you from a scientific perspective that always leads to more transparency and more community satisfaction. I can't tell you in the particular context of San José whether or not that's a good idea per se but not inconsistent with the science on the topic.

>> Councilmember Kalra: And I didn't intend on having that particular angle. The question was along the lines if that process is going on is that the process you can benefit as well in doing the research?

>> The more transparency, the more input from the serious stakeholders, the better the research will be, to the issues of San José, in particular, absolutely.

>> Councilmember Kalra: Thank you for the answers. I hope my colleagues support the request for deferral.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you Dr. Gough, a lot of my questions have been asked by Councilmember Kalra already. Just a follow-up question. As you know, one of the biggest concerns among many community members at this point is the issue of police officers arresting individuals at a very disproportionate rate, especially among Latinos and that issue has plagued our city for a very long time. So in terms of the ongoing communication that you illustrate in your presentation, I'm wondering if you can elaborate a little bit more. I know that it's going to take some time, a year to a year and a half before, if we were going to bring you on board and work with us to come back with the final analysis and the recommendations. I was wondering if you can talk, and we talked a little bit about this one on one. But if you can share with all of us again, should you find some things that we need to pay attention to immediately, when it comes to this particular issue, how and -- are you willing to come to the city council or to the Public Safety, finance and strategic support committee, which I chair, to illustrate the problem so that we can tackle this at the forefront?

>> My understanding of the needs of San José are that, as soon as there is any issue that can be with some level of scientific assurity, that can be established. It is an online process. And because chief Davis has insisted that the process be open to everyone, it is an online process for everyone. I wouldn't be briefing the chief or council or that long acronym, all simultaneously, as it came up.

>> Councilmember Nguyen: I'm happy to have the opportunity to work with your team in helping to restore the public's trust. And I want to take this opportunity to thank our chief as well as this agency to have the foresight to see if we can have an independent group to come to our city to work with us. It is unfortunate that we are engaged in this battle among some of our community organizations in terms of the mistrust we have for law enforcement as far as for the city as a whole. But after having my one on one conversation with you and hearing your presentation today I feel very compelled that you're going to do an adequate job in terms of helping us restore the public trust. I look forward to potentially bringing your team on board to work with us. But I know getting buy-in from the community is very critical and how we ask move forward with this process, I think it's very difficult if we don't bring the community to the table, and bringing the community organizations who have investment in this issue. I'm happy to support the motion to defer this for a couple of weeks, give you an opportunity to perhaps now to then, reach out to community supporters as well as more communications with us. I feel that our one on one conversation was very helpful for me to learn about what you and your organization is doing. With that, I hope that my colleagues support the motion so that we can have a little bit of time to evaluate the process and bring this bam in a couple of weeks, thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. Dr. Gough, I appreciated the opportunity to speak with you yesterday as well. And I regret that we weren't able to speak longer due to my own schedule issues. But I wanted to ask you a bit about what you refer to in terms of the bias of the typical citizen. And I'm guessing you would agree with me, that shouldn't be the standard by which we judge uniform police officers, since we should be holding them to a much higher standard because after all they are the only ones who are entitled in this society to use deadly force. Wrote you agree with that? ..

>> Absolutely. When I was making that comparison, I was careful to say, just because it doesn't show that amount of bias, it's okay.

>> Councilmember Liccardo: Understood. I understand in the context of Denver it was somewhat of a white-black dynamic. In San José, I imagine certainly Denver is increasingly, certainly heavily Latino. In San José, we really have every color of the rainbow. And I imagine that may make it more challenging with some of these psychological batteries, in terms of adding additional variables for what becomes a concern about racial bias against any number of members of a number of groups. Does that hinder your ability to study the problems well? Not at all. In fact it makes it a more viable research lab for us. Although Denver is 25% Latino at least in terms of documented population and 11% African American, the crime issue is an African American issue, at least in terms of the community uproar, as the police see it. We did look at antihispanic, antichicano bias. We do have experts in those areas. Should not be a problem to add those kinds of components and do the same sort of methodological setups.

>> Councilmember Liccardo: Thank you doctor. I'm thankful that your organization is willing to get involved in this ways. We need an independent source of evaluation here. I think we're locked into us-versus-them battle, where there's such enormous distrust that neither seems to trust the other. Agreed-upon trust is really important. I appreciate the fact that we've got an independent group that can come in here and look at this in a very rigorous, with a very rigorous approach. I also want to commend the chief. I think my experience as an attorney, you don't generally ask questions unless you know the answer to those questions. You're taking a risk and I commend you for that. I agree with you this is a leadership opportunity. And I see this as perhaps something similar to the late '90s I understood, not mistaken chief Lansdowne undertook a study on racial bias on stops. Certainly gives us answers we may not want to hear but hopefully leads to some significant changes. And I'm mindful of the fact you're already implementing some changes. I think that's hopeful. I suspect we are going to continue to implement changes, while CPLE is at work. This is simply not a matter of putting everything on the back burner while we hear from CPLE. I know you're committed to moving forward and I suspect we'll continue to do that. So I think in any event, the last thing I just want to know, to confirm, with a two-week delay are we in any way complicating matters in terms of timing? Does that still conform with everybody's needs to move forward?

>> Rob Davis: Well, of course I'm relying on Dr. Gough and his team's ability to move. This is a key issue in the community and we need to move forward as quickly as we can. I'm anxious. I understand the issues as raised by the councilmembers. I turn to Dr. Gough and say let's go forward as quickly as we can.

>> Councilmember Liccardo: I agree. We need to move forward as quickly as possible. If there's an opportunity to outreach into the community in the next two weeks, that would be helpful.

>> City Manager Figone: I think the two weeks is critical in order to gain the support from community members as requested by the two councilmembers. And I think Dr. Gough would agree with that, the importance of that support.

>> Rob Davis: Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you. Sounds like the echo-echo here. But City Manager Figone, you did a great job in finding Dr. Gough and his team, thank you, chief Davis for stepping up to the plate. It's wonderful that this would be another first for the city, I'm really delighted about that. I wish I could agree in reference to the two weeks. I'm not quite sure we need that much time. And so I wanted to ask a couple of questions. This is in reference to the memo that you put out?

>> Councilmember Kalra: No, it's not in reference to the memo. The memo offers some suggestions and opinions. But it's not. It's independent of that, and I thought two weeks was a reasonable amount of time, pretty quick turn around but it also allows all much us a period, or more opportunity to offer more questions and hopefully get some more answers so that we have a better understanding or the best understanding we can get at least going forward.

>> Councilmember Pyle: Because I'm thinking about your schedule, and that you certainly have either options as well. And I wouldn't want to put us in any jeopardy in reference to being -- availing ourselves of this opportunity. So is that --

>> If you're asking me, can the CPLE wait two weeks? We can wait two weeks to begin whatever the next stage is.

>> Councilmember Pyle: This would be sort of a phasing in or prequell, whatever you want to call it, to implementation, to the official, we're going to do this?

>> I'd direct that to Councilmember Kalra.

>> Councilmember Pyle: Madison, Ash, either? This allows the community time to --

>> Councilmember Kalra: It's for all parties, it's for everyone here, it's for the standpoint, it's for the community. I think we all should have an understanding of what scope of the work is going to be, what the questions are going to be asked, what the Metcalf is going to be. I think I had a better understanding today, based on a few minutes today. I think a couple of weeks, any other questions I might have or that anyone up here might have or staff or any community members or other interested parties might have there's an opportunity at least to try to get some of those questions answered before going on to the next step. Two weeks, my thought was a pretty quick turn around to have that opportunity.

>> Councilmember Pyle: So in a way it won't be a delay because we'll be working with the community in the form of preparation.

>> Councilmember Kalra: I don't see it -- I mean either way there still has to be discussions as to the MOU and so on. Either way. It has to be two weeks before we actually take more formal action to move forward. It's a short period I think to allow all of us including myself the trial to feel comfortable in moving forward with CPLE.

>> Councilmember Pyle: Thank you.

>> Are you asking what the CPLE would do in these two weeks or-

>> Councilmember Pyle: No, if it would affect you negatively.

>> In terms of getting the work done yes, it would and in those two weeks the scheduling of the MOU would then be moved to the back of the line. And so then that would be a slight further delay past the two weeks. We are interested in continuing to make outreach to again religious leaders, neighborhood organizations, so forth and so on.

>> Councilmember Pyle: I see this as a wonderful opportunity and I wouldn't want to put it in jeopardy. As long as we're doing something in the way of moving on I appreciate that, thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I want to join everybody else in saying I think this is a great opportunity for our city to have some -- an independent group come in and help us with this. I, too, echo what Councilmember Pyle said, I want to make sure we continue to move forward and be respectful of, Dr. Gough, your agenda and your time schedule. But I think if we can continue to meet with the community I think that would be really important to meet with the community. I want to thank Deb Figone and the City Attorney. I had a custom questions just listening to you, and I had the opportunity to meet with you yesterday, and I'm just very interested, fascinated with the kind of work you're doing and thank goodness for the nerds out there. Looks like a lot of the boot camp is out there understanding the police culture, how the police work so your researchers can be comfortable. Is there any thought of boot camp

into the community, the different cultural group, I know I'm a resident and grew up here and I'm constantly learning about this community and being culturally sensitive. I wanted to ask that and I have a couple other questions. You can answer that one.

>> Unfortunately this is not the lovely PowerPoint I had intended to show you. Even on this PowerPoint it talks about community interviews, that is shorthand for making sure they're in that, part one, learning about police culture, how to handle the back and forth and part two, in those community interviews, how do you deal with sensitive interviews and particularly sensitive histories. There is a quote that I love from my partner in crime, forgive the pun, Tracy Cazis, when the laws of this government were racist whose job was it to enforce them? We are still in the aftermath of that cultural shift. When we talk about cultural sensitivity, what do we mean? Absolutely, that's part of part 1 and part 2 boot camp, I'm sorry I didn't make that clear.

>> Councilmember Herrera: I'm interested in the gender issue in Denver.

>> I have done a dramatically pared down version. It was rolled out at exactly the same time as the research I talked about which was priority number 1.

>> Councilmember Herrera: I was curious, you did work in San Mateo?

>> Yes.

>> Councilmember Herrera: What kinds of findings or --

>> Very different work in San Mateo. We were interested in applying cognitive issues and perceptual issues, that's in a paper that Jennifer Eberhart and I wrote or published in 2004. Essentially what we were doing is having the officers instead of undergraduate students come in and take the tests to see if we would get some other sorts of results.

>> Councilmember Herrera: I'm wondering if you have faced a similar community situation, I'm sure you have, where there's this kind of mistrust, and how do you go about in your work to make sure you can work with the various folks in the community to kind of work through that? How does your group address that?

>> That's a great question. I think looking at this moving forward as opposed in hindsight or in the particular moment, the miracle is that we get the police departments to open up. My background is in community organizing and so dealing with the multiple constituencies has never been a difficult situation for the CPLE, once we're in contact. Once we're in contact we have researchers who understand what it's like. My first several experiences with police officers and police departments were quite strongly negative. I'm not sort of -- I didn't come from a pro-police background at all. My dad's a philosopher. There is a reason for nonwhite communities to be distrustful of the police, historically and politically. There are good statistics on inequality. Moving past inequality and what's causing the inequality, that's harder. It is not difficult for a bunch of grown adults in a room, who can sit down and take on faith, it is not difficult for folks to see that, for me, being not the pro-- police guy walking into this I have been heartened by the courage and moral conviction of many of the officers I've encountered and I've been unsurprised by some of the character that I've seen that's been less than that. When you have the conversations in that way with people who are willing and anxious to make change as opposed to just making noise then you really do very quickly start building up that trust. One of the things that the CPLE takes as a given is, trust is most easily built when you don't have to make leaps of faith, when things are transparent. That's why the CPLE is set up the way we're set up so people can come to know everything relatively quickly.

>> Councilmember Herrera: Thank you, Dr. Gough. I will be supporting the motion of my colleagues. I just want to emphasize how important I think this study is. I feel comfortable with CPLE today but I think it's important that the community also come to the table and we all feel that the community supports this. I think that will help move the community forward in a great way and I want to say we have a great police department. We have a lot of fine police out there that are doing a great job so I think we need to acknowledge that too and I am looking forward to this whole thing moving forward, thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. First of all, thank you for allowing me a few minutes of your time yesterday. I want to congratulate you in the fact that you truly believe as we go through this process that it should be open and transparent. And that you and the chief have had a discussion and the chief has agreed that the council will hear the information at the same time that he is hearing the information, that the stakeholders are hearing the information and the residents are hearing the information. So having said that I would like to understand and I know when my colleagues had asked this about how will you get that information, and when you find some findings that you'll get that information to us as soon as

possible. What is your process for making sure that everyone is informed that you will be presenting that information so that nothing falls through the cracks or a particularly group that is engaged does not fall through the cracks in receiving that information?

>> So the question as I understand it is about how we're going to organize getting the word out about the findings.

>> Councilmember Campos: Correct.

>> I have to say that has got to be an in-process sort of decision. I don't know what community stakeholders are going to be participating. An option, this is my understanding that this is a public meeting, people can come to it and there is public comment afterwards. That is one option. We do one briefing all at once. We roll it out in a randomizing, counterbalance, this is the terms we use in research. We have meetings with the community, manager's office and council. We can decide amongst the stakeholders in what order those meetings should happen during a particular visit or what order those phone calls should happen in the event it's an urgent-enough issue that a phone call in lieu of a travel date would be necessary. But the goal would be that in relatively close temporal proximity, everyone gets a chance for a face to face and has a chance to interrogate.

>> Councilmember Campos: I appreciate that, I think that's a key to us continuing to be transparent and building the trust. I think that's very key to as we move forward. As my colleagues have all stated that their encouraged and excited about the fact that the CPLE is independent, that your findings are not biased and will not be influenced and I think those are encouraging words to the stakeholders and the residents of the City of San José as well as to the council. So I look forward to this coming back, and in two weeks, and look forward to the findings that you will be presenting as we move forward. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you Mayor Reed. I don't know if there is anyone else in the audience who has got several hundred hours of their time that they'd like to give to the city, you're trained in research and statistics. You have a background of working with other major cities like Denver and you'd be willing to do this for free? Is there anyone else here? Doctor I appreciate you coming to the council today and I appreciate having time to sit with you yesterday. You are caught in what's called we have to do more outreach syndrome in the City of San José. I don't say that in a way, I don't say that in a way to be antagonistic in any way. But we have something we are looking a gift horse in the mouth or whatever the terminology is. You're willing to give us a valuable service for free. And that doesn't put us off the hook as far as the other great things we have to do as a city in all the other realms of policing. I'm prepared to give you my vote today, I think your research will not solve every problem or any issue in the San José police force or perceived problem whatever side of the fence you're on but in the end you're going to give us something very valuable and I would simply ask my colleague, the maker of the motion to consider actually doing one week to get this show on the road, instead of two weeks. Could you direct doctor who he should speak to specifically?

>> Councilmember Kalra: I don't have the specific names of who he should and should not, as well as the folks who want to speak to him.

>> Mayor Reed: Dr. Gough has already made clear, he doesn't really like direction that much.

>> Councilmember Kalra: I'm sure folks can outreach to him. Fine, I'm more than happy to talk to him if you want suggestions as opposed to giving specific direction. I think two weeks is adequate. I think we should err on the side of for any of us who has further questions. One week, if we're going to defer it one extra week I think it would be helpful and I doubt it would be greatly hurtful.

>> Councilmember Oliverio: Fair enough, Councilmember Kalra from the great council district of district 2. Just continuing, you have my confidence to move forward. I'd like to see us move forward. I've asked the question that will not go forward at this point but I would look forward to you returning to the council and to the city with your team because I know you travel. You get on the plane. You're just not driving here osov to say hi to us. Thank you.

>> Mayor Reed: Thank you. That is most of the questions. I had one more question because I'm going to wait until after I hear from the speakers, until I ask that question because it relates to how is it going with the police and police union. Bobbie Lopez is sitting there and Ross Signorino. Two public speakers and then we'll have you back up Dr. Gough.

>> I should vacate the podium, shall I?

>> Mayor Reed: Thank you.

>> Hello, thank you for this opportunity. My name is Bobbie Lopez, I represent the San José police officers of the city. Those officers can be named Wilson, they can be named Smith and Martin. But most

of them are also named Rodriguez, Lopez, Hernandez, Tran, Vinh and Nguyen. In listening to what the councilmembers have referred to as distrust for the citizens of the city on the police department I'm quite disappointed. Because of the fact that the citizens have overwhelmingly supported this police department on a regular basis. When you were losing J and K it was public safety and the police department that brought it over the top. When you need to be protected it's the police officers in this city that help you out. I spent 30 years protecting this valley. And I have never been rejected by an individual. Mostly on the Eastside. We have been the persons that have gone out there and been your commissioners and been out there on a regular basis. There is no distrust in this city from these citizens in this police department. And I'm offended that that would be used. There is a couple of social activists that have made a large amount of noise, concerning what our behavior is. I'm willing to listen to them, I'm willing to have this thing go forward because it is our responsibility as public servants to always try to continue to improve our service. But on a regular basis we help out many minority organizations, we've helped out many religion organizations and we do soful community service and we get so much outreach from the public towards us I think we need to tone down the rhetoric that there is any distrust from the city in our police department. There are a couple of social activists that have continually generated the problems. Because we're a little rude or we haven't given them a card, it is not because of extreme amount of distrust in this police department. And I really want to set the record straight. I really appreciate the opportunity to come to the forum and discuss it. But let's remember, there is not an inherent distrust of this community in this police department. We've done a tremendous job, thank you.

>> Mayor Reed: Ross Signorino.

>> Ross Signorino: Thank you, Mr. Mayor. Volunteer number 1, here. My connection with Stanford University I might tell you now, is that I used to sell to the Stanford bookstore. So I hope I'm qualified to some extent to come up here and speak on this subject. I take issue with one of the remarks that the City Manager made, Figone. She said that there is a distrust throughout the city, words to this effect, that there is a distrust throughout the city about our police department. I don't get that feeling, that there is a distrust throughout the whole City of San José, about our police department. Our police department is honored and respected throughout the City of San José, possibly a certain segment of it doesn't share that. It's quite true, and I said that. And we're not going to make our police chief here a political hangup, because some particular groups are saying, well, we got a problem. We don't really have a problem with our Chief of Police. We don't want, and I believe to this day, that chief Cobo Rubio was driven out of office, probably got tired of the whole thing and said, forget it. He was the one when we had a Hispanic group speaking had one night about the Chief of Police, inequity of arresting Latinos as opposed to others, and said chief Cobo Rubio was one of the best chiefs of police that we had. He said the reason we arrest one particular ethnic group is because they are the ones that have violated the law. This I told you before, the Chief of Police of Fresno has said the same thing. And he is of that same ethnic group. So again, we must not make this a political thing that we hang on our Chief of Police here. And then I'm surprised I hear many of you say -- I wish I had more time to speak -- that you had time to speak to professor Gough.

>> Mayor Reed: Your time is up.

>> Ross Signorino: Thank you very much.

>> Mayor Reed: My question to Dr. Gough, Dr. Professor Phil. It is clear from your comments, your research not to just the departmental leadership but to members of the department and having cooperation is vital to actually getting anything done in this. So I just want to make sure that things are still okay. I have a letter here from Bobbie Lopez dated March 18th. And I think based on his comments he's still standing behind the letter. But what's your view of whether or not you're going to get the kind of cooperation from the other officers?

>> Forgive me for not going back --

>> Mayor Reed: That's fine.

>> In the cities we've done work in the past, it continues to be and will always be a leadership issue. If the chief is respected by the chief unions and the line officers, you are going to get a tremendous amount of compliance. And if the chief is not then you're going to get a tremendous amount of push-back. The officers don't believe that the chief has their best interest at heart, you won't be able to get the research done. When I walked in today to police headquarters there were three individuals who I guess having seen my picture, stood up to applaud. I don't think I'll have push back in any way shape or form, with officers entering into the research. I met with the keepers of the records, who said, what do you need? I can't imagine a more cooperative police department in getting access.

>> Mayor Reed: I support the motion. I'm going to go ahead today, I've been concerned about these issues for a long time as have a lot of people and I think this is an opportunity to make some progress on solving the issues. Ever since we started looking at the data, we sort of come to the conclusion I do, I think we have a problem. How do we explain the data? I can't. And what should we do about the problem? I don't really know. And we've had a lot of conversations. We've looked at a lot of data and we always come back to sort of the same answers, looking at the data over and over again doesn't get to you a solution. Well, I'm cautiously optimistic and hopeful that when we go through the process we can make some solutions and have an impact on our city and our department. I'm willing -- you said you can't take a leap of faith, we're all going to take a leap of faith to get into this. I'm willing to do that. The chief is willing to take the risk. The manager is willing to take the risk. I think the community will be helpful, if you call they will take the call and talk to you. And there are many, many people who haven't been engaged in this that will have an interest in this. That snowball will get bigger and bigger and I urge the people to join the snowball. The motion today is to defer for a couple of weeks. Is there further discussion on the motion or questions for Dr. Gough? None, okay, we have a motion to defer for two weeks. All in favor, opposed, none opposed, that's approved. Thank you very much. Thank you chief, thank you Dr. Gough, thank you City Manager. That concludes 8.1. Taking us back on the agenda to item 3.1, report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor. Members of the council. I want to update you on several matters relating to the 2009-10 operating budget. The deadline is May 1st. As I noted last week in an information memorandum, this budget will propose many program reductions and eliminations. As we move through the balancing process we have quite frankly been deciding between competing bad choices and there are no easy solutions. As we continue to finalize the proposals, there will be no doubt information and rumors that leak out. And it's not that we're opposed to sharing information. It's just that our protocol has always been that the council sees the proposed budget in its totality, so you have the context and also, we strive to inform employees who would be impacted before they read it in the budget or in the newspaper. So all this is going to be a challenging year, and I expect that information will be leaking, again, incrementally. So I would encourage the council to refrain from closing out any options until you've seen all proposals. Also I think it's important that you and the community understand the seriousness of the situation. Leaving out the development fee impacts if you included that, it would total about \$84.3 million. If you had not taken the extraordinary steps that did you at mid year to correct problems at mid course, the total would be over \$100 million. The proposed budget that we'll be releasing next week will include recommendations that impact close to 440 employees either directly or through bumping based on seniority. And while many of these employees will be able to move into other necessary portion, there's no doubt that some will face layoff or redeployment. So with that in mind as I mentioned I am committed to notifying impacted employees before the budget is released on May 1st. We have sent several e-mails to employees and I know the department directors are also reaching out to share as much information as we can. Last week, we also held a training for supervisors and managers who are the ones who will be unfortunately providing the information to employees who are affected, and they need our support in training on how best to handle those difficult conversations. Our goal and my goal in particular is to ensure that all of our employees are treated with dignity and respect. In close, just a quick note about the budget-balancing recommendations that you'll see next week. We are approaching this budget with a two-year mindset given the magnitude of the shortfall already forecasted for 2010 and 11 we are avoiding pushing any of these problems into next year, and we are close to bringing you nearly a 100% balanced budget without ongoing solutions. At the end of the day, it is your decision and your policy document. We are delaying full implementation of some of the reduction proposals to allow some time for transition. And what you will see next week will affect every single department and all levels of the organization, from line staff to administration and managers. So in closing in the intervening time, please contact reply office with questions. Information has gotten out there and we will be working with your offices to manage those conversations as quickly as we can. Thank you very much.

>> Mayor Reed: That includes the City Manager's report. Item 3.5. Retiree health care funding. Our next item.

>> City Manager Figone: Thank you. As Alex is approaching the podium, let me provide some comments. I am very pleased today to bring this item forward, which is agreements that we have reached with seven of our bargaining units on retiree health care funding. This is an historic event for several reasons. First of all, it's a very significant agreement over a very complex issue. We recognize and acknowledge the time, effort and collaboration that it took to reach this agreement. It demonstrates the

need to address issues such as retiree health care using a long term perspective. When we started this process, the unfunded liability for retiree health care benefits was estimated to be as high as \$1.65 billion. A problem as large as this one cannot be solved overnight. An agreement that includes the city and employees phasing into making the annual required contributions to furnished retiree health care benefits, to fund retiree health care benefits is a very significant first step in managing these benefits. A commitment to fund reduces the liability and after 30 years of contributions by the city and employees, the existing unfunded liability will be paid off. And although 30 years is a long time, the sooner we start the sooner the unfunded liability will pay off. As you remember, we began the discussions on retiree health care back in August of 2007. The city, the bargaining units and the retirement boards worked in collaboration on a stakeholder process. That paved the way for this agreement. The time line on the slide shows the amount of work that was put into the issue of retiree health care. On the next slide, the city and several bargaining units began coalition bargaining in July of 2008. While it was not an easy process for those participating reaching agreements, at the end of the process with each of the seven different bargaining units all of which have been ratified, shows a commitment of the city and these bargaining units to work together to resolve significant issues. As you can see from the next slide, there were many individuals at the table working to come up with an agreement through the coalition bargaining process. I do want to express my deep appreciation to these bargaining units and especially to those individuals who were at the table, including Matt Lesh who served as the union's facilitator and Alex Gurza and his team. This agreement isn't done. This contains a reopener for the city and the bargaining units too meet again in January of 2010, regarding medical reimbursement for retirees. These are issues we need to look at in order to ensure that the cost of retiree health care benefits are sustain able in the long term for both the city and our employees and we look forward to beginning this process with them again and hope for a successful outcome. So with council's approval on this item, we will now have agreements with eight of the City's 10 bargaining units, on the issue of prefunding retiree health care, the first agreement was reached with the police officers association in January and approved by the council in February. This item before you today also includes retiree health care funding for management employees which has been discussed with the executive management and professional employees forum. And we are happy that they are also part of this decision today. The two remaining unions are the San José firefighters and operating engineers. We are hopeful that an agreement will be reached soon with both of these bargaining units. And in closing, similar to retiree health care challenge the city will soon be facing increased cost for pension benefits due to the over \$1 billion decline in health care benefits. Hopefully, the approach used for retiree health care, can serve as a model for tackling the significant issues associated with the cost of the City's pension benefits. So today, we do seek your approval, and Alex can answer any technical questions that you might have.

>> Mayor Reed: Questions for staff? I had just wanted to congratulate the staff and all of our union bargaining representatives for arriving at this resolution on behalf of the seven units. That's a pretty big group of people to try to get to a common resolution. And I know it took a lot of work by everybody to make it happen. But it was absolutely essential to make it happen, looking at an unfunded liability of \$1.4 billion out in the future is an enormous number and would ultimately result in the city probably going into bankruptcy if we didn't start paying for this now. Starting this now and stepping up to full funding as recommended 50 retirement board's joint committee, and I want to thank the retirement boards because their work in analyzing this and helping us sort it out was instrumental in getting everybody to the same place at the same time. Got a couple of stragglers. Let's not forget that the police and the POA agreed to just a few steps. A Herculean job, dealing with a very difficult problem. So thank you for getting us here and putting us in a position where we can take action on these agreements. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I know that Gay Gail and Yolanda Cruz were here earlier, I'm guessing they had to return to work, I just wanted to thank them and all of the other bargaining unit leaders for coming to the table. I know this is a difficult time for telling people that we need more money out of their pocket. But this is clearly necessary for the sustenance of this program, for the current retirees and future retirees. Alex I'm just grateful for your hard work in making it happen.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I just want to say thank you to Alex Gurza and the bargaining units for putting this together. I think it's very important as we move forward and it's a good example of everyone coming together and doing the right thing.

>> Mayor Reed: Okay, can we take this in one motion to approve all seven if we wish? Yes, we can. Okay, need a motion. Motion is to approve all seven of these. All in favor? Opposed? None opposed, that's approved.

>> Alex Gurza: Mayor Reed, just to clarify, does the motion include seven bargaining units as well as the unit 99, unrepresented employees? Just wanted to clarify.

>> Mayor Reed: Yes, A and B of the recommendation. We got everybody except for the two straggling units. Item 3.6. Got a motion to approve 3.6, support AB 560 carried by assembly person Skinner, net metering cap. I want to speak to that for a minute. Those of you who have solar installations, they love to talk about running the meter backwards. If we hit the cap, you won't be able to sell that to anybody. And you won't be able to run the meter backwards. So it's very important for future solar cells in the area, we're likely to bump up on the cap. And we've asked the assembly to change it through this legislation. There's a motion to approve, further discussion, Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just wanted to indicate, my understanding, in conversation with Rick, was that although I do own a solar installation on my roof, I do not need to conflict myself off of this vote because it's a widely available public benefit.

>> City Attorney Doyle: It falls within the public general exception under the local reform act.

>> Councilmember Liccardo: Great, thank you.

>> Mayor Reed: The way the net metering rules work, we're talking about future installations. People who have their installations are already grandfathered. All in favor, opposed, that's approved. Next is 4.3, envision San José 2040 general plan update status report. And some recommendations for some alternatives. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I know that -- I think Laurel and Joe are here for a presentation so I'd be happy to defer to them before I weigh in.

>> Mayor Reed: A wise choice by the chair of the committee, to let the staff do a presentation.

>> Laurel Prevetti: Good afternoon, I'd like to introduce Andrew Crabtree who will be making the presentation.

>> Mayor Reed: Before you do that, Councilmember Liccardo is the co-chair with former co-chair, who is in the audience, thank you Shirley.

>> Thank you members of council, mayor, for the opportunity to provide you an update on the update. The purpose of the general plan update is really, this is the city's main policy document. And this is an opportunity for the city to look at how to align that document with our current values and our current vision for the future of our city. It is a process that typically is undertaken every ten to 15 years. One of the key questions that we're considering as we go through this update is how much growth should we plan for? As we go forward. The process formally began in June of 2007. We are supposed to get a draft of the document in June of 2011, halfway through the process. We convened a task force that is made up of a broad spectrum of the community. It's been meeting once a week since its inception. The first product was the development of a draft vision which was a result of community and task force member input and it has seven core principles that are listed there on the slide. These core principles really guide us as we go through the process, and in particular, as we look at land use, planning for land uses, they can -- they influence how we have that discussion. One of the core principles is, an innovative economy. And for example, this tells us that as we plan for the future of the city, we should be thinking about how we can continue to have land uses and job growth that support San José's role in the world as a leader of innovation. Another important element here is one that is called an interconnected city. And that tells us as we plan land uses we should carefully consider how we should develop areas that are walkable, and that we should strategically develop areas that make good use of transit facilities. As a second significant product of the process to date, the task force developed a set of land use and transportation guidelines that really go through and articulate a set of policies around these seven elements. The city has projected or expected to add about half a million people through the year 2040, that's the year we're planning for. And approximately 300,000 jobs essentially in that time frame. So this really gets into the question of, if we have that amount of growth, how can we really shape the city in the way to make it a place where we want to live and work and how do we build neighborhoods we like and so forth. And a key characteristic that you see through these guidelines is a progressive one in that we're really saying that unlike in the past, when a lot of our planning was done around the automobile, we want to start planning around people. And making good places for people who aren't in cars. Following the development of the guidelines and vision, really, since the beginning of this year, January, we have been working with the task force to talk about how much growth capacity should be considered. The chart we'll be using through

this presentation, down at the point of origin if you will, is the San José's number of jobs and number of dwelling units from the most recent data 2007. As you might expect the job number can move up and down, quite a bit but the dwelling unit never moves, grows quite consistently over the period of time. As points of revenues we really looked at two things, to begin with one is our current general plan, the 2020 general plan, has the capacity for an additional 300,000 jobs and about 70,000 new dwelling units beyond our current amount of development. We looked at a projection and the most recent of those is the one produced by ABAG, the association of Bay Area governments, for 2025, and that set of projections is called 2009, project that we would add another 300,000 jobs and another 160,000 dwelling units through 2035. With that information as a backdrop we then had a community workshop in early February and we asked the task force members and the community members who attended to look at how much and where growth should occur in the city. We gave -- we divided the task force up into five groups and we had nine community groups, each with a map that looks sort of like this and we gave them a set of blue blocks to represent job growth and brown blocks that represent housing growth, they could decide how much growth and where to put it through that exercise. And the map they use is a base map, highlighted what we're calling growth areas downtown, specific areas I plan for downtown are employment lands and then sort of a new concept that's come out through this process called the villages hubs and corridors, neighborhood business district corridors in the city, the hubs are three areas that were identified as sort of having significant potential for redevelopment, and they're fairly large. And then the villages are smaller versions of those that are spread throughout the city. There's about 40 of those. And each one, varying size but they're areas where we saw the potential for redevelopment that could accommodate some of this growth potential. From this workshop we really received a lot of data that's been very helpful to us as we go forward. We continued following the workshop to explore how much job growth and where that job growth should occur, with the goal of getting towards four scenarios, land use study scenarios that the city would use. Those scenarios would be handed over to consultants, environmental, economic and fiscal who are really saying if we were to develop a scenario like this what would it mean in terms of its environmental impacts, its condition, fiscal impacts and economic impacts for the city. Going back to our table, one of the key topics that came out of this was the concept of the jobs-housing balance. And the jobs-housing balance is the ratio to jobs to housing in the city. Jobs in the city to how many people live within the city have jobs. So if you have a balance of one job per resident, that means that either everyone who has a job lives in the city, or someone who lives outside the city, comes into the city to work. We have a ratio of .83, which means we have fewer jobs than we have employed residents. It's long been a city goal to achieve at least a balance of 1.0, for a couple of reasons. I think one is very topical is when we talk about the city's budget and we look to our neighbors in the vicinity, we see that there seems to be a fairly strong correlation between cities that have a high jobs-employment ratio, Palo Alto has a high of 3 and Santa Clara has 2. What kind of city San José is, if we look at cities, large cities in the U.S, those over 500, 000 population, San José is the only one that has a jobs -- housing balance of less than 1. Means we have a city that has a daytime population less than nighttime population. Just by comparison if the current general plan would plan out, we would have a ratio of 1.1 or if the ABAG predictions would turn out to be accurate, we would achieve a 1.0. They weren't interested in looking at any lower than 1.0. They looked at scenarios that would bring us up to 1.5 or 2, more of a job center for the region is a goal. So in the course of several meetings, the task force developed actually 13 different scenarios that are shown here, each with different amounts of job and housing growth. And they sort of follow across the spectrum in terms of the jobs per employed resident ratio. At the end of our last meeting the task force was asked to vote. Each task force member could vote for four of those scenarios that they wanted to -- as a way of indicating what they thought we should continue studying going forward. This shows the amount of votes and if you look at the top center you see a scenario labeled as G, which received 29 votes. That was the one with the most. Now that scenario actually aligned to the population growth number, with enough jobs added in to get to a balance. Going down you have scenario E, same amount of job growth but less housing growth and therefore a higher jobs employed ratio. That was the second most number of votes, dropping down, scenario C also received 18 votes, similar job growth but even less housing growth. Moving down, you have scenario F which was the fourth most -- received the fourth most votes. Ratio of 1.5, less housing capacity than our general plan currently has. So if we were to pursue that scenario we would be talking about taking housing growth capacity out of our current general plan in the update. So staff very carefully considered this information and all the other discussion that had taken place to date, informing recommendation for which four scenarios we should be taking forward. And we had the goal of providing at least one if not more of these to our consultant by the end of

this month, in order to continue on our agreed upon schedule towards the June 2011 goal. With that, there are some slight shifts from the four that received the most votes. And I'll highlight those. First I'll talk a little bit about J. And as you see there, the one sort of the center of the diagram is a shift from F which received more votes but it's a very comparable scenario in that it achieves the same amount of jobs per employed resident ratio and it does avoid the difficult question of how do we take housing capacity out of our current general plan. So that in particular staff was recommending in particular that we look at J, scenarios E and C align with the task force showing interest in, we think they're useful scenarios to study and they look at different jobs employed resident ratios, they sort of take one test, hold one variable constant and move the other up and down, C, E and J you get that relationship. And then lastly we're recommending scenario K, in place of scenario G, and the rationale there is that K is based on more recent set of projections, first off. And it aligns with ABAG which we think would be useful to have a scenario, study a scenario that aligns with what the state through ABAG is studying or considering what is our likely growth for the area. And also if you look at this graph over on the right side, there's some numbers that represent how many units of growth this represents per year. And you see that these scenarios are -- equivalent to more than 5,000 new units added to the study each year. Looking at our history, even in his years, we typically build about 3,000 housing units a year and we've never gone really gone much above that. To have a sustained growth of 5,000 housing units a year for 30 years seems very improbable. We see lesser value in doing a higher amount of housing capacity than what's shown in K. There is one, we did receive one correspondence, piece of correspondence today, from Jennifer Rodriguez from the home builders association, we can distribute that to you. So there is some concern there and we do have an opportunity to go back and discuss that with the task force at the next meeting. Also, I just want to mention, you see on here general plan 2020 is also circled as a fifth scenario, we'll be analyzing the sort of buildout under our current general plan as what's called the no project scenario under the environmental clearance act rules. So for our next steps we'll be going back to the task force and really diving into the question of, if we have this much housing growth and this much job growth as shown in the scenarios that are selected what would that look like in terms of where the growth would occur. Really developing those, articulating those scenarios, so task force members understand how much growth is in the villages hubs and corridors, how much in the growth areas and so forth. And we're going to specifically ask the task force to ask some key questions around some important issues. To date, just based on staff's analysis, and the information we received, we don't see an interest in putting new development in the time frame of the 2040 update into the Coyote Valley urban reserve, the urban reserve, outside the urban growth boundaries. We are not at this point recommending that we explore that further but we want the task force the opportunity to specifically weigh in on those questions. And then once we're really completed with this process of addressing where the growth will go, we'll come back to the city council, in June, with a report-out on that and council can consider those items as well. And then we'll be launching into what is called phase 2 of the envision 2040 process. Exploring the goals that go within the long range general plan should be. For today, we want the council's expression around the vision that's been expressed for San José's future, the jobs -- housing balance, we're asking for council's acceptance of the four land use study scenarios that we've presented to the council. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, pair and thank you Andrew, want to thank you and Joe and Laurel and Michael Brio and the people who have been working hard to move this forward. I want to thank Shirley Lewis for putting up with me and Pierluigi. Also Eric Shanehauer and others. It's been a tremendous sacrifice of time and energy. To address the concern that was raised in the e-mail from Jennifer Rodriguez, something we were considering previously in ensuring that the task force is really the decision maker, moving forward with the council, and it's not a matter of -- I think because of the challenge of timing, we added difficulty in getting the items from the consultant and having another meeting before that time. So it left us with a bit of a challenge in terms of decision making and timing. So the motion is this: That the council approve two scenarios under conditionally today, and those are the two scenarios letter C and E and perhaps Andrea you could put up that diagram with the various circles and colors. C and E we would approve unconditionally. We would approve J and K with the condition that the task force approve it, approve those two scenarios as well. I think we expect a vote on J, in the next meeting on the 27th. And then K would come at the following meeting in May. So hopefully, that will move us forward at a speed that will keep our consultant fully engaged and keep the process moving forward.

>> Mayor Reed: Is there a second to the motion? I did get a second. Okay. We do have some people from the public who want to speak on this. Might as well take that comment, co-chair Shirley Lewis is here and I want to thank the vice chair, David pandori for his help. Eric Shanehauer, Melissa Hubert, if any of them survived the earlier agenda items, still here, come on down, please. Okay, take it away.

>> Good afternoon. My name is Jack Nodeau. I'm a native San Joséan. I was born at the hospital down the street. I've seen a lot of growth in my town. And basically I did not move to a big city. The big city moved to me basically is what happened. I kind of wish the population was frozen in 1943, to be honest with you. It would be sort of like Napa I guess today. The point is that worldwide, we're all pretty much aware that the human population needs to be stabilized if we're going to survive as a species. And I believe that population stabilization actually should begin at home which is right here in San José. I don't see any reason why growth has to occur. I believe if enough people get their act together, they can say, why? Why do we need to keep growing? Because growth is like a cancer, okay? If it doesn't end sometime, it's not a good thing. And this trend toward high density, I think that's a terrible thing. We read in the paper about mandatory water rationing. Where's the logic in adding more taps and more showers? What's the logic in adding more cars and more air pollution? What's the logic there? I realize, it's great for developers and great for Realtors but it's not good for the people who live here now. The whole state of California is being overrun by human beings, okay? I love people. But the thing is when you have too many people it gets to be a problem. And if you can't see that, your head's in the sand, okay? So that's basically all I have to say.

>> Mayor Reed: Eric Shanehauer and Melissa Hibbard.

>> Good afternoon. I notice when Councilmember Liccardo mentioned troublemakers he was looking right at me. Good afternoon, I'm Eric Shanehauer, a member of the task force. I was coming today to look at the staff scenarios. The staff did a good job of sort of weeding out some extreme viewpoints and have arrived at a range of job and housing numbers that is both reasonable and logical to study going forward. There's no point in studying numbers that are too off kilter either on the high side or the low side. Regarding housing, I think the question should not be do we want more housing or do we want less housing. Rather, I think the question should be, what is the right amount of housing to create an economically, fiscally and environmentally sustainable city. And if we base this decision on facts and thorough analysis we will make a good decision on behalf of the city. So I thank the staff and the council for the opportunity I've had to work on the task force and look forward to the next space. Thank you.

>> Mayor Reed: Melissa Hibbard.

>> I'm Melissa Hibbard. I'm the chapter director of the Loma Prieta Sierra Club. Thank you for the opportunity to speak to you today. First I'd like to congratulate you on a very open and thorough process for the general plan update. We are especially pleased to see the prominence of environmental protection and sustainability as expressed in the draft of land use/transportation scenario guidelines and articulated throughout the staff report. The City's general plan update is the time and place to express land use planning. As you consider the alternatives proposed by staff for the upcoming environmental review I urge you to support using the environmental review process as an opportunity to place environmental and sustainability goals equal to the economic goals that are clearly articulated in the alternatives you've been presented today. Responding to climate change is equally as important as economic concerns. It is therefore critical that the alternatives analysis include greenhouse gas emission reduction guidelines, the EIR process can test how well various land use scenarios achieve these goals. Too often the EIR is used to find mitigation solutions justifying unsustainable growth, instead it can be used to find balanced solutions when the economic values and the environmental values are treated equally. The use of green building standards within the environmental review process will help identify how green buildings will reduce carbon emissions, as an example is reduced traffic speeds in corridors, transit corridors and the creation of pedestrian crossings every 50 feet and finally and I sent a letter on this topic last week. I think it would be great to test in the alternatives analysis the effect of keeping Coyote Valley undeveloped by changing the designation to open space permanently. The Sierra Club supports the concept of distributed walkable communities, your villages and hubs --

>> Mayor Reed: Your time is up. Ross Signorino is our last speaker.

>> Ross Signorino: Thank you, Mr. Mayor, members of the council. What I came up here to speak about is the first speaker who spoke on the issue of we are too overpopulated. Which is nice, I can speak on the issue, we're too overpopulated. Let's stop everybody from coming into the state, we won't have to worry about growth factor, jobs and everything. Remember during the great depression, when the Okies came to California. They helped build California. Police were at the borders telling them go back where you

came from and they were living in the migrant camps. Those were good people. We didn't like the idea of them coming in here then at the time. But nonetheless we must not forget that people do bring growth at the same time they bring economic development and opportunities regardless of where they come from. So we have to watch. We have to watch very carefully when we say we don't want growth. Growth has to be managed, of course, without a doubt. And people have a right to come here, and they understand how beautiful it is here. And they want the good life, as immigrants come to this country, we should be very proud of our country, they want the good life. And America gives them the good life. Thank you.

>> Mayor Reed: That concludes the public testimony. Come back for discussion, recognize another member of the task force, Councilmember Pierluigi Oliverio who serves with Vice Mayor Chirco on the task force as well.

>> Councilmember Oliverio: Thank you, Mayor Reed, my life three to four years on the general plan task force, thank you for that opportunity, that's going to be how long it takes. This is a large body, 30-plus people that does have this drum roll of more jobs, less housing. And it's thought because of zero population growth or support of Thomas Malthus, the economist but it is not what we have historically done, provide all the houses and not enough jobs. It is a concerted effort of giving you smaller options of less housing. We lost that vote. I'm supporting the will of the task force, again we'll do the CIR and I'm going to continue to push for a smaller amount. We're going to grow. I'd just like to see us grow at less than historical pace for the city and get more industrial to bring in the income so we can continue to give good services. And thank you.

>> Mayor Reed: I have a question for Councilmember Liccardo on the motion as it relates to the sort of alternate scenarios. Your motion Councilmember Liccardo, what about alternative G that got 29 votes at the task force, and the staff is recommending we do K instead? Is your most contemplate you go back to the task force and say, it's G or K, and the task force then basically makes that call?

>> Councilmember Liccardo: Essentially, yes. The staff recommendation is K. I actually support that recommendation. But it will be up to the task force to decide.

>> Mayor Reed: So I think you I think maybe you should modify your motion, we approve either/or, and then go back to the task force?

>> Councilmember Liccardo: It would make more sense to modify the motion. I'll do that.

>> Mayor Reed: Councilmember Oliverio has the second, it is okay.

>> Councilmember Liccardo: G or K as it is to E or F.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: I wanted to thank Councilmember Liccardo and former councilmember Shirley Lewis as well as Councilmember Oliverio and Vice Mayor Chirco for serving on the task force. The use of hubs villages and corridors as target infill development sites and how to distribute new development throughout the city, I'm not sure if I should ask this question now or reserve for the second phase. But I'll ask, it's on everyone's mind. In regards to the infill development sites, I'm looking at a very unique site in my council district and that's the Monterey corridor which has heavy industrial land. And I was just wondering if staff can talk about your foresight in terms of how it fits in the 2040 envision plan?

>> It is one of the identified employment areas, staff is in the process of doing an analysis of how much growth that corridor we believe can provide. It depends on the scenario, too, the demand side as well as the supply side. It is our intent to return with more information about that when we come back in June and we'll make sure we specifically discuss the Monterey corridor at that point. And also some of the other areas around that corridor.

>> Councilmember Nguyen: Thank you, Andrew.

>> Joe Horwedel: And I think it would be fair to say as Andrew noted depending which scenario goes, we do expect some transition from maybe housing or maybe jobs that they reverse. But Monterey corridor one of the things we've been finding because it is such a strong support for industrial, or jobs for the region. In just about all the scenarios, we need more of that type of a weigh-in as we go through because we can't intensify those types of jobs versus what we can do in office building type uses. That is one of the decisions the task force is going to be grappling with, based on the types of jobs we're going to be doing, what do we specifically want to focus on, how do those reconcile with what we already have available and do we need to make adjustments and then as we go through this based open which scenario we'll continue to fine-tune that.

>> Councilmember Nguyen: Thank you, Joe.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you. I want to add my thanks to all the folks that have participated in this. I've come to some of the meetings, and it is great to see the community participating. And I just want to say that I have to -- I'm not part of the -- Councilmember Oliverio's group but I do have some similar thoughts on preserving jobs. And preserving industrial land for jobs. In our district, in district 8, we have land that's designated industrial. And there's a lot of pressure, lot of thought, can we really put jobs out there? I think we really have to be visionaries in terms of really making sustainable communities and the way it's described in the report here, of villages, corridors, looking at every possibility to create new kinds of jobs in our community. And we have to look beyond what we're seeing now. I think we really have to look at how transportation comes together with economic development, and new opportunities to put jobs close to where we live. I think we really have to walk the talk, in terms of creating sustainable communities. So I want to understand how this motion in terms of looking at these two options, because I'm in favor of more jobs, not necessarily, you know, decreasing the housing supply, but more jobs. And how these would impact the opportunities in areas such as the industrial land in district 8. If it all does.

>> I'll respond to that first. All these scenarios are really job-rich scenarios. If you back up to the perspective where we are today and even where our current general plan is, all of them really advance on the job front to varying degrees. And so as we go and look at where the city might accommodate those jobs, the existing job lands are very important to us, and we don't really anticipate any conversion of those to housing use. You know, very minimal, if any areas like downtown where it has kind of an opportunity for either jobs or housing. But there really isn't any conversion in district 8 or Edenvale or through other industrial areas.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I too want to thank all those people involved especially director Dick Santos from the Alviso area. I have a question for you Sam, why don't you want them to come back to the council again? Because I do have a concern about scenario F, which essentially is saying that if we approve that, we have to take away some of the houses to meet the scenario.

>> Councilmember Liccardo: I certainly agree, share your concern about the prospect of how we unentitle land. I'll leave that for the lawyers to figure out. The issue seems to me is one in which the task force has been working on this for many months. And because of the problems in scheduling and timing, we're actually seeing the staff recommendations now, before the task force is. And we could approve those four scenarios and understandably, 34 task force members are saying, why are we working on this in the council will just approve something else?

>> Councilmember Chu: Could we approve the C and E and leave the J and K for the next council meeting?

>> Councilmember Liccardo: Well, I mean, I'm certainly open to suggestion. I'm not sure if there's value in us bouncing back and forth on this particularly with the concern of trying to get to the consultant in time.

>> Joe Horwedel: Let me maybe approach this a different way. Staff does have a concern about what scenario F presents, if we ultimately, that's the end game that the general plan that we documented. Because what we are looking at are scenarios how to write the IR. Scenario F or J is really setting an outer bounds as it relates to jobs-housing balance. From a traffic standpoint that's what we're trying to project. From a fiscal standpoint we'd like to know that piece. Whether it is at 60,000 housing units or 90,000 additional housing units, I think has less of an impact ultimately of how we would analyze that. Because by the end of the day, away are the outer limits of the box? Staff is concerned that we think scenario F is an unrealistic expectation. There maybe, actually, an ideal world of a reverse conversion program. We do have a legal right to do that. That is not a legal challenge, concern but it is something that from a reality standpoint, I think to say that over the next 30 years we would not do more than 2,000 housing units, that has not been my experience in the 25 years in the city that we have been on that sustained page. That was our recommendation to the council that we thought it would be more prudent to hit something that was maybe more closer to where we thought we'd end up with.

>> Councilmember Liccardo: And perhaps -- I'm sorry Laurel.

>> Laurel Prevetti: I just wanted to add your discussion this afternoon is really valuable. Because on Monday we do have a task force meeting and it is our intent to take your feedback back to the task force so we all have the benefit of your ideas as it relates to these scenarios. So we thank you for that comment.

>> Councilmember Liccardo: And just to address the procedural issue but more finally, this is what we're studying not necessarily what we're choosing. It's important to let the task force determine the outer bounds of the city. Certainly we'll have a opportunity to choose a clear direction.

>> Mayor Reed: Any other questions on that? We do have a motion. Councilmember Liccardo, any further discussion? All in favor? Opposed? None opposed, that's approved. Thank the many members of the task force who spent many, many hours at doing this. You will get it done. I've served on two of these task forces and there is an end to it. I just can't tell you exactly when it is. Our next item, 5.1, report of neighborhood services and education committee, Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I move for approval.

>> Mayor Reed: All in favor, opposed, that's approved. Item 5.4, PRNS pricing and review policy.

>> Albert Balagso: Albert Balagso, director of PRNS. Moving that towards the full discussion of council and the budget process, during the operating budgets of fees and charges the opportunity today is for to you review this policy, and discuss and provide us feedback before we advance this. The strategy that we have been working on is something that we've started about a year ago, and that we've had extensive internal input as well as community input. As we worked from a starting point that started in 2007, when council set some goals and priorities, and two of those are kind of what drove us through this process. The first one was to eliminate the structural budget deficit. The second one that we looked at was to provide full funding for parks, community centers and pools. However in looking at a proactive approach on how to best achieve this we realized that the General Fund was not necessarily going to get to the mechanism to get to that full funding. So we had to look at what was a way that we could advance the preservation of our services and ensure access to our communities, during these can challenging economic times. The proposed budget from the City Manager that will be coming forward on May 1st will also include 1.2 million in additional revenue, that would be associated with this strategy. The strategy that we're putting forward in advancing this model helps us to offset what would be potentially other additional cuts and services to the department and consequently cuts to the public as well. Our objective as we have advanced this has been to put this model in place, that would be a financial sustainability for our department and the services that we provide, and is successful in other municipalities throughout the state as well as the nation.

The presentation that we will be providing to you also provides some of the key changes that we will be proposing, and to take the phrase used earlier by the City Manager, this is a bit of a leap of faith in here. There are knowns and there are unknowns. As we work towards achieving a balance of setting prices to the market that would be accessing it, and certainly maintaining accessibility to the public as we move forward. Now, we know that we have many stakeholders that we need to work with as we advance these strategies as we move forward. We are bringing the strategy forward a year sooner than we had proposed. We don't have them all vetted through and it is a process over the next several years of working with the stakeholders as we advance them. When we come to you in the fees and charges we will start with that first tier that we will work with. The first, no one will be left behind. Access to our strong neighborhood groups and other volunteer organizations that have been doing great things in our communities, our community centers and our neighborhoods and we want to be sure that they continue to have access. And we will be providing a process or working influence a process as we move forward that will engage them in helping us put this together. As we move forward in the next five years it is our objective that we will advance from our current cost recovery of about 11% to approximately 25 to 40%. So with that I'm going to hand the remainder of the presentation to Julie Edmonds Motta.

>> Thank you. We provide an overview of the current fiscal environment. As you know, PRNS has historically priced very low, after school programming is free, youth sports fields are reserved at \$2 an hour for each team and of course that is not enough to maintain the field or the facility. This historical approach has been based on ensuring access but had an unintended consequence of needing to reduce services as our budget grew and our expenses grew. At the same time, our citywide budget deficits over if past several years have impacted our ability to provide services. The bar reflects back from 2000 to 2001. Through measure P we've been able to add quite a few number of facilities, add square footage and over the five-year history, come up to 5 with 24,000 square feet currently, and we'll be up to 600,000 square feet by next year. But at that same time the line indicates the staffing. Back in 2000 we were at 149 FTEs and that has dipped significantly. It is this challenge that Albert was talking about. Before entering into this approach we wanted to make sure it was feasible to be more cost accounting oriented. We ventured to other municipalities and saw that was true. Denver, Minneapolis, others gaining more than we have here in San José. Indianapolis San Francisco and Dallas are trying to achieve higher

levels. So the pricing and revenue policy it's really a new set of rules under which we would plan to operate. And there are three main elements under the guiding principles, one is the cost recovery goals. Second is ensuring affordable access and third is creating revenue strategies. I'm going to go into each one of these in subsequent slides. Additionally, we're seeking authority to expand authority for the PRNS director, excuse me, there's a differentiation between the slide. I'm sorry, it was City Manager or designee. In order to approve all prices. Currently, there is a differentiation, the director sets some prices such as camps or activity classes and the mayor and council sets other charges through the fees and charges project. You actually achieve 60 pages in that document through prices within the PRNS document. We seek authority to have that within the City Manager's authority so that we could be more market driven. We could respond more quickly. We'd also seek the city council to approve cost recovery goals, provide goals for us to achieve and then have us set the prices within those goals. So the cost recovery goals themselves are set on a framework of level of benefit and cost of service. The level of benefit indicates the level of benefit to the community as a whole and the individual who receives the individual service. We have three levels, public service, merit service and private service. In the public service all members receive the same level of service, it's highly subsidized. Public parks, trails, open access type areas. Merit services are more shared like a swim lesson, where there's an individual benefit to the community member but to the community at large. In those cases the cost is shared. In a private service where we continue to provide services that just benefit the individual, the individual should subsidize that wholly. Things like music lessons or language lessons or a golf lessons, the cost should be borne by the user. We take that criteria and consider the cost to provide the service and this is an evolving service for us. We are pretty good at divulging or identifying what is the direct cost for providing the service, the staffing and materials and that kind of thing but we're still creating accounting systems to talk about indirect cost, such as overhead rates for the facility or lease rates or utility rates. We take that, you can see at the bottom a cost-recovery example wherein we show a program such as aquatics. It's been characterized as a merit service, and then a recommended cost recovery rate for the whole entire program. And then there's some more examples, I'll be coming back with a whole list for you in the fees and charges program. As Albert mentioned, access through scholarship is very important for us. We have a lot of good existing scholarship strategies that will remain in place. Such as advisory group. The Alum Rock advisory group, annual fundraising, on an annual basis they raise about \$35,000 to allow constituents to take programs at the community center. That type of thing will continue. Individual donors, that will continue. We're recommending the mayor and council recommend a specific fee amount. It would be based, a budgeted line item, and then it would be based on local, state and federal criteria. That criteria would include things such as unemployment or their assistance, things such as that, the federal criteria. Revenue strategies and pricing mechanisms, it's -- the strategy itself, the whole cost recovery strategy is about bringing cost down as a whole but not just about raising fees. We would continue to have partnerships such as the partnership we have with Adobe and McEnery park. They help keep our cost down. We'll continue to pursue this, sponsorship foundation. Differential pricing strategy or a new concept will have alternatives to maximize facility use to best schedule and price point. I think a good example is prime time-nonprime time such as our sports field rental. Every sports field group would like to have a Saturday morning at 9:00. In that case, the price for that prime time, if you will, the price should be a little bit higher or other times of the week a little lower. Then citizens can pick the rate that's right for them. Different rate on the weekend, different on the weekdays and some other alternatives are listed there. So we wanted to give you just a couple of examples. The first one is after school, which we've looked at as a merit service. One of our recommendations of the budget process would be to look at nine specific sites, where we're providing after school at locations, throughout the city, and provide those currently we provide them for free. We would recommend in the first year charging for services. A weekly rate, a monthly rate, which would allow us to provide some cost for the program and continue to provide the service. We would evaluate that and the second year we would look at the efficiencies. Antigrffiti is another area. Antigrffiti, currently the department removes all graffiti and covers the cost within the department. So it's free to all users. But there is a municipal code which would allow us for example to work with utility companies and reimburse some of that cost. The code allows us to advise the utility, give them two days to abate it, and if it's not abated, we abate it and send them a bill. The final example is the facility rentals. Currently we utilize a user system wherein nonprofit government agencies are in a no-charge category. There's a secondary category which is other users, and then there's also a resident and nonresident rate. We would recommend going to a differential pricing type of approach, wherein we'd have prime time and nonprime time rates. And the rates would be based on the amenity and the quality of

the amenity. We have great brand-new facilities, audio-visual enhancements, we should charge for the type facilities and then have different rates for prime time versus nonprime time, weekday vs. weekend. As Albert mentioned earlier, it is important for us to maintain a relationship with the SNIs and the NACs. The time they would donate to the community would be given a value, if you will and that could be used against the price of the facility and the usage of the facility. We would be working with a group to develop the policy and the procedure over the next year. The following year, we would recommend evaluating further efficiencies in that category. So next steps, this is the same presentation we gave to the neighborhood services and education committee. The next step was to come here and talk to you today. Following this the policy and the goals, PRNS, would be before you next month. We would provide an information memo and highlights of your one pricing changes in the fall, the fall is where we would anticipate the first level of changes. And then we would establish a calendar reporting system to look back how we were doing, and report that to you, and let you know what we are planning for the future year. The reason we picked the calendar year, even though that would result in a six-month report for the first year, that would give you information for your budgeting process. That's the end of my presentation, with that we're available for questions.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I just wanted to thank you all for your very rigorous level of analysis here. I mean, I can tell this is something that takes an awful lot of work and study in order to get to a number that will both serve our community and keep our resources intact to the point where we can continue to serve. I have a question or two about, going back a couple of slides about the sort of sweat equity provision for neighborhood associations. I take it somewhat of a presumption that if there are neighborhood associations at all, they're investing a lot of volunteer hours and they're doing it of course without compensation. I'm trying to understand, sort of, where you see the discount being, is it like a 10% cut, or is it something much more substantial?

>> Albert Balagso: Councilmember Liccardo, I think this is part of what we want to engage them in the process, to help us do this. But if you take a group that, say, perhaps does an hour of service, maybe it's serving as a -- say a one to one at this point in time, they serve as an advisory group and they hold a meeting and it's open to the public and it serves that community center, well, that's an hour credited. So the next hour that they utilize, there is no charge, or even, if we want to go further, do we charge them at all for that event, because that was serving a city need. So this is what we want to sit and talk over with them, go over how this would work, what are you doing, this is what would qualify our not qualify. They have to be part of this engagement process.

>> Councilmember Liccardo: My two cents worth, because they're having a neighborhood meeting and it's open to the public and they're getting information out and we and other city officials are using that gathering as a means of disseminating that information, means they're already providing that public service. Right now, in the last year we gave the mayor's gang task force I believe \$4 million in RDA money, some of that money was used on community block parties, for instance, we're spending hundreds and even thousands of dollars in efforts to get communities to gather together. And what I hear so often from neighborhood associations is, hey, save the money. Just give us a chance to use your facilities. In other words, don't make us pay the park fees, if we want to have a simple flea market, or that may actually require some significant amount of staff. But really, going into something more simple. A meeting at a community center. Don't be hitting us over the head with these fees. Save the money and just let us be able to use the facilities. And so I understand there's a desire here maybe to rely on their sweat equity and sort of create a quid pro quo with their energy and time but the truth of the matter is, they're going to give that energy anyway. It is not obvious if they're going to have that meeting if we are going to be charging the fee and somebody has to keep track of all this. You are creating a certain amount of work internally and certainly externally, in terms of somebody tracking this, that creates more heat than light. My suggestion would be, give it to them for nothing or next to nothing. They are leveraging an enormous amount of support for us when they do graffiti cleanup and other things. I appreciate the intent of creating this sort of hour to money tradeoff but I'm not sure it's worth all the work. When it would be simpler if we say, we appreciate what you're doing, here is our facility for \$10. And I would be interesting in knowing what really is the revenue loss in taking an approach like that where we simply charge them a very nominal fee. How much do we really lose in revenue? I'm guessing it's really not much at all. But I'm guessing that would be helpful for the council to be able to see.

>> Albert Balagso: That's an excellent point. There's another half to the equation here, is that there is a whole list of groups that are within that really of nonprofits. And some of them are not neighborhood

associations, but would very quickly call themselves neighborhood associations. So it's creating kind of a criteria that ensures that those groups are indeed getting free access and those groups that are charged should be charged.

>> Councilmember Liccardo: Sure. I understand neighborhood groups typically register with that NDC so it seems to me we do have a means of fairly quickly verifying which groups are community groups and which are just folks who want to use the community center. So what I'd like to do is I'd like to make a motion that when you do come back to council, or committee, however it may be, that you provide us with information about what the cost would be, if we were simply to provide registered neighborhood associations and NACs, with a nominal fee. And maybe in the case of NAC it's really just an opportunity to have the RDA budget help us out, that's fine. That maybe different but at least for the neighborhood associations where it's coming out of the neighborhood or community's pockets or they're having to chase grants in order to get the money together. So I'd like to make that motion.

>> Second.

>> Councilmember Liccardo: Thank you very much.

>> Mayor Reed: I think we have a second, Councilmember Nguyen.

>> Councilmember Liccardo: I appreciate all the work that's been put on this. The question of scholarship programs I guess raises a certain amount of concern for me. Because representing communities where oftentimes the folks who rely on these services the most, community centers, pools, et cetera, often, the children rely on parents of who don't speak English. There's an enormous amount of cost in being able to communicate clearly, programs the city does or does not have to help them out with cost. I see there are two costs, one the bureaucratic cost in running a scholarship program which I think is considerable, figuring out how you can outreach to the people who need the services and ensuring that they have it. Then there's the cost to the community that as soon as the neighborhood child who doesn't have ready access to a parent who speaks English who has the time to get engaged or whatever it may be, as soon as they see the sign at the pool that says this costs X dollars and that's too much for them to say, the response is they turn around and go home. It's not that they're going to turn around and have someone explain to their parent what the scholarship program is all about. I would really like to see us, rather than going the route of going down the path which is enormously difficult, trying to broaden this is a lot of work, I know jury staff is very stressed Albert because we see it in the budget forecast and everything else, I'd much rather see us using differential pricing in communities where we know people simply can't afford those prices on average. And accept the fact that maybe we charge something different at, you know, in Washington versus Almaden. I don't think -- I don't think it's -- I'm sorry to throw out your neighborhood, Nancy. But I don't think anybody's offended by the fact that kids who are served by -- in one community center, who can't afford one price, may pay a different price than kids who are from families who can afford it. If this is really a public good that we're tried to provide.

>> Albert Balagso: Differential pricing I think is a key to this. But it's also setting the price point at the correct -- the correct point. The challenge with not doing a scholarship program is that -- and not having a price point that would create a cost recovery puts us in the position of whether or not we're able to provide the service at all. That's kind of where we are in the budget process right now. We have to make decisions about what we can do or no longer do based on you know, what benefit does it have to the public? The ability to put the scholarship program enables us to -- there are the abilities to get to people who have that greater need, but it's also set at a point that is within the neighborhood, to your point, that is affordable. But there are still people who can't afford that price point. We need the scholarship program to make sure we don't miss them as well.

>> Councilmember Liccardo: But the reality is, we're going to miss them anyway, Albert. My experience, I've seen this often enough where people are simply discouraged by the sign on the door. And so if the role here is that we're really trying to serve the public, I don't think the most ornate scholarship program in the world is going to do it. Because we're going to be missing a lot of communities. And the price point, certainly we could hire a team of economists to come up with the correct price point but that presumes there is one price point for the city that works. And that's not what the city is, we're far too diverse for that.

>> Albert Balagso: Agreed. And we are setting different price points on the basis of fee activities. We have programs that we're charging for in Mayfair, Alma, Alum Rock and they're signing up for them and we're talking about scholarships as they come in for those who -- I was at Mayfair and I ran into Councilmember Oliverio there who was also visiting Mayfair and a group came in talking about what scholarships we had, what opportunities they had to offset the price. So people are asking that. And this is part of what I'm talking about, part of the leap of faith. Am I going to catch everyone? I don't believe

that. But it's a starting point that we can start moving forward from. And perhaps we start at a lower level and we grow up from that point in time. But what we're trying to do with this strategy is ensure that door is open to provide that service.

>> Councilmember Liccardo: The last concern I have, and I appreciate your points. I know that you know, we disagree at some point on this but I appreciate the points made. There seems to be a lack of staff discretion and flexibility built into the process. Council approves it and then thereafter, it's set in stone. And I know that there are certainly objectives which we probably all agree upon and as a council we could vote on, where we should be telling the staff, hey, you may understand under certain circumstances that having more flexible approach to setting the price may be necessary depending on a whole lot of circumstances where maybe we can't foresee. Let me give you one example. I was on the phone earlier today with somebody from the downtown association. They saw our 4th of July event for now is cancelled. We have no fireworks. They'd like to rent, I believe, Cesar Chavez park, for another show, for their Thursday night music in the park event. They pay a certain fee for having between nine and 12 events which I think is about \$3500. Now that this would be the 13th show they have to pay an additional \$1200. Now, I think we're all to take a step back, we'll say, well, wait a minute, they're trying to jump into the breach here where clearly because of a lot of economic circumstances we don't have a 4th of July show, maybe we would charge them the marginal incremental difference rather than this large difference but that's the way the fee scale is set and that's the way your hands are tied by virtue of the fact that council has set this and you have no discretion. It seems to me that we should probably want you to have that discretion, shouldn't we?

>> Albert Balagso: Yes, and that is part of what the policy is addressing, is allowing the City Manager or designee to set that fee. And again, within a price point, setting up a cost recovery. There's a range that's established. So you could move within that range to settle that fee.

>> Councilmember Liccardo: Okay, from this point on you can say the handcuffs are off, at least when we approve the final policy.

>> Albert Balagso: No.

>> Councilmember Liccardo: No?

>> Albert Balagso: I have to qualify that, as I said, it's going to take time to go through the whole list. If this were next year and I was doing this I would be able to tell you we went through the whole list and we're ready to set all the fees. Systematically, we have a methodology approach as opposed to grabbing each one of those. Parks fees ought to be one we should start looking at. Again the first course that we're looking at is a set of fees that would look in the range of community facilities, and areas where we have not traditionally charged, that we can start setting prices to those and then we'll start moving down that list.

>> Councilmember Liccardo: Thank you, Albert, I know you have a very difficult job with a very limited budget. I appreciate your effort to make all there work.

>> Albert Balagso: Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. Are I like to congratulate you on a fantastic job. I can't imagine how many hours of work this represents but I'm sure it represents a considerable number. I'd like to say that no, we're not going to be able to climb the mountain perhaps in one year but we have to get past a minus 11% figure. And this is one of the ways we can do it. So I agree we are going to have to tailor it to individual communities. Part of the outreach could be through the SNIs, to get the facts out to the groups that work within the SNI communities. And they're pretty fast to figure these things out. So I don't think that it would be quite as dismal. Although I don't run your district. So I try not to anyway. So I wouldn't note that with any certainty. But I definitely think this is a fantastic start towards getting us back to where we need to be, just to be self-sustainable let alone help with our budgetary problems. So thank you for that.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. Wanted to ask the America of the motion, you can please state what you're asking staff to go back to when you are talking about community groups?

>> Councilmember Liccardo: Sure.

>> Councilmember Campos: I know you're talking about SNI and I don't know what you said about SNI.

>> Councilmember Liccardo: I guess the general approach would be for staff to analyze what it would cost to the PRNS budget to simply require SNI, NACs and neighborhood associations to pay no more than nominal fee.

>> Councilmember Campos: What would the nominal fee be?

>> Councilmember Liccardo: To throw out a number, \$10, something readily accessible to any neighborhood association and perhaps you would make it contingent on a schedule, that is, no more than one month or whatever it may be. Assuming that were an organization that were registered with our neighborhood development NDC.

>> Councilmember Campos: And I appreciate that. I think one of the things that we struggled with in committee as we were discussing this, whether it was online or offline, was that some of our, as you alluded to earlier, when we were talking about some neighborhoods for the kids, not even to pay just a small amount, I think we faced that with some of our community groups. So I would really encourage us not to lose the aspect of, if they are contributing X amount of hours, to be able to have the facility for free, as well, should not be excluded from the whole scenario, just because I think for some of our SNI groups and some of our community groups in certain neighborhoods, pay not be able to pay \$10 to have a meeting. And they're really contributing to the betterment of the City of San José by their volunteer hours. So I would hope that we don't lose that component as we move forward in trying to figure out how we balance it, so that it is fair and equitable, as we move forward.

>> Councilmember Liccardo: The point's well taken. I'm not trying to set a number by any stretch. The -- I think we have similar intent.

>> Councilmember Campos: Thank you.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. And thank you, Albert and your team, Julie for your diligent work in coming up with such an extensive plan. I share Councilmember Liccardo's concerns in regards to offering a nominal fee or no fee at all to the neighborhood associations. Albert, you address a little bit about, well, we do that then nonprofit organizations might want the same, in terms of equity. But there is a distinction, well, according to me I think that with any nonprofit organizations they do have a budget. And I think with the neighborhood associations they pretty much operate out of the funding that the individual council office would give them to run a particular event or program or through their cap grant. And then also, when you look at the kind of work that they do for us, you know, everything is an voluntary basis from litter pickup to graffiti removal. And these are the things that are really important and critical to improving the image of our city as a whole, because of those things and many other things that they do for us, I agree with Councilmember Liccardo that when we come back we should definitely look at that and see how we can alleviate some of the financial burden for these neighborhood associations. And then in regards to the scholarship program, you know, I appreciate what staff has in mind. But just reading this, it's caused a lot of confusion for me. And so I can imagine for a typical kid who wants to participate in the different events that we offer for them, I don't really know at this point what the right plan is. But what I'm hoping when you come back is that we will come back with something that has less bureaucracy and more community buy-in. Instead of making it so confusing that they may not want to participate at all. So I just want to share those concerns, thanks.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor and Albert, and staff, thank you for all the work done on this. As far as the neighborhood associations, there can be a distinction that we can logically, they may seek to about benefit from any benefits you may give the neighborhood associations in their work for the betterment of the actual neighborhood or even these centers are in, and additionally, to the point also made by a couple of my colleagues in regards to access, and making sure that the affordability access there, I agree with Councilmember Nguyen that we should make it an easy process, make sure that people are aware of and offered assistance from the get-go, so it's not a fact-finding mission on their part. Because as we all know, the kinds of programs that we offer, and the kinds of classes, after-school classes and so on, are most needed by those who may not have the ability to pay. So just keeping in mind I know that it seems like you already are, and along with the comments I microphone colleagues to make sure you understand something that's have I very important to all of us, thank you.

>> Mayor Reed: I'd like to take public testimony. City Attorney, something you want to add first?

>> City Attorney Doyle: Councilmember Kalra's comment about something we could do first, however one nonprofit group versus another nonprofit group and what the use is for, we will be working on the kind of rationale we can come up with, one meeting may be different than a flea market use. We might have to look at that time use. That is something we'll work with staff on but we get the gist of the request.

>> Mayor Reed: Thank you we'll take some speakers. Please come down. Cora Tomalinos. (saying names).

>> Honorable mayor and city council, my name is Cora Tomalinos, I'm a direct of district 7. Hi, Madison. I attended two meetings for the pricing and the revenue policy. First of all, I'd like to commend the staff for being so patient. We graduated from dots, you know, putting dots in your priority, to actual dialogue with the community members and also, the breadth of the engagement they did is really fantastic. Thank you very much for that. However, I went to those meetings saying, I don't want a fair access. I would like a just access. So thank you, Albert for putting all of those recommendations there, where your scholarship and your subsidy. And your sweat equity. I figured with my sweat equity, I should be able to use those council community centers and everything else in this city free, correct? Anyway, with this revenue and pricing policy, it's overdue. This overhaul is overdue. So I hope that in addition to all the recommendations which I support, that we also hold the staff accountable. There should be an appropriate personnel, the appropriate materials there for us to use, is if the community is going to go along with this pricing, thank you very much.

>> Mayor Reed: Richard Santos, Sylvia Lowe, Bill Hughes.

>> Good evening, Richard Santos, Alviso, Mayor Reed and councilmembers. My issue is this, if it don't make sense, it's nonsense. That's the issue for me. I come from an area that has 4% unemployment. I have been a volunteer for 40 years so you owe me all kinds of time. The issue is, talking about scholarship and pain, what makes America great here is the volunteers. My area in Alviso, our Santa program pays for many incentive programs that y'all don't pay for. We rely on the facilities that you give us. We appreciate that. I give 12 a year out of our program. Also in terms of career training, and we also give the national Hispanic college, we do so many things. But to pay for these things and have volunteers. The volunteers going to have to pay the volunteer? Don't do this thing. This is not right. In the affluent areas, God bless you, glad you can afford it. Our area don't. The rich get the goodies and the poor don't. We are trying to volunteer trying to make San José better. Don't take that away.

>> Mayor Reed: Bill Hughes, Sylvia Lowe, and Connie Langford.

>> I'm Bill Hughes. I spent many years working to get a community center for Berryessa. And since it was constructed in '95, I've been on the Berryessa community center advisory council. I've done this because I wanted the building to be the center of the community. With all the major groups able to be there. Our BCAC, neighborhood association, better known, also known as the Berryessa citizen advisory council. Everybody calls us BCAC. We had to live a nomadic existence for 22 years. And that's difficult. We don't want other group staff to go through that. But despite that, a lot of elected officials come out of these groups, out of our BCAC, you have mayors Reed and Gonzales, Councilmember Chu, supervisors Cortese around McHugh, Richard Santos of the water district, lot of school board trustees, many city and county commissioners. You're getting a lot of work from us. BCAC also provides the best place in district 4 for the city to come, when you want a good furnishout to disseminate information to the public and get feedback. You should want to encourage groups like ours, and not drive them out of the community centers. Right now, I think you've driven out three of six groups that were there with the higher fees. Now, remember, these groups provide your leaders, your volunteers, and your voters. Thank you.

>> Mayor Reed: Connie Langford, Mike Flarer, Blage Zivovich.

>> Mayor Reed and esteemed members of the city council, my name is Connie Langford. Currently I am the chair of the City of San José senior citizens commission. The banner headline in the San José Mercury News on February 24th, 2009, was facing up to economic realities. This article brought to the attention of the public a recent UCLA study which documents that in Santa Clara County, 48% of seniors over 65 can't pay for their essential needs of food, health, housing, clothing and transportation. In fact, the results are understated, because the data was gathered prior to the current economic meltdown, and because the effect of recent drastic state budget cuts affecting low-income seniors is yet to be felt. A copy of the elder economic standard index was attached for your consideration to the letter written on January 14th, 2009, in response to the presentation by the consultant to the senior commission. Everyone acknowledges that the economic downturn has placed stress on the city and the budget. Seniors, better than many others, know how to tighten their belts. As many of us were born in the great depression, and grew up in families that knew how to pinch a penny. However, senior and community centers are the life blood of many seniors in our city in terms of nutrition and socialization, which is essential to their well-being. Therefore, we, the senior citizens commission, urge you to take these facts into consideration, when weighing the cost of operating these facilities and the reality of 48% of seniors in our community. Thank you.

>> Mayor Reed: Mike Flaher, Blage Zilovich and Bruce Lavity.

>> My name is Mike Flaher. I'm on the parks commission but today I'm representing myself. Thank you Mayor Reed and councilmembers for allowing me to come to speak to you today. I support the policy and offer the following comments: I believe the designee for pricing should be the parks and recreation department itself. More in with revenues needed. The parks department has brought us excellent plans for parks, swimming pools and sports fields and I acknowledge their professionalism in this. I believe improved cost recovery and the intention of this plan is meritorious. In it, we have replaced user types of the current resolution with three new categories, public, merit and private. Users that were in type 1 were nonprofits, and community organizations. Those will now be in merit service and could potentially see higher cost. Currently from my own organization, cost beyond actual rental of the community center can be as much as \$300 a year. In this, I think we will see that the devil will be in the details. And the details are how the plan is developed, deployed, and how in-kind equity actually works. And also, how volunteer time is accounted for. You've already heard some comments about that today. I think these things need to be fully understood, and considered, as I believe there is a fundamental need, of the community to gather in and use public space. To meet and discuss matters of the community, I believe this is a fundamental issue for community. Public meeting space, these community centers function as our town halls, and as we are communities of nearly 100,000 in each district.

>> Mayor Reed: I'm sorry, your time is up.

>> Thank you.

>> Mayor Reed: Blage Zilovich, Bruce Lavity.

>> Good afternoon mayor, city council, my name is Blage Zilovich, the deputy director of the San José downtown commission. I'm here to suggest that additional flexibility be brought into the process by which park use fees is assessed for community events. There are certain park fees that are set by council in the yearly schedule of fees and charges and there are others that are set at the direction of the PRNS director. The memo specifically states that providing the City Manager or designee, this power, increases the ability to respond to market trends and community needs. As you are all painfully aware the market trend is down and this difficult economy, community event producers need a little bit of relief. I know the plight of this year's Americas festival is all fresh in this community's memory. I have another example. We wanted to do movies at St. James park as part of the starlight cinema series. One of the four neighborhoods we were going to do them in. And because we were doing 12 movies, the movies in St. James park would occur on the first Wednesday of August, first Wednesday of September. And because of the way that a series is defined in that fee schedule, they have to be in the same month. So we would have to pay \$500 to use the park in August, and then \$500 to use the park in September, when clearly, those movies were both part of an overall larger series. Please do not take this request as a waiver of park fees. It is simply a request that we add additional flexibility into the discretion of the City Manager or her designee, and we do this not in next year's budget process but this year's budget process, so the events we have this year have a chance to make it. Thank you.

>> Mayor Reed: Bruce Lavity is our last speaker.

>> My name is Bruce Lavity, director of the jazz festival. There is probably no event downtown that takes the liberties of urban setting, events late, events early, indoors and outdoors. I'm here to ask that there be greater discretion within the park for the park use fees. Here's an example. Two years ago we wanted to expand the seating for the blues festival, blue stage, 87 and Almaden boulevard. There is a park right next to the stage and we wanted to fence it off so the public would just sit there. Because of the fee structure, we couldn't afford it, so we ended up fencing in front of the park, the people sat on the grass and they had watch it through the fence. We want to avoid this silly arrangement, and giving the parks department more flexibility in dealing with us. City staff met with the events managers, and this is one issue we brought up, greater flexibility. This change would help us this year and we could use it. Thank you very much.

>> Mayor Reed: Thank you. That concludes the public testimony. We do have a motion on the floor. Any further discussion on the motion? All in favor? Opposed? None opposed, motion is approved. Thank you, staff, a lot of hard work. I just had one final comment, that is, we have to be very careful about how we calculate cost recovery. I know that's maybe more of an art than a science. But we need to work on that so that when we are charging, we are charging the right fee. With that I think we're done. On that item, 6.1, report transportation and environment committee, April 6th, Councilmember Liccardo is in charge of that committee.

>> Councilmember Liccardo: Thank you, mayor, the minutes are in the packet, I'd move to approve.

>> Mayor Reed: Motion to approve, all in favor, none opposed, that's approved. 6.2, airport tenant improvement construction contract. Motion to approve. Bill Sherry is here. I'd like Bill to come down and share in a bit of good news, in the airport construction process. It's been going on for a long time. Question about budget and schedule and how we're doing. I think it's still about the biggest construction project around although it's about done.

>> Bill Sherry: Yes, Mr. Mayor. I believe it's the largest capital works structure in history, it's two and a half years of a three and a half year program and we're very proud to say that it's on time and ahead of schedule and below budget.

>> Mayor Reed: Like that below budget part. That didn't happen by accident. Design-build. I did notice in this last bid, that the low bidder was 42% under the engineer's estimate, and there were another nine or ten bidders, in the game. So it's a very competitive game. How is that affecting your ability to work the project?

>> Bill Sherry: Obviously much to our advantage. And I think the council should take pride. I know it was a risky proposition several years ago when we asked you all to support a design-build contract, particularly a negotiated design-build contract. I don't know if it's just dumb Irish luck on my part or your part, but we have certainly benefited from the economy, and the downturn in the economy. All of our construction bids are coming in well below budget which is allowing us to put more scope into the project. And as you know, it was a scope challenged program to begin with. So we're going to end up with an airport that I think everyone's going to love.

>> Mayor Reed: Thank you. Anything else on that? We do have a motion to approve. All in favor? Opposed? Nub opposed, thank you built. That takes us to our joint item, city-redevelopment item, you 9.1, actions related to amendment of redevelopment plans in the merged project area. I don't know if we have everyone here or not, agency and city, then we'll move into the redevelopment agency part of the agenda. This is the second reading of the ordinance, there is action we need to take. Executive director, Harry Mavrogenes.

>> Harry Mavrogenes: Members of the council and agency, this is our second reading. We have prepared a report that recommends both adoption of the resolution approving the responses to the written oaks and we have an item that addresses those. As well as adopting the ordinance necessary to take this plan amendment into effect. So recommend your approval.

>> Mayor Reed: So we have a motion to approve staff recommendations, that's two parts. The resolution regarding written objections, and the ordinance. Is that it?

>> Harry Mavrogenes: That's it.

>> Mayor Reed: I have no cards from the public. All in favor, opposed, none opposed, that is approved. That concludes the city council part of the agenda. We'll have open forum and then we'll take up the redevelopment agency specific items. I have no cards under open forum. So first item on the redevelopment agency agenda, is our consent calendar.

>> So moved.

>> Mayor Reed: Did I get a second? Yes, I did. Anything that council wants to pull off of the consent calendar?

>> Councilmember Liccardo: Mr. Mayor, friendly amendment to the motion, specifically to address the concern. I believe that two of the consent items involve some expenditure of redevelopment money. So we might need a suggestion that the funds are encumbered.

>> City Attorney Doyle: Harry, the good news?

>> Harry Mavrogenes: As of about two minutes ago we received a letter from the State that removed us from the noncompliance list. It was an error on the state's part. We prevailed and thanks to Roxann Miller in Sacramento she patiently waded through the bureaucracy there and got a letter delivered to us. We are now removed from the sanction list and everything is in order and we can take our actions as floral.

>> Councilmember Liccardo: Amen. With that I'll withdraw my friendly amendment. I feel like a kid that just got out of the principal's office.

>> Mayor Reed: A kid who went to the principal's office but the door was locked. Didn't have to go in there. We do want to thank the county for working on this to get this resolved very, very quickly. We appreciate that. And the staff's work. And we do have a copy of that e-mail transmittal, coming around here about the state action. We have a motion to approve the entire consent calendar. That seems to be okay with everybody, we don't need to have any further discussion. All in favor, opposed, none opposed, that's approved. Item 3.1, he amending the small business loan program guidelines to allow additional businesses to be eligible for loans and assistance. We have a motion to approve by Councilmember

Liccardo. All in favor? Opposed? None opposed, that's approved. 7.1, approval of an owner participation agreement with CTC for assistance to rehab the property located at 749 Story Road. Motion by Councilmember Nguyen to approve. All in favor? Opposed? None opposed, that's approved. We need to consider in joint session with the city council, item 8.1, an amendment to the lease with San José credit union for property at 88-south 4th street. Motion is to approve. All in favor? Opposed, none opposed, that's approved. I believe that concludes our afternoon agenda. We will be back here at 7:00 p.m. We will recess until then.

>> Mayor Reed: We discussed the agenda order earlier in the day but let me repeat it for those of you who weren't with us today. We're going to take some items out of order. We will take item 11.1, 11.2 first. Then we're taking up the 4.2, the tree removal process and then item 5.2, regarding the library Internet access policy. And please, if you wish to speak, fill out a yellow card, and bring it down so that we can have some idea of how long we're going to be at this. We will start the evening agenda with the ceremonial item. Like to vied Councilmember Constant, Liccardo and Chu, as well as the recipients of the outstanding childcare to the podium. Outstanding contributor to childcare award is an important part of the City of San José activities in honor of the month of the young child. As part of this celebration, three childcare provider and one childcare advocate are being honored on sat, the 25th. Judy Chirco can't be here because she's out ill. The councilmembers have recipients from our districts, they're helping us tonight. The outstanding award for childcare center is going to Moreland, a school in Councilmember Constant's district. [applause] Seems like some of you have heard of this school, it's great. Moreland school is highly distinguished for their child-teacher interaction. 9 to 1 ratio, when I had young children 9 to 1 would be an even match. Childcare, the outstanding award for chiildcare center goes to lotus preschool at the San José Buddhist school in Councilmember Liccardo's district. [applause]

>> Mayor Reed: The outstanding award for childcare center, Cisco, families@first in Councilmember Chu's district. [applause]

>> Mayor Reed: If you haven't heard about the Cisco childcare center it's terrific and involves a few more things like a athletic club and a health care center and a lot of great things. Cisco's been a leader for their investment in childcare for their employees. In September 2008 they opened their second childcare center. This is a state-of-the-art center for preschool, and organic meals from the center's executive chef. And finally, the George R. Howard award recognizes exceptional service to children in any program, and this year's award is for the Silicon Valley education foundation. [applause] All right, that was the month of the child. Every day is children's day. That's what my kids always tell me. Let's not forget that! [applause] and I missed a little bit of my script. I forgot to describe a little bit about the Silicon Valley education foundation. They're readying every child, for an appropriate education. Thank you Silicon Valley education foundation. Now I'd like to invite Councilmember Liccardo and kappa delta sorority. We're commending them for shamrock showcase, a commendation for their charity event. Councilmember Liccardo has their charity.

>> Councilmember Liccardo: If you can stand up if you're kappa delta, by all means, thank you very much. District 3 is the proud home of San Jose State university, and San Jose State has a very honored tradition of community engagement in so many ways that day of service has become a fixture every spring, a Communiversity, a commune through the city and the university. The Greek life, the kappa delta sorority each year runs the shamrock showcase, this is the 12th annual event and this year, they raised \$11,600 for two nonprofit groups that serve children, child quest international, a local chide abuse organization, and prevent child abuse America. This is the largest philanthropic event on campus. In addition to all the money they raised, 1300 guests and I heard it was a heck of a good time. I know that because Roma Dawson on our team was one of the judges in the competition. But more about that later. This has been spearheaded by the leadership of the women behind me, among them Cindy Choy, Ann grabowsky, an intern in our office. They have close ties with the girl scouts of America, attending events at the local troops once a month. This is the kind of example we like to hear. Mayor I would ask you to present them with this commendation. [applause]

>> Mayor Reed: Another great San Jose State contribution to the City of San José. We appreciate it. First business item is 11.1, public hearing on the consent calendar. There's only one item on it tonight. That's the conventional rezoning, residential commercial mixed uses at Stockton avenue and West Julian Street. We have a motion to approve that item. I have no cards from the public to speak on it. All in favor? Opposed? None opposed, that's approved. 11.2 is the rezoning of property on the east side of south 10th street. Councilmember Liccardo.

>> Councilmember Liccardo: Mayor, I'd like to make a motion reflected in the recommendations in the memorandum dated April 21st, today's date, the three recommendations are listed there in that memorandum, to approve this rezoning.

>> Mayor Reed: Okay, we have a motion to approve the rezoning as outlined in the motion. Again I have no cards. All in favor, opposed, none opposed, that's approved. Item 4.2, tree removal cost recovery model. Joe Horwedel, planning director.

>> Joe Horwedel: Thank you, Mr. Mayor. We have a short presentation, walk through this issue. The description is a little bit of a misnomer. The goal out of staff for this is how to look at our tree removal process and streamlining and ultimately see where that leads to as a part of fees. Very quickly, council is aware that in San José we have over a million trees on public and private property. They constitute our urban forest and provide a sense of community pride and ownership, and a benefit to property, that's why we have a tree ordinance in San José. We have a goal of planting an additional 100,000 trees as part of our green vision. Having that number of trees, a number of them planted with property owners not really thinking about the consequences of when those trees would grow up, we do have some challenges in our current process. We have over the years worked on some streamlining activities. Some of them have been successful, some we really haven't pushed hard enough so what staff is proposing tonight is for council consideration, looking at some of those challenges. I think the important message is that the tree process is an extremely time consuming process, funded out of the General Fund. It is not a cost recovery process like the rest of the development process. Despite working on 100 plus tree removal requests a year, we have very little interest from the public on vast number of those. That is despite having noticing of the trees, we look to having the city arborist involved, because of the consultations evolved. But the vast majority of these trees were trees planted with single family homes being built, put in places that have caused problems. So we are looking for some opportunities to have more discretion granted to staff to be able to deal with these administratively or having a more streamlined process. This is a tree in the power lines, PG&E has come in and trimmed it but unfortunately it is still half a palm tree. You see some other trees planted in the rear property lot on the right-hand property line, slope, just have not done well, created challenges. So we've had the homeowner come in and asked to remove those. So what staff is asking for today are several things. One is, we would like to modify the public outreach policy which today is requiring the 300 foot noticing retainer code which only requires adjacent. We would like to go through and really use some of the streamline processes available for the public street trees where we focus on adjacent and posting onsite so that passer byes can see it. We would like to change our noticing so only when there's an interest from the community for a protest that we would actually conduct a hearing. We would like to have looser findings or at least more discretion given to staff so that we're able to do similarly what we do with dead trees today, that we're able to deal with those administratively. We have the ability to remove those in an expedited process. As we go -- we'd also like to build into our ordinance mitigation standards so there is clarity about what is appropriate mitigation. And then once we've figured out all of that we'd like to come back to the council and talk about what is an appropriate way to address that. To the extent we can get to a much more streamline process so we only focus on the key trees and we still have the ability of staff to escalate those, if somebody wants to take out the value oak that is 300 inches in diameter, we still have the ability to deal with that for added outreach and hearing process but we would like to make sure it really reflects the tree itself. Once we would be able to assess that we would come back with a proposal with how to deal with the cost recovery in the program or if we chose to continue with General Fund. With that staff's available for questions.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I just wanted to speak for a moment or two about a memo that I put out on this particular topic. I think that one of the things that we as a city should be doing is encouraging people to plant and maintain their trees. And unfortunately we have sometimes people who have bought properties where people before them have irresponsibly have planted the wrong tree or the right tree in the wrong place. I think what we should be doing as a city is instead of the way for us to regulate, and I love the fact that we're looking at streamlining here, but we should provide people options to mitigate the taking out of the tree. For example, when I bought my home 13 years ago, I had 19 trees in my backyard. Some of them were completely in the wrong place and most of them were in places that inhibited the way I wanted to use my backyard. I took out almost ten or 11 trees, all at once and planted other trees. Hopefully when I did, they were smaller than the ordinance, the ordinance is up anyway. But I didn't know that was something we should be worrying about. If we can come up with a way where we tell

someone, it's okay to take out a tree, as long as it's not a heritage tree, a 300 year old oak or any of those type issues, but perhaps I'm going to take one tree out and plant three or four more trees in my yard, or I'm going to take a tree out but I'm going to help the city forest plant other trees. We should have a policy that encourages people to mitigation rather than jumping over hoops to take a tree out of our yard. That would promote the urban forest and get more trees out in the ground doing what those good things trees do, and two, I think it would keep people from doing the weekend tree cutting and it would show them that we also respect their rights to their property and them to be able to decide if they want to put a tree in or they want to make a soccer field for mayor half a dozen kids like I did, respect their own property. I know we try to achieve cost recovery in everything now but we need to make sure that that cost of a permit is not so much that it encourages people not to get a permit. And I think that in nuisance trees which is a particular problem in my district, you know, many of you remember about a year and a half ago we had the whole problem with the tulip tree disease and not being able to get them out and we had a whole discussion about that, I think we should be helping people take those trees out as much as possible so that we can get healthy trees in their place. And then I know we require an arborist report to take out trees from private property. But I think that should be limited to certain species of trees. Trees that perhaps the native trees, a pepper tree that's planted in a wrong place or a pine tree like we've seen here, I don't think you need an arborist report because it's pretty much irrelevant, it's the wrong tree or not in the right place and not achieving any of the goals that we expect. These are areas that we should fully look at and see how we can achieve some of these in our policy so that we have a better chance of making our goal of promoting more trees in our community. So I'd like to make a motion and hopefully someone can second it and if anyone has any comments. The motion is to direct staff to incorporate these ideas as they evaluate this and bring it back to council.

>> Mayor Reed: We have a motion, based on Councilmember Constant's memo. Discussion on the motion. Councilmember Pyle.

>> Councilmember Pyle: Pete, I can't support your motion, because I think what's being asked by the city is reasonable. If we take each one of these that you've mentioned I think we've already been covered by the city pretty much. And some of the things that you mentioned allow for removal of nuisance trees without a permit, how do you define nuisance trees? And that's something that absolutely needs to happen. I just -- I think this is not as well defined. So I'm going to wait until the vote is taken, and go in there.

>> Councilmember Constant: Mayor, if I could respond, I'm not saying that there's no definition for nuisance tree. I think as direction to staff, coming back with an ordinance, I would suspect that they would come up with a list of nuisance trees, tulip trees, liquid ambar trees, those type of trees, and they would also come up with a list of heritage trees that you need an arborist report, that you shouldn't take them out unless sick or in peril of life or property, and they should be incorporated into the development of the policy and maybe Joe would like to address it.

>> Joe Horwedel: I think that is how I took your memo, Councilmember Constant, that staff come back with implementing rules. I think there's a lot of alignment, I think Councilmember Constant has gone a little bit further of deregulating or getting out of the business in a number of places that I think there's a larger discussion needs to happen. But I think the nuisance provisions there is pretty much alignment that we would like to in certain circumstances, have discretion as opposed to probably whole carte blanche types of trees. But we have looked at that question also because there are certain nuisance trees that we would like to think about. So what staff was going to come back with, assuming council was agreeable, was some additional framework or how we would deal with those types of nuisance de minimus kind of trees so that we wouldn't have to subject them to a lot of hearing.

>> Councilmember Pyle: So mayor --

>> Mayor Reed: Yes, Councilmember Pyle.

>> Councilmember Pyle: So would you say a blending with Pete's memo would be fine?

>> Joe Horwedel: Well, I think there are some issues that Councilmember Constant has raised that warrant a lot more thought than what staff is proposing to invest right now. What we're really trying to do is for want of better term stop the bleeding of expending of General Fund dollars on this. So we really want to focus on places where there is real low return. And in Councilmember Constant's memo he's addressed a number of those also, things that are low value, low return. He also has raised some other issues that I think are more analogous to property rights issues and how much should this city be involved in tree preservation. I think that's a larger question that would clog down the other parts. But would warrant some discussion at the council on your sense of where to go with that.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. Joe, in regards to the fee of approximately \$1112, is that based basically on the cost of the existing process?

>> Joe Horwedel: No, Councilmember Kalra, the estimate that staff put together is we were trying -- well, yes and no. The current cost is because we do the 300 foot noticing. There was several hundred dollars that the city receives from the applicant to pay for the noticing process. Additionally, the applicant in a number -- large number of cases is asked to hire an arborist themselves to go look at the tree, write a report and provide that information to the city. We assess that, and then many times involve the city arborist to go look at it. So the combined cost of all of that, where the property owner has had to hire an arborist, we think that total cost is in around a thousand dollars.

>> Councilmember Kalra: I see. Because on page 5 under the policy alternatives it does say based on the amounts of the existing process, a fee of approximately \$1112 would cover the fee provided by staff.

>> Joe Horwedel: If we went in essentially paved the cow path, we did the -- the city used our arborist, we charged the property owner for that it would have to cost about a thousand dollars to do that. That isn't our recommendation of how to proceed. We think that that's really not an effective use of money. But if we wanted to just memorialize the way we're doing it, but not have the applicant have to keep hiring their own arborist and then the city arborist arguing about what's in that, that's what it would cost to do it.

>> Councilmember Kalra: You know, some of the comments by Councilmember Constant I agree with particularly in regards to streamlining. And that's why when I was looking at that number, looking at the existing practice as opposed to let's look at streamlining and then what's the cost and then we can talk about you know, what kind of cost recovery do you want to get? Because I've certainly got some comments from folks, about the alarming number. It's pretty alarming number from basically a free service or close to it to 1200, and people are going to do it on the weekend and not tell anybody and that's ultimately the last thing you want. I think I certainly -- not to the point where it could be completely deregulated. There is a value to make sure we preserve our trees and that there is a process set up. I certainly think we can benefit from streamlining the process and from lowering the overall cost to the city, as well as the pass-through cost to residents, to make sure that whenever possible, it's something that's doable. Because if we keep where it is, certainly, and I commend your efforts in trying to go forward and identifying areas where we can improve the process. But where it stands now, and particularly the amount of cost, that would cost the average homeowner, it's too much. It's too much. And so any thoughts you might have on that on going forward in terms of really bringing the cost down, and another question in regards to the memo from Councilmember Constant, looking at that memo are notices items that you could incorporate into a response as you go forward with the process, to kind of give a range? Because I know that you know, the look at basically from the alternatives from deregulation to away we have now, everything in between with streamlining cost recovery mitigation options so that we can get a full breath of what option he we might have to make sure it's a convenient process, to make sure the city is not out too much from the General Fund, hopefully none, but the city is not out too much of the General Fund, at the same time the people have some flexibility how they can deal with their own property without spending an arm and a leg.

>> Joe Horwedel: Well, I think the one approximate purpose that that number has done is highlighted the hidden cost to the process that we have today. And we streamlined the process some extent about five or six years ago. But as it was going finishing that process, a number of things got thrown on was good ideas as the moment but were never really thought through. And we've been implementing that since then because we have never costed them out. And I think this really has put the true cost out on the table and now we can decide as a community how much do we think is really a reasonable amount. So we're going to work backwards how do we come through with a process that is inexpensive that's focused on the most important resources. And I think as I said, there's a number of things in Councilmember Constant's memo that we should -- you know, we picked up in what we were already working on, and I think provided a lot more clarity to. And so when we come back, we're planning on coming back with something that is, assuming the council moves forward tonight, with a much more streamlined process. The one kind of caveat I would put on it is to the extent that this becomes the giant research project, again, total cost is that I am asking going to the same person who's working on the citywide sign code and work on the famous list of all the ordinances that we're working on, that that is the same pull I go back to, of a General Fund resource to do that. So I guess the question is, is looking at the larger question, is that more important than some of the other things we've said are important, versus let's focus

on the most urgent, stop the bleeding stop the cash burn rate on the majority of it and then we can go through and put the other piece on our work plan.

>> Councilmember Kalra: Is there any way, I don't know if that's accepting to Councilmember Constant, is there any way to address the more urgent items sooner but also respond to the other items that have been brought up by through Councilmember Constant's memo as well, some of the comments?

>> Joe Horwedel: Yes, I can certainly lay out a matrix of how that would work, is any only concern is if we need a major outreach around that, that is a major time consuming effort. That we can come back with, if I need to do the community engagement piece to implement that's going to be a lot more work.

>> Councilmember Kalra: Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. My community has been engaging me on this writing a lot of letters opposing the new fees. And it's coming from -- I guess we have a lot of trees in our area in district 8. It's coming from the community and the realty community. I would be remiss if I didn't bring this to your attention. It's tough times to the city and I think we need to recoup our cost. And I think why I seconded Pete's memo here is because I think it is kind of going in the same direction as staff, and Joe you guys are doing a great job in trying to streamline this and I think streamlining is a very important part of this, getting this streamlined so that will also save costs overall. But I think we shouldn't lose sight of the fact that folks in the community are dealing with this economic crisis in a very real way in their own backyard. And I think we just have to factor that in. And so I would like to see this incorporated in this, you know, if there's some other suggestions from my colleagues as to how to make, I'm sure Pete's open here to make this work better. I would like to see some of this added. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. Joe, you talked about that the community component would probably be timely and maybe costly. And I'm wondering what is your time frame to come back to the full council as they're giving you input of what they would like to see, what is your time frame on that?

>> Joe Horwedel: I don't have a time frame, excuse me, for the broader question. We are -- staff has been working on putting together the ideas, coming back with the ordinance for the streamlining piece, that I think we could be back in -- after the recess pretty quickly.

>> Councilmember Campos: And the reason why I ask that, is because we know that doing broad community outreach is going to be costly. But we know that we're getting lot of concerns about this issue. And I'm trying to figure out, and I don't know the time frame of the neighborhood commission that will be coming online. And we know that that will represent just about every council district or every council district.

>> Joe Horwedel: Yeah.

>> Councilmember Campos: And if we have issues about that and they need to be vetted out, we may want to think about sending it to that commission, since this is a citywide issue which may save us some money on outreaching, because then the network starts from the ground up. And so I just wanted to get your thoughts on that.

>> Joe Horwedel: Yeah, as soon as the neighborhoods commission is up and running it is one we're looking forward to being able to engage a number of issues like this that are of citywide importance. Rather than doing it HOA by HOA, community wide meetings, we think that's a much more acceptable vehicle. I don't know their schedule off the top of my head.

>> Councilmember Campos: Maybe some items come first, versus some coming back later, which would give us an opportunity to be able to use a bigger process to be able to get greater input from them.

>> Councilmember Constant: My intent was not to supplant what planning was doing. It was to say, go analyze these, look at the feasibility, and we'll see the best way to go forward. If at that point we need the community outreach, figure out how to do it. But I know the outreach meetings that we had on trees in my district and the interaction I've had this is kind of an ongoing topic on looking at the big picture. I don't want the fees the thing that keeps people from doing the right thing or planting more trees. If we can figure out how to get our goal, our goal in title 13 is promoting urban forest. If we can get people out there planting 4 to 1 in mitigation then maybe that's what we should be doing.

>> Councilmember Campos: Thank you for that, that is helpful. And I am supportive of the concept of moving forward and making sure that we make the process easier for people but at the same time, not compromising our goals to have the urban forest in the City of San José. And I know that as you're thinking about moving forward, trying to combine who processes of how the city looks at the tree removal in the City of San José, is that correct?

>> Joe Horwedel: That's correct.

>> Councilmember Campos: Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. Joe, looking at the proposal from Pete, a lot of these seem intuitively to make sense. I am concerned, though, about unintended consequences. Because this isn't an area in which I have much knowledge. And particularly about not requiring an arborist report. You can spell out if there are any unintended consequences we should be concerned about that are implied by any of these proposals?

>> Joe Horwedel: I think the greatest unintended consequence, is quite honestly staff making a mistake on something and the community second-guessing a decision to remove a tree that we've assessed it, and said we think it is, you know, a nuisance or it's a hazard. And approve it and not having an arborist expert report, since I don't have an arborist on staff and we're trying not to go and inundate the Department of Transportation's arborist, because of the cutbacks they've had, so a blanks act. So it is one that staff is willing to go and take those risks and look at it, a lot of it is evident which trees to bring out. A lot of it we're going to apply some real discretion to. The ordinance reflects that we're going to be applying a level of discussion that occasionally we're going to make mistakes on it but the goals are X, that we want to have an urban forest but we also want to have a process that encourages people to do the right thing on going through the process rather than the process being the reason to avoid it. So it's that balancing test. So really I'm looking for a little bit of buy-in from the community and the council about staff taking those risks and you know, with that goal, and that, you know, right now we're going to make mistakes so we'll put it on the record and then let's move on.

>> Councilmember Liccardo: Thanks, Joe. I think in a world of limited resources particularly with our current budgetary climate, some risks are risks we should take. So anyway, these proposals seem to make sense to me and I'll support the motion.

>> Mayor Reed: We have probably close to 100 people that are going to want to speak tonight between this item and the next item. So I'd like to get into the public testimony on this item and we'll come back to council for further discussion. So given the fact that the time of the evening is already getting kind of late and we haven't even finished this item we got more to do, I'm going to have to limit all speakers tonight to one minute so we can have everybody who wants a chance to speak to us, an opportunity to speak before the strike of midnight. So on this item I have half a dozen cards. Anybody wishes to speak on this item please fill out the yellow card. When I call your name please come on down so you're close to the microphone. Tim Henderson, Jack jolly and Ross Signorino. Mr. Henderson go ahead.

>> Mayor, members of council, my name is Tim Henderson, property owner and real estate broker. Applaud director Horwedel's proposition to streamline, and Councilmember Constant's memo to streamline it even further. If his memo is true and there's thousands of requests to remove liquid ambar trees at a thousand per, that's \$2 million of taxpayer money spent on something that should not occupy nine hours of staff time per tree. So we strongly urge consideration of Councilmember Constant's memo, and streamlining of the process. Thank you.

>> Mayor Reed: Jack jolly, Ross Signorino. Followed by anil Babar.

>> Good evening. I'm jack jolly, 1021 sweet avenue. I moved into the city because it's organized. I planted a tree 45 years ago, you didn't charge me a permit for that. Now you're going to charge me \$1200 or \$500 to call a tree doctor out. The city shouldn't be in the business of this. I'll take care of my tree, you take care of the parking strip tree. It's a retroactive ordinance. I can understand the urban forest needing trees. Some guy that has an orange tree in a pot, that's one regulation, and I don't notice you making an ordinance that says a guy that doesn't have a tree on his lot has to pay for that. Thank you.

>> Mayor Reed: Ross Signorino, anil Babar. [applause]

>> Ross Signorino: Start? Mr. Mayor, members of the council, I wonder, what's wrong with the old system we had, a person that called up and told the city we'd like to move the tree or trim a tree and then somebody from the city come out and put a sticker on there that these people had an approval to do that and that was it. There was no fee or anything attached to it. And the owner of that tree, the property would just simply take care of it. But now you're coming around with that dreaded word, next to tax, next to tax, the dreaded word is fee. You have to wonder to yourself in these times you come around saying fees now like tax, you know it's just another way to get around it. What do you think the people are supposed to get this money from? You say you're strapped with \$73 million deficit, and the people, they have no deficit, they come up with fee, that's okay. We have 11% unemployment here. People are losing

their homes. There's foreclosures all over. People are losing their jobs all over and you come up again with another way to put a fee on this.

>> Mayor Reed: Sorry your time is up.

>> Ross Signorino: This has to stop. Thank you.

>> Mayor Reed: Anil Babar, Rhonda Berry. [applause]

>> Mayor Reed: And then Lyman Taylor.

>> Good evening, mayor and councilmembers. My name is Anil Babar, I'm with the Santa Clara County association of Realtors. I tell you, residents are not going to tell Realtors that they're happy about this fee increase. We want to work for the city. We want to see where we as a real estate association can help streamline the process, help see where we can bring the fees down. And bring our expertise to the table. So we saw back in '07 when they proposed the last round of fees it was going to go up. And what we had told the council was that we needed education about the fact you need a permit. The fact is the education came out and the permit numbers have increased. If you raise this fee to this amount it's going to cause more legal tree cuttings and it will just be back to square 1 when we began. Thank you.

>> Mayor Reed: Rhonda Berry, Lyman Taylor.

>> I'm Lyman Taylor. I appreciate Councilmember Constant's comments about private property. It's my property, my trees, and I'd like to take care of them so they look nice so the city looks nice and so on. Sometime back I had a neighbor who cut down a tree, oh, goodness. The -- she had no permit, and it was done very quickly and very neatly. And I think she didn't want to go through the hassle. My point would be, the easier it is to obey the law, the more people will obey the law. I have a couple of trees that are getting to the permit cutoff point. And I may indeed cut them off. I would not have planted them had I realized that I'd have to go through a hassle to get rid of them. And so my point there would be that the harder you make it to get rid of trees, the fewer trees people are going to plant. [applause]

>> Mayor Reed: Rhonda berry.

>> Good evening, mayor and council. We surely agree with the need to streamline this process. I think staff's done a really great job. We agree with it because we think we have a need to look at both sides of the issue. Regarding the cost recovery framework, I would like you all to consider the benefits that the urban forest provides and that that should be considered as the indirect staff recovery of time. We have some solution to propose. One minute doesn't allow me to outline those but they have to do with redefining what an ordinance protected tree is, the issue around broadly categorizing nuisance trees and the need to base appraisal rates based on industry standards. We have a green city. We want to move forward. This is not the time to move backward. I think our city forest can offer some solutions that will make everybody happy. Thank you.

>> Mayor Reed: Thank you. That concludes the public testimony. Back for the council discussion. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Joe, I think everyone would admit that the leading provider of urban forest is our city forest and their cost model is much different than ours. In your streamlining process with Councilmember Constant's memo would you consider, in staff time and working with them, to find some different ways of doing things? And let me be so bold as to, would any of your alternatives consider outsourcing some of our job duties, to someone we trust that's proficient and could do it for less and therefore, whether it's a tax or a fee at the end, it's your money, and if I could provide you the same value with our city forest, then that's saving people money and adding to the urban forestry, would you like to comment?

>> Joe Horwedel: I'm willing to look at any options. At the end of the day, if there are X dollars that the department receives in General Fund, really maximizing the return, this is not something I would say right now we're getting the maximum return so I would rather spend less money on this and be able to put more money in urban planning. If that allowed me to do that, I would be willing to look at it.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: As you go forward, Joe, all of us up here as well as the speakers agree that streamlining is important. So I think there should be a primary emphasis on that in regards to the items that Councilmember Constant raises, you know, some of them are certainly valuable, others you know, as whether we should have a whole classification of trees that are a nuisance, I don't know whether that's a good way to do it. Like I said before one end to the other having an analysis could be helpful. Just to know what we're looking at and know where the right place to fall is. At the end of the day, I do appreciate the fact that we have an urban forest in San José. I appreciate the fact that San José looks a lot different

than other places around the country because we've dedicated ourselves to planting the trees. There is a benefit to all of us when we plant the trees. And balancing that, the comments that Councilmember Constant made, and the underlying concern that we all have of streamlining and reducing cost nor the city and for the residents is a direction to go in. Thank you.

>> Mayor Reed: I think that concludes council discussion. I have no other requests to speak on the item. We do have a motion on the floor by Councilmember Constant on the motion, all in favor? Opposed? None opposed, that's approved. It's not the answer, it's not the end but it gives you direction to go do some work. Thank you. That concludes that item. We're now going to turn to the other item on our agenda this evening, that is item 5.2. Library Internet access and computer use policy. I think the way we'll try to handle this tonight, to give everybody a chance to speak that wants to speak to us and have plenty of council debate is, we'll get a staff presentation, probably not too long, then we'll have some council discussion, get a motion on the floor, and once we have a motion on the floor, then we'll open it up to public testimony, and then we'll bring it back for council to debate the motions. I think that will be the most efficient way to do this, and hopefully everybody will be able to speak before they have to go home. Some people may have children with them. With bed times. So we'll try to get it done sooner. And if you do have children that need to go home and go to bed, let us know, maybe I could take the card a little earlier. Item 5.2, open this up, I believe Jane Light will do the staff presentation.

>> Jane Light: Mayor Reed, members of the city council I'm Jane Light, the city librarian. I'd like to open up the issue, a little history on the topic. The San José public library has provided open unfiltered access to Internet for over 14 years ever since the first few public use computers were connected to the worldwide web. In 1997, the city council first considered requiring content filtering, that it be installed on some or all library computers but decided not to do so at that time. In October of 2007 Councilmember Constant requested the council again consider filtering library public access computers. The rules and open government committee approved a work plan from staff from the library department in coordination with the City's I.T. department. The work plan called for staff to require implementation at the Martin Luther King, Jr. library, extensive use for policies and practices, at Bay Area libraries and other public libraries and to carry out community outreach regarding the Internet access policy and finally to develop and analyze several options by the city council. The city attorney's office also provided a legal analysis of the policy options that were included in the final staff report. On May 14th, 2008, the Rules Committee accepted the staff report and placed it on the June 17th, 2008 agenda for council discussion and policy direction. The item was later dropped to be renoted and it is now before you. The staff report prepared last spring is thorough and comprehensive, I worked closely with library and I.T. staff to prepare it and I'm confident of its quality. It analyzed five policy options but made no specific recommendations. Some of those options have been proposed by councilmembers for action by the council tonight. Rather than going through the details of the report I'm available to answer questions at whatever point you deem appropriate. With that I'll return the floor to you.

>> Mayor Reed: Thank you. On the item, Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I'd like to make a motion to move the memo that was authored by me, and the mayor, that's in your packet.

>> Councilmember Oliverio: For purposes of discussion, I'll second.

>> Mayor Reed: Okay, we have a motion on the floor. I'd like to take public testimony now, I think. Try to get everybody home before some people's bedtime. So I'm going to call names out, three or four or so at a time. Please come on down to the front so you're close to the microphone when it's your turn. Matthew Chasac, Larry Pagram, Anthony Colombo, followed by Michael Naman. There's a place you can sit or stand, either one. Matthew Chasac is our speaker.

>> Good evening, mayor and councilmembers. I'm here tonight to support the possible new policy and placement of the Internet filter specifically designed to keep the secondhand pornography from children. From 1992 to 1996, I was a sworn officer for the public library. I have firsthand knowledge of the lewd behavior at our branches, specifically pertaining to lewd behavior by using library computers. Many times I have been told by sex offenders that I have detained, the online pornography images that were depicted are a prelude to public sexual exhibitionism and lead to sexual luring. This kind of activity on public computers needs to cease. I can't support pornography on our city computers.

>> Mayor Reed: Your time is up. [applause]

>> Thank you.

>> Mr. Mayor, we're here tonight to discuss protecting children from obscene and pornographic images in the children's section of the San José library. Those of you that are here to support that, if you'd -- yeah,

we don't want to do a public display here. I would like to bring your attention to a letter that I delivered to each councilmember today. And the cost seems to be an issue. So we, as a values advocacy council are hereby committing \$40,000 to the City of San José -- [cheering and applause]

>> To cover the cost of the purchase of server hardware and web sense licensing fees. The \$49,800 that is included in the -- that is part of the librarians and I.T. statement as to the cost, is included in the \$23 million that is in the I.T. budget for this year. This is .2% --

>> Mayor Reed: I'm sorry, your time is up.

>> Thank you. The cost item is now off the table.

>> Mayor Reed: Make sure that you give the letter to the clerk. So the clerk gets an official letter. Sometimes when it's delivered on the day of hearing we don't get that. [applause]

>> Mayor Reed: Anthony Colombo, Michael Namand.

>> Mayor, council I was a security officer for five years at the Martin Luthur King, Jr. library. During those years, we got calls about pornography. All of them included graphic images of sexual conduct between adults, adults and children, adults and animals. The children were so stimulated by these things, were so aroused that they actually masturbated in areas open to the general public. Thank you.

>> Mayor Reed: Michael Naman. [applause]

>> Mayor Reed: Just let me get a couple more names out there. Alise penabecker.

>> Thank you for your good work. I'm Michael Naman, I live in district 7 and a proud member of the City of San José and I appreciate your work. This is an important thing, and it seems like it gets confused. But if I just ask the council to make good judgment here. And common sense -- let common sense prevail and protect our children, protect especially in the children's area and help our librarians with good policy so that they can follow through and not get caught in the middle of things. Thank you very much. [applause]

>> Mayor Reed: Elise Pennabacker.

>> Thank you Mayor Reed and councilmembers for letting me speak. I represent San José civilians and San Jose State university students. I've been a student there for nearly three years and I've nearly stopped using the library computers because I've been -- either offended or so distracted that I couldn't do my studies. The first time that I was noticing a man that was zooming in on different body parts it was really hard for me to focus on my studies and I asked someone to put -- or like what they could do about it and they said that they would use a screen but the screens don't help depending on where you are. Where you are like in the vicinity. And the second time there was a man across from me that was making sexual like grunting noises and saying like oh baby and that kind of thing and taking pictures and then he looked over at me, and I was dumbfounded like I had to leave because I couldn't focus. Also when I was trying to get my flash drive back I had to go back to the fourth floor to ask a man if he had seen it and he was scrolling through pictures of women and I was --

>> Mayor Reed: I'm sorry, your time is up.

>> Thank you.

>> Mayor Reed: Kavya Shankar followed by Rich Crowley and Jim Griffith.

>> I'm Kavya Shankar. There is very little evidence that library computers have been used to access inappropriate content that could harm children. The libraries seem very well supervises by librarians and parents whose children are harmed by secondhand porn. Approximately 1.5 million sessions, there have been only 14 complaints to library staff. 210,000 dollars needed to implement this should be spent on other important services for youth, to help curtail teen delinquency. Advocates for rights of youth well-being, as chair of the youth commission I urge -- thank you.

>> Mayor Reed: Sorry your time is up.

>> Mayor Reed: Rich Crowley, Jim Griffith Keith Dee Phillipus and Mike Kaufman.

>> My name is Rich Crowley, a homeowner in Almaden valley since 1970. I know the value a dollar. The other things I do in my area is I'm a community activist and fund raiser. I helped raise nearly \$40,000 for the children's area of the Almaden valley library. I'm a go-to guy. I'm the kind of person that people like me are the ones that fund and build the extras that create community. And without us, libraries are only a storehouse of books and videos and recordings. That's why I received this letter from the library commission yesterday. The library foundation yesterday requesting money. Quite frankly, if you're not willing to fund what amounts to a drop in the bucket from your huge budget to protect kids from the Internet porn I'm not willing to work for you.

>> Mayor Reed: Sorry your time is up. Jim Griffith. [applause]

>> Mayor Reed: Followed by Keith Dee Phillipis, Michael Kaufman.

>> My name is Jim Griffith:00 vice chair of the Silicon Valley library systems advisory board, speaking for myself tonight. I'm also likely the only speaker here tonight who has actually worked professionally on a content filter that's commercially available. I won't talk to why filters can technically never work well enough for public libraries or just how trivial it is for any patron to circumvent them, the immediate issue is priorities. I don't want young children seeing porn. I also don't want them exposed to rabid animals. Neither is a statistical problem in libraries. Libraries are the first service to get cut in tough times and the last benefit in good. Libraries must make smart courthouses with their services. To pay for filters would be irresponsible and I urge you to support the Chirco, Kalra, Liccardo proposal. Thank you.

>> Mayor Reed: Michael DePhillipus.

>> There is no shortage of porn. It is all over the place. You can get it anyplace. If children weren't involved I wouldn't care. I do not want my grandchildren and children of that age subjected to pornography at the library and people masturbating in front of the TV. Thank you.

>> Mayor Reed: Michael Kaufman. Followed by Jim Weina, Julie Ostrowsky.

>> Mr. Mayor, members of the council, my name is Michael Kaufman, professor at San Jose State university and vice chair of the academic senate, the official body regarding policy for the faculty at San Jose State. We also administrative responsibility. The senate passed a resolution and I would like to mention the main points of that resolution here. These are particularly in regard to the operation of the university library in conjunction with the city. First of all we call on the city to stand by its commitment in the library joint operating agreement to provide for unrestricted access to all library material within the library collection and services within the joint library for all members of the joint public and university users. Second we confirm our continued support for the existing policy which says, recognizing the freedom of an library environment, there shall be no --

>> Mayor Reed: Your time is up, we did get a letter, if you want to submit that to the clerk that would be good too. Jim Winya.

>> I want to thank you for taking up this question. And I'm a father of a second grader and a fifth grader who frequently use a number of the different libraries in the area. And I am very concerned about the possibility of them getting secondhand images into their minds as they're just wandering around the library. They're very curious. They love to read and I encourage that all. -- all that I can. Going to the library is a big part of that. Also, I wanted to bring up a couple of points about the web sense. I've done a little bit of research on this tool. Having a computer background, I think it's a fantastic tool. It's a living tool that works off a database that is constantly updated. So you don't have to worry about no overblocking, and no underblocking of sites. So there's appropriate blocking for each site. Also, and very important --

>> Mayor Reed: Sorry, your time is up. Julia Ostrowsky. Jeffrey Phillips.

>> Good evening Mr. Mayor, my name is Julia Ostrowsky, I do not like porn, I like even less not being able to go to my local library on a Sunday. I like even less not being able to go to my library Monday through Friday after my two jobs because the doors close and I really don't like to see the kids in the parking lot in a day where the library is shuttered. I'm against spending any money on filters on something that the opposition has yet to show to be a serious problem. When the library is facing even more budget cuts. I think we need to keep our kids safe. We need to keep our libraries open longer. Thank you.

>> Mayor Reed: Jeffrey Phillips. Followed by Stos Tet Don Ang and Trixie Johnson.

>> Good evening mayor, councilmembers, my name is Jeffrey Phillips. I'm a member of district 10, I'm also an attorney who practice in the City of San José. I'd like to remind the council of the U.S. Supreme Court case referred to as United States of United States versus the American library association. This decision was rendered in 2003. By a 6 to 3 opinion the court determined that it was allowable and appropriate for the government to require software filters on library computers in order to obtain federal funds. Freedom of speech and the First Amendment were not abridged by these requirements of software filters. I also believe that the City Attorney has determined this proposal to be legal. I would also like to point out that this proposal is based upon the City of Phoenix's Internet filtering policy. That policy was closely scrutinized by the ACLU. Adopt a policy which protects our First Amendment rights. Finally, I mentioned that I'm --

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: Stos Tet. [applause]

>> Mayor Reed: Followed by Don Ange and Trixie Johnson.

>> 1939, June 28th, 74 days after the grapes of wrath was published, San José public library banned all of Steinbeck's work. Stein beck's work in the late 1930s, was his expression of a fear, limiting access to

Steinbeck's work, declared his work inappropriate. Filtering companies particularly web sense have been implicated by human rights groups for actively courting and selling their software to regimes such as Yemen and China. Whether in China or the United States, transparency is one of the cornerstones of functioning democracy yet all filtering company treat their filtering methods as proprietary. Even their clients are not allowed to know which Websites are deemed obscene and pornographic.

>> Mayor Reed: I'm sorry, your time is up.

>> Thank you.

>> Mayor Reed: Trixie Johnson (saying names).

>> In 1997, I sat in your place hearing about library computers from an emotional crowd. They've been convinced that libraries were not safe and unfiltered computers were exposing children to porn. False then, false now. Contrary to those fears, computer related sexual incidents amounted to less than a thousandth of a percent. There were no, repeat no such incidents in the children's areas. Why use anyone's money to filter where nothing happens? Not only are our computers used properly in those very few instances that have occurred since we installed computers, the staff has managed the problem effectively. Just as they manage similar and equally rare incidents that have occurred in libraries before computers were invented. They are public buildings. You are being asked to use a two by four to swat a gnat. The results are predictable. The gnat will survive, and the two by four will cause collateral damage. You have a better alternative. I urge you to support the Chirco, Liccardo, Kalra memo.

>> Mayor Reed: Don Enge followed by Susan Shakiri and Tom Leddy.

>> Mr. Mayor, members of council, my name is Don Ange. My wife and I have been active in community affairs. We have spent the last three weeks in polling people in our community which is district 10. We sat Saturday, two hours at eight different libraries and we received 1,000, over 1,000 signatures for people who disagree with the people who have spoken and said there is no problem. These are people who have had problems with their children. We have four kids who are raising 20 grand kids who are raising eight great grandchildren. We love this city. We think our children need protection. Thank you. [applause]

>> Mayor Reed: Susan Shakiri, Tom Leddy then Michelle Sund Strom.

>> Good evening, mayor and council, I'm a mother of three teenage daughters, who use the branch library because the school library isn't as accessible. When my oldest daughter came home to tell me that while she was doing research study on the computers in the teen room a man came in and started watching porn. Without a screen, nothing. She was really bothered by this, of course, and went to the librarian to report it and the librarian told her there wasn't anything she could do about it. So when my daughter came home, and told me about this, I was just enraged. I couldn't believe that this was happening to my children, that the library should be a place to be protecting my children. And so when I went back to the library another day and talked to the librarian about it, she told me that when the adult computers are occupied, all occupied, they -- adults are allowed to use the children computers.

>> Mayor Reed: I'm sorry, your time is up.

>> Thank you.

>> Mayor Reed: Tom ledly. Followed by Michelle Sundstrom, Caroline Martin and Dave Zalinski.

>> Good evening, mayor and councilmembers, I'm president of the Roosevelt Park neighborhood association. One of the top priorities of our neighborhood is supporting the college going culture. As a college professor at San Jose State university, I believe freedom of library research, my students and my future students should be able to type in certain terms not be blocked by filter when they're doing their library research. Roosevelt park neighborhood association is also particularly concerned about the cost for filters that will take away possibly needed library service. We agree with the mercury that if filters would cost the job of one librarian they are not worth it at this point. Computers have nothing to do with library research.

>> Mayor Reed: Your time is up. Michelle Sundstrom.

>> My children are not currently accessing pornography sites on our home computer. However I think I would be deemed a negligent parent if I did not put filters in at home. Like me libraries cannot afford and should not be afford to be negligent, to this addictive and corrosive pornographic material. At the end of the school year my children are required to sign a contract. That contract deems access or dissemination of pornography as misuse and results in the revoking of computer privileges. Why do they counter a double standard in our libraries?

>> Mayor Reed: Your time is up.

>> Here are the -- [applause]

>> Mayor Reed: Okay, Caroline Martin, Dave Selinski. Carolyn Chung.

>> My name is Carolyn Martin, library commissioner, we studied reports about their effectiveness of library filters, we listened to testimony both pro and con. Results were 23% of the respondents opposed all filtering, 23% preferred filters. The vast majority were at MLK library where students cannot be filtered. Many some of the discussions were the cost of filters, in anticipation of cuts to budgets. On February 13th, 2008, the commission voted 8 to 1 that the city maintain the current policy of no filtering. The Chirco-Liccardo-Kalra memo is more in line with what we voted for and we would like our voice to be heard too, thank you.

>> Mayor Reed: Dave Selinsky, followed by Karen Chung, Carey Hamilton and Vince Turpey.

>> I'm real nervous.

>> Mayor Reed: That's all right, go ahead.

>> I've used the vineland library. There are a couple of screens that men run to go to. I sat at the number 9 computer and the man next to me was literally masturbating. I was very appalled. I didn't know what to do. I've gone to the librarian on one occasion and she said her hands were tied on this issue. I would really like to see if this council could do something about this, I think it's repulsive and I grew up on the streets of New York. And this is not nice. It's common sense and logic for the ladies, how could you want your children exposed to these men that are doing perverted things in a library? Benjamin Franklin would not agree with this. I know my history. Thank you. [cheering and applause]

>> Good evening, Mayor Reed and the councilmembers. My name is Karen Chung. I am speaking tonight as an individual trustee of the Board of Education of the came green school district. I speak of the interest of the over 3,000 preschool to 8th grade students that we serve and all their families and community. You know that -- and you experience when you are going through school and we still hear now that the library, all of our libraries in San José are an extended education resource four our students. And for the many students who cannot afford to have computers and Internet access at home, that is their resource. I also just want to remind that we try to encourage our kids that the library is that source for lifelong learning and I want them to know when they come into that library, and they're working on their schoolwork as many parents assume, and I think that you want to provide in the library that that library is a safe haven. Yes, it serves many different groups of people, adults and college students.

>> Mayor Reed: Your time is up.

>> Thank you very much.

>> Mayor Reed: Carrie Hamilton. Followed by Vince Tarpey and then suneed Osinero.

>> Hello, Carrie Hamilton speaking as a individual tonight. I consider myself fairly liberal and have spent many years in libraries as office space. I do support filters. I think filters have come to a point where they are fairly accurate and when you're talking about, I know we're talking about filtering on the children's computers specifically tonight but on adult computers many libraries give people an option to lift that if it blocks something they legitimately need to see. I don't think we're violating someone's civil liberties by blocking them from viewing very pornographic sites. The numbers are very underreported. I know librarians and library staffers, they don't like the policies in place and some of them don't apply the policies that are in place currently in our library.

>> Mayor Reed: Sorry your time is up. Vince Tarpey followed by suneez Ochinerero and Sharon potter.

>> Mayor and council, it was brought up that this whole area of censorship was brought up almost ten years ago. It was the fact that the systems did not work very efficiently. I was part of the commission study as a commissioner that proved they're just as inefficient now as they were ten years ago. We have a money problem. I think it's a bad time to use a baseball bat to hit a fly, thank you.

>> Mayor Reed: Sharon potter and Mary Ann Duran.

>> Good evening, Mr. Mayor and councilmembers, name is Sinead Ochinerero, I've been in education for the last 21 years. Additionally I was the principal at Carlton elementary school, union school district, while I have loved being involved in education and continue to treasure my position as kindergarten teacher I find the most fulfillment in educating our own three children. It is in reference to this that I share the following story. Due to the fact that my husband and I are protective and we don't have Internet available at our own home we witness to the Edenvale branch in October of 2007, with my 12-year-old nine-year-old and three-year-old children. We did research for our colonial Virginia costumes in which as we were looking at a beautiful purple smock dress up popped an image that I didn't want to share with my children, I didn't ask to see its, I'm very sorry that I didn't complain earlier because it really did hatch to us. Make the world a more beautiful place starting in the library. And for my family. Thank you.

>> Mayor Reed: Sharon potter. [applause]

>> Mayor Reed: Followed by -- (saying names).

>> I have a unique perspective for one, my mother was a librarian. So watching out for perverts in the library, I have a unique perspective, I don't think it's nice for children to be kidnapped and killed, because it happened to one of my friends' kids when I was younger. I will soon add I have done Santa Clara County foster adopt training and I can tell you that any child who's traumatized sexually may never recover. These children are not even allowed to be adopted by regular families. They're not looking just for a couple to raise them. They're looking for counselors because these children are seriously disturbed and often children molested will turn and molest others. I think we should be listening to the policeman and the guard who has worked at the library who has told me what they've seen because I trust their judgment. We know it's true, it's been in the newspapers. And even if one child could be saved from this harm or from the dreadful death --

>> Mayor Reed: Sorry your time is up.

>> It's worth problem offing it. [applause]

>> Mayor Reed: Marian Duran followed by Ross Signorino, Jean Herrigus.

>> Good evening, mayor and councilmembers. Three years ago, one librarian I saw one of the children actually viewing some of the images that I was appalled by. I was shocked. I went to the librarian and to no avail, she said, she couldn't do anything because of the policies. I just think that children who are exposed whether firsthand or secondhand, will be impacted for life. Even Ted Bundy said his crimes were caused by child pornography. I don't want that in my life. Thank you. [applause]

>> Mayor Reed: Ross Signorino Jean Herrigus, Wilma Hashi. Reverend William Patrick Harold.

>> Ross Signorino: Thank you, Mr. Mayor. I fear censorship, not freedom of speech. We are taking some of our freedoms away whether we like the idea or not and we say children are involved in this. We are very sympathetic about this without a doubt. But I'd like to wonder, councilman Pete Constant, only in our library, doesn't he see anything else, when you go to bookstores or anyplace else go to movies, cut them out, too? When do you stop then? Censorship, censorship, censorship, that is the question, when you think you could stop at all. You would not stop it all, no way. You have books, you can go in the library and pick out books, pick out books all you want that have sexual explicit things in there that what are you going to do ban all books too in the library?

>> Mayor Reed: Sorry, your time is up. Jean Herrigus. Followed by Wilma Hashidi, Reverend William Herrigus.

>> I've worked for San José public library and branches. There is no problem with children viewing porn and we do not allow adults to use computers where children are present. If there is a problem anywhere else in the library, staff do have the training and the tools to deal with it. The issue here is not whether I want children to see porn. The issue is I do not want my and your First Amendment rights curtailed in the libraries. I say please, do not allow censorship in our libraries. [applause]

>> Mayor Reed: Wilma Hashidi, followed by Reverend (saying names).

>> I think I'm going to talk about instead my experience in the library. I work for the library for ten years. I started at the king library when the first computers were brought into the library and I remember the fear that everybody had that everybody's going to come in and look at pornography and we're going to have these problems. Some of it may be true but the staff was able to handle it. I spent -- I retired ten years ago and the last ten years I spent volunteering in the library. Are I was at Joyce Ellington the other day and I was watching the kids on the computers and they were not looking at pornography. They were playing games. They do that every time I go into Joyce Ellington and the computers are right in front of where staff would be seeing them, where anybody would be looking at them. I spend a lot of time in the libraries as a volunteer now. Somebody who thinks there's a problem in the libraries maybe should go to the library a little more often because they're not there. [applause]

>> Mayor Reed: Reverend, followed by Laura pennybaker.

>> Good evening, I'm Mike Ellard, Sr. pastor of the metropolitan community church of San José. Tonight I'm just speaking as a citizen. A reporter in Phoenix tested the system and said how easy, with the filters installed, is it to find porn? 30 seconds, two mouse clicks, you've got it. The system doesn't stop porn. What does it stop you from seeing? It would stop from you seeing the Vatican's Website. It would stop you from seeing a site called his glory ministries which was banned because it was, quote unquote, tasteless. Now, I haven't seen the site. They may be right. We might agree, it was tasteless but I believe it is not the business of the government or the government's agencies in libraries to decide what religious sites are appropriate and what religious sites are not. The software is not working. And it is in fact stopping free exercise of religion so I must oppose it.

>> Mayor Reed: Laurel Pennabecker. [applause]

>> Mayor Reed: Followed by (saying names).

>> Thank you for letting me share. Just like when a person is already addicted to substances, you wouldn't want substances convenient for that person, putting those substances in front of him when he's trying to study. The only thing that person would think of, what substance should I take first. He would have a horrible time to get his work done. We have diminished enhancement due to unfiltered pornography for children and adults. Personally my daughter who is a student in San Jose State does not feel safe in coming to the library because of someone making lewd noises, massaging himself while watching porn. It is not safe, clean and not a friendly environment. So San José in all municipalities have zoning laws for example like the XXX adult bookstores. Our public libraries need the same type of zoning or control in order for us to feel safe and use the libraries, to enhance the learning to the fullest. Let our public libraries be decent.

>> Mayor Reed: Your time is up. Leslye ballb-ach.

>> My name is Leslye bullbook and I speak for the Bay Area municipal elections committee, a 25-year-old organization that advocates for lesbian gay bisexual and transgender community. These organizations lobby for library Internet filters as part of that platform. They also call for the complete elimination for any rights or recognition for members of my community. My community has been affected by the lies and misinformation these organizations put forward and I will tell that you tonight is another example of lies and misinformation. Filters block access to resources that could be crucial in helping LGBT or questioning youth come to terms with their sexuality. Information they may not feel safe searching for in their home computers because of their family members. Access to information can literally help save lives. This proposal is a solution in search of a problem and it's been brought entirely forward as a political move.

>> Mayor Reed: I'm sorry, your time is up.

>> BAYMEC approaches library filters.

>> Mayor Reed: Followed by (saying names).

>> My name is Luke Nguyen. I'm a student at San Jose State university. I'm here to support limit on filtering pornography on our children's section of the library. Very important and I feel very strongly about this even though I have tremendous confidence in our library to do our job and to supervise our children, they are only people and they cannot be at all places all the time. You cannot let -- fully allow our fear of censorship because I believe our technology is currently -- the technology is ready for implementation. So far as being a research student, the issue of pornography, censorship I have not had any experience with, but this is a small hurdle for what we students actually do to get our research. And we strive have great confidence in doing that in great effort when we're doing that research. Thank you very much.

>> Mayor Reed: Tina Morrow, Debbie Mendez. [applause]

>> I support the memo put forth by Vice Mayor Chirco, Councilmember Liccardo and Kalra. There is only a small percentage of pornography seen the public libraries. Children's computers if we do content filters on them, 80,000 initially and 10,000 ongoing. Same thing if we apply them to all the library computers, it's going to be an ongoing annual cost. We could use this money to keep our library hours longer, more days. Another fact is content filters can't filter images with a significant degree of accuracy. Let's look at the arrests that were made by San José police. The fear is not based on fact and history has shown us bad things can happen when people react in fear, instead of fact. And I hope you will support Vice Mayor's proposal. Thank you.

>> Mayor Reed: Debbie Mendez followed by Debbie Kaubl and then Jerry Tyrell.

>> Good evening. I was at the library with my nine-year-old son and teenage daughter. I happened to glance at the man beside them sitting at a computer screen. There was a full-screen view of a woman giving a man oral sex. I told him that wasn't appropriate since there were children nearby. He didn't care, he grunted and kept looking at the screen. Any child could have seen his porno. I reported to the librarian, and she said she could not do anything about it. She did, though, go and give him a privacy screen. If he wants to see porno, fine, go to the privacy of your own home or an adult bookstore, not in front of my kids. Even though this man didn't physically sexually molest my children, by having to view his pornography, I think he mentally sexually abused my children, as well as other children, that really pisses me off.

>> Mayor Reed: Sorry, your time is up. Debbie Cobble. One second, after Debbie, Jerry Tyrell, Katherine Graham.

>> Good evening, Mayor Reed and councilmembers, Debbie Cobble, resident of district 9 for 21 years. I support free public libraries which I've sent a couple of correspondences to you, late last year. They

changed my life, and allowed me to be the first to go to college in my family and go to law school. I support arresting people who molest children who engage in lewd behavior in our public libraries. And other public spaces. I support Internet filters. I support programs to protect kids from gains, public property. I support the proposal by Councilmember Chirco, my councilmember and Councilmember Liccardo and Councilmember Kalra. Thank you for listening.

>> Mayor Reed: (saying names).

>> I heard a lot of comments about the amount of money going to cost and the amount of time and the length of time that the libraries are open. But I don't think you can really put a price on a child's life. I understand that some people think that it's not risking anyone's life but it is a matter of fact that exposure to pornography increases criminal act in kind. We've heard a lot of comments that there's hardly any statistics stating that this is a problem but we've heard firsthand testimony from people coming here tonight that they have experienced this in person. I ask you to use common sense. Clearly we all know that statistics can be swayed and data can be gathered in ways that is in favor of the person who's gathering that. However if even one child were demanding by this we would want to stop that. If we don't have the money to buy computers and make them safe then we shouldn't have those computers at all. We want computers, we want this access so we need to make it safe. Thank you. [applause]

>> Mayor Reed: Katherine Graham. [applause]

>> Mayor Reed: Followed by Adam McChuck, Pat Wolf.

>> Good evening Mr. Mayor, members of the council. I've been listening to everything this evening. I am a Willow Glen resident, and I support our libraries, not only our branch libraries but obviously our king library and I'm here to ask that common sense rule, and please, I'm in support of the Vice mayor's proposal and I ask that you consider it, and please, do pass it. Thank you so much for your time.

>> Mayor Reed: Adam McChuck, I think Adam is gone. Pat Wolf, Kathy Yancey. Sam McBain.

>> Honorable mayor members of the city council. You probably don't know me, because my advocacy for the library system was in the '80s and the '90s. I was on the library commission when we ran the bond, worked on the bond measure to build all of these new wonderful libraries that you're now opening in your districts. And I want to tell you that I believe the libraries are the great equalizer. They make a difference for the people who don't have computers in their home. And it is my belief that if we limit the ability of the citizens of this community that cannot use computers in their home to get the information they need, whether it be to address their sexuality, whether it be to look up breast cancer, other issues that are involving their family, that people aren't comfortable talking about or a myriad of other issues, then we are doing a disservice and creating again two systems that our library is trying to do without. Also, as a grandmother --

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

>> Thank you.

>> Mayor Reed: Pat Wolf, Kathy Yancey, sac McBain Molford and Jim Larkin.

>> My name is Kathy Yancey, my daughter can't be here, and I'm reading this for her. When I was only seven years old I was on the Internet looking up horse horses, I looked up black stallion and two pictures of naked men came up on the screen. This didn't occur on a library on a library computer but the principle is the same. Children should not be confronted with this sort of thing. It causes them to lose their innocence far too early and at no fault of their own. It still brings tears to my eyes to think of what happened to them. Or this could happen to other children when a public library. Please vote yes.

>> Mayor Reed: Sam McBain Molford, Jim Larkin, Bill and Karen Larkin.

>> Good evening, although not a constituent or resident in San José I live in neighboring Saratoga, I'm here because what San José does ripples through the region and essentially through the nation. I believe the problem is that we believe children can potentially be exposed to inappropriate material in the library and a potential solution is filtering. I'd like to say it probably isn't the right solution. Like poorly prescribed medicine, it treats the symptoms, but you can't filter everything. If you decide to filter library and not the whole community is your realm of influence, you still can't win, it's a broken promise on day 1. How many devices do we have, I've got two that have digital video on them that go everywhere. You can't assure that that space is safe. I think we need to figure out how to support the wildly successful don't talk to strangers policy to the net.

>> Mayor Reed: Sorry your time is up. Jim Larkin followed by Bill Bistricki Karen Larkin and Peter yesney.

>> Mayor, councilmembers, I live in district 10 and I'd like to ask a rhetorical question of the councilmembers and that is, would you allow pornography to be available to your children and

grandchildren in your home? And I'm sure your answer is no. And why? Because you want to protect the well-being of your children from being exposed to age-inappropriate material. And that's precisely why we are asking that the libraries install pornography filters in the computers. And I would hope that this council would vote for the protection of our children by approving the installation of pornography filters at least in the computers in the children's sections in our libraries. Thank you.

>> Mayor Reed: Bill Bistricki followed by Karen Larkin Peter yesney.

>> Pornography in public is certainly a legitimate concern. An equally legitimate concern is a finding by your study that filters cannot filter out pornography without filtering some legitimate information sites. And so we have to weigh importance for information with the propriety of propriety. I once got in trouble because by teaching the bill of rights, I told my students about Griswold versus Connecticut. My principal told me I was out of line to mention birth control in an eighth grade class. Maybe he was right, but I had a student who had already gotten his girlfriend pregnant. Censorship may comfort some adults but at least teenagers stumbling in the dark and too often gotten hurt. As responsible adults, we should never put our comfort ahead of their lives.

>> Mayor Reed: Sorry your time is up. Karen Larkin. Peter yesney, Jan Soluet. Larry Garr.

>> Mr. Mayor, council I am grieved that we are even having to address this issue, filtering pornography from library computers. Not so many years ago, adults protecting children, even adults without children recognize the importance of protecting our youth. But here we are, trying to determine whether the right of people to view pornographic material in their public libraries is more worthy than the responsibility adults have to shelter and protect our youth from viewing that pornographic material. If we adults aren't willing to protect our youth, then who will? Who is there to protect them? Please install a pornographic filtering program in our library computers. Children need adults to protect them. Thank you.

>> Mayor Reed: Peter yesney. [applause]

>> Mayor Reed: Followed by Jan Soulet. Larry Carr.

>> Mr. Mayor and councilmembers, I'm representing the board of the Santa Clara Valley American civil liberties union and its 3,000 or so local members. I'd like to take this brief opportunity to reiterate our belief that free press, free speech and access to information in the 21st century are the fundamental building blocks for democracy. I'd also like to restate our board's position, our unanimous opposition to Internet filtering and support to open access to the Internet in public libraries. Censorship breeds censorship and we are opposed to any expenditures which threaten to diminish the fundamental civil liberties of the public regardless of where the money comes from. Thank you. [applause]

>> Mayor Reed: (saying names).

>> Mayor, councilmembers, my name is Jan Soulet and I live in district 9. On Saturday, April 18th while standing in front of the Cambrian library on Hillsdale, I spoke to two people who had inadvertently viewed pornography in the San José library. The first person was Ann Hine, she reported to me she had seen pornography sites being used in the library where children were in close proximity. Ann lived at 1835 Calistoga avenue San José 95124. The second person was Sylvia Ayle. She reported she had been a volunteer in the old Martin Luther King, Jr. library for many years. She had complained to the librarian because of the pornography being looked at on the library computers. The librarian told her she couldn't do anything about it. Sylvia lives at 2187 Foxworthy avenue. Thank you so much for your time.

>> Mayor Reed: Larry Carr, Haran, Mary Smith. Will hutchenson.

>> My name is Larry Carr from San Jose State University. I'm here tonight to confirm San Jose State's position. We oppose any filtering of access at King library or the branches. Internet filtering will restrict intellectual freedom. We believe Internet filtering proposals are misguided. The resources we would spend would do little to enhance security at the king library or its branches. Such money should be spent on other measures. Police responded to two reports of lewd behavior during fiscal year 07-08, representing a thousandth of a percent of all computer sessions. Please understand the partnership within that we urge you to oppose measures tonight and join the university in discussing these pleasures further. [applause]

>> Mayor Reed: (saying names).

>> Mayor and city council my name is Haron Showming. As you recall at the beginning of this session tonight there were commemorations for what this city did for children. And as I see that, I see kind of a fight here between two different things. We're saying that we're protecting our children and yet we're leaving them vulnerable. You know, we -- if you take a look at political correctness on a college campus, that's censorship, that happens all the time. It's really time to take a look at these filters and say hey, just

like somebody else said, you would not allow that to happen to your home, I hope you wouldn't. Why circulate we allow it to happen in the library? I hope you will vote against.

>> Mayor Reed: Maureen split, Will Hutchenson.

>> Good evening, thank you for listening. Censors and filters are not the answer. Major problems we have with cyberbullying, Internet sexual harassment, those incidents have resulted in numerous suicides and suicide attempts. The answer is more Internet safety classes and more security at our libraries if that is indeed a problem. In fact I urge you to take the money that was so kindly offered to help pay for the filters and use it for additional security at our libraries. Thank you.

>> Mayor Reed: Will Hutchenson followed by Eli Edwards.

>> I live in district 10 near the Vineland library, I have four children and I also work at the Santa Clara Valley water district I.T. department and I assure you in doing our jobs at the water district we have no problem doing research and doing our jobs with pornographic filters on our computers. I'm sure that's true of the employees of the City of San José as well. So I don't really see that as an issue to prevent filters from being put on the computers for children in our libraries. Thank you.

>> Mayor Reed: Eli Edwards. Followed by Ron Seymour, Brenda McHenry.

>> Good evening, San José city council. I'm here representing the California library association intellectual freedom committee. I'm simply going to read a letter reiterating the CLA's position on Internet filtering and intellectual freedom that has been approved by our current president, Barbara Roberts. The public library, right to information for all library users. Ensure access to Internet research of all kinds. Individuals should have the right to determine what they view on the Internet. Parents and guardians are the best judge of their child's use. No way condones criminal activity, on the contrary, policies and procedures that try to ensure the library is a safe and welcoming place for all the community. We believe there are many alternative methods to ensure the safety of children and urge you to support policies that promote intellectual freedom as well as the safety of children, thank you.

>> Mayor Reed: Ron Seymour followed by Brenda McHenry.

>> My name is Ron Seymour, I live in south San José. Father of four, grandfather of nine. I used to work for the city. I worked for the city for 30 months four months and 23 days, they were proud days and I worked hard to make sure the taxpayer got their money's worth. Mr. Pagram has already said he or his organization will fund the acquisition of this software. I can't see anyone who will speak out against the freedom of a five or six or seven or eight or ten-year-old child. It is our responsibility to protect them from the blatant open sexuality of our society today. And I just ask you to strongly consider Mr. Pagram's offer and the idea that those filters are important. You filter the content that your employees watch every day, whether they're working or in their off time.

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

>> Thank you. [applause]

>> Mayor Reed: Brenda McHenry I'm Brenda McHenry, you should have a letter from us in your possession expressing our opposition to censorship in any form. I just wanted to reiterate, some of the things that are in that letter. Aside from the fact that there are many serious problems facing the city, deserve your time and careful consideration, we believe this is not a subject for debate. The proposal you're looking at does not address the real issue. Filters and prioritizing for political advantage won't solve a problem that barely exists. Censorship doesn't belong in libraries or anywhere else in a free society. Thank you. [applause]

>> Mayor Reed: (saying names) followed by Michael Perry.

>> I'm Lana Shockey, a college student at West Valley College. I have had exposure to pornography in the West Valley branch, two years ago, my mother spoke earlier, she told you guys about my experience and the thing that bothers me the most was that this man was viewing pornography on a computer designated for adolescents 12 to 17 years old for miles an hour. And I was disturbed by the images that were being viewed on the computer, and so I went to the librarian, and I asked, complained about it to her and she says she couldn't do anything but I'm in support of putting filters on computers designated for children because it's not children who are viewing the porn, it is adults who are viewing porn on these computers for children. Thank you.

>> Mayor Reed: Michael Power. [applause]

>> Mayor Reed: Followed by Joyce Shoening.

>> Mayor, councilmembers, the question of pornography is a simple question. Do not do with somebody else's money what you wouldn't do at your own home. Distributing pornography without a parent's consent, controlled substance is illegal, heavy fines. Would you risk your own money to lawsuit or would

you protect yourselves? In the end, a question of stewardship, your stewardship of our children. [applause]

>> Mayor Reed: Joyce Shoening. (saying names).

>> Good evening mayor and council. Cuts is so little for the protection of our children, many rapists including Ted bundy has already been mentioned. It's the subject that the parents should be allowed to handle their -- subjects parents should be able to handle their own discretion, not be forced by sexually explicit pictures, to pick up the pieces after an emergency. We know. My husband and I had our heartbroken when our third grade daughter was calmed over to a car while waiting for a ride home from school, and a man pretending to ask her a question rolled down his window and exposed himself to her as she neared the window. It took weeks for her to get over her fear of being around strange men again. And I'm not sure she ever fully recovered but I know to this day she remembers that man and that image. Most of us recall our first --

>> Mayor Reed: Your time is up.

>> Sexual experience.

>> Mayor Reed: Judy burrington. Fold by (saying names).

>> Mayor, councilmembers, my name is Judy Purrington, I live in district 2 near the Edenvale library. I'm here tonight because I support the proposal of Vice Mayor Chirco, Councilmember Kalra and Councilmember Liccardo. A lot of people were up in arms when Hillary Clinton said, it takes a village to raise a child. And we're trying to take a village approach to putting filters on our computers at the library. It's up to the parents to instill good values in their children. If people are seeing pornography at the library, I don't see it at the library. I volunteer at the library. The computers are in full view of everyone and a responsible person would report something. If someone believes a librarian pushed them off and didn't report something, obviously poor conduct, someone should be calling the police. So I think we are looking for a problem here.

>> Mayor Reed: Your time is up.

>> Thank you so much.

>> Mayor Reed: Tony Nguyen, Renee Miller.

>> Hi, I'm Tony Nguyen. I live in his district. I want to be sure that you have all the library funding before we do anything new. I want to point out several things. If you do decide to sense censor I would like to have the black list published. First porn, then fetishes, then gambling then booze, and the list grows. I would like to have the black list audited, I would like to have it public, I would also like you to upgrade your computers because right now, I can't get Sesamestreet.org. You will have actual data so please please fund our libraries. Thank you.

>> Mayor Reed: Reneé Miller. Reneé Miller. Going once. Okay. David parker Lisa Jensen, and then Carey Hickman.

>> Good evening council I am your appointee and the vice chair of the human rights commission for the City of San José and I'm speaking only for myself. Folks you're here to protect children right? I'm assuming so. So let's talk about this. Let's get homeless children off our streets, feed them and give them shelter. That's protecting children. Let's give our police department more money so they can fight child abuse in the home. And give us safer schools. That's protecting children. And if you really want to protect children, parents some you'll begin supervising your children in libraries and public places. Rather than give it to the city council to do. This is censorship of its worse. Don't call it filtering. Computers for the public people can find information for any number of things. Let's do the right thing, Mr. Mayor and council. I support Vice Mayor Chirco's memo along with Councilmember Kalra and Liccardo.

>> Mayor Reed: Lisa Jensen, after Lisa we'll have Carey Hickman and Michelle Rorick.

>> I'm a tech geek. I've spent 27 years in the tech industry. I can tell you for a fact that the councilmember's so-called test is ludicrous. The librarian's test having reviewed both the librarian's test and councilmember's test, the librarian's test were far more rigorous and I would help the council put together plans if he's interested. The greatest flaw is it relies on software that is very expensive ineffective and takes any child about five seconds to overcome. A Google search of how to overcome Internet filters draws two million-plus hits. And kids, believe me, they know how to use google. Moreover, a study for the center of missing and exploited children says 79 percent% of unwanted exposure happens at home not in libraries and 73% of youth access the Internet at home. Thank you.

>> Mayor Reed: Sorry your time is up. Terry prohibitingam. Michelle Rohick, Jane Cronkite.

>> Thank you for letting me speak. I just wanted to show a picture of my family. I have a six-year-old and a three-year-old. We visit the library, the West valley branch on almost a weekly basis. My wife's home

with the girls and they go more often than I do. I'm there for story time almost every Saturday, they love to run arounds in the library. One of the problems I have, my children are very curious. And they're always asking me, what's this book, what's that book, who's that, look at that person, look at this. They're constantly looking at things around them. They don't have the filters that adults have. When I walk through a mall, I don't see anything down the mall except for the store I'm going to. My children don't have that filter. When they go into library, I don't want them to be accidentally exposed to pornography or any lewd acts, of course. But this is something that's before us and this is something we're trying to decide. I would ask you --

>> Mayor Reed: Your time is up.

>> Thank you very much for your time.

>> Mayor Reed: Michelle Rowick, followed by Jane Cronkite, (saying names).

>> My name is Michelle rowick, I've been a librarian for the San José public library for two years. I would invite people who stand in judgment come into our libraries. They are full of people enjoying library resources, of course a few are argue over fines. In two years I've never seen people looking at porn or masturbating or taken a complaint. Internet filters are a form of censorship. Please support Vice Mayor Chirco's and Councilmember Liccardo and Councilmember Kalra's memo. Go public libraries, go.

>> Mayor Reed: (saying names).

>> Hi, I'm Jane Cronkite, I am also a librarian and a San José resident and I am also against filtering, probably no surprise there because I feel like they underestimate all of us. I feel that they underestimate librarians, and our job is to get people the information that they need. They underestimate parents, and the job of parents is to parent. And I also feel that they underestimate the strength and goodness of our communities. And I want to read a statement from Judith Krug who just passed away this weekend. Judith Krug was the librarian of the office of intellectual freedom for the office of information for over 40 years. Some people find materials in their local library collection to be untrue, offensive harmful or even dangerous. The libraries serve the information needs of all the people in the community. Not just the loudest, not just the most powerful, not even the majority. Libraries serve everyone.

>> Mayor Reed: Sorry your time is up. Theresa Mansfield. Julie butterfield.

>> Mayor and councilmembers, I'm the mother of two children. I've heard a lot about censorship here and I think that the issue at hand has been ignored. What we're talking about is putting library filters on the children's computers, not the adult computers. We're not trying to mess with the adult computers, only with the children's one. Children, there is a reason why we protect our children. Children cannot go into a 7Eleven or buy hustler magazine. Why are the children protected more in a liquor store and the 7Eleven than they are in the public library? Children go to the public library to do research, and I challenge you all to go to, if a child is told to go to the research something on the White House, and a child purchase in White House.com they're not going to get the White House in Washington, D.C.

They're going to get a pornographic site. I challenge you to do it.

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

>> My name is Julie butterfield. I live in Willow Glen. Thanks a lot for hearing everyone tonight. I really appreciate it. I'm working to become a therapist some day. The flip side of what a filter may do and my personal experiences. As you know, suicide rates for gay teens is very high and I had the great pleasure of counseling teens in a local junior high in east side San José. And counseled a teen who was dealing with his sexuality and had a distinction fear to use his computer at home for research on that subject. He used the line computer to come to the conclusion that he was normal. I fear, I just want you to think about the collateral damage that could be caused by preventing people from what they really, truly need and can't find elsewhere. Thank you.

>> Mayor Reed: Juan Hansell followed by Sterling Leonard (saying names).

>> Good evening, my name is Jane Shulam and I'm a fierce proponent of individual rights. At the same time I'm fiercely protective of children. By any sensible standard, would we consider it disturbed when private becomes public? Life, liberty and the pursuit of happiness, does not include the right at taxpayer expense to masturbate in a library. Aggressively protecting trees and we would be so careless of protecting our children. Freedom does not mean that the concepts of privacy and decency should be disregarded. It's embarrassing both to women and children and I urge you to have the courage to stand up for common sense. Thank you.

>> Mayor Reed: Okay, the next speaker is Evan Ansell. I think I got that name right. Sterling (saying names).

>> Hi there Mayor Reed and councilmembers, my name is Evan Ansell, I represent my philosophy class at PFA and boy scout troupe 337. I'm an advocate of privacy. However, in the case of Internet filters, I have to punctuate a point, this is a public library that we're talking about, not a private home. Personally, it is your rights and the right of everyone here to do and live your life in your own home. However, it should not be allowed in a public library in the City of San José or in any state. Thank you. [applause]

>> Mayor Reed: Sterling Leonard, (saying names).

>> My name is Sterling Leonard, I live in district 8 in the Silver Creek Evergreen area. I'm the stay at home mother of two young children. With my children we frequent the libraries, the king library, the Evergreen library, the vineland library or the Tully library, depending which of those libraries have programs those days. In five years I've never encountered any inappropriate use of the library computers. We have been flashed at Cosentino's. I know of someone who was exposed to at the bus stop. The issue of Internet filtering is technically ineffective. It cuts out appropriate information too. It's fundamentally contrary to lineship.

>> Mayor Reed: Your time is up. Kay Lynn hand, Dr. Peter Soulet.

>> Hello then thank you for listening to me today. I'm ordinary. I'm just a M-o-m. I don't have a credentials, and a grand M-o-m. So I'm also a member of the public library now for over 40 years. And I don't remember my mom ever telling me, "stay away from the pornographic material when you go to the library." I don't remember telling my kids that, either, to stay away from the pornographic material. I'm appalled with the stories I've heard today. The parents who have witnessed and have heard or seen inappropriate behavior at the library. People are saying also, that that's not happening. But yet, we have witness accounts of it happening, one after another. I'm concerned for my grand kids. We've spent many hours at the library, and I haven't seen anything happen at the library. But I don't want to take them anymore.

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

>> Thank you.

>> Mayor Reed: Peter Soulet followed by Dr. Mary Ann Fifeld, Gail Wetzel.

>> Good evening mayor councilmembers I'm Peter Soulet. I'm very concerned that we don't have Internet filters on the city's library computers. As a teenager many years ago I was exposed to pornography, I know first and well the evil damage that it did to me and what I had to do to get free of it. Please keep in mind, when we're talking about, I assume you can hear me, when we're talking about youth, especially junior high and high school students, that was the age I was affected, sitting in an Internet cafe right behind the bank of computers in the Cambrian library, the two hours I spent in the Cambrian library the 80% of the people I talked to either did not know that we had filters on the computers or were strongly concerned that we didn't have some kind of filter on that. A few months ago, we met with vice mayor Judy Chirco --

>> Mayor Reed: Sorry your time is up.

>> Thank you mayor, thank you very much.

>> Mayor Reed: Mary Ann Fifield, followed by (saying names).

>> Good evening, thank you for having us tonight. I'm Dr. Mary Ann Fifield, founder director of the national recovery center. You have a letter that I sent to you, I'm a certified sex addiction therapist. I work with sex addicts. Almost without exception that problem came in early childhood with an exposure to pornography. I also want to speak for the pornographers, if the child clicks on a link they will be taken to pornography. They brainstorm around how would a child misspell an assignment from school, and they will put up --

>> Mayor Reed: I'm sorry, your time is up.

>> A site for that. Thank you.

>> Mayor Reed: Gait Wetzel.

>> Good evening Mayor Reed and councilmembers. I urge you to vote yes to provide pornography filters in our San José libraries. As a teacher before I allow students to have Internet access, they must sign an agreement from the district regarding the filtering that goes on in our schools. The libraries are an extension of our schools. And as such, I believe that they need to have the filtering as well. Many students cannot afford, do not have access at home to computers and do their research at home. Parents are assuming too much when they send them to the library because they assume, like the schools, that their children are protected from pornography. And so we really need to protect them because just one click away, one simple common misspelling, and these images are in front of these young children. It's not right.

>> Mayor Reed: Sorry your time is up.

>> Thank you very much.

>> Mayor Reed: Sean Mansfield followed by Kim Picstrom.

>> Good evening, at the age of 11 I was exposed to pornography by another child in the library. I have seen children view themselves these pornographic images. Since then eye I've also been exposing and addicting myself into these pornographic images leading down a road of mistrust with my family and just mistrust in general. In response to one of the teen leaders that came up earlier, I see teens all the time, in the teen room and in the adult section, accessing porn on their own, 17 and under, between just on a continual basis. Many of these instances are not reported because many people are embarrassed to go and report them to the librarian. Response to one of the comments that was made earlier, if you make things easier to be illegal, more people will do illegal acts. It is illegal for kids to access porn in California and they continue to do so.

>> Mayor Reed: Sorry, your time is up. Kim wickstrom. [applause] okay, we'll come back. (saying names).

>> Thank you, my name is Harold Stewart. I am a software engineer with over 30 years of experience and I have extensive experience writing Internet software. Want to talk about filtering software. I know that staff ran extensive test and they had only one problem which was readily corrected. Nobody here has ever used perfect software. I've never written perfect software. We use computer software because it's useful. It's useful to keep harmful materials away from minors. Problems can be fixed, it's a good thing. I wear another hat tonight, I speak for myself but I am a trustee of the union school district. When I joined the board I had to sign a contract with the district that said I would use their Internet computers properly. Us that why I as a responsible adult and member of the community have an obligation to set a good example. I hope you will support the filtering policy. Thank you. [applause]

>> Mayor Reed: Robert Benscoder. (saying names).

>> Good evening, I'm Robert beenscoder, forgive me I'm a little nervous. I'm currently the chairman of the Stevens Creek neighborhood in district 1. I want to address one of the two issues on filtering. I could be wrong but I don't believe I can walk into a library to view or check out hustler magazine or Debbie does Dallas videos. And if I can't access those resources myself in the library why should I be able to do it virtually? The other complaint I have is with the statistics they cite about low occurrences. I'm not a frequenter of the libraries. I freely admit that. I've been to MLK twice since it opened. Both times I witnessed lewd and inappropriate acts by people on the computers. Even if inappropriate is the way to go at this time, I say we go for it. Thank you. [applause]

>> Mayor Reed: Are you Nicole?

>> Yes, I am.

>> Mayor Reed: And then Kim WIC Strom and then we're done.

>> Good evening, I'm Nicole Isram, an attorney with the American civil liberties union. Univision, people particularly rely for the Internet, blocking something, it is widely acknowledged will stop access to this essential information. The capital of Silicon Valley should be continuing to facilitate the use of the Internet for all community members to learn rather than censoring access to very important information on health, politics and news. The common sense facts is that blocking software vastly overblocks --

>> Mayor Reed: Time is up.

>> Please block access --

>> I am Kim wickstrom. Thank you for your interest. We as parents provide a safe haven free of innocent and inadvertent access to addictive behaviors. Smoking and drinking are recognized as destructive behaviors. As such our communities have determined to regulate and control exposure of such until a child has reached an age of maturity capable of his own decision make. Let our children, our young teens be consenting adults before they're exposed to that obscenity commonly referred to as pornography. Let us continue to be responsible adults, safeguarding our children and placing filters on our library computers. Thank you. [applause]

>> Mayor Reed: That concludes the public testimony. I would like to thank everybody for your politeness and cooperation in getting through with this. I want come back to council discussion. That will take a while, I think. You are free to leave, we will get to this until we're done. Councilmember Constant do you want to speak to your motion?

>> Councilmember Constant: Thank you mayor. First off with the permission of the person who seconded it, Pierluigi, I would like to split my motion, take 1 and 2 together, and take 3 and 4 each individually. Is that okay, Mr. Oliverio?

>> Councilmember Oliverio: Councilmember Constant you want to bifurcate your motion.

>> Councilmember Constant: Trifurcate.

>> Councilmember Oliverio: All right, trifurcate.

>> Councilmember Constant: 1 and 2 together, then 3, then 4.

>> Councilmember Oliverio: That will be fine.

>> Mayor Reed: We have a motion on the floor. We're going to take them in pieces.

>> Councilmember Constant: I'm going to go ahead and speak to all of them so I can get all my speaking out of the way. What we have before us today is a policy recommendation that has four basic parts. Part 1 is to change the code of conduct or the Internet usage policy. As we know, the current policy allows users to view pornography. We have heard not only from the security guards, two security guards that worked in our libraries that spoke of it, but we heard from several parents many of whom were with their children when they were on the computers and saw others doing this, that complaints have been made to our library and the staff did not have a policy that allowed them to take action. Currently our policy does not even -- is really not even in congruence with state law, that clearly says that it is inappropriate that you cannot expose miles an hour to pornography. So number one, the policy language which is on page 2 of our memorandum, simply brings our policy in congruence with law and says to users, if you are going to use our computers in our libraries, you should not be using them to look at pornography, full screen, graphic images and videos, in an area that is designed for families and children, and there's people around. That is something that is a tool that we don't have in our tool box right now. In fact, when our library director was asked by the press about a year ago, year and a half ago, her response was, well, other people in the library can simply avert their eyes. And I don't think that is a reasonable thing for us to have in our library. So I think we need to change that conduct policy. Second is, to install filters in all areas that are designed for miles an hour. Knowing that miles an hour have the ability to use the computers in the general use area or in the area designed for use by children. Several people quoted resources, in fact Tina Morrell gave us information, that search study, Kaiser family foundation found, that 70% of miles an hour who used Internet connected computers, inadvertently visited a site that contained pornography. Going back just a moment, all parents know about, if you're going to have children using the computer, you should have a responsibility of making sure that their computer sessions are filtered. Almost all parenting resources that I've seen say that you should have those filters on your home computers, if your children are going to use the computer. We all know that even if you're right there with your child, pop-ups come up that you have no control over and those will come up even if you're standing right there with them or if you see them put in someone mentioned the whitehouse.com or something else that seems innocuous but goes to a porn site, there is nothing you can do when it comes up in front of your children. In their May '08 report they indicate this is a policy that many libraries employ. Like our Santa Clara County libraries, the cities of mountain view, Sacramento, Sunnyvale, Phoenix, Denver, Houston, Jacksonville, counties like Alameda County, king county, it is something that is done in almost every library system. The cost is fairly minimal to do this. Setup cost of about \$80,000. I do question the \$15,000 that is needed for collateral materials. Because many of the other libraries don't have fancy information, just signs that say, the libraries have filters on them. If you take that away it is a \$65,000 expense, ongoing expenses of about 5,000 per year to have the software licenses. We've already had one community group step an author of the fund up to \$40,000 for the hardware and software, that would make a huge dent in that, leaving \$35,000 in I.T. staff cost, I was initially told by staff that this is work that could be integrated into their workload, so it wouldn't be actual dollars. I wanted to talk about that amount of funny, \$35,000. So far this fiscal year we've already spent \$35,000 to rent billboard space to advertise that you can enjoy a smoke free park in San José. We are going to be spending \$15,000 more before the end of the fiscal year. Coming to \$50,000. I can tell you that is a cost that I questioned, why were we spending \$50,000 to tell people that they can enjoy a smoke free park but yet we do that and it's budgeted to be spent the next two fiscal years in a row, bring a total of \$150,000 to talk about our smoke-free parks when we're talking about a fraction of that to install filters in our libraries. Last year, our ten council offices, plus the mayor's office, and our council general account, all the money that we spent on the 18th floor, we had left at the end of our budget year, \$1.6 million in our collective budgets that we rolled over to this fiscal year. And we're going to have extra money again this year that we will roll over next year. Our need for filters, even if you take into account the full \$80,000 to do this, is only 2% of what we, the 11 of us, rolled over into our accounts this year. Only 2%. If you look at the overall budget of the San José library system budget which is about \$34.6 million, again assuming the \$80,000 total cost it's .002% of the budget. That's 2/1000 of 1%. To say we can't do this is

disingenuous. There are many things we do in this city that we pass on a daily basis that would cost us far more than what it would cost to implement this. Going on to the second part of the motion, which would be option -- or item number 3 which is optional filtration for adults or for all users in the nonchildren's or nonminor areas in the library, I believe that adults should be able to choose whether they want a filter or not. There are many people that don't want to stumble across inadvertently these sites. And it is one thing if you're using a computer at home where you know what sites you've been and if anybody has ever inadvertently gone to a site, it will take weeks and weeks and weeks for you to get those popups that don't go away, but when people select no filter that they acknowledge and understand what our policy is, and I believe our policy should be changed to specifically prohibit these uses and to remind people are the state law that says it's illegal to do this in the presence of minors. Now, item number 4 is to enter talks with San Jose State university. I know Larry Cox's parting words was let's just enter into discussions. We have had an agreement with San Jose State for quite a while but it has been amended twice. There is a procedure to do that. Nothing in here is dictating upon San Jose State University this is what you must do. It simply says can we talk about it? Is it, pain, appropriate that we just filter the children's area. Let's at least have that discussion, and I don't think anybody could argue that we shouldn't even talk about it. We heard from many San Jose State students today that say they're concerned. I have with me today, by the way, several San Jose State classes have had assignments that have been geared around this proposal over the last two years. One was philosophy 61, where students were asked to write about a position paper on whether pornography filters should be in the library or not and how they affect free speech. It's interesting, all of these which are several were all students that were in favor of putting filtration in at the library, in fact, 71% of the students in this class. And I have all the papers here. So it just shows that there is a reason why we may want to have these discussions. And there was also an editorial in today's paper, anyone of you who read the Mercury News, from a San Jose State student who said they felt it was important. I don't think we should be afraid of having discussions. Many of said that the technology is not there. Several compared it to the discussions that were had in 1997 and 12 years ago the world was a different place. I have a iPhone right here. You can imagine what people would have thought 12 years ago if they had this? They didn't have this. The technology wasn't available. Technology has evolved. 12 years here is like 50 years of technology. There have been incredible advances. You've read in my memos, I've got several them that have described things that I've done in the research. Someone mentioned about the -- that our libraries did a more scientific research than I did. I ran the exact same test, our library staff did, the only difference was how the settings on the filtration software was calibrated. Now some some have said that this is a solution in search of a problem. But you heard from many people with direct eyewitness testimony that they had personally experienced issues in our branch libraries of seeing others using pornography. In fact, there's an e-mail that all of us got here of a gentleman who couldn't be here. It's been submitted to the clerk to be part of the record, from a West San José resident who's also a school board trustee, like some of the trustees who have spoken who talks about a situation where he was there with his six-year-old daughter, saw somebody looking at full-screen pornographic images, made a complaint to an assistant in the library who was working and was told there was nothing that they could do about it. We have heard from some people that there have been no complaints but we heard many complaints tonight and we have heard many people say that they have complained to the library who said they couldn't do anything. Perhaps the reasons we have no complaints on file is because people aren't breaking any library rules and that people after -- [applause]

>> Councilmember Constant: It's not that hard to figure out if you make a complaint and you're told nothing can be done about it that you don't complain the second or third or fourth or fifth time. I can tell you that I personally have seen this occur not only in the MLK library but also in branch libraries when I have visited them. ABC news did an investigative report which the link was in my memo of a couple of different copies of my memo and on my Website, I'm sure everybody else had a chance to see, where they went into our libraries and saw many, many examples of this happening.

CBS news talked to me and before they talked to me they went into the library and got video of somebody looking at pornography. I talked to the photographer tonight before the meeting when they interviewed me and they said they had just been in one of our libraries and videoed somebody who was looking at pornography. It doesn't take that much effort to see this happening. You have heard from many, many people tonight who have seen it. I think we do need to address the conduct policy, the children's areas at first and then of course I would like to see the option for adults. I understand that cost more money and if you carefully read my memo it says that we should make a policy decision and then

implement it when and if we have funding. That doesn't mean we can implement it right away because we are in a dire budget situation. But it means we should be ready to do it. We talked to the vice mayor and the two other councilmembers, Liccardo and Kalra. I want to address a couple of things. First, it fails to change our policy in the library and that's a critical step. Having people acknowledge a policy that does not prohibit them from doing something is not going to make any difference in the world. It limits spending money of greater than \$25,000. That's an artificial limit. I'm sure it's there because you can't do anything for less than \$25,000. But one of the main problems I have is it ties funding, a budget decision that we would make to other things in the budget. In a city like San José where we have a very large budget, this is something I pointed out to the Mercury News and they opined in their paper, when you are making budget decisions that are contingent to other budget decisions and you start layering those, it would be almost impossible for us to balance our budget. You look to the state and see how they have tied their budget and how that has resulted. If we are going to do that are we going to say maybe we shouldn't fund anything until every one of our roadway and infrastructure maintenance projects are complete which happens to be about a half a billion that needs to be addressed or are we going to stop funding all new initiatives until we have caught up with our unfunded liability that we have in our pension systems which are billions of dollars? Are we going to say until we have a plan and have funded our \$1.64 billion liability for retiree health care, I don't think that is what we want to do as policy makers is start layering all these different prerequisites, I think our budget will be a mess if we do so. There is a comment in here that the sexual assault investigation units and the Internet crimes against children units have the fully funded. One thing that was missed there is we have a unit in the police department called the 290 unit, a unit that pursues and tracks those who are registered sex offenders. If you wanted to tie in something that would be one. I did have a conversation with the deputy chief of the administration department Chief Cavallero about this, the sexual registrant team are both thought only fully funded but fully staffed. The investigation unit is short one investigator and one officer. That comes into play after someone's been victimized. I don't think that is something we want to react after a situation has happened. So I think we have plenty of stunts in areas that we could pay for this. We are especially in the first part of the motion, items 1 and 2, we are not talking about a lot of money, and we have other areas we could simply say we're not going to put any more billboards up for the next fiscal year and we would be able to pay for this. And I think this is much more important than billboards that say "Come enjoy a smoke free park in the City of San José." So for that I ask for my colleagues -- [applause]

>> Councilmember Constant: So I ask for my colleagues to -- I implore them to pass the first part of the motion which addresses the Internet question and we install the software in those areas that are designated for minors, knowing that if a minor wants to access something that he doesn't believe or she doesn't believe they can get on that computer, they can simply go to an area that is designated for -- not specifically designated for children, and use those computers and hopefully we'll get a chance to vote on each of these three parts of my motion. Thank you.

>> Mayor Reed: Let me ask the City Attorney to explain how we handle the three-part motion.

>> City Attorney Doyle: These are actually three motions. They need to be taken separately. So as I understand the motion on the floor is, items 1 and 2 in your memo. And then you'll make a second motion for item number 3 and a separate motion for item number 4.

>> Mayor Reed: Okay. As long as we have the City Attorney talking we did not go into this as part of the staff report but I would like the City Attorney to speak to any constitutionality issues on this matter. There was some reference to the constitution it is kind of an important question and let the City Attorney deal with that.

>> City Attorney Doyle: Mayor, members of the council, there has been some reference made to the children's Internet protection act which is a federal law, which was upheld in a United States Supreme Court case in 2003. And that's really the case that's relevant for this discussion. The federal act requires libraries that receive federal funds to use Internet filters. The City of San José libraries do not use federal funds and so they're not subject to those restriction. That being scheduled the case of U.S. versus American library association, again it is a 2003 case, the Supreme Court did uphold the law, it was a facial challenge to the law based on a First Amendment challenge. There were four opinions in that case. We did not get a majority opinion. There was a plurality opinion, two opinions joining it. And frequently these are things that lawyers look at in terms of how it comes up with how you get a majority. But it was a 6-3 decision. The focus of the folks who joined in that decision that got it to a majority, was that so long adult users could unblock the filters it survived a challenge on First Amendment grounds. The proposals in both memos are -- meet in my view the constitutional test so there isn't

anything illegal that is being proposed tonight. And we've reissued a memo that we issued last year to the Rules Committee and I sent that out this afternoon for council review and I'll answer any questions.

>> Mayor Reed: Thank you. Are you done, Councilmember Constant? Okay, Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. I was hoping I could ask Jane some questions. There's been a lot of concern expressed about what happens when patrons complain about the visibility of this thing called secondhand porn. I'm wondering what a library staff member is empowered to do under current policy?

>> Jane Light: Certainly, Councilmember Liccardo. I have here a copy of our library Internet access rules for in-house use. Privacy screens are available, on all branches and may be requested by customers. In addition, staff member may require a customer to use a privacy screen when a staff member deems it necessary. Further on it goes to say if a customer refuses a staff request and problem behavior the customer will be asked to leave the library. Staff may call upon the assistance of supervisory staff and as the situation escalates, public safety staff, that would be security staff at king library, or the police may be called. That is the library's policy.

>> Councilmember Liccardo: In other words, if someone is viewing pornography, refuses in some way, library staff continues to believe that is a problem. They could be asked to leave or in fact be forced to leave.

>> Jane Light: That's right. It is treated as a problem behavior as are other behaviors in a public space.

>> Councilmember Liccardo: Now, back from my prosecutor days I recall 647A is lewd conduct, a misdemeanor. Somebody who is masturbating in the library, would that be reported to them?

>> Jane Light: Yes, it is. We had two reports of possible lewd behavior. King library there were several reports of lewd behavior, some of which took place in public restrooms, not in the general public floor of the library. That is illegal behavior. I'm glad to say we call the police and people are arrested for that behavior.

>> Councilmember Liccardo: I assume that you instruct and expect your staff to call the police?

>> Jane Light: That's right. We always tell our staff at the branches, if they have any concern about the behavior, we're having difficulty to behave in the library, to call the police and the police are very responsive and come whenever they can.

>> Councilmember Liccardo: I think we just heard Rick speak about the constitutionality relating to this decision, the plurality of the justices, if you allow the adults to be able to choose filtered or unfiltered access, you give them the right to filter, that is something permissible in the First Amendment. My question is then for libraries that actually give adults that choose unfiltered or filtered access, how many adults choose the filtered options, what happens William.

>> Jane Light: I've identified several libraries that have that essential policy similar to what's been enacted tonight. Sometimes teens computers are filtered around all the other computers, the users are chosen. Some of suburban libraries, have that policy. I asked the county librarian last week if she had any statistics about how often people exercise that choice for filtering. She does not keep that statistic and is unable to get it for me. However I talked to the Portland, Oregon Multnomah county library, they were able to verify that the number they gave us several years ago, 10%, 1 in 10 of users who have the option select the.

>> Councilmember Liccardo: 90% lacked a filtered option?

>> Jane Light: 90% had no filtering option.

>> Councilmember Liccardo: That 90% of users would ignore?

>> Jane Light: Potentially if our experience is what Multnomah county is.

>> Councilmember Liccardo: Can you give me the options of the first memo, from Councilmember Constant, and ours, then there's a \$128,000 cost embedded in paragraph 3 plus the ongoing expenses which I know are several tens of thousands. You can give us some sense of those proposals, what they would pay for in firms of library hours or staff?

>> Well, about \$80,000 would pay for two half-time teen librarians for one year, for the salaries and benefits. And if we purchased \$80,000 worth of children's books, I think that would be about 5,000 books for children.

>> Councilmember Liccardo: So I guess at this point I would like to put an alternative motion on the table, from Vice Mayor Judy Chirco, Councilmember Ash Kalra and myself, I would move those recommendations at this time.

>> Mayor Reed: Let me just clarify this. Where we are. This is a proposed substitute motion.

>> Councilmember Liccardo: That's correct.

>> Mayor Reed: With three parts, there are three items in your recommendation. You're moving all three of those as a substitute motion. The motion is on the floor. You want to speak to your motion?

>> Councilmember Liccardo: Thank you. Unlike Councilmember Constant, I haven't been interviewed by CBS or NBC. But I spent, my seven years as contractual prosecutor, I spent three years in a specialized unit, focusing on sexual exploitation of children. In fact I was partly of a two-member team that focused on Internet exploitation of children. I went to the national center for exploited children. I worked with children's rights groups. I'm proud to say, that in every verdict that I handled the defendant was found guilty and every defendant went away from 25 years to life. And in some of those cases I hope the defendant lives a long time so they remain in prison for a long time this is an area where I've spent a considerable sometime and effort. Kids are put at risk by online predators in chat rooms and e-mail. They are put at risk for those who seek to figure out where they go to school or home or anywhere else. The real issue is, filters don't do anything approximate about those problems. They don't do anything about chat rooms or e-mail. What they know is the use of the Internet requires some adult supervision, preferably by parents. I prefer a different approach. I don't believe filtering will spell doom for civil liberties. I don't think it's water boarding or extraordinary rendition or even book burning. I do harbor some concerns and so does the Supreme Court, how filtering could be applied. Specifically the court has left off challenges for applications of these types of policies. And rest assured that if facially constitutional an as-applied challenge is a job productions act for lawyers. There will be litigation. If we do it without the full consent and cooperation of San Jose State, there may be litigation. If we do it in a way that is of great concern to civil liberties groups, there will be licks. We know there's a cost and we know there's a heated issue and I appreciate the very heart felt concern and honest concern felt by so many who have come to speak on both sides of the issue. This is an issue that I think really invokes the strong feelings about our deals and our values. I said I'm not an ideologue. Those who are pushing filters as the answer aren't quite explaining how irrelevant there are. In google and Yahoo there are embedded filters in the software. The filters can be disengaged by the user, surprise, so can the other software as well. You don't pay a dime for Google or Yahoo. Most other sites have so as well. Others, how kids use communication, not simply access to Websites. That doesn't put a kid in danger because the real danger comes to kids not in public places but in private places. Virtually every case I ever handled involved a child who was exploited in a home. I know nobody likes to believe that because all too often it's did uncle or step dad or mom's boyfriend who is the real culprit. The exposure, let's just talk about exposure of children to unwanted pornography online. The evidence is that overwhelmingly, when kids trip over pornography online, intentionally or unintentionally, 65% of the time the happens at home, according to the statistics sited earlier. 15% of the time it happened at school. It happened at libraries 3% of the time. I appreciate the values advocacy council to pay for filters in the libraries. I would more appreciate of the offer if they were to offer parents a subsidy to have filters installed where they are. Because only half of our parents school age kids with computers only half of them are using software filters at home. It seems to me to be that. We are deploying all our ships to lake Tahoe. This is not the way to address the problem. And we all know filters are far from foolproof. If kids want to see porn, they'll get away from filters. I can see metro, going inside finding all kinds of adds or the escorts and massage operations. Guess what, you can see it free and you request get any street corner. We know over and under, exclusive problems with blocking. On page 15 if you look at the may report. And equally important, the filters won't affect your ability to get porn on your Website. I'm approaching the direction that look, we have a lot of important perspectives. My experience in working with the sexual assaults investigation unit, they are unfortunately answering the phone because they don't have enough staff over there. Unlike Councilmember Constant, I think it's a series problem, those are the folks who are investigating child molestation issues. If you get them off the street it's the best way of assuring yourself of the safety of a child. The section item I identify is ensuring that library hours per branch return to their fiscal year 2000 levels. We think it's critical creating safe places for kids. And thirdly, I, Vice Mayor Chirco and Councilmember Kalra again. We can change these priorities, in fact we can change them in any given Tuesday. This is a policy that says we have priorities. So I ask my colleagues to support this policy and hopefully we can get beyond this and tackle more serious issues we have in our city. [applause]

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank, mayor. If I may I would like to read a message from Vice Mayor Chirco who could not be with us here tonight. Believe me, she would much prefer to be here. But this is what she has to say. First, I would like to thank the community for engaging the council on this issue. My office has heard from many concerned members of our community, and I am always encouraged by the level of

engagement. I've been on the council for seven years, and prior to this issue surfacing, I had not received one complaint. Not from my constituents, not from my dedicated library staff, I have always felt that our libraries are safe places where children, people, learning grow, they house our resources, our homework centers and most importantly, our citizens. From the moment this issue was brought forward, it divided our community. The issue has swirled from concerns about secondhand porn in our libraries to child safety, to information access, to the First Amendment, to filtering technology, and its attendant reliability. To budget reality, staff resources and back again. A constant is that people care about our libraries and care about the responsible use of our facilities. We are in a very difficult budget time. Our rainy day is now. Our municipal finance forecasts are not good. I'm concerned that we're reaching this question in the toughest budget question I've seen in my 17 years holding public office. What everyone can agree on is that opening our libraries, funding child safety measures and funding our Internet crime unit are more prudent ways of investing in our child's safety given our limited resource picture. Finally I would like to take a moment to thank our library director and all of our professional staff who have worked on this issue, our library and youth commissions who have seen this, the books not futures groups, and others who have weighed in. I have heard from all sides in this issue I urge 74th of the memo drafted by Councilmember Kalra, Councilmember Liccardo, and myself. I've also said, the community cannot stand so tall as when it stoops to help a child. The data suggests we should invest. Let's make those smart choices together. Mr. Mayor, I'll save my comments for later. [applause]

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. Councilmember Liccardo asked a lot of questions that I wanted to ask. But there's just one more question. Jane, if you can just answer for me. Over the past several years, has the library received any written complaints from parents about the children being exposed to obscene materials on, using computers in public libraries?

>> Jane Light: Councilmember Nguyen, thank you for that question. The library has received no written complaints nor have I received any complaints to me directly nor has the assistant director, received any complaints saying that their child had inadvertently received any pornographic materials.

>> Councilmember Nguyen: So how long have you been library director?

>> Jane Light: I've been a library director for 12 years. I ask remember win conversation with a mother, whose teen aged son had advertently found pornography. I sympathize the mother and I used to have a preteenage son, too. And I recognize that there are times when a parent needs to step back and think that their children are growing up and lead a little more guidance too.

>> Councilmember Nguyen: First of all, I wanted to applaud Councilmember Constant for all the time and research he has mate for Internet filters in a milk library system. I want to ask staff for all your delegate would be. Your presentation was very comprehensive and thorough, I certainly can't articulate to the extent Councilmember Liccardo wasn't able to. I don't have any experience in learning if exploitation of children. Awhat I can speak out about as a former school board member and former educator, I shared the need to protect children from harmful and accidentive Internet materials. What we have in front of us tonight is not just an issue about children potentially being exposed by obscene online materials, which is a letting concern for all parents. But it's also about supporting a public library that, in regards to the concerns of children being exposed to unlawful materials, the library has stated that they did not receive about children exposed to these materials. If it should be a approximate in the future, I trust that our library staff will take the necessary steps to remedy the issue immediately. We have a bigger issue with our libraries currently. I agree with former councilmember Trixie Johnson who is here with us tonight. In her letter to city council she stated that having sufficient materials open hours and days, these are the critical issues, they are at the forefront among people who use the library and these are the issues that we should be concerned about. So I'm hoping that as we move forward we should preserve the integrity and the true purpose of libraries, to encourage and stimulate success for all our students. So I will be supportive of the memo submitted by Councilmember Liccardo and Councilmember Kalra and Vice Mayor Chirco.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: I'm curious about the children's section, if a grown man can go in there and hang out and talk to kids, what kinds of policies do you have to protect the children when they are in the library?

>> Jane Light: Councilmember Kalra we have several policies in place to protect children. First and one of the most interesting ones, I've been a library director for almost 25 years. And with that record, there was no Internet when I first became a library director. But even then, there were some things that were

problematic. And frankly the use of restrooms by children in a public building also used by adults is an area that could be quite problematic. As we have been building our new libraries throughout the city, and the king library, too, which I think only one exception, we have built separate family restrooms in the children's room. That allows children to use did restroom, without competing for adults, and it also allows the man to take his daughter into the restroom when it's difficult to send a little girl into a woman's room by herself, but just not taking her into the men's room. That baste safety thing, certainly makes me sleep better at night since we've been able to do that at most of our libraries. In addition, we have a rule that says, a policy that says that adults need to be either accompanied by a child, accompanying a child, when they're in the library or have the children's area or have a reason to be there. This applies to women as well as men. And there are certainly legitimate reasons for adults to be there. They may be selecting books for their children or grandchildren, maybe for their Sunday school class, they're a teacher there, there are many reasons but if we see an adult in that area just kind of hanging out and certainly not looking, using the collection, we speak to them. We do sometimes get complaints from adults who want to use the computers in the children's area during school day. We won't allow that. Because -- even though there may be not many children in the library because we just say to them it's a matter of child safety, you can't use this computer. And I think almost always people understand that. In addition, we really have had our children's rooms are pretty easy to supervise, not a lot of walls in them so that staff can quickly assess what's going on in the children's room.

>> Councilmember Kalra: Thank you. And I just wanted to thank everyone, first of all we got a lot of e-mails and calls and faxes and all that but I especially want to thank people who came out and took time out of their own bis schedules, whatever side of the issue you fall on. And former city council members have spoken and folks that are serving as commissioners and school board members, already serving in a capacity to make our community a better place. I especially want to thank Vice Mayor Chirco, all our prayers are with her because she has an illness, to take time to talk to myself and to Councilmember Liccardo. I believe that means a lot to me that she takes our time to comment. And Councilmember Constant, who is in pain today listening to all the comments from everyone. We all care about the safety of our children and we might have disagreements how we prioritize, how we prioritize different methods, the different ways that we can keep our children safe. But that everyone up here cares about our children. And I just want to start with a couple of messages about, from some of the comments I heard and I think Councilmember Liccardo touched on a little bit, about the use of the Internet, whether there is - - whether you have a filter or not children should always be supervised when using the Internet. And it's because if there's going to be someone that's going to try to contact them while online, it's going to be 99 times out of 100, on a legal site that we all can deem harmless and that's how they're going to contact any of your children. There always needs to be supervision regardless of whether there is a filter or not. Also, if you observe anyone exposing themselves in a way inappropriate whether a bus stop or a library, the police should be called. I hope everyone understands that they should be doing, calling the police in that situation. I'm not in favor of children and pornography, I don't think anyone up here is. But when we talk about the protection of children there's a lot of different things we're talking about and a lot of different ways we can protect our children. I do think the fear men contaminant, the don't talk to strangers mentality certainly has an effect on me, and Councilmember Liccardo, between the two of us we have 20 years in the criminal justice system, that can certainly back up your thoughts that unfortunately whether we like to believe it or not the abuse of children happens with people that they know far, far, far more often than people they don't. Similarly pornography is viewed in atmospheres and requirements in which you hope they would be safe. And I mention that because it is sometimes easier to say don't talk to strangers or beware of the boogie man. But these are difficult conversations to have for all of us when we talk about protecting our children. Now, I also respectfully disagree with Councilmember Constant on the choice of fully staffing the sexual assault investigation unit over having filters in the children's section when it appears that there is monitoring of the children and that parents also should be monitoring there as well, when a sexual assault has occurred, the highest priority should be to make sure the person who has done that is arrested and that no other victims are ever -- no one else is ever victimized from that act. So at the end of the day, the reason why -- the reason why I'm asking for the council to support the memo that the Vice Mayor, Councilmember Liccardo, who so eloquently spoke about it, and myself, put together, is because I think we really should focus on what really protects children, and there are so many ways we can protect our children, that we are protecting our children, some of them need more resources but some of them need more resources. If you want to talk about protection of children let's really talk about protection of children but not in a way that's distracting to another issue. I think one of the speakers

mentioned it but I would encourage all of us regardless of where you are on this issue and many of you I'm sure are already doing this and for those who aren't, from tomorrow onward find out ways you can help out children even those that aren't your own that need mentorship that need help that need our assistance, I think together I think we can all agree that we all should be doing that anyway. So I would ask for support of the motion, thank you. [applause]

>> Mayor Reed: I'm not going to support the substitute motion that's on the floor. And the memorandum that Councilmember Constant and I signed recommending the steps that should be taken, we outlined four guiding principles for the action we thought needed to be done in our libraries. The first is that minors should not have access to or be exposed to pornography in our libraries. So far very few people have disagreed with that principle tonight and I think that's a good thing, although apparently there are a few people who do disagree that. That is principle number 1. The second is that the public should not be exposed to secondhand porn in our libraries. If someone is reading a pornographic book in our libraries, that should be stopped. If somebody is looking at pornography on library computers, they should be stopped. Whatever policies and practices we have should be implemented by the policies implemented by the United States Supreme Court. Fortunately those are pretty clear. What has been proposed on the motion on the floor and the memorandum that Councilmember Constant and I authored, are constitutionally permissible. We don't have to worry about having a constitutional argument, there is always a possibility of a lawsuit. But the motion on the floor does not address the problem. I understand there's always a bigger threat, always priorities that affect more people, put bigger kids at risk. I can't argue with the interests that my colleagues have argued should be funded to protect children. But it doesn't mean we shouldn't do something when we have an opportunity to do it to deal with risks to children in our public libraries. [applause]

>> Mayor Reed: We have heard tonight, first-hand testimony from, I didn't count them, a dozen, two dozen, I don't really know, of people who had firsthand experience in our libraries. Them, and their children, were exposed to pornography in our libraries. Now, I don't think those people were lying to us. So there is a problem. You've heard it tonight, and I don't think it's a trivial problem, even though it may affect only a small percentage of the people and maybe only 10% of the adults would choose a filtering session, if they had the option. There are a lot of things we do because they only affect a small percentage of the people. I think just because only a small percentage of the people might be offended by this doesn't mean we shouldn't deal with it. The question is, how do we deal with it and how much money do we spend and it is a question of priority sometimes. But these are our kids in our libraries, potentially being subjected to harm, and we have a solution that is easy to do, relatively inexpensive and it's an opportunity that we have, and action that we can take that we can do. We don't have to worry about the federal government or the state government. This is something we can do if we choose to do it. That is why I am not going to support the motion on the floor. We should take action. The problem is not a trivial problem. I'm not going to support the motion on the floor, I certainly would be supportive of Councilmember Constant's motion if the substitute motion does not pass. [applause]

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. I first wanted to correct an issue. I did not say that I didn't feel we should fund the sexual assault investigation officer. What I said was, this is -- the proposal that was on the table from the mayor and I was a proactive solution much like the Internet crimes against children unit and the 290 team at the police department. That's what I meant. I don't want anyone out there to think that I said we shouldn't be funding sexual assaults investigators. I never thought that. Many of you know I was in law enforcement a long time and I was a detective. That was not my intent. I was merely pointing out --

>> Councilmember Liccardo: Councilmember Constant, I apologize if I overly suggested that was your intent.

>> Councilmember Constant: I want to address one other comment that Councilmember Liccardo pointed out, the facial challenge and as applied lawsuit. This is not a groundbreaking action we would be taking, thousands of libraries nationwide have filters. In fact, over 50% of all public libraries in the nation have filters. The U.S. versus ALA lawsuit was heard by the Supreme Court in 2003, that was six years ago. In those six years that have transpired, have at access lawsuits. You can get sued for sneezing. The threat of a lawsuit that could happen in the future I don't think is a good reason. On the funding conditions, for the motion on the floor, especially number C is troubling. Crossing guard program is fully funded to match expenditures needed to meet demand for crossing guards. People have an insatiable need for every service we provide. We have never funded to fully meet the demand we have, you could

fund for every corner in the city and there would be a demand for mid-block crossing. I don't support it but at least say, fully fund the crossing guard program. That's different. It's use -- it's crazy. We're never going to meet demand for anything. And then I just have a simple question for Councilmember Liccardo, because I'm not going to support your motion, you know that, I know that. We knew that before we came in here. But we know, we here that we have a policy that prohibits this, but we hear story after story after story after story of people that said they made complaints and nothing has been done. We know that our library director made a comment on the news, in an interview, that, well, people can just avert their eyes. The policy we have does not work. If you are serious in your proposal, what is wrong with the kind of language that all the other libraries have in their Internet use policy that puts some teeth into it? That's what I'm really trying to get at in my proposal, I'm not telling you just to add it so people will vote for yours, because I think what we really need is a policy change and we need to have that. And we should minimally put the filters in the children's area. That's the responsible things that parents do -- [applause]

>> Councilmember Constant: Many of you know me. I'm -- well, some might think I'm unreasonable, a lot of you know I'm reasonable. I'm not saying it's everything or nothing. That's why I broke up my motion. Because I think the important thing for us to be dealing with is the policy in the children's area. The other, the other areas are important to me, too. I think we should do it but I'm also a realist. I know where our funding situation is. When you compare the motion on the floor for those two issues, if you do the math we're only talking about \$35,000, which quite frankly is within \$10,000 of where yours is, and we can get someone to donate that, and I don't know why we can't take the affirmative step that thousands of libraries across the nation have done. Item 1 and 2 from the mayor and my memo is a more prudent thing for us to be doing today and if we can't afford the rest I understand it. We can bring it back in times -- in a year we'll have money coming out our ears. Please colleagues vote against Sam's motion so we can get back. [applause]

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor Reed. Councilmember Constant had called me to sign on to the memo. And as written, I could not support it. But I think it's important to give a second so that there can be discussion on the topic, because he deserves to be heard, much like any councilmember should be able to write a memo on something they're passionate about and have it come to the council and have it voted up or down. That's what we all owe to each other and that's fairness. I appreciate each side to be here and that's a great thing. As happy as I see you engaging in civic government I'm really sad because I don't really see you when it's important, not that your issue is not important, it clearly is, you feel it in your hearts and your minds. But reality is whatever happens here tonight what is going to affect you more is \$190 million I've got to find in four years to cover the pensions in the stock market. It is reality, I just had two friends got laid off today, one at courtesy Chevrolet, my friend Rich and then insist filed bankruptcy and they laid off more workers today. That is the reality. Let's be frank. We spend money every day, substantial amounts of money on things that are frankly trivial sometimes. That is irrelevant that you are coming down here to tell us how you feel. There are enough people talking about the topic for a council discussion, that's why we're here. I did not grow up with the Internet, I still appear somewhat youthful, but my first experience was at the basher shop. You'd find this little thing here sort of shocking but you remember it. Now that was done in the private sector, wasn't done with the public dime getting exposed to it. But I would say this, that we have an issue and even if it's anecdotal, and people are telling us it's an issue, it's an issue. I feel that we don't really have a policy today that really kicks people out enough for being antisocial or bad to others by what they're viewing. And I've heard it again and again from people that oh, gee, you know, it's not something I can really do, you know, I don't want to go talk to that person, this being the librarian because it's a painful thing to tell this person hey, you know, you're bothering others, you've got this pornography going, it's uncomfortable. I think we need to change the policy in item number 1 that Councilmember Constant's memo speaks to and make an enforcement of that. I think it's unfair and improper to use those items that we pay for, for that research. I'm all for research. But I don't think you need to bother people about that. That is clearly offensive. There are people in the audience that find pornography extremely demeaning to women. You're on the odor side tonight. I would say this, I'm supportive of Councilmember Constant's item 1 and 2, changing the policy so people know how to use Internet technology responsibly. And number 2, we should apply filters in the children's section of the library. My concern for GLBT youth not knowing their sexuality and having to figure out a safe place to understand more on the Internet can be sufficed by going to the adult section and figuring out there. You'll still have the option to find out anything you want to research about that personal coming together. Now, for those of you on the council, that if you truly and honestly believe that

children have a right to learn about gang-bangs, do children have a right to learn about cream pies, do children have a right to learn about double penetration? Do children have a right to learn about any of these words that are normal English words but taken out of context, I think you know what I'm talking about. Do any of these children have the right to learn about fisting, whatever the acronym is? It's there, and the sad reality of it is, it's just a click away. So do you really believe that children have the right to see this stuff on a taxpayer dime? I don't. And I'm a pretty Libertarian type of person. You do on, to whatever you want do. At some point I know I have the ability because federal law allows me to do so and state law does me, I can't say it's one of those policies and I can't do anybody about it because the federal law will usurp me. But the truth is, if you really believe that children deserve the right to learn about these topics, then we agree to disagree. But I believe a sensible approach is, bifurcating Councilmember Constant's memo, eliminating item 3 so adult computers are left alone. However, we have a policy change that allows strict enforcement, so when someone's being deviant we can kick them out there and restrict their access to the library. Because we don't condone that behavior. On item 4, I respect the fact that we went into agreement with San Jose State to build a library together and the university has academic freedom. Fine. Put it on the table. It doesn't have to be there. But certainly, a is policy change that is a real policy change, Councilmember Constant item number 1 and number 2, being able to apply filters to children's library only and it sounds like from the donation, I don't know if it would cost us anything, with the donation. Vijay Sammetta, from I.T, what are we talking about, one computer instead of two?

>> Thank you, councilmember, Vijay Sammetta director of I.T. If we want to take that type of stand we would want that type of redundancy. The reality is, if a computer goes down we would neat that anyway.

>> Councilmember Oliverio: So none the lest, even with 40 grand, pick up two computers and licensing, you can't become a fiscal hawk only when you disagree with it, you've got to be a fiscal hawk or everything. And I just think, you know, it's a sensible approach, you know, so that's what I have. I don't discount what the other memo is trying to do. I understand it's trying to do something. But for this councilperson, for this person it's not doing enough when it comes to just managing what we're doing in the children's area and you know, to the issue of we shouldn't do anything until we do other things, the reality is those things never happen. We will never fund the library hours to where he they historically were. I'm going to sit on this council the entire time during hard budget times. When I leave in 2016, we will probably finally have flourishing budgets, maybe. But while I'm on this council we'll probably be dealing with restricted budgets, tell me it won't happen. Vice Mayor Chirco, and Councilmember Liccardo and Councilmember Kalra, I think it will be the complete shame if the council is not allowed the opportunity to vote on putting the filters in the children's section only unless you think it's okay for children to learn about those words I talked about earlier. [applause]

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I just had a couple of questions for Jane. Jane, you can talk about the children's section of the libraries? Is there a different section for teenagers versus children? Are there any age sort of ranges?

>> Jane Light: Yes, Councilmember Herrera, there is no hard and fast rules. There's really just developmental criteria, I'd say. Where about the age of 12, as children enter middle school. They don't want to hang out in the children's room. They may still be using those materials if their reading isn't quite up to grade level. But they really don't want to hang around with the little kids anymore. Our teen areas tend to serve the 12 to 17-year-olds, although a driver's license seems to be a great replacement for library cards for many youth. We see many children in the teens room are youth to 13 to 16, 17-year-olds. And in those childrens, in the branches when we have a separate teen room which our new branches tend to have, the teen rooms, the collections in there are fund collections. They're not designed to be the school collection. That's the general part of the library. And we have a few computers, but not many, and usually, a big screen TV where kids can watch DVDs and things. So those areas are designed as casual hanging out space for teens. And adults, the sign sort of says, you know, this is reserved for youth of 12 to 17-year-olds.

>> Councilmember Herrera: Are adults allowed to go into children's areas and we've heard tonight that there is concern that adults are allowed to go into children's areas when there aren't any computers available.

>> Jane Light: No. Some adults become very concerned, they're not allowed. During the day the computers in the adult section are bis but the children's aren't. We are told they cannot use that, we tell the adults, they need to understand the reserve of space for children. So we do not allow that. At the King library we do have one computer in the children's room because that room is a separate room on the first

floor, that area is very big, we've reserved one computer there for a parent to use when they're accompanied by their child. Not for research with a child but because they have a quick computer use and three want to do it there.

>> Councilmember Herrera: And I wanted to go back to the policy because I think understanding the policy is very important, it's important for me, too, tonight as I sit and hear this discussion. What is the process for complaint, if someone is offended by pornography they've seen in the library, is there a complaint process? You can describe that?

>> Jane Light: The complaint process would be to approach a staff member, any staff member and we all wear badges, and say that you're being bothered by someone that someone else is doing. And that can -- it could be looking at pornography, it can also be somebody has their iPod on very, very loudly, it's bothering me and I cannot concentrate. In those cases, the staff person goes to the person whom the complaint has been made about. If a customer will not respond to a behavior request they will be asked to leave the library. ..

>> Councilmember Herrera: And the privacy screenings which we've had described tonight is a way to protect another library user from having to view some objectionable images that might be on somebody else's screens?

>> Jane Light: Yes.

>> Councilmember Herrera: Do we have situations where we don't have enough of those things or do we have enough?

>> Jane Light: I believe we have enough. At the King Library we've permanently secured some in some areas where people are frequently walking back and forth. I think we have enough, and the staff, there's three ways you could use them. A customer could ask for a private screen. A staff member could ask on behalf of the public or their own behalf. All three of those criteria apply.

>> Councilmember Herrera: Thank you. I want to thank Eugene for all the work you've done and all the councilmembers who have been involved in any sides or both sides of the issue. I have listened to everybody except for the moment when I went outside to take a break. But I have listened intently to everything I have had to say. I'm very interested in what the community has to say about this issue on both sides and I believe that everyone coming here as has been said before believe in this, believe that this is an important issue and I think it is -- it is an important issue that we've needed to discuss tonight. I think we need to take reasonable steps to make sure that children are not exposed to pornography. We have a policy in the library, we have an area that is meant for children and there are options there that can be used to protect children. And one of the things that strikes me the most are the numbers. 67% of the issues that occur, occur at home, and we're talking about 3% that potentially happen in libraries. I don't like pornography, but I'm concerned about computer predators, sexting, that's a problem. I think we have to use the complaint process, easily enacted in our libraries. I'm not sure that social content is the problem. WebSense account software being used, I think it will create false security. Images still can be viewed, I think we should be very careful in thinking that somehow, software is going to protect our children. I think we have to rely mainly on the fact that we have a good library system, we have policies in place, and we should have adult supervision of our children. We should be sure that adults are there to supervise them in any public place. So for all of those reasons I am going to support the current memo that's up for vote right now. Thank you. [applause]

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I was basically going to say councilmember Rose Herrera has said, I'm going to add to that, I have serious doubt that filters can do the job. We need to go beyond that. We know more and more pornography sneaks into the community. Because it's a very big money raising situation. And I think we need to get state and federal government more involved. We need to work on towards getting some bills passed that would limit what the pornographers can get. Thank you.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you mayor, I also want to thank everybody who is here, especially Vice Mayor Chirco. The Sharks game is finished and we're leading 4 to 3, probably giving her more time to watch this exciting council meeting. I have one question for you, Jane, regarding to the physical layout, as well as the enhancement of training the customer behaviors. I guess my question is, have we done everything we can in terms of improve the fiscal layout in terms of training our staff to handle this customer behaviors?

>> Jane Light: Well, one can always do more training, and more communication, I'm sure we can do more than that. In terms of the layout, we have made some adjustments in the past year to move some

computers. On the other hand, part of our layout philosophy is that by having computers pretty visible, it creates a social expectation of acceptable social behavior. And that also, it allows a staff member to quickly scan as they walk through, to notice what's going on. Whereas, if we turned all our computers away in corners, I have always felt, and I think my staff has agreed, we'd have many more problems by doing that. And so we've paid a lot of careful attention to how we locate the computers. Some of the computers now have privacy screens. If you stand immediately behind someone and look over their shoulder, you can see what they're doing whether they have a privacy screen on. That was my comment averting the eyes, why is someone standing over someone looking over your shoulder. If you are standing or sitting to the side you cannot see away they're doing with a privacy screen. We've given it a lot of thought. I'm sure many, I know you are, in your Berryessa library several times a month with having your community hours. And I know that many of you are in the libraries, and have probably noticed that our computers are very visibly located.

>> Councilmember Chu: Thank you very much.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. First of all, I want to recognize Councilmember Constant and for bringing this forward, so that we could have a discussion, I know it was brought forward 12 years ago but sometimes we need to be reminded of the issues that are important to the community. And having said that, I wanted to ask the maker of the motion, in looking at your item number 1 which directs the City Manager to have staff create a log-on page to remind the library users of the City's policy. I'm wondering if, since you're making that direction, which is telling me that this is an opportunity for them to use some of the current policies but also maybe bring new policies forward that could go on that log-on page that may be helpful from the information they've received from the council. Or sit clearly just currently on the books?

>> Councilmember Liccardo: Well, I'm happy to amend the motion to ensure that the existing policy is fully enforced to the extent of staff resources. In other words, it seems to me from what I've heard and if you believe there's a place where we can fill in a gap I'm certainly open to hearing it but it sounds as though we currently have a policy in place that empowers library staff to tell users, if there's offensive content that in some way or another is being exposed to the public, the public can see it, either they need to put on a privacy guard or get out of the library. It seems to me that is probably the tool we need to ensure that people aren't exposed. If you think there's something more I'm certainly open to it but I'm happy to amend this to ensure that that policy, that is, to direct the City Manager to ensure that that policy's fully enforced.

>> Councilmember Campos: I think the only thing I'm concerned about is in looking at some of the language that's in Councilmember Constant's memo, I just want to make sure that we're not, that there are no loopholes that can get someone around the current policy. So I think what I would be very happy to support is, a little bit more leeway to make sure that we have covered all the loopholes and if that means looking at some of the wording that is in Councilmember Constant's I guess memo, it would -- I just don't want to block, close us into make sure that there are no loopholes in the policy as you move forward. And I think that's what I'm looking at.

>> Councilmember Liccardo: Just so I'm clear are you referring to the language on page 2 that is italicized?

>> Councilmember Campos: Correct. I'm not saying taking word for word but if there are things in that particular paragraph that would be helpful to strengthening our current policy I think it's important for us to look at.

>> Councilmember Liccardo: I'm certainly open to the use of any of that language which I understand complies with the law, that could appear on a screen to ensure that patrons are completely respectful of the right of others to not be exposed to obscene material or to material that they believe is pornographic. And so I'd be happy to amend the motion to include, in paragraph 1, that is with the incentive of the seconder, inclusion of other language that ensure that all patrons are aware of the need to protect the public from undesirable exposure.

>> Jane Light: Councilmember Campos, looking at the italicized language on page 2, my suggestion would be or the maker of the motion, you might want to incorporate the intent but not the exact language, so the City Attorney would have a chance to review the language regarding illegal activities and make sure that it does accurately reflect the statutes it's referring to.

>> Councilmember Liccardo: I think that would be fine.

>> Councilmember Campos: If you could do that maker of the motion --

>> Councilmember Liccardo: Appreciate that, great.

>> Mayor Reed: Let me see if I got that right. We have a substitute motion that we're considering that's on the floor based on your original memorandum from Chirco, Kalra, Liccardo with an amendment to refer to the language which, in Councilmember Constant's memorandum, not the specific words but the intent of the language so the City Attorney can check it out.

>> Councilmember Liccardo: Specifically the italicized paragraph on page 2.

>> City Attorney Doyle: If I could just note I think for the record the penal code sections are I think accurate but we'll verify.

>> Mayor Reed: Okay, so the substitute motion is amended. Are you done, Councilmember Campos?

>> Councilmember Campos: Yes, I was.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Point of order for City Attorney Rick Doyle. At this point we have a motion on the floor. What would be the issue of taking another substitute motion?

>> City Attorney Doyle: We would vote this up or down and then you could follow up a motion. But right now, we have to follow through on this motion.

>> Mayor Reed: It could be amended.

>> City Attorney Doyle: Sounds like it has already.

>> Mayor Reed: It could be amended again.

>> City Attorney Doyle: Six votes accepts the amendment.

>> Mayor Reed: If I got the details right there. Were you done, Councilmember Oliverio? Okay. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor and just in regards to the amendment that was added, you know, I think it's-I think it's good to take into the intent of what Councilmember Constant and frankly away I and I believe Vice Mayor Chirco and Councilmember Constant intended, in paragraph 1, letting folks know what conduct is considered illegal, what you can't do, and making sure that they have that information available so there's no second-guessing what the library policy is and it will make the job of the librarians potentially easier as well, so they don't have to explain what the policies are regarding the use of the computers. Also, you know, Councilmember Oliverio asks us, is it okay, for children to learn about these words that he talked about earlier or do you reserve the right, do kids deserve the right to look at these topic. It's like asking us, do we like to kick puppies. We have children's section, the monitors, parents should be with their children. That is not the greater issue that we're all facing when it comes to protection of our children. As Councilmember Herrera said, software is not going to protect our children. We have to protect our children. I heard on the radio the other day, here in 2009, that the top two fears that children ages 2 to 12 have, are being killed in a drive-by shooting or in a terrorist attack. That is our fault that they think that. We have scared them into thinking that the unlikeliest of scenarios is going to occur to them. And I just ask that we take care of our children in a way that's responsible, that also, you know, looks out to make sure they're not exposed to pornography. The unlikely sense of being killed in a terrorist attack, we want to make sure we protect our children. We have to make slur that we look at what the best ways to do that here. Especially in 2009, it is the advances of technologies, that everyone has to have for their children or grandchildren. A lot of us may not be comfortable with or talking to their children about, but when we put a filter on our library computers, we want to make sure our conversations are occurring in our homes with the ones our children lover. Thank you.

>> Mayor Reed: It is now 11:00, we've successfully managed to get to the end of the sharks game, although they did win 4-3 without our help. [applause]

>> Mayor Reed: But now the game is over I really would like to go home.

>> Councilmember Liccardo: I had tickets to that game.

>> Mayor Reed: That's the way it goes. Good one to miss.

>> Councilmember Constant: Were they gifts, Sam?

>> Mayor Reed: I urge councilmembers to shorten their remarks here because we're not done yet. Councilmember Constant.

>> Councilmember Constant: Yeah, I gave him those free tickets by the way, so -- one question for Jane. Jane, is it routine for the librarians or library staff to log complaints that come in, every complaint if someone complains about something?

>> Jane Light: No, it's probably not routine to log complaints at the branch libraries. At the king library, the librarians don't log them but because of the size of that building, a form that people fill out with any kind of complaint, that goes to division manager and reviews and responds to them if needed.

>> Councilmember Constant: I really want to point that out. It's really hard to say we have no complaints if you don't log them and keep track of them. [applause]

>> Councilmember Constant: On the privacy screens, I don't want anyone to believe there is a false sense of security. There is a quite wide range of viewing, on the TV accounts they show people with privacy screens and they're still very visibility. I did have my iPhone, I said we are \$10,000 away, will someone text me. We've got that extra \$10,000. It's really -- we're actually able to meet the requirement that Sam has in his memo, if you do the math that I did earlier. So I would urge my colleagues now, it's \$25,000 for us to install these in children's rooms. I would ask the courtesy, please -- can we set aside the motion, if the votes are not there then go to that motion. The last comment I want to make is the City Attorney, I want to remind you you already did review that language in my memo, that's where it came from the consultation with the City Attorney.

>> City Attorney Doyle: That's why I said, those penal code sections --

>> Councilmember Constant: That language has been vetted. Sam I would like to ask, we all know how to count and read the tea leaves. I can't understand why we can't vote on the motion on the floor, and if it moves forward, we're asking for 25 thousand which is by your memo. But I understand the way we have to go with rules so it is in your hands.

>> Mayor Reed: I guess that was a request to withdraw your substitute motion.

>> Councilmember Liccardo: . no, I -- I'm happy to -- [applause]

>> Mayor Reed: No audience participation here, we got enough people talking. Councilmember Constant, that was the response to your question, I think we're just about done. I would just like to get the last word in since I'm the mayor here and I can see the lights. Tomorrow afternoon, there are going to be thousands of kids in our branch libraries without their parents. It's a sad fact, that the libraries have become the communal daycare for kids after school. And I know our librarians try really hard, but they can't watch all those kids all the time. And so I'm not going to support the motion. I don't think it does enough to take care of the problem that we can fix if we choose to. On the motion, all in favor, opposed, three opposed, Oliverio, constant, Reed, so the motion passes, Councilmember Chirco absent, on a 7-3 vote on the substitute motion. [cheering and applause]

>> Mayor Reed: I think that concludes the discussion on this. Unless there was another motion that somebody wanted to make, we didn't cover already, that's -- okay. We have -- that concludes our work on this item. We have open forum. I don't think anybody wants to speak on anything that hasn't already been talked about tonight. Which is the purpose of the open forum. I have no cards from the public on that. So we are adjourned.