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City of San José city council meeting. [Gavel]

>> Mayor Reed: Good afternoon. I'd like to call the San José city council meeting to order for December 8, 2009. First item is to do the invocation. I'd like to introduce Pastor Javier Lorrera, who is from the Calvary Chapel, San José. Pastor Lorrera graduated from USC where he signed as a free agent for the L.A. dodgers. He has lived in San José for five years, has been married to his wife Lorna for over 20 years and they have three children. Pastor Lorrera serves as a police chaplain for the San José police department and is the worship pastor at Calvary Chapel San José. Welcome, Pastor Lorrera. Oh, we have Horace Mann School here. We're happy about that.

>> Thank you, mayor. Not too many Dodger fans here. This is closer to San Francisco. Let us pray. Our gracious heavenly father, we thank you for this time. We acknowledge you as a holy, a righteous, and a just God. And Father, I thank you for just the privilege of living in this great country. Thank you, Lord, for the privilege that we have to serve in this City of San José, and I pray for every city councilman, I pray for every city official, especially our mayor, strengthen them, give them great wisdom, and lord Jesus, may your peace reside in our hearts today. We love you and we praise you. In your name we pray, amen.

>> Mayor Reed: Thank you, pastor and thank you for your service as a police chaplain.

>>> We are going to do the pledge of allegiance, we have kids from the Horace Mann school help with us the pledge of allegiance. So everybody stand, please. [pledge of allegiance]

>> Councilmember Pyle: Know that the beautiful teacher that is in charge of these students today is a former student and a very good one. Thank you.

>> Mayor Reed: First item is orders of the day. Are there any changes to the printed agenda? Item 4.1, Brookwood Terrace family apartments should be deferred for one week, at staff request. I'm not sure exactly why. Councilmember Liccardo do you have a question as to why?

>> Councilmember Liccardo: Yes, I just want to ensure that this won't in any way impact their ability to obtain financing in a timely manner if we do continue it.

>> City Manager Figone: Councilmember, we'll make sure we get that answered for you before the close of this meeting.

>> Mayor Reed: Okay, so why don't we just not make the change in orders of the day. We'll get to it when we get to it, and staff can explain it.

>> Councilmember Liccardo: That would be fine, thank you and mayor, could I also request a time certain for 3.5, that it be not before 4:00?

>> Mayor Reed: 3.5 is what item?

>> Councilmember Liccardo: Terrace Drive.

>> Mayor Reed: The Terrace Drive.

>> Councilmember Liccardo: Thank you very much.

>> Mayor Reed: Any other items? We need a motion. Motion to approve the orders of the day. All in favor, opposed, none opposed, those are approved. Closed session report, City Attorney.

>> City Attorney Doyle: Thank you, Mr. Mayor, council met in closed session this morning pursuant to notice. We have two items to report out. One we were given authority to enter litigation, case as amicus curiae, it's People vs. Tu. It's criminal prosecution regarding alleged prostitution. And then the second item was authority to pursue appellate review in a litigation case. Case name is International Association of Firefighters Local 230 vs. City of San José. The substance of the litigation is a petition for writ of mandate and to compell arbitration regarding implementation of Government Code Section 3254.5.

>> Mayor Reed: That takes us to ceremonial items. I'd like to invite Councilmember Liccardo and representatives of Allied Waste, Horace Mann School, and the HP Pavilion to join me at the podium. I'm pretty sure Sharky is not going to Horace Mann School, so he must be here as a representative of HP pavilion, even though he's not going to speak. This is not the whole school, is it? What grade are you in?
>> 4th.

>> Mayor Reed: Fourth grade, third grade, okay, third and fourth grade. Today we're going to recognize, along with Allied Waste, we're going to recognize Horace Mann School and HP Pavilion for their leadership in recycling and sustainable practices. And councilmember Liccardo, who has the pleasure of having both of those places in his council district, gets to say a few more words.

>> Councilmember Liccardo: Thank you, mayor. Allied waste of Santa Clara County has been a wonderful partner of the City's in reducing our -- helping the San José Green Vision achieve its fulfillment by 2022 and getting to zero waste and keeping our landfills empty or trying to reduce the increase of debris in our landfills. And as a part of allied waste's efforts, sustainability star 2009, they are recognizing partners in the community who have exhibited leadership in protecting the environment. And of course,

Horace Mann stands out. Since 2007, Horace Mann school and we're here with third and fourth graders of Horace Mann, have been dedicated to recycling, principal Juan Correia is here, Sally Schroeder, a super volunteer who has been the parent coordinator over at Horace Mann, has been leading recycling efforts there for several years. They formed a Horace Mann's recycle club. They've got all the kids participating. They're engaged in really pushing the envelope and going beyond even what allied waste partnership entailed with San José unified. We're thrilled to have also Karen Fuqua here with San Jose Unified and many other folks. So that effort has really borne great results, certainly over at Horace Mann. At HP arena, the effort started a little bit earlier, in 2005. And that's an arena, by the way, that generates 50 tons of waste per month. That's a lot of beer cups. And arena staff has been successful in diverting over 90% of all their material as recyclable. The good news is we're not recycling sharky. You can stay put. I know, sharks don't make good soup, right sharky? But we're really thrilled to be able to present thee commendations. I know allied waste has an award of its own. I want to thank Gil chesso. Thank you Gil.

>> Thank you, Sam, Mr. Mayor, and councilmembers. Allied waste is proud to recognize Horace Mann elementary and the HP arena for their achievements and commitment to San José's Green Vision goals. Our sustainability 2009 awards and a donation in the amount of \$1,000 is being presented to the school and to the shark foundation. Accepting for the school already, we had a meeting where the board is Sally Schroeder and the principal and Rick Satello from the sharks foundation and sharky. Thank you very much. [applause]

>> Councilmember Liccardo: I believe Sally had a few words for the parents, is that right, the parents and students of Horace Mann. Thank you.

>> Mayor Reed: And then we'll have the big people go to the side.

>> I just want to say thank you. This is quite an honor for Horace Mann, especially the students who work in the recycle club. These students are just representatives of more than 200 students of this school who participate in the recycle club and our whole Horace Mann community who participate in recycling waste every day. Just this year alone since August this students have collected nearly 2 tons of recyclable waste that will not be going to the landfill. And these students work every single week, twice a week to collect from every classroom and every office. I want to thank allied waste for supporting our program and encouraging us to utilize our waste options and we hope to add composting to our services at Horace Mann. We'd like to thank Mr. Juan Correia, our principal, for his leadership and continued support for our go-green program. And most of all, we'd like to thank the entire Horace Mann community for embracing the go-green program and participating in all aspects of our recycling efforts. And lastly, we invite all of you to take a minute to cross the street to Horace Mann and visit. And the recycle club would love to show you our program and how it has become as successfully as it is. Go huskies. Thank you very much. [applause]

>> I'd like to thank the mayor and the council for allowing us this time today for recognition. I'd like to thank allied waste for their recognition and generous check. Which will help fund community programs like reading is cool, which Horace Mann participates in. Thank you very much. It's a program that encourages and rewards local schools for achieving goals by reading more books. In addition, the San José Conservation Corps, one of our partners in recycling at HP pavilion, they provide opportunities for young adults to learn job skills and earn some spending money, and in the process help keep the planet green supporting our recycle efforts. Thank you very much. [applause]

>> Mayor Reed: Okay, let's see if we can get everybody off as easily as we got them on. Thank you very much for coming, Horace Mann school. (inaudible).

>> Mayor Reed: Sharky has really big teeth, is what I noticed. I'll take up our consent calendar. Are there items on consent calendar that councilmembers would like to pull for discussion? Item 2.2. Or I'm sorry, 2.9. Councilmember Chu.

>> Councilmember Chu: W.H.O..13.

>> Mayor Reed: 2.13. Councilmember Liccardo.

>> Councilmember Liccardo: 2.14.

>> Mayor Reed: 2.14. Any others? Okay, motion is to approve the balance of the consent calendar. All in favor opposed none opposed, that's approved. 2.9, that's a request for travel I've already done so I can give a report as part of this. I attended the IBM smart cities forum at the Lincoln center in New York City. Red eye in, red eye back, I was on the ground for about 11 hours but it was a chance to meet with the CEO of IBM one of San José's largest employers and talk to several hundred companies that do business with IBM all of whom should be in San José and we hope will be in San José some day. IBM

has an annual conference someplace different in the world every year to talk about smart cities and what can be done to improve the technology in cities interconnecting all of our systems and making us smarter and saving us money. So I was pleased to represent the City of San José as part of a panel of mayors and a panel moderated by a CNN political analyst. So it was a good trip. IBM paid for the travel. And so hopefully we'll get some business out of it. But IBM is -- has been for a very long time one of our largest employers, and we hope that they will stay here and grow here. With that I'd recommend approval of this item. There's a motion to approve. All in favor? Opposed? None opposed, that's approved. 2.13. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I'd like to rethink my nomination for Hyman Contreras to the Human Rights Commission. This morning my office was informed by the Clerk's Office that Hyman did not come in for an interview nor submit the required supplemental materials. As a result, the application was considered dropped from the process, but at this time I would like to continue working with the City Clerk's office to fill the vacancies on the Human Rights Commission. With that, I will move to approve the rest of the 2.13.

>> Mayor Reed: The motion is to approve all of the commission appointments and reappointments in 2.13 except for the one that Councilmember Chu mentioned. All in favor, opposed, none opposed, those are all approved. Councilmember Liccardo, item 2.14.

>> Councilmember Liccardo: Thank you mayor. As a result of a case down in Los Angeles, Palmer vs. City of Los Angeles, I know there is something of a threat to local control for a lot of cities that have inclusionary housing ordinance and other ordinances that relate to rent, or rental properties, I should say. What I was hoping is that we would be able to incorporate somehow in the legislative guiding principles within our focus on local control some effort to either amend the Costa Hawkins Rental Housing Act or otherwise address the impact of this judicial decision to enable cities to have the local control that they had previously. And I understand there are challenges in getting anyone to carry the bill in Sacramento but I'm hoping that doesn't preclude us from at least putting it on our list to be able to articulate this is an important priority of ours.

>> Betsy Shotwell: Councilmember Liccardo, Betsy Shotwell, director of Intergovernmental Relations. I'm joined by the assistant director of housing to continue this discussion.

>> Sure. We're aware of obviously the issue, and again, we have not had any expressed interest regarding carrying a bill. But we certainly, if it's the council's desire to continue to have this or put it on the agenda it's certainly something we would be willing to continue to pursue and look into.

>> Councilmember Liccardo: What would be the mechanism for the council to express that desire? It would be right here with a motion or --

>> Betsy Shotwell: Well, as a -- just to give you a time line, I'm bringing the whole package forward to Rules tomorrow with perhaps a one-week turn around if the Rules Committee recommends that for next Tuesday, from the entire council can weigh in on the entire document as far as our guiding principles and priorities for 2010.

>> Councilmember Liccardo: So that will come in January hopefully?

>> Betsy Shotwell: It will come next week if the Rules Committee recommends a one-week turn around.

>> Councilmember Liccardo: Thank you very much.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: I was just looking to see if you wanted to amend this Sam or a question for follow-up?

>> Councilmember Liccardo: It was a question for follow-up. I'll be happy to move to approve as it exists now, I'll make that motion now, with expectation that we will be working on this next week.

>> Councilmember Constant: Okay, I'll second that. I just want to make sure that we weren't changing it without going through the regular channels, because I know I don't know the details of all that yet, I'm fine with it, thanks.

>> Mayor Reed: Okay, we have a motion to approve these recommendations knowing that many of the details will be coming back to us. Councilmember Pyle.

>> Councilmember Pyle: I just wanted to say, one of the areas where it could be included for future reference would be under the -- let's see, what page is it? Page 2, protect local control, would fit very nicely under that category, I would think. So that would be a good slot to put there, thanks.

>> Mayor Reed: Okay, we have a motion to approve the relevant 2010 legislative guiding principals. All in favor, opposed, none opposed those are approved. I need to go back, on 2.9. I misspoke. In other words, I said the wrong thing. When I said that IBM had paid for my trip to New York, that came out of my

office budget. Item 2.14, we just did. 2.13, 2.9, we've done them all. I think that concludes the consent calendar. So we will move on then to 3.1, report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor, members of the council. I have two items to report on. First of all, on the labor negotiation front. As you know we are trying to achieve the council's goal in a 5% ongoing reduction for total compensation for all employees. We continue to negotiate with the city's building inspectors, and while we have not reached agreement, the conversations have been very constructive. And I thank both the union and the city teams for that. The contract expires this Thursday, and we have several meetings, have had several meetings and will continue to meet every day this week for as long as it takes to try to reach a voluntary settlement and I will keep you informed of our progress. The second update is on the strong neighborhoods initiative. As you received an info memo distributed last week, we are moving forward with the council's direction to update the strong neighborhoods business plan. And so as part of this process we did meet last Saturday with 75 neighborhood leaders, representing all 21 SNI areas, and that was an incredible turnout. The half day meeting was a productive one focusing on the current SNI organizational structure, the mission of the program, the reality of the resources, and the funding sources that are needed to sustain the program over the next five years. There was a very healthy, engaged conversation about the strengths of the program and the initiative, as well as the reality of the budgetary challenges that we face between the city and the agency. We were able to gather a lot of excellent information, very good ideas to incorporate into the plan update, and we will keep you informed as the plan progresses. And that concludes my report.

>> Mayor Reed: Item 3.2. Rules Committee report for November 18th, October 28th, November 4th and November 9th.

>> Move approval.

>> Mayor Reed: Motion is to approve those reports. All in favor, opposed, none opposed, those are approved. Item 3.3. Report of the Public Safety, finance and strategic support committee for November 19th. Councilmember Nguyen chairs that committee.

>> Councilmember Nguyen: The minutes are in the packet. If there are no questions, I move for approval.

>> Councilmember Pyle: Second.

>> Mayor Reed: We have a motion to approve. I do have some questions on the comprehensive reports that the committee reviewed. We have a couple of reports, the annual debt report and the annual financial report. I had some questions on that. Scott Johnson is here, so on the annual financial report. Thank you, Scott. On Page 3, we have a fund balance of \$178 million. \$178.8 million, at the end of the year for the General Fund. And a lot of people look at that and say, "there's money that we can spend to cover things like our next year's budget shortfall, or whatever else we might need to do." So I'd like for you to talk a little bit about what's in that \$178 million and why we can't just take it and use it for other things.

>> Scott Johnson: Thank you, Mr. Mayor. Scott Johnson director of finance. What page were you on Mr. Mayor?

>> Mayor Reed: This is the CAFR, financial highlights stated balance of \$178 million. It's probably elsewhere in the report as well.

>> Scott Johnson: Right.

>> City Manager Figone: It's management's discussion and analysis, Scott, under, as the mayor said, financial highlights, the last bullet.

>> Scott Johnson: That refers to the fund balance on the balance sheet for the General Fund. And the balance sheet is on page 22 of the CAFR. So the fund balance that you referred to, the total fund balance is about \$211 million for the General Fund at the end of the fiscal year, June 30th. And that includes, we have some reserves for encumbrances, those are contracts that we've encumbered of about \$26 million and then we have some advances, loans and other assets of about \$65 million. What's important to keep in mind when we're looking at fund balance is that we're not talking about cash balances. We're talking about the differences between the total assets for that fund pipeline us the liabilities for that fund balance. The other thing that's important to note is for the fiscal year ended June 30, 2009 our fund balance actually went down by approximately \$66 million. And you can see that change on page 26 in the CAFR. When you look at the statements of revenues, expenditures and changes on fund balance you'll see that our total revenues of 663 million, our total expense were 619 million and then between our net transfers which were a negative roughly 10 million we had a reduction in fund balance for last fiscal year, because part of our balancing effort, and one-time sources of funding was from our General Fund, fund balance and the reserves.

>> Mayor Reed: Okay, well I'm still trying to get at the question of why can't we spend that \$178 million that shows as an unreserved General Fund balance? I know we can't. But I can never remember exactly why.

>> Scott Johnson: Well, Mr. Mayor, we have some -- the council has a policy in regards to our reserve levels. That's number one. So we have a contingent reserve of 3%, per the policy. But in regards back to why we can't spend that money is because we currently don't have those cash funds available. It doesn't mean that it's cash available. Because fund balance is the difference between all of our assets, including our infrastructure that we capitalize, all of our receivables that we have, and then less all the liabilities. And so it's not really a cash situation, where we have that cash available to fund projects overall.

>> Mayor Reed: Okay. And I've just noticed that we actually have the CAFR on as a separate agenda, 3.10 so I'm going to stop asking questions on this report from the council committee on the CAFR. We'll come back to that when we get that. But there was another item that is not separately agendized and that's our comprehensive annual debt report. So if there are any questions on that, which is not on the agenda, we should take those now. Okay. I don't have any questions on that. So we have a motion to approve 3.3. All in favor? Opposed? None opposed, that's approved. 3.5. Settlement of property damage claims of.

>> Councilmember Liccardo: Mayor, I asked that be held in the not before 4:00. Thank you.

>> Mayor Reed: Right, that's going to be not before 4:00. 3.6, Team San José performance measures. I have a staff presentation on that. I just need to disclose that in preparation of this meeting I had meetings with Dan Fenton, Megan Horrigan, Cliff Clark, John Southwell, Matt Di Napoli, among others. Paul Krutko.

>> Paul Krutko: Good afternoon, mayor, council. Paul Krutko, Chief Development Officer. Mayor, we did, as a part of our presentation on November 17th on the performance measures, we were asked to work on one of them and bring it back. But we were also directed to make some inquiries and do some review and discussions with industry leaders about the current situation in terms of the labor agreement at the convention center. So I do have a report on that as well. So first, to cover off the performance target. The concern was raised, relative to the performance mirror we were going to hold Team San José to on the customer service component for the facility. And if you'll recall we had brought forward a performance measure, a level of 80%, when we were here with the council on November 17th, we expressed to you at that time that the reason that number was where it was, was because we were loading in the condition of the facility. What we're proposing now, after negotiations with Team San José, is to raise that target to 95%. It would be solely based on the survey work that they do with the clients, and focus entirely on the service itself not the condition of the facility. For this year they've been able to achieve a 97% level. Keeping it at 95% is reasonable, we don't think that every client can be perfectly satisfied. So we think 95% level is a good level. So mayor, before I move to the other part of the presentation, I'd be happy to answer any questions on that point.

>> Mayor Reed: Any questions at this point? No, thanks, we'll come back.

>> Paul Krutko: Let me move on then. A few slides and a bit of information given the direction we received at the last meeting. When we were here at the council meeting and I keep saying I think it was November 17th, that you asked us, the staff, to return to council with a verbal report on the convention industry's reaction, those who use our facility, to Team San José's new labor agreement. And before I start on that, I just want to give you a bit of background. We -- first let me say that the staff was not aware of any change in terms of the labor requirement or relationship at the facility until we were informed by Team San José staff in a regular management meeting on August 24th. Since we have now learned of it and have the ability to ask questions and talk to people in the industry we've discovered that Team San José was working on this starting in January much '09. And what the thrust of this was, was that Team San José felt that by having a more direct agreement with local union labor here in San José, that they could provide increased customer service, lower the cost to clients, increase jobs, and more flexibility for the clients. It's our understanding that during the work on considering this change, that Team San José did do outreach to client, and in general, the clients' reaction was negative, that they advised Team San José that they felt that they did not want to have this change that was being proposed, which I'll get into in a minute, what that change is. What Team San José was considering doing is moving to a motel in which they managed the labor as a part of their administrative function and then having a direct relationship with a local Teamster local to provide that labor. So the new agreement basically has one -- two components in it. One as I said Team San José would manage those labor services with a specific local labor union

and the other key feature of that is that this would be an exclusive type of arrangement in which anyone who used San José's convention center facilities would have to use this particular labor union. Now, previously, just so I can set the stage so you understand the change, previously, clients of the convention center were allowed to work directly with the key player in this, the decorating companies. These are the companies that people who want to have a convention, a meeting, make an arrangement with, to organize, if you will, the layout of the convention center, to do the various things up of booths, identifying all those kinds of things. So in the past we had a situation where any -- the company could work with any labor union, bring any labor services that they wanted to for conventions. Again, under the new agreement they would be precluded from doing that, they would in fact be required to use the local Teamsters 287 and, again, this was intended in terms of I think what Team San José has told us is they felt that this would have a substantial benefit to clients. The reaction, where we discussed at the last meeting a bit, I think the mayor presented a significant amount of material that he had learned. Let me go through what we have learned since that last meeting. We have had many conversations with decorators, trade associations and clients. The purpose as directed by council was to gather a better understanding of the industry's reaction to this agreement. And I think those concerns can be categorized by the three items on the screen now. First, exclusivity, as a matter of principle, we have learned that many industry associations and contractors oppose exclusive arrangements in municipally owned and managed facilities that are funded with taxpayer funds. They cite the need to have an open market and that that should drive competition. They indicate that you know, one of the things that's very important to them is to ensure that the people that the -- the decorating companies have the ability to put forward the most cost-effective product as a way to lure meetings here, remembering that we're in competition with convention facilities all over the country. In terms of the existing agreement, the issue there is predominantly the decorators that work here are not based here. They're San Francisco based companies and they have existing agreements with the San Francisco Teamsters organization, local 85. This has now created a problem for the decorators because local 85 is still enforcing despite San José's establishment of exclusivity here, the local 85 is still pursuing their rights under the contract that they have the right to the business because they have standing agreements with the decorators. This puts the decorators in a very difficult situation as you can imagine. For example, we have learned that one company who has had six clients here in San José since the new labor agreement has gone into place, has on those six contracts six grievances with the the national labor relations board of because they used the 287 labor. So while the national labor relations board has yet to rule on these grievances, the mere fact that these companies have this issue is causing them as they've told us to advise clients to use other facilities. And according to other industry leaders, they are now advising clients on booking facilities for 2011, 2012 and 2013, we are concerned about the long term impact on our convention center and on the city financial support for that facility. One just point on the cost of labor. The current -- when it was first proposed, there was the labor cost plus the Team San José administrative fee. Since there has been some industry push back, Team San José has lowered the fee now down to the actual labor cost. But as a result, that administrative cost is absorbed in the larger budget, which means the larger budget the city supports is now, to some extent, underwriting the administration of the program. And just to close off on this, on industry reaction, yesterday -- there's currently a national conference of exhibitors and event conference people, firms and entities, meeting in Atlanta, Georgia. And we've learned that this particular situation in San José has been a major topic at that meeting, and they met to discuss it. And that group came away with the conclusion that it was very important that exclusivity be taken out of our situation. So in summary, to close off here, as the mayor pointed out, in terms of the things that he had been hearing, and presented at the meeting on the 17th, the industry reaction is substantial. Sharing with you the information that I already have today, that since that date, our follow-up has indicated that that's not abated. The industry reaction is still there, and there is still very, very a problem with the San José brand. We are concerned the impact this has in terms of a loss of business and the fact that our convention facility is caught up in a labor jurisdictional battle that was not the case at the beginning of this year. So the staff always does feel that it's important that we don't just come and bring the problem to the council and leave it here. We do have a recommendation. And we believe that it's appropriate for the council's consideration that they request that the Team San José board reconsider the exclusivity provision. They are our contractor. They have the rights under the contract to administer the facility. But we believe this particular decision has caused significant upheaval and issues for a facility that taxpayer hotel tax dollars support as well as the revenues that we provide from the General Fund to support marketing the facility which is something on the order of \$1.7 million in General Fund. That gets to the second point account sings the marketing plan

is key to bringing businesses here, we know there is a concern in the industry about bringing business to San José. We believe that the current marketing plan needs to be revised. We would suggest that it be revised, and be brought back so that we can share it with the council within 60 days so that we can see what we have in place to change the climate which, right now, is not a good one for us attracting business to San José. So mayor with that, I'm finished with my presentation.

>> Mayor Reed: Thank you. As I went into great detail on the 17th with the conversations I had had, I need to update that a little bit. Let me just say that I have met with Team San José's CEO, Dan Fenton, Megan Horrigan, Cliff Clark, John Southwell, and Matt DiNapoli. I've talked to Matt DiNapoli. So that is -- Cliff Clark and John Southwell are part of the executive committee. They're taking this very seriously. I'm cautiously optimistic that they're going to put together an effort to pull us out of this problem. As I said last time, I'm happy to have the San José Teamsters doing the work. I think that's a great result and I understand the reason why this is important. [cheering and applause]

>> Mayor Reed: But the problem is, if you can't get the work then there's no work. So I'm really concerned about us losing business. And while I've talked to many members of the industry and to a certain extent, their reaction is, I think, an overreaction, but nevertheless, they have certainly overly reacted to this situation. And they are acting on the situation and making recommendations to their customers, their clients, not to come to San José. And so I think that's a problem that needs to be solved for the good of all of us. The Teamsters, Team San José, the city and everybody. Is that we need to get this solved. I think the steps that the Team San José has taken are positive steps. And I know that customers that have been in the building have had a good experience and have saved money. I think those are important testimonials that need to be gotten out there to the rest of the industry. I personally talked to one of the event shows, imaps that had been in San José several times and they really liked the San José Teamsters. They got better performance, they got better behavior, they got better service, everybody was good. [applause]

>> Mayor Reed: So thank you. And I know that's being repeated with other event customers. But nevertheless, there are lots and lots of really important, influential people in the industry who think we've created a problem here and they're advising their customers to go elsewhere and that's creating up a huge problem for us. So I would certainly support your recommendations, that we have the board reconsider this and that we adjust the marketing plan to contend with this negative information that the industry certainly has been discussing. And urge Team San José to continue to work on solving the problem. I think what I'd like to do is, you know, approve your recommendations and get a report back in January, probably January 12th at our first meeting on the status of that. There were a couple of other things that we had asked the staff to do, and I want to turn to the city attorney for that. We wanted some documents under our contract, I don't know if all of those have been received yet so I'll let the City Attorney bring us up to date.

>> City Attorney Doyle: Yes, mayor, as of this morning we have all documents. Let me go over briefly, there were three documents that we were looking for, the actual agreement with the Teamsters, we received that last week. There was access to the marketing plan, you remember that, there was concern it becoming a public record. We agreed so long as the relevant city staff really led by Michelle McGurk, had chance to review it and see it and then comment that that would be adequate. And I know that she is, and a couple of city staffers have reviewed much of the document, I don't know if they had gone through the whole document, but they've had access to it. And then this morning we received a resolution of the executive committee of the board of directors, which sort of outlines the action taken with respect to the Teamsters agreement. So the documents that we have requested we have received.

>> Mayor Reed: Thank you. And from the minutes of the action, this was an action approved by the executive committee not by the entire board?

>> City Attorney Doyle: That's correct. And this resolution serves as the minutes.

>> Mayor Reed: Okay, but it was the executive committee, not the entire board, that made the approvals?

>> City Attorney Doyle: Right, apparently under the bylaws of the organization, the executive committee has the authority to approve all contracts and agreements.

>> Mayor Reed: We have some councilmember questions at this point. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Just had a couple questions. One for Rick. Rick, is the city in any way put at risk of liability if there's an allegation of unfair business, unfair labor practices of some kind?

>> City Attorney Doyle: No, I think the issue is exclusively between Team San José and the unions and their clients. The city is not a party to any of these agreements, so no.

>> Councilmember Liccardo: I'm just concerned because the city owns the facility and the city pays payroll over there.

>> City Attorney Doyle: There isn't any from my viewpoint at least, the city has no exposure. The concern is as indicated by Mr. Krutko, to the fact that there is a loss of business is a financial concern not a legal concern.

>> Councilmember Liccardo: For Paul, are there cities that have exclusive labor agreements like this in their convention centers?

>> Paul Krutko: Councilmember, I have limited information about that. What we do know is that Chicago has a similar arrangement to that, but we don't know of others.

>> Councilmember Liccardo: Okay, but it's --

>> Paul Krutko: I would just point out that when you look at a Chicago situation, it is a substantively larger facility and my suspicion would be that much of the decorator community is in Chicago proper. The difficulties as the mayor pointed out, using San José labor is something that we would definitely be supportive of, we don't have a decorator company in San José. As a result, the decorator companies are coming from an hour away and they have arrangements with the unions in San Francisco. So that's the problem that we're seeing, I think.

>> Councilmember Liccardo: Okay. Is this -- in terms of your understanding of how the convention centers work in other cities, is it fair to say that this isn't the standard practice?

>> Paul Krutko: Well, I think that I'm not a -- this is not an area we have substantive expertise. We're learning along with the council. All I would share with you is that we've heard from industry leaders who have expressed you know the heads of the associations of this industry, that they have concerns about the exclusivity. So I mean, that would lead me to believe that it's not something that they see in a lot of other settings. If it was common they probably wouldn't be objecting as vociferously.

>> Councilmember Liccardo: Thanks, Paul. Dan, if I could ask you to come down if you have a moment, thank you. I have a couple questions because the first I've heard about this issue about the notification to the city. Based on the time line that appeared, was that -- the negotiations started in January and then the city staff was notified in August. Is that fair?

>> Dan Fenton: You know, this is the first I've seen the presentation. I don't know --

>> Councilmember Liccardo: Is that a fair depiction of the facts?

>> Dan Fenton: I don't know -- I unfortunately don't know of the exact dates that Paul is referring to. I am not saying it's not the case. I just don't -- I wasn't -- we hadn't thought through -- I hadn't thought through. So the conversation that went on in January was with the president of the joint council of the Teamsters who at that time officially told us that by entering into the agreement, the exclusive agreement we have with 287 it would supersede any other agreement in the region. That's what happened in January.

>> Councilmember Liccardo: Okay. Did you, at the time you began the negotiations, did you anticipate this might be a controversial decision?

>> Dan Fenton: Actually, what we anticipated was that my delivering a more flexible environment and by delivering better cost structure to the decorators who we believe are critical partners to us, we absolutely believe that away we were delivering and still believe this today is better for San José, is better for them and gives them an opportunity when they are in San José to actually be more competitive than they were prior to the agreement.

>> Councilmember Liccardo: I know you believe that but did you also anticipate that this was going to create some issues for companies or for labor unions elsewhere outside San José?

>> Dan Fenton: When it came to other labor unions. No, we did not anticipate that. The issue of exclusivity that Paul's referred to we understanding the concerns over that issue but we believed and still believe that we have a solution that still creates the environment that the decorators would like to see created. So that's absolutely our intent whether we went into the agreement.

>> Councilmember Liccardo: I don't pretend to know how to run a convention center, so -- but my concern with this is, there appears to be a significant gap in time before the city was notified even that the agreement had been entered into. My understanding is that that happened, correct me if I'm wrong, I believe in July or June. It was in June, I believe. The city staff was notified in August. You at least had the intention of going down this route in January so that's some eight months in which the city had absolutely no idea this was even happening. I'm concerned about the hack of communication, particularly for

something that has such potentially significant impacts on our ability to generate business and create jobs for our residents here in San José. How are you going to resolve that problem?

>> Dan Fenton: On an ongoing basis?

>> Councilmember Liccardo: Yes, going forward.

>> Dan Fenton: We meet every month. We go over policies, procedures, practices, financial results. We talk about things on a very consistent basis.

>> Councilmember Liccardo: But throughout these monthly meetings, this isn't something you raised with staff, by the way we're going to engage in an exclusive labor agreement?

>> Dan Fenton: Again, I really do -- and I'm not trying to -- I mean, if the date that Paul recollects was whatever the date was, then I'll assume that was what the date was. But there wasn't any intent to withhold. We were in a process that we felt was absolutely beneficial to the City of San José, to our local decorators. We enter into contracts, we do this all the time that we believe are absolutely in the best interests of all of us. So this is a practice that we go forward with all the time.

>> Councilmember Liccardo: And you didn't have any sense prior to the time that this agreement was signed in June that this was going to ruffle some feathers out there?

>> Dan Fenton: We believed what we were presenting was absolutely in the best interest of San José --

>> Councilmember Liccardo: I understand that part, but I'm trying to understand, in terms of your own antenna, and understanding how it would impact your ability both to draw business here.

>> Dan Fenton: Right.

>> Councilmember Liccardo: As well as what the general ramifications would be in terms of San José's image, and being able to ensure we have a viable convention center. I understand you believe it was in the best interest. My question was, didn't anybody say to you, or did you ever hear prior to the time you signed your name on the dotted line, hey, this could be a problem?

>> Dan Fenton: Yes, we certainly heard concerns. But we absolutely felt we were providing a solution to those concerns.

>> Councilmember Liccardo: Okay, it seems to me that when you hear those concerns, that would be something that would be helpful for the city to know.

>> Dan Fenton: Okay.

>> Councilmember Liccardo: I'm just saying, going forward. And I understand you are the one running the show over there, and I don't pretend to know, again, how to run a convention center. But seems like these were the kind of issues that we could anticipate and try work out in advance.

>> Dan Fenton: Okay, I understand.

>> Councilmember Liccardo: Thanks. Mayor, I'd like to make a motion to -- there hasn't been a motion on the table yet. I'd like to make a motion to adopt the staff recommendation.

>> Second.

>> Mayor Reed: We have a motion to approve the staff recommendation. Councilmember Constant.

>> Councilmember Constant: Thanks. As you know, I'm the liaison to Team San José and CON-VIS so I've been following this process for quite a while. And we definitely know that there are issues with the decorators. Whether they are a reality that that's what the issues are, or perceptions, they're out there. And as we know, perceptions can quite easily become reality. I know that Team San José, we've had discussions, and by the way, all the people the mayor said he met, I met with as well, besides by attendance at the regular board meetings. I know there's been ongoing discussions with some of the decorators and some of the people who have expressed concerns previously. And I hope that all the involved parties continue to get involved in these discussions so that we can clear up the issues, the perception issues. I did have a few questions, and I'm not sure if they'd be best for Dan, or if they'd be best for Paul. So I'll throw them out, and you guys can figure who is the best person to answer. First, the previous arrangement with the San Francisco Teamsters, was that an exclusive arrangement? I know we have the exclusive with this particular agreement or was it exclusive before or what were the parameters?

>> Dan Fenton: Let me answer if I can Councilmember Constant. Local 85 had jurisdiction over the San José convention center for the last 15 years. So if you were coming into the convention center prior to August 1st, it was required based on agreement that you work with the San Francisco union.

>> Councilmember Constant: So the exclusivity, it's different exclusivity now, is what you're saying? It was exclusive before, and exclusive now, it is just who it is exclusive with that is the problem.

>> Dan Fenton: One of the areas of exclusivity that we are working very closely with the decorators on is the area that Paul mentioned, about having to use Team San José as the -- for lack of a better term, as

the person you receive the labor from. We have entered into conversations with them about evolving that concept that would give them the opportunity to potentially contract directly with Local 287, be able to still use the great local leaders that we have here, and enter into that kind of direct arrangement like they have in just about every other city in the country. Councilmember Constant, if I can answer one other question that Councilmember Liccardo asked, and that was which other convention centers currently have this practice in place. New York, Philadelphia, and Indianapolis, all have arrangements where you have to go to the convention center or the management of the convention center to procure Teamster labor. We are working with the decorators on evolving that concept, and that is one of the progresses that the mayor mentioned that we have made, and those are the types of things we're trying to work together on.

>> Councilmember Constant: I just want to go back to the staff recommendation, because I want to make sure we're talking about the same terminology, so when this comes back, we're all on the same page. So in item A, it's to reconsider the exclusivity provision. Are we talking about the exclusive use of one Teamster over the others, or are we talking about the exclusivity of having the labor run through Team San José?

>> Paul Krutko: No, Councilmember, what I am suggesting is that we have seen a very significantly reaction to the change. And what we're suggesting that the council ask the board to do is to revisit this whole topic. And be sure and clear about the path forward. Now, perhaps, you know, they'll take that back, it will take one meeting and very little time to reconsider, or there'll be a significant evaluation. But we believe that, given what we're hearing, independently, I mean what we were directed to do last meeting was to make the calls and to gather the information. And what we're hearing is the current change to say that if decorators must use local 287, is causing that industry to advise clients that perhaps, they should take their business to another city. We think that's serious and we think the board ought to take this up. As Rick pointed out, they are the operators. They have the ability to make this decision. Our rights are relative to performance. We -- and I'll defer to Rick and Brian on this but our ability to effect change really is on this annual exercise in which we approve budget and we evaluate performance. The day-to-day operations through the contract that we have with Team San José has delegated that to -- contractually to the board and to the executive leadership of Team San José. I don't mean to be long winded, but we think that given what we're hearing, that we would request the board spend some time talking about what's gone on, and let us know if they are going to continue on the path they're on, or if they think a modification is necessary.

>> Councilmember Constant: Okay. I just wanted to make sure what the question was. Because if it was exclusive before, and it's exclusive now, and we're asking them to reconsider the exclusivity, I think what you're saying is just to reconsider the whole question.

>> Paul Krutko: Brian's got a point.

>> Councilmember Constant: I want to make sure we're clear, so when we come back, we're not arguing over what we said versus what they did.

>> Okay, it's my understanding that prior to this agreement there was never an agreement. So it's -- that there was not an exclusive agreement. There was claim of jurisdiction by the other local. And that may have been for 15 years. I don't know the answer to that question. But I know that when the city operated the convention center, there was no agreement with any -- with any union. And so there was no clause in any agreement that required exclusivity. So I don't know if you could characterize, it was exclusive before, and now it's exclusive. I don't think that's the case. I think there is now an agreement between the operator of the convention center and the local labor organization that has this requirement that you use that local's labor when you perform those services at the convention center. And that did not exist before in the form of an agreement like that.

>> Councilmember Constant: Okay, I think that explanation, I think, clears it up. I want to make sure we're all on the same page on what the terms mean. I want to ask a little bit about -- and I know Dan, you don't have the exact dates handy. But when this -- when we knew of the change and stuff like that. In my mind sometimes gets fuzzy because of all the conversations we've had and all the different documents. But with the budget documents that came through, was there anything in there that referenced this?

>> Paul Krutko: No.

>> Councilmember Constant: I want to shift gears a little bit and go to the NLRB issues. My understanding is that two of them have been dismissed, is that correct?

>> Dan Fenton: That is correct.

>> Councilmember Constant: And then there's one outstanding, and what's the impact -- well, can you explain the vote that happened today and what's the impact of that vote on what we're talking about? Is that going to change anything?

>> Dan Fenton: The vote that happened today?

>> Councilmember Constant: Yeah, I don't know if everyone knows about, there was a vote to merge the San Francisco union and the UPS union, and how does that all play into -- is that going to complicate matters at the NLRB? Is it going to change it in any particular way?

>> Dan Fenton: Local 278 in San Francisco just received, I think it was today or yesterday, a vote of the members of 85 to agree to a merger. So it will mean that local 287, to the best of my knowledge, of course you're not talking to a person who has total knowledge here but to my knowledge they will be the representatives of what was formerly local 85 leaders. We will be having discussions with local 278 as it relates to this issue. And want to quickly determine if there's an opportunity there to work together more closely. And I think those conversations will go on very quickly.

>> Councilmember Constant: So we just don't know if it's going to complicate matters or make it easier yet it is just --

>> Dan Fenton: We do not know. Our thought is that it will be a positive but we do not know 100% yet.

>> Councilmember Constant: Okay, I think I have some more questions but I have to go through the report a little bit more so maybe at the end of speakers or something.

>> Mayor Reed: If I could just stay on that NLRB theme here. One of the issues with the decorators is if they come in and hire our local Teamsters, they run the risk of having to pay twice, is the way it's been explained to me and that's a significant number to them. And so every time you mentioned there were six ever them had come in, had six grievances. If the NLRB resolves the jurisdiction issue, then there is no grounds for the San Francisco Teamsters to file a grievance, is that correct, lawyers?

>> Paul Krutko: I'll turn to the lawyers.

>> City Attorney Doyle: I can't give you an answer on that. I don't know all the issues before the NLRB. Brian, maybe you can add.

>> I haven't heard back from them, so I don't know what the outcome would be of that.

>> Mayor Reed: So that's another thing that might happen, that it might be good, it might be bad. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I think I had questions for Dan and questions for Paul. Paul, how many if any conversation conventions have we lost because of this issue? Or maybe it's a question for Dan. I'm not sure.

>> Dan Fenton: There are probably at this point three or four that are clearly at risk, based on concerns of the customers over what the decorators are representing to them. So there are groups that are at risk. So I want to also confirm what the mayor said, that this is something in terms of the staff's recommendation just so you know, we agree that we need to resolve this. And the decorators are critical partners of ours. So this is not an issue where we feel it is an adversarial relationship but yeah, there are groups that are in jeopardy because of what is being represented to them.

>> Paul Krutko: Councilmember, if I might, just -- we had a little bit of discussion on the time line. The point where we became concerned, where we got information in August, if you will recall, we were hosting the league of cities. And their person who led bringing the convention here was the one who raised great concern about that, and there were communications I think to the mayor and to the manager that outlined that they were concerned about what they were being told, in terms of the exclusivity, what it meant with the arrangement they had already established well before with the decorator. So in addition to Dan's and your point, your point particularly about business we've lost, there has been considerable concern raised about business that was here that we would like to see repeat here.

>> Councilmember Herrera: So returning is an issue. So we haven't lost any business, really, yet, it's in jeopardy, at this point we can still -- there is still opportunity to work this out so we can hopefully retain that business or not lose?

>> Dan Fenton: Right but I would say that time is of the essence. We want to work together to resolve this quickly.

>> Councilmember Herrera: What would be the amount -- can anybody hazard a guess as to the amount of business?

>> Dan Fenton: In terms of a direct spending what does a delegate do when he comes into San José, it is significant. I don't have exact numbers but it is something that needs to be resolved.

>> Councilmember Herrera: I'm new to this issue, I'm happy if the San José Teamsters get the business. I mean that's San José and I think that -- [applause]

>> Councilmember Herrera: But I think having -- having said that we're certainly not in the business of trying tell labor unions how to work out their differences. But it sounds, Dan, if I'm understanding this right, that with this bringing together of 287, local 287 and locality 85 into one unit that you think you have a better shot at working with them to then have them contract out to our folks here? Is that what I'm hearing?

>> Dan Fenton: It's funny, sort of like acronyms in the industry. It's 278. 287 in our -- two if you will San Francisco base unions. And we are are actively, when I say we, our partners are actively in negotiation with them to see if there can be agreements worked out. To Mayor Reed's just mentioned, what he has suggested would help move this forward.

>> Councilmember Herrera: They would contract with our local unions and that would solve the issue or how would it --

>> Dan Fenton: Without overstating what conversations have been, it would be about establishing if you will within this region where in fact our leaders, you know, essentially should be working which we believe is San José and where San Francisco leaders should be working which we believe is San Francisco. So try to work together with that with new leadership and get together talking.

>> Councilmember Herrera: And it sounds like exclusive, kind of -- the term exclusive kind of bothers me a little bit because it policy, in reality there was sort of an exclusive situation with the folks in San Francisco, and now, we're sort of being more explicit in a policy with --

>> Dan Fenton: What I believe Brian was referring to is that jurisdiction existed.

>> Councilmember Herrera: Okay.

>> Dan Fenton: So there was jurisdiction over the San José convention center from the San Francisco local that was established through sort of the -- that world. What there hasn't been in the past is an actual direct agreement between the convention center operator and a local, or in 287. And there are two areas that the decorators are concerned about so we're clear. One is that and one is the issue of having to go to essentially a third party, if you will, call Team San José a third party and have us be in the middle of them working with our leaders, right? The other that they have raised issues are is the issue of exclusively using our members and leaders here. That is the thing we feel we have now done 18 shows since this agreement is in place. I would argue to a person in including the league of California cities that when it scale to the actual execution, the work that was done and the quality of the work that was done to a show they've seen improvement over what they saw before, before local 287 was the exclusive provider. So you'll see that when you talk to customers who have now experienced this.

>> Councilmember Herrera: Thank you. And I support the idea of getting this resolved as quickly as possible.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. Dan, you mentioned that some of the cities that have these type of similar arrangements that go through whoever the administrator of the facilities is, convention center facility, in this case, Team San José, that the agreements have to go through that organization. And there has been reference to Chicago that has a exclusivity agreement. Are you aware of any cities that have exclusivity agreements that are separate from the kind of structure that you indicated?

>> Dan Fenton: Yeah but again, let me restate the definition here. Every major American destination where organized labor is part of that destination, has a jurisdiction over the convention center, and it is an exclusive jurisdiction. So there are no major destinations where we know of where jurisdiction is shared between two locals. Now, Councilmember Kalra, the other question is, what destinations have a third party if you wilt involved in actually when you essentially schedule the labor and those were the destinations I mentioned I'm actually not aware of Chicago's arrangement if they have that. That's the area that we've worked very closely with the decorators about trying to figure out an agreement on and that's the area that I think we're making on.

>> Councilmember Kalra: And you said due to the new agreement with local 287 that performance and satisfaction has been approved but also because of the flexibility in their agreement in other words having a shortening the minimum hours required and having more flexibility in the time that the workers may be used, has also reduced cost to the customer, is that correct too?

>> Dan Fenton: One of the intents and really the intent of wanting to work with a local level and our local leaders here is to be able to create flexibility and the kind of competitiveness that should be in San José

and not in San Francisco. Today there are two initiatives that are different. One is, our leaders have agreed that when the meeting planner is done and when the show is done you can send them home. They don't have to stay another four hours. You can send them home. They respect that when the work is done they're done. The second thing is whenever you would like to start your show, any time you would like them to show up and begin their work they will show up then. San Francisco says no, we're going to show up at one time and if the show doesn't want to start you're still going to pay us from that time. Our local leaders say no we're more flexible and support the customer.

>> Councilmember Kalra: So actually we have been able to reduce costs, where the costs were actually increased because of the way they operate.

>> Dan Fenton: For each customer we've done so far, we've taken the local 85 agreement, we've costed it out. We're showing them what the cost of labor would have been, at least each team it has been 5%, if not 20 to 25% difference.

>> Councilmember Kalra: With respect to the San Francisco San Francisco based unions and so that's where we're getting the majority of the objections and since they're part of the industry certainly they're relating that to other industry leaders that they're not happy to the local union here?

>> Dan Fenton: And we're perceived liability that our partners have, in this case the decorators that have as it relates to the local agreement, those are issues that we're trying to work together on.

>> Councilmember Kalra: And sounds also there's internal, with the unions, there's an internal agreement that maybe have been reached, maybe are still in the process of being reached that will allow for a flexibility within the unions so that our local workers can do the work here?

>> And that work is going on as we speak.

>> Councilmember Kalra: Okay. Well, thank you for those comments and I also want to thank you for giving the information that was requested to the city staff. You know, I think one of the important things is we all remember, we want the convention center to succeed and I just want to be cautious about not adding or adding fuel to a fire that appears Team San José has been putting a lot of work and energy into calming down. It's kind of where we're pushing the recommendation forward rather than pushing the staff backwards. It seems like we've gone so far along to resolve that issue, in a way that reduces cost, improves the customer's experience at our convention center, and now, we're going to go back and make a request that they reconsider something that seems to be working. The issues are being dealt with. It seems the issues with both the decorators and interunion representatives are there yet, it seems that we're hampering the ability for Team San José to resolve these issues. In the meantime, we're seeing improved service to the customers without loss of clientele as of yet. If we get these issues evolved, we won't lose any customers. Any negative publicity that's been received, it doesn't matter, it's out there. But I can't agree with making a request to have a reconsideration of exclusivity when we're getting an agreement that's getting our local Teamsters to work and they're doing a better job than what we're seeing -- [applause]

>> Councilmember Kalra: They're doing a better job than representation from outside of our county and that the major objection is from companies that aren't existing -- that aren't based in our city. And so I would prefer to allow Team San José to continue to work with the San Francisco Bay decorators, so they feel they're not at fear of violating their agreements because I understand they had agreements there, and allow the San Francisco based and the San José based unions work out their differences. But things are working well if not better than they had before. So let's not lose sight of the fact that I have, certainly, let people know, let the world know that the convention center is working better than ever. And the customers are receiving better service than ever. And if we let the world know that, and also, at a reduced cost. So we should let everybody know that. That is a fact. That appears to be what's happening. And also, there's going to be an automatic resistance, instigating rejection to it doesn't mean that it's putting our convention center at a disadvantage in its ability to attract business. Let's see what's happening here, San Francisco companies dealing with separate contracts. We should focus on moving ahead, I think that recommendation A moves us backward, moves Team San José backward, I won't vote for this recommendation, he don't agree with recommendation A, a general statement that they should work on the exclusivity provisions and work with the decorators to make sure that the decorators feel they have some flexibility and that they're not put on their thumbs because we're pushing forward with exclusivity.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, Mayor Reed, I agree with a lot that Councilmember Kalra just shared but one of the criteria that we always look forward to seeing in terms of whether or not we

accept the RFP parole is the preference of local businesses or company, that submitted the proposal for the contract. So as it relates to what Team San José is doing, I don't see there's anything wrong with what Team San José is doing in terms of asking for work for our local union here. I will always our local unions over another union from another municipality. [applause]

>> Councilmember Nguyen: And so while we're going out there as elected officials advocating for local jobs here's an opportunity that this organization Team San José's doing and I don't -- I mean I think it's unfortunate that the negative publicity has been circulated, but Team San José acknowledged that and I think it's up to them to resolve this issue with the help of staff and elected officials. I agree with Councilmember Constant, I can't support this. I think we should help you to move forward and continue to create local jobs here over offering this kind of contract to another union from another jurisdiction. So I can't support this and I really look forward to having staff really help Team San José so we can continue to provide local jobs right here for residents. Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. I want to just add my few comments before the speakers address us. I would agree with Councilmember Nguyen and Councilmember Kalra. I think he was right on point. I know that these are challenging times for Team San José because of the negative publicity. I think it's probably a clinch that you didn't see coming, that your board is making a decision to continue to make jobs that are. Mixed messages that we support local jobs but when we're faced with something that is a little more challenging. So I would agree that we need to stay the direction that you need to be directed to go talk to the decorators, and work out any concerns they may have to alleviate what they may be or perceive to be a negative aspect working with your organization. So at this point, I cannot support the current motion, because I think that we need to be preserving and securing the jobs for our local Teamsters here in the City of San José. [applause]

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you. I had a question, Brian some how is it that jurisdiction is established by one union? Who decides, the NLRB or the union or who?

>> I'm not a labor lawyer.

>> Councilmember Liccardo: Okay.

>> (inaudible).

>> City Attorney Doyle: That's probably not a bad idea. The idea is, we're not labor lawyers and we would be reluctant to answer.

>> Councilmember Liccardo: So I guess the question is, Dan, you were aware that there was some jurisdiction previously in San Francisco, is that fair?

>> Dan Fenton: We were absolutely aware of the jurisdiction.

>> Councilmember Liccardo: Was there some attempt to resolve the concerns of the businesses and the labor union in San Francisco, prior to signing the agreement?

>> Dan Fenton: Yes, we went to the joint council of the Teamsters which, again, in that organization, is the regional body that looks at these issues. And we met with the former president, whose name is Chuck Mack, what he said to us after what we said to him? If you have an agreement that wilt supersede any other agreement in the region. This came from the highest authority regionally. That moved us forward to signing the agreement.

>> Councilmember Liccardo: If the locals all of, in contradiction to what you just told us.

>> Councilmember Liccardo: A question still as to whether the agreements that have been filed by local 85 are actually enforceable. There is work being done and the labor move around this issue. At this point, there are still high level leaders within the Teamster movement who have said, they are researching, so that is not resolved yet. As to what the enforceability of those greens are. There is work going on there to type to reveal.

>> Councilmember Liccardo: Thank you Lee. And then, I'm not sure how much time you've had to be able to where act to the seater and the nonseaters.

>> We've been able to speak to a number of people that have conventions coming to San José in the next few months and that have gist left the bled. I think Mr. Fenton's comments are right on. The majority of those people that have left the building have been very happy with the services, very happy with the downed, have made comments about the building. The problem is although they ever flaps-based companies, they do have a lot of clients that drive businesses to the convention center and it's the bookings in 2011, 12 and 13 that those clients are thinking about now the length of the agreement.

>> Councilmember Liccardo: I think I heard somebody say earlier in the meeting, there are no companies here in San José that do it?

>> In my limited work in the past three weeks the majority of them are in San Francisco, Texas and Las Vegas.

>> Dan Fenton: Right, the larger decorators are either -- are not necessarily located in San José.

>> Councilmember Liccardo: All right.

>> Dan Fenton: Councilmember Liccardo, if I could add one thing, though, regardless of where a decorator's headquartered, they do business all over the country and whatever destination they do business in, the normal practice is to respect the jurisdiction that is in that particular location. So I think that as we get that sorted out, that will help us when it comes to making sure that the decorators feel comfortable and are able to work in San José, and feeling like they can deliver a competitive result. That's part of what we're working on together.

>> Councilmember Liccardo: I appreciate that, I suspect there's some other share is to the extent that the train has left the station on this issue and the perception is out there. We all want to see the jobs here in San José. That is my concern based on everything I've heard in the past two weeks about the very forceful comments that have been made by customers about this situation. I think we need to step back and see how far we can move together more collaboratively.

>> Mayor Reed: Councilmember Chirco.

>> Councilmember Chirco: I had a question about the decorators and pre-existing contracts they may have had with, I guess it was 87?

>> Dan Fenton: 85.

>> Councilmember Chirco: 85, and then the exclusivity contracts that we have here at our convention center put them in the bind of having to pay double and maybe Paul you could address if that was true?

>> Paul Krutko: That's pending the grievances that are before the national labor relations board. So what the clients are faced with is the NLRB will rule in favor of local 85. I mean, again, what's happened is, we have another Teamster entity that has filed this grievance with the national labor relations board. Who says it doesn't matter if you paid for the work in San José. You also have to pay the same for the work to the folks in the San Francisco union. The nature of the work, near Brian nor Rick are labor lawyers and I'm clearly not a lawyer. But the issue is that it's causing uncertainty in the clients' minds and uncertainty for the decorators. And that's causing them to say, it's easier just to not think about San José right now, until this gets worked out. That's why Dan's points, I would reinforce and encourage him, this needs to be worked out. As we have come to council before, we are concerned about the fund 536 balance, we are concerned about we are in a very difficult economic period. We are concerned about managing the center within the resources we have. And so the sooner this gets resolved, the better.

>> Councilmember Chirco: On these existing contracts that these decorators have, are they multiyear contracts?

>> Paul Krutko: I'll have to refer to Lee. Are they multiyear contracts?

>> Dan can back me up. Some are long term some are short term upset but they are governed by the jurisdictional rules within the unions.

>> Four year contract.

>> Councilmember Chirco: So to the Teamsters in the audience, I would say only a fool would want to send work to San Francisco. And nobody on this council is a fool. Maybe we're foolish but we're not a fool and I truly do not want to give jobs to San Francisco if we can keep them in San José. [applause] But I also don't want our businesses tied up in litigation. I don't want our jobs tied up in litigation. I don't want our jobs to become victims of contentious labor disputes. What kind of when it goes to the national labor relations board? Make a Teamster could answer that? (inaudible).

>> Mayor Reed: Let's not get too much audience participation here. We do have a question for the Teamster lawyer.

>> Councilmember Chirco: What is the cost of the deck rarity good.

>> Or the service as compared to a court proceeding there is no cost for filing motions or anything else of the like. It's a question of how they choose to have themselves represented and how much they choose to pay in attorney's fees.

>> Councilmember Chirco: So there is cost that's the bottom line and inconvenience and defense. Thank you very much for your answer. I think this is something that needs to be resolved and when I first heard about it, it seemed like a phase-in would be you know, obviously always pushing to have the San José jobs. I didn't get to this job by advocating to put jobs elsewhere. I got to this job

because I wanted services to our community, I wanted jobs for our community, as did everybody else up here. But I also wanted it done in the right and appropriate way. This recommendation says to reconsider the exclusivity. It doesn't say to change it. It says to reconsider it and to have that thoughtful dialogue, and am I interpreting that right, Paul?

>> Paul Krutko: Yes, councilmember. We thought that a sense of the council about hearing this information we teed up this recommendation so that you would have something to work against in terms of you know, your deliberations. But clearly, we just feel that a sense of the council, because I do want to remind the council, we were responding to a flurry of claims that we heard from the public that means here the complaints were being brought to the attention of the individual councilmembers, to the mayor, to others. And so we're receiving -- we're on the receiving end of the complaints about the change that Team San José has implemented. We think telling the board that we've received those complaints and we think that it's causing some damage should be something that the board should hear from us and that's why we teed up this recommendation the way we did.

>> Councilmember Chirco: And what I want to say to Dan is this should have been part of your marketing plan way back in January. If you anticipatorying you are going to be changing to exclusivity benefits, what are the benefits, how can we get that out in our marketing package, so you can begin to build the goodwill and interest of what is this I say this is a good proposal, I'm not saying losing the exclusivity is the way to go. But I think it needs to go back and have a thoughtful discussion. I want those jobs here. How can we get that without a contentious flurry hotels that may be concerned about losing heads in beds? So I will be supporting this. I look to the unions to continue to work within themselves. This reminds me of the 49ers, or the Oakland A's coming here. Whose territory are we? We must be clear on our voice. That we are the territory of those that live in this community. And the Teamsters that live in San José have the right to advocate at their labor relations board, that this is their territory. And that's not an unreasonable act. But that needs to be done within the organization and putting the council in that decision is, do we decide with labor, do we decide with business, do we decide with community, do we decide with jobs? Everybody up here wants these jobs in San José and never at a more critical time than today. I will be supporting this motion. I will look to our partners out in the audience that can help resolve this and bring resolution and business to San José as well as jobs. Thank you.

>> Mayor Reed: Councilmember Pyle. [applause]

>> Councilmember Pyle: Thank you, mayor. Most of the issues were already mentioned by Councilmember Chirco. I did want to ask, though, was there a contract with San Francisco that has been violated?

>> Dan Fenton: If you go back to when we first met with the joint council and we talked about entering into this agreement, it was our belief and it was our understanding that having an agreement like this supersedes any other agreement in the Bay Area.

The agreement that our partners, the decorators have with local 85 did specifically have cause clauses in it that talked about when they were doing business in San José. The clause said when you are doing business in San José you use San Francisco labor. So it was in their agreements. Our belief is that the agreement we signed superseded that agreement in terms of the liability if you will to the decorators.

>> Councilmember Pyle: And that's one of the issues that will be solved by the NLRB?

>> Dan Fenton: That's right.

>> Councilmember Pyle: We can't blame San Francisco, they are going to kickback they do want the money. I would think that we could compensate with some of this with outreach. And I don't know what outreach might have been done. A letter of explanation in reference to the negative press or not even mention that but get some action going.

>> Dan Fenton: Yeah. There have been a couple of point-counter points in some of our trade publications where the trade publication just asked the question about this. We have probably touched since this agreement went into effect easily a thousand customers personally around this issue. Our sales managers are out there every day doing what they do in other cities, too, Chicago, Washington, D.C. and others. So those conversations are going on. Let me also say this and I want to reiterate this. The importance of the decorators in this industry and to San José are vital. So they are absolutely to the direction whether it's this motion or whatever the direction is, let's come to something that we have had conversations and we think we can make progress here, I don't want to down play the fact that they're an important part of our success.

>> Councilmember Pyle: Thank you for your efforts. As we say in economic development, buy locally and hire locally so thank you. [applause]

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I've been listening to all the discussion and trying to reconcile the motion with where the discussion's going. And I've had the opportunity to have a lot of deep discussions on this particular issue and I've talked to some of the members of the Teamsters and the hotelliers and Team San José and everybody. I do think that the agreement is in the best interests of the clients. But that being said, I really don't see the harm in asking the board to have a vigorous discussion about it. In fact, I would think that the board would want to have that discussion. And, you know, I think that we should support this motion, and ask them to have this discussion. They can say no. They can deny their requests, they can go on their way, they can explore it and have a vigorous discussion and say they've had the right decision and explore it and say they've had the right decision. But I don't think it's wrong for us as a partner of theirs to ask them to have the discussion and I think it's warranted because there is a lot of confusion, there is a lot of perceptions which as we said, perceptions can become reality. I think, given the knowledge that I have, it was the right decision, and we should be going forward. But I don't think that precludes us asking our partners to have the discussion at the board level and see. And I don't see the harm in that. So I understand the comments that Ash has made, and Nora and others. But I don't see the harm in the motion. I do think it's a little bit ambiguous, I have a discussion about the issue see what we can or can't do to resolve it. Because I think the sentiment is clear. We want San José folks doing San José work in San José. But we also have the dust-up that's happened and the smoke and the mirrors that have come up. So I don't see the harm in that. So I'm going to ask my colleagues to support that and I think in the end we're going to come back and we'll be in the same place from a policy perspective but there will have been the debate and we'll get all the issues out there and we'll end up with our folks doing our work in our city.

>> Mayor Reed: Let me say that the powers will be decided by other than us, namely the NLRB, maybe you had a little trouble getting the Teamsters regional organization doing what you said you wanted them to do. And maybe they can work on that. When I talked to the industry people back in October, there's two parts of this. I don't think they care all that much about this, whether it's the San Francisco or San José Teamsters. But having Team San José between is causing their problems. That's the exclusivity that I was hearing about when I was talking to people. That's different than who gets the work. That's the piece that the board ought to take a look at. We're not in the business of running the convention center. The board knows about this and the board should look at that and figure out whether or not there is a way to solve it and what the marketing plan ought to be to deal with the exacts of this and then report back to us because we're on the sidelines watching this. But the board really is in the position to sort it out and that's why I think this needs to go back to the board and come back to us with a status report. Just to clarify the motion, Councilmember Liccardo, there are three oops first to approve the and come back with a marketing plan and I had asked that this be a status report come back on January 12th and I wanted to make sure that all of that was included in your motion.

>> Councilmember Liccardo: My motion includes all three items.

>> Mayor Reed: And report back to us on January 12th?

>> Councilmember Liccardo: Yes.

>> Mayor Reed: And motion and seconder, is that okay with you? All right. I do have a lot of people who want to speak we'll get to shortly. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I just wanted to say whether it's San Francisco Teamsters or San José Teamsters, these are tax subsidized jobs and the council obligation is to the taxpayers and the union obligation is to its dues paying members. However collectively we want to be able to make sure this is the best facility so we can compete and bring jobs. So let's work to support I obviously support this motion because I seconded it.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you mayor. I wanted to bring up one of the items the mayor just brought up to you Dan, and what he's hearing that it it's not just who does the work but that it might also be Team San José in the middle of this.

>> Dan Fenton: Yes.

>> Councilmember Campos: So I'm wondering if it would be helpful because whatever we pass today is what you are going to take back to your board. And I'm wondering if item A is too vague and doesn't have enough direction on where -- what discussion we would like for you to have. So the maker of the motion, I'm wondering if we could add something that would incorporate incorporate, and then not limited to this particular giving them the direction to reconsider the exclusivity provision, but allow them to put all their

options on the table, so that we're not sending the message that we're not supportive if they want to go continue the same direction but that we send a message that we also want them to look at what the mayor just mentioned. I think it's a little vague here and I think it needs a little bit more teeth so that as it's going back for direction the message that we want to send to Team San José board.

>> Councilmember Liccardo: Sure, let me see if I can offer some language that would give some greater specificity. After the words, reconsider reconsider the exclusivity provision, perhaps add a comma, saying reconsider the exclusivity provision both as to the role of Team San José and/or the role of local Teamsters. Whichever options.

>> Councilmember Campos: I think that sends more of a concise message that the council -- what we vote on. Because I think that it's only fair that they have all options on the table. And I think the way it is now, it sends one option.

>> Councilmember Liccardo: I'll make that -- I'll accept that.

>> Councilmember Campos: Thank you.

>> Mayor Reed: Is that okay to the seconder.

>> Councilmember Oliverio: I just want to make sure it's amenable to the mayor.

>> Mayor Reed: That's fine.

>> Councilmember Oliverio: Sounds fine.

>> Mayor Reed: My put this back on the board pes and that's what we're doing here.

>> Dan Fenton: I don't want to paint the picture that they're not engaged. They're very engaged. Absolutely.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Campos: The wording of exclusivity and explore all options as related to decorators and labor, it's still, we all agree that we want, you know, jobs here in San José and so on. We are spending be a mixed message, have trouble, we should be much more general, in giving the freedom of the board to find out the best option for them that works. In other words, instead of saying, reconsider the exclusivity provision, to have Team San José look at all the options that may be available to them in dealing with the decorators and then dealing with the unions. Because maybe there are other options that are more effective and we're just singling out, we're single Ling out the one option which can in some way ensure jobs for our folks here in San José. And we're singling that as the problem. We don't know if that's the only problem. That could be areas that could be improvement. I think we're being far too narrow, we should urge Team San José board to strongly consider all the options available to resolve the differences between the decorators and to resolve the differences between the unions. That's what I've heard everyone saying yet we are stuck with the exclusivity provision which is one way that we can get jobs to our workers and our decorators here in San José. So I will not support the motion unless it is more of a call to explore all of the options and not simply look at exclusivity as it relates to the decorators and the unions. It should be look at all the options as it relates to the decorators and the unions. Whether it be exclusivity or something else. By saying exclusivity we are -- we are making a statement and we are making a statement that is contrary to saying we want jobs in San José. We are being completely contrary to our goal of bringing jobs to San José. We say urge Team San José to be private stakeholders, AKA the decorators and others, and the labor unions, and the different, the locals and otherwise, I think that would be language that I'd be comfortable with and I'd ask if that would be something acceptable to the maker of the motion. Because it does include what's already in this, but it allows for more flexibility and how they're going to resolve the problem and doesn't point out exclusivity as the problem.

>> Councilmember Liccardo: I don't pretend to know what the problem is. To some extent we are all operating in a fog because we are not in the industry, frankly if all of us knew this would be the fallout, we would have taken slightly different courses. There's no question mere. I think implicit in the motion, I'll say it clearly on the record, I'm hoping they'll consider all options and if you want to add a sentence in there that says we encourage the board to consider all options I'm happy to add that but I think we can't ig nosh the elephant in the room and I think if we end up coming back, the board comes back and decides they want to keep the exclusivity provision, as to another option, they find bringing business here, no one will be happier than I and I'll say that clearly on the record.

>> Councilmember Kalra: But I think we are pretending to know what the problem is by sounding on exclusivity.

>> Councilmember Liccardo: That's what we've been told.

>> Councilmember Kalra: That's what we've been told by one group. So my point is that may very well be the problem but I don't pretend to know either. I'm preed the rks reconsider a decision they've already

made. And additionally, we don't know if that's the elephant in the room, I'll support the motion I think it's pretty clear where everybody is going with this and the concerns you have and were you on the go, if there is other language that urges Team San José in looking at all options from the private stakeholders to the unions.

>> Councilmember Liccardo: I'd be happy to accept that amendment.

>> Mayor Reed: Is it okay with the seconder? That's a friendly amendment. Councilmember Liccardo did you have anything else before we went to testimony? City Manager you had something earlier didn't recognize you. I've got public testimony here, quite a few people you want to speak. I'm going to call three or four names at a time. Please come on down to the front of the room. Steve Smith, Dan Higgins, et en Elliot and Daniel Faola. And if I misspeak your name please correct me when you come to the microphone. Steve Smith.

>> Smith is fine. To answer Councilmember Liccardo's question, there are four centers that I'm aware of in the country that have this same exclusivity agreement. That's in New York, Philly and Indianapolis and I believe we mentioned Chicago but I'm not sure about that one. So if that helps you out at all. The exclusivity portion is what we're concerned about is having Team San José it takes away the competitive marketplace for us to go out and do what we need to do as the shows. I'm kind of concerned that the shows themselves, the customers of the convention center, we paid more than \$2.5 million rent in the facility but we don't have a seat at the table. The one thing that affects us is about \$60,000, to the tune of about \$60,000 over three days worth of labor if this goes the other direction, in other words having the double-sided labor and doubling the cost of our lake. That would be our main concern. I would recommend that you support the staff recommendations. Thank you.

>> Mayor Reed: Dan Higgins, Kenneth Elliot, Daniel Faola.

>> My name is Dan Higgins, I'm vice president of sales with GES, one of the decorators that you've been talking about. I it's a great idea and it's something to work towards. Had we been consulted to work towards this end we would have come up with a lot of good ideas and one of them I think I just started to hear about which is having 85 and 287 talk to each other and try to work out an agreement that's more favorable with the local people in San José. As it stands now when we hire local 85 we use a one to one ratio or maybe that could be changed to a two to one ratio or three to one ratio. Directly with 287 so there's a lot of options there but this was done in a vacuum and I'd like to point out that San José is -- has significant brain damage due to this. As the mayor's talked about, the worried about coming to San José there is a fog over San José right now. The general contractors are put in a no-win situation right now trying to do business here and needles to say we're going to recommend-d needless to say we're going to recommend that the clients go elsewhere until this is rosmed there has been a lot of talk about it being more flexible and saving money. The original agreement as it came out literally doubled the costs to the decorators. The changed flexibility in the schedules was insignificant. I have a coin right here of the Teamsters local 85 agreement with the GES and you can read through it and you can read through the Team San José agreement with 287. You will not see significant savings or significant flexibility or anything significantly difntd that would say to you this is a much better deal. All of that said, I just would like to point out that San José as a city needs to reach out to the community and reach out to other destinations, other municipalities and understand what they're doing and how they're doing ut because there's a little bit of a silo mentality here, and you need to understand how you're perceived outside of the community because that's where the customers are. And I would highly recommend talking to other convention bureaus, other querntion centers and cities, the clients themselves. They're the ones sort of worried --

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

>> Thank you very much.

>> Mayor Reed: Kenneth Elliot, Daniel Faola Monte and Bob Blanchett.

>> I know that we used to come down here an do a lot of work and I'm just saying when 85 did have an exclusive, if they could they would come down here and never use a 287 member. They would just do the work them selves. Like this man just stated you're supposed to do one for one but if they have a chance they'll abuse that and they have many times. I was a general former for a couple of exearntion. They have no problem with doing that. If you guys can protect your labor, you should. That's all I have to say. [applause]

>> Mayor Reed: Daniel Faola.

>> My name is Paul P fxghtsaola, local 85, San José. Where it comes from but definitely, if local 5 had its way, it would probably be push exclusivity. Now the word here exclusivity kind of endears one to where

one's local jurisdiction is violated in some way. I think here we have jurisdictional issues within the locals, that is something that can be recommended within. And I think Team San José is right on the right track to remedy it. The other issue the vice president of sales here with GES invention it seems to me more of a marketing issue re: labor dispute. We don't have a labor dispute between jurisdictions. What we have is jurisdictional confinement within the local rights for that work. San Francisco's local goes as far as San Mateo county. You have to look at the men and women and say do they have the right to the work? Of course they do, of course they do, that's all I want to say. [applause]

>> Mayor Reed: Monte Hamilton, Bob Blanchett and then Rob McCormick.

>> Good afternoon. I just got a couple things to say. One, I'm disappointed that we weren't involved in the staff recommendations for the change. I feel that there were questions asked today by Sam, and some other members, Paul, he can't understand that Philadelphia, Chicago, New York Indianapolis last the same kind of contract that we do and I feel it hard to understand why he doesn't know that oops. We have a contract with GES in 1989 I had 19 people on the seniority list, they left at 9/11 because of the slow down in business guaranteeing us that they would renew the contract at some other later date when the business picked up. We went to them over and over and over again and they never ever came back to the table as well as champion and freeman. The only alternative we had to protect the good-paying jobs in this city was to do with what we did, is work out an agreement with Team San José, Dan Fenton and his staff, to preserve the labor for this city. And they did an excellent job. There's smoke and mirrors put out there by the decorators, to blame the Teamsters, one local against the other. That's not the issue. We have brothers here in this audience that came down here to support this issue. We are a brotherhood. We may have our differences but we will not step on anybody else's turf. Rule number 1. It's the decorators forcing those people come down here. Who has the control of labor? Who would pay for a ghost employee? What you should ask these decorators is proof, or some sort of cost of what they -- of charge the clients. Because there's no doubt in my mind, our contract is cheaper than their contract. And I tell you what, you people need to sit down with us. We can clearly explain one jurisdiction, to what the real wording of the one for one is. You think if you have ten people we get five they get five. That is totally false. So I'm asking, that we be seated or at least have somebody from your staff go with us in a meeting to clearly go over the issues that you people couldn't answer here today. Thank you very much. [cheering and applause]

>> Mayor Reed: Rob McCormick.

>> Mayor Reed: Rob just wait a second, after Rob, Vicky Delisle and Rickey Tafoya.

>> I know Mayor Reed and Councilmember Chu you have all come to Berryessa little league with photos and you have given every year to Berryessa little league. I greatly appreciate that. I have voted for phone tax upset and I own two homes and I did not put in my request for the open space. The reason why is, I love this city and I work and I play and I raise a good family here. I am very happy that you guys do see or very open minded about this, and you have been pro, and you have pointed out some inconsistency with these people. I feel like I'm dealing with Philip Morris and you can go ahead and smoke. I like it councilmember Constantine, he kept saying there was six they also are saying that people are talking trash and Mayor Reed said you hear nothing about positive, about this. There is a difference between San Francisco and us is our size, with our building. If there's a problem, it's going to be with size, San Francisco says it doesn't fit, come to San Francisco it's going to be cheaper. We all know we're going to be cheaper than San Francisco. I'm happy you guys see through this and you're -- you're -- you're questioning these people. I would just hope that you keep up the good work and that you see that they are not telling the absolute truth. It seems like smoke and mirrors to me and I thank you for your consideration.

>> Mayor Reed: Vicky Dee Leal, Mary Lee Tafoya. Jack de Sisto.

>> I'm Vicky de Leal, I'm a trustee in our union. workers like me thank you.

>> Mayor Reed: Mary Lee Tafoya, Jack De Sisto.

>> My name is Mary Lee Tafoya, I'm a proud member of the Teamsters. The Teamsters provided an outstanding contract on my dean's terms. It provides health and welfare, equal jobs for equal pay, and I think Team San José. Their members should you know be provided with every opportunity that I was from my union. Thank you.

>> Mayor Reed: Jack de Sisto, Bernalde please come down when I call your name.

>> Mayor Reed: My name is Reynaldo Partiko. I'm out driving for outreach program, MB transportation. Not only that I have a pension, good paying job all because Teamsters help me like you helping other people. See the big picture. People don't have the right answer, go the people, go to the

drivers, to the organization, have the answer. Two minutes only so, a deep breath. Thank you very much. Don't take it personally, but please, think through this program, it don't play the fear factor, right? See the big picture. Welcome to Silicon Valley, all these people. Thank you very much.

>> Mayor Reed: Karen sensor. Followed by Robert hipking and Ignacio Beltrand.

>> Hi, I'm Karen sensor. The NLRB procedure does not provide for grievance . A grievance is between the union and the member of the union and the employer. As of this date there are no reported grievances regarding the work that has been performed by freeman champion and GES at the convention center in San José at that work being performed by the members of Teamsters local 287. Charges filed against Team San José and against Teamsters 287. And what has happened to those charges, some are considering advice in Washington, D.C. as they have to but more particularly in a particular charge 32 CB 6818 brought by free maven gerches local woo 87, if national labor relations board found that there had been a bargain with Team San José and the Teamsters july 2nd, 2007, so this question that this was a new relationship that it somehow came out of incorporate is false and found to be fatalities by the national labor related board. what we have here is a situation being created by the decorators who would like to protect how they are doing their work in the past and not have to deal with the convention center. But this convention center model that Team San José is looking for here has been self in other cities, the flexibility that we have already talked about. Thank you. [applause]

>> Mayor Reed: Robert hipkin, followed by Ignacio Beltran and Rick Fontano.

>> Mr. Mayor, members ever council, my name is Robert hipkin. I'm here on Meyer brothers and sisters, on behalf of Teamsters, still working, my main issue is we are Americans, Americans need to take care of Americans and we don't see that anymore. We should take care of the American Teamsters for their work down here in the San José Bay Area. We should acknowledge that thairng.

>> Mayor Reed: Ignacio belltrand, have (saying names) Jerry Cordova.

>> My name is Ignacio Beltran. The city will support the workers in San José, you know. Most of the cities do the same thing. You know teem officers like Teamsters we are able to settle or you know to talk about any kind of problems, and that's the way we work, you know, sometimes we have a problem, we get a meeting and we solve it, you know. I think the jobs will stay here in the city, that's all.

>> Mayor Reed: Rick Fontano, (saying names) Jerry Cordova.

>> My name is Rick Fontino, mayor, members of council, thank you for having me. Like Bob blain Chet said before, this thing is, we are a brother hoose, we usually work our tbrobs out amongst ourselves. And I just want to say it's very persuasive when someone says customers are going to pull out. Where's the proof? You can say that do sway people's thinking. I just want to say, just remember one thing. The Municipal that's made in this city is spent in this city. Thank you. [applause]

>> Mayor Reed: Mike freemeyer, Jerry Cordova, Jim Peterson.

>> Hi, my name is Jerry Cordova. I've been a Teamster for 21 years in San José. I've worked for consolidated freight ways, i've also had the pleasure of working for Team San José. I'll tell you from the first day I walked in their door I was treat with respect and class, something you don't see very often these days. I thank them for the opportunity of working there. I, like a lot of other Teamsters, have been laid off from my current job. And the idea of the council even considering giving up good jobs is unimaginable. Please think this over very carefully. The Teamsters of San José have worked very hard for these jobs. I just ask for one thing. We are looking for someone to ten up and start this off right and we need this right here. The biggest thing you could do to send a message is that you are behind San José and the Teamsters of local 287. Thank you very much. [applause]

>> Mayor Reed: Mike freemeyer. Jim Peterson. Ross Signorino.

>> Good afternoon, mayor and city council. I appreciate you trying to keep jobs here in San José. My stepson and I live in Willow Glen area. It's tough, I'm trying to get him influence school. Since December of 2007 the economy has been tough and I used to be able to go down to the hall and work extra when there wasn't work in my regular job and that hasn't existed in the past couple of years. It's very important to keep the jobs here. And there is no -- we have solidarity in the Teamsters union. I don't go into San Francisco unless I know in my heart that all my brothers there have been offered work. And they believe the same. The problem is not within the Teamsters union. Thank you very much.

>> Mayor Reed: Jim Peterson. [applause]

>> Mayor Reed: Ross Signorino, Mike Garrity and George Netto.

>> Yes, to reconsider the exclusivity provision, that tells me that we're going to make a U-turn away from San José labor. If the council tells me to reconsider something, Jim, you reconsider what you're doing, I'm going to stop doing what I am doing I would suggest vote no on A and let the Team San José board do

what they need to do to satisfy our clients like Steve and others. I think reconsider it, no no no. I think they should be allowed to do what they need to do. Prior to the agreement, vans used to arrive from San Francisco full of Teamsters. They would go do their work, they would get back to their van, they would go straight back to San Francisco. That money was lost. Now our residents, our friends our neighbors are getting this work. I don't think we should reconsider that. I'm waiting for the San Francisco council to mandate that San José Teamsters go take their work up in San Francisco. I'm going to wait for that. I think I'll be waiting a long time. The mercury says there's an unfair labor practice filed against this issue. Well, you can file an unfair labor contract against a ham sandwich. Doesn't mean it has any grounds. The job performance is far superior. I'm sorry, 85, I've been here 25 years and those are quality folks back there. [applause]

>> San José Teamsters have jurisdiction over the San José convention center. I think Gavin newsom is not my mayor. Michaela Alioto is not my council person. it's the San José A's I'm sorry .

>> Mayor Reed: Ross Signorino. [applause]

>> Good afternoon, Mr. Mayor, city council, I'm Mike Geraghty. I worked for Teamsters for 21 years. I'm I've heard a lot about I don't understand how this works, this convention rate works. Let me give you a breakdown. All the freight comes into a marshaling yard. The marshaling yard is usually the closest Teamster terminal to the convention center. So at roadway, we would receive the freight from all ground carriers, UPS FedEx and we would inventory it, count it tag it, load it in trailers and then send it over here to the convention center to be unloaded. The trailers would get in and out in a big hurry. We didn't have shortages, we didn't have damages. And the people are actually really happy with us. So in essence, local 287 has been the backbone of this convention freight movement. Thank you.

>> Mayor Reed: Ross Signorino and then George Netto. [applause]

>> Ross Signorino: Thank you, Mr. Mayor. Members of the council. Mr. Mayor, I agree with your opening statement, was gratified to hear what you said at that time, the feedback you've been getting in those regards, that it has been good work and it has been working well now, except we might have been getting a bad reputation, except from the Mercury News and other news media, this other union we have, this decorators union coming in from San Francisco and possibly giving them a bad name. Somehow or another we got to that point, we have to work our way through that as best we can because we want our convention center with the unions that we have, to be successful. Now, in regards to territorial rights as far as this union is concerned, this decorator union that comes here, you ask, well, how can they have Vice Mayor Chirco has said, how can they possibly have territorial rights here? It's the people's rights, the same way with the territory of the giants. It's the people's territory. But think about this, how did this happen? It happened way back when, back in 1990, where you Vice Mayor Chirco were just a little girl. This happened possibly in Sacramento, and Sacramento and here, we gave this territory to the San Francisco giants. And who made that decision? You, the politicians, you are the ones. You don't have to look very far, just look at each other. Look at past councilpeople and say, well, we made that decision, we gave this territorial rights to somebody. We have the same problem over again, you needn't ask. How can you stand to go to so many council meetings? Councilmember Liccardo says, we got to get out of this fog. I just started to look at this thing last Friday or something, here I'm sitting, no matter it's news to me, if it's new to you, it's new to me, thank you all very much.

>> Mayor Reed: George Netto. [applause]

>> Good afternoon, Mr. Reed and councilmembers. My name is George Netto, business representative for the Teamsters for the past 20 years. First I'd like to applaud the City of San José for being one of the first cities to come up with a living wage ordinance. And you like the Teamsters never get any good publicity out of the San José meshing principle in fact I should think everybody should boycott the San José mercury. Second of all, your staff recommendation here talks about undoing a contract. And for the councilmember that doesn't understand the labor or doesn't understand the Teamsters, they offer really good class over there at San José city college. It's called labor studies and it might be able to help you out. [applause]

>> Thirdly, I haven't heard anybody here on the city council say that work performed in San José should stay in San José. I look at your recommendation, and I don't see any words up there sending a message, because we know that these exhibitors here are going to take and solicit what you people are doing here to try to drive the number down. The Teamsters have provided flexibility in the contract with Team San José which you people have entrusted to do a duty for you and they have reported nothing but progress to this point. Don't get involved in the intermix of the Teamsters 85 and local 287. That's going to sort itself out. We have a national labor relations board, they're looking at it in Washington, D.C. We have a

valid contract. If the vendor came in here and told you we don't like a green building, we want a pink one, you going to run down and paint it pink? No, it's business. You have control of your convention center. You should keep it, thank you. [applause]

>> Mayor Reed: That concludes the public testimony. We have a motion on the floor. Consisting of approving staff recommendations with a couple of friendly amendments by Councilmember Kalra and Councilmember Campos and the status of agreement back to council on January 12th. Councilmember Campos.

>> Councilmember Campos: Mayor, I need to disclose that my staff met with Megan Horrigan from Team San José.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Mayor, I appreciate the dialogue, particularly the dialogue that Councilmember Liccardo and I had, and certainly you have and are taking into consideration the concerns all of us have, again this is just a request, the Team San José board can do whatever they want to look at all the options and so on. I just still am just-I'm still troubled by the fact that we're making a statement that essentially asks the Team San José board to revisit a exclusivity provision which I think is good. I think it does bring jobs to our local union. It brings jobs to our San José employers. [applause]

>> Councilmember Kalra: So whatever problems we have, there is clearly problems that San José has in working with the decorators and in dealing with the labor relations issues. Those are being worked out. And I think by putting forward the exclusivity provision aspect of singling that out of one issue over the other, that's why I put forward the amendment to add kind of urge a discussion of all the options, that includes everything, and that presumably would include exclusivity as well. But by sending out exclusivity we're making a statement that we don't support the arrangement that Team San José has with our local workers and our local union. I can't do that. If we bifurcate the motion, I'll be happy to support the other two portions of it. I'm too troubled with recommendation A because if we like it or not, it's a statement just work out your differences. It's a very direct statement that we want you to consider a negotiated agreement on exclusivity with our local union and I can't support that. [applause]

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Would it help that instead of reconsider, we say consider, and then further consider?

>> Councilmember Kalra: This is the issue. I mean --

>> Councilmember Pyle: In other words, we're not going to go back on what we said.

>> Councilmember Kalra: Clearly an exclusivity provision is creating tension. Rather than reconsider the provision, continue to work with all the parties, private and otherwise so this exclusivity provision works for everyone.

>> Councilmember Pyle: That's what further consider would do.

>> Councilmember Kalra: Or further consider how the exclusivity provision would be implemented.

>> Councilmember Pyle: Sounds good.

>> Councilmember Kalra: That means what's in place is in place and figure out how we implement it in a way that's fair to everyone that takes into account the concerns of everyone, we've already heard that costs have gone down to our customers, we've already heard that service is better to our customers. Something good is happening. Let's not ignore that and let's not ignore the fact that these are local workers that are providing that better service so that's the language if Councilmember Liccardo you're comfortable with adding I'd support this motion. If not I think we're taking a step backwards in not supporting our local employees.

>> Councilmember Liccardo: With all due respect, Councilmember Kalra my recollection of our earlier exchange was that if I'd made the amendments you were able to support the motion. So we could be here until midnight word submit Smithing this and we could have an up or down vote.

>> Councilmember Kalra: If I did that would be the one final request I'd make and you can agree with it or not.

>> Councilmember Liccardo: I really think it's time to vote. I think clearly everybody has been heard. the first step of course is ensuring that we actually get jobs in San José and I think that's what we're all trying to get toward here in terms of moving this effort forward so I appreciate the comments. I think we ought to move forward with the vote and, you know, if it fails then obviously we can reconsider our options.

>> Councilmember Kalra: Sure and I just again make it clear that this vote the way it's made is a statement in opposition to the exclusivity provision and not a neutral statement.

>> Mayor Reed: We have a motion on the floor. I'm going to call the question here. All in favor, opposed one opposed, Kalra, two opposed, neung. So passes on a 9-two vote. Concluding that our work on that item. See you back here on January 12th. Our next item, moving right along. Item 3.7. Review of initiatives underway dealing with the use of force by the San José police department. As you go out, please, save your conversations until you get outside so we can keep working. I have a brief change of staff positions. And today we're doing several things. Looking at a report from the police department, regarding their efforts underway, regarding use of force. And two items coming to us from the Public Safety committee. My recommendation that we direct the City Manager to convene a working group and to consider including the IPA in the City Auditor group to allow the City Manager and the working group to look at use of force incidents over the past year, and we know that a lot of work is underway, and that's why we want to put this on the council agenda so everybody can be current on this. I want to thank the Public Safety committee for their work on that. That committee is chaired by Councilmember Nguyen. I think she may have some comments on this before we get the staff report.

>> Mr. Mayor, in light of the hour would you like a full staff report on the use of force or would you just like us to recap where we left off with the committee and what the council consideration issue is?

>> Mayor Reed: I think a recap of the work at the committee is probable appropriate, let Councilmember Nguyen weigh in on this as to the extent of the report.

>> That's fine.

>> Councilmember Nguyen: That's fine. Why don't we hear from staff on the recap and then I do have some comments after that.

>> At that time November 19th council committee meeting the committee heard the police department's reports of current efforts underway regarding use of force and including your packet is the many items and I can -- we can have the police department review that. After the approval of that staff report, the committee took up the mayor's recommendation on a task force, an independent task force led by the City Manager, or a working group, to review additional use of force issues. During the course of that meeting, the committee entertained the referral to add a community member, as well as to seek input from the POA. The -- I will defer to Rick on the confidentiality issues or the add a community member and I can share with you the POA's after Rick weighs in on his input.

>> Mayor Reed: Outside personnel changes the situation.

>> City Attorney Doyle: Mayor, members of the council. There is concern adding an outsider to a committee. The first issue is, if you direct the City Manager to form a group of, and name the individuals, you run into a Brown Act issue, and you would be required to have the meetings in public. The second issue is, independent of that, what document can be reviewed by a third party or a citizen. Again, these are police records. A lot of this information is confidential, we would have to police dissemel matters there are state law provisions that protect officers' privacy interest and if an individual is not part -- not under the appointing authority, i.e. the City Manager, to review those documents raises serious meet and confer issues. And there would be difficulty looking at the entirety or all the documents in their entirety. So that's sort of the concerns about adding a third party member around/or if the council actually directs the manager to form a group. My recommendation has been that they request the City Manager to convene a working group and the City Manager make the decision as to who actually sits on that panel.

>> Mayor Reed: Thank you. Did you want to report on your conversations with POA?

>> I had a quick conversation with Bobby Lopez last Friday. I don't see him in the audience. I'll summarize redacting records if a community member were to be added to the review group. And there was concern that the number of records that would be transferred over, and the workload, again with the redacting, anything beyond the resisting arrest reports that were requested as part of the referral, one. That was the extent of the conversation .

>> Mayor Reed: Thank you. Well I'd like to speak to the issue of having who's on the working group. The reason I recommended that the City Manager convene the working group was to avoid problems with having lots of people reviewing lots of records, part of which is the sheer volume of work that goes into redacting records. That's I think a major issue. And then secondly was -- I think the City Manager has the capacity with the assistance of others that she may call in to help her do this very quickly and without having to worry about the confidentiality issues and personnel issues and lots of other things that might take place. And I think it's important to get the work done quickly, have this review of certain category of records, which I've recommended would be the use of force reports, in the year of 2009 with the only charge was resisting arrest, or interfering woo penal officer somewhere between 100 and 200 records or thereabouts and I think the City Manager has the capacity to do that work, make the review, come back

with recommendations within 90 days. And I think that's important that we get some of this work done quickly and having others on the committee I just it's a totally different kind of approach which I'm not prepared to consider now. I think getting the City Manager working quickly is an important priority. Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, mayor Reed. First of all I wanted to thank Rob Davis and your police department for taking the issues at hand very seriously and also the city staff as they relate to force by the police department. We'll have extensive discussions at the committee meeting in regards to at least some of the issues that we're talking about here today. And let me just explain why I suggested that we include a member of the public in this case I actually recommended Michelle Lu who is the current director of Asian American community evolve or AACI. I'm hoping that Michelle's presence.

>> Mayor Reed: She's here.

>> Councilmember Nguyen: Actually her presence as part of the working group represents a voice for the community and also for the administration to regain trust from the community, especially from the minority community. I think that the mayor's recommendations is a good one. I think the conclusion of the IPA and the City Auditor is an excellent idea because I feel that the roles of these two individuals is to challenge the work that the administration does in regards to a lot of different responsibilities at the city, not just as relates to the use of police force. So having these two staff members on board to work with the City Manager is essentially. But also, what we are facing as the city, at the forefront, is this controversy that is still circulating and is providing a really dark cloud over our city in regards to public trust. And so I just hope that we really consider putting some kind of resolution to this issue. And I know we're working really hard in trying to deal with these issues, given the recent incidents that happened in the Vietnamese community as they relate to excessive force by the police department. So that's the intention of including a member of the public. And with Michelle Lu's -- with AACI's practice and experience in dealing with clients who have mental health issues, I'm hoping that they understand the issues of confidentiality when it comes to personnel matters and when it comes to individuals. And I think Michelle Lu is the right person to lead this charge and her experience in working with the City Manager in the past and conversations she'd had with Debra Figone, I think this is the right step in the right direction. So that's the reason why I wanted to suggest that she become a part of this working group. Thank you.

>> Mayor Reed: One other thing in light of the city attorney's comments about the scope of the City Manager's Authority. My original registers language should be modified a little bit so it reads direct the City Manager to convene a working group and consider including the independent police auditor and the City Auditor, to report back to the Public Safety committee within 90 days and then there's a list of questions and things and can you ask the City Attorney why that's important but it's important words. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I want to commend the mayor for taking this step. It's certainly a necessary step. I think we all agree, it's necessary, perhaps not sufficient. I suspect there will be other issues as we go forward in the next few months. I share Councilmember Nguyen's high regards for Michelle Lu. I think -- my question really is to Rick. Is there a reason why we couldn't overcome these concerns by a simple confidentiality agreement?

>> City Attorney Doyle: The issue is if the council directs this group, there's two. Let's address the Brown Act. If it's created by the legislative body, city council establishes the group, it's required under the Brown Act to be -- well, it's up to the Brown Act so you'd have to have public meetings. In order to have -- anything the committee reviews the public has a right to. So because there's confidential information, by the nature that it would be public, you'd have to redact confidential information. Fads, some of the information might be personnel information and that is protected under disclosure under separate provisions of the Municipal Code or penal code excuse me. So those are the concerns and under your own sunshine rules to the extent that an outside member is part of an advisory body to a council appointee, i.e. the City Manager, that also requires that those meetings be public, not subject to the Brown Act requirements but public. So the overriding concern here is just the fact that meetings have to be done publicly and in order to -- any information that you do in a public meeting has to be available to the public and we're dealing with redacted copies and from my own view to be effective I think people looking at this need to have access to the entire document and not just redacted versions and that's the concern.

>> Councilmember Liccardo: Yeah, I would agree that the review only becomes meaningful if you have access to the entire document. I understand this is essentially a matter that the City Manager is going to be working out through -- I'm sure in consultation with you Rick. I wanted to talk about moving forward

and I know this is not the subject of this item. But if part of the goal is to address concerns relating to what may be out there in the community concerns that are expressed about use of force and I think an awful lot of that is about building trust and I think there are various measures we need to start talking about and I expect we will be in the coming weeks and months, one concern I'm hearing very broadly from the neighborhoods and from organizations like pact is trying to improve relationships by ensuring the shift term is increased from the standard six months where officers are rotating out of, particularly neighborhoods that have a high exposure to crime, because a lot of neighborhood leaders are saying we can't develop relationships with officers who are here today, gone tomorrow and don't know that there's the drug house on 12th street and there's a reliable informant on 6th because information is often relayed between officers as we talk about some of these issues about improving trust, that's one of the issues we talk about. That's a meet and confer issue for the council and for the POA to consider. I think also we need to address the ongoing concerns about whether or not the IPA has sufficient ability to review cases. I keep hearing concerns about them receiving cases from IEA immediately before the expiration of the year deadline, whether it's use of force or some other concern and as a result they don't have the time to be able to invest or review. They make attempt to request for additional investigation but by the time those requests are reviewed, either by the chief or by the City Manager, the time has expired. So I think those are the coined of concerns that we also need to be working on. And I'm working on certainly, and I expect we'll be -- to be bringing forward to talk a little bit about, with our colleagues here, and certainly all the interested stakeholders, is about how can we ensure that that IPA review is more meaningful, so we have an independent organization. Because no matter what we do internally, I know the chief and the City Manager are engaged in many dill jaunt efforts to try to improve internal measures in terms of force, it is simply not enough to tell the community we'll take care of it internally. You simply have to have some sort of independent body in order to build that trust. That is an important step. I look forward to this and additional measures in the future .

>> Mayor Reed: I'd just like to point out before we get off on all the discussion that part of this what's in front of us is the report outlining i'd just like to note for the audience at home and the audience here, that the department has a series of actions that are underway as we move forward, including supervisory review of arrests, arrests reports, early intervention system, CPLE statistical review policy and training review, incident reviewing, international City Manager's association nationwide use of force policy, best practices research, implementation of the Axon camera system and police officer training efforts. Anybody who wants to know what that's all about, it's in writing, it's part of the staff memo, we're not going to get a full report here but there are many, many things that are happening beyond what we're going to discuss here today. Councilmember Constant.

>> Councilmember Constant: Thanks, mayor. I'm glad you read all those off because one of the things that we hear from a lot of the loudest voices is that the department's not doing anything, the city's not doing anything, we need to get to the table, we need to have conversations. I think this memo clearly indicates how much work that is been done and how much progress. If you look back over the last year it's not like the police department and the City Manager's office have been just sitting on their hands. There's been a lot of work that's been done in both departments and through the Public Safety committee. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor and mayor thank you for putting forward these registers and for your work in responding to legitimate concerns the community has as well as just getting information and I think the proposal of a working group and an ongoing short terminals of these issues can certainly be helpful and they certainly won't hurt in terminates of considering future policy considerations. And I also want to recognize as Councilmember Constant's indicated the work that the police department and the City Manager have done over this year in trying to address the ongoing police issues. You know, one of the -- that was one of the concerns that had raised early in the year with CPLE that we don't just rest on our laurels and kind of relying on this outside agency to tell us what to do. That continuing work must include working with the community. I agree that if there is a legal way to allow for outside support on the working group, I think Michelle Lu would be an ideal choice. And even if we can't find a legal way to have outside person as part of the working group, prior to the working group finalizing recommendations that won't stop them from presenting those organizations to a group of community members or to Michelle Lu and a couple other individuals that we deem would be appropriate in analyzing the recommendations prior to presenting them to council. So it doesn't involve them having access to confidential information or information that otherwise would require some kind of confidentiality

agreement or public disclosure. I also agree with Councilmember Liccardo in that, you know, as I indicates, this is one issue that we're dealing with and there are going to be others to follow. And the measures that we're considering today are appropriate, however, they still tend to be reactionary in form, we're reacting to issues that are out there or issues that come up. And that we need to find a way to substantively deal with issues, before they become major issues, and to allow for process to do that. I do think that looking at avenues of allowing the independent police auditor to have that opportunity, because it would seem that that would be a logical place to start and to set aside issues that may have occurred with previous auditors and this is a great tool and not to over react and limiting the role of the auditor when the auditor can play a key role in analyzing ongoing issues and give constructive instruction that's happened in the past, in jointly offering recommendations to the council upset I think we can get there again if we allow the independent police auditor more latitude in analyzing the conduct of the police department, and finally I would just say I think it's a really good move to engage the Police Officers Association earlier, early in this process, in determining how they can add a equal feedback as to policy considerations or recommendations suggestions or their interpretation of some of the data may be -- that we may get out of some of this analysis from the working group and so on.

So I'll support -- I support the efforts being made here. I think there's serchl more work to do and I look forward to continuing the discussion.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I also want to joint in with a thanks to your leadership and all the work you've been doing at this point to try to come to resolutions. I would like to refer to page 3 in the memo because I -- well, I have a couple questions. I serve as a liaison to the disability advisory commission. And one of the questions that have come up from time to time is, how much training is there for officers in reference to, A, identifying people with cognitive disabilities and B, interacting with them. So I don't know if it's a question of economics or how much of it we current have, if you wouldn't mind helping knee with that.

>> Rob Davis: Yes, councilmember, Rob dives Chief of Police. I don't know the exact amount of hours that are required in our basic academy that was covered. There is extensive amount of training that is given in the police academy about how to interact with people of all different types much backgrounds, including ADA issues or mental illness issues, et cetera. The other thing I want to point out is San José police department, now requires our officers to go through CIT training. The complaint in the past has been or the concern in the past has been that how do you put somebody through CIT training if they don't have some type of street experience. So the way we've solved that problem is once officers have graduated from the police academy they go through the 14 work field patrol training CIT. Simply over the next few years you'll see the majorities of people have actually been CIT trained and they receive that training in the CIT area as well or crisis intervention as well.

>> Councilmember Pyle: Do they --

>> Rob Davis: It's a state requirement that officers get revisited in their program, so these.

>> Councilmember Pyle: So that I report back crejt all officers take the training, 40-hour training, and there are refresher classes along the way?

>> Rob Davis: Going forward, everyone that last class in July has been the first class to do that. Every class going forward has but we have approximately 300 officers aside from those individuals who have been CIT trained and again we're the first ones to do that.

>> Councilmember Pyle: Thank you for that, I appreciate it.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I also wanted to add my appreciation for your issue, Cit training in the new can a dead program. Because I was sitting on the mental health board under the leadership of Sharon Ross who pushed CIT into the law enforcement area. So thank you very much. And I really see promises and recommendations before us and I'm really looking forward to see the result. The question is, regarding to the communication. The communication piece, how do you plan on reaching out to the group that may have some language barrier? For example, the Spanish-speaking community or the Vietnamese speak community? To just let them be apprised on our progress of the work we are doing here?

>> Rob Davis: Well, we are acting very hispanic community and the minority communities in general to help them understand exactly what steps we have as mentioned by the mayor in this memo we are trying to be proactive in reaching out to those who don't speak English specifically. In fact a week from tonight we will graduate the first ever Spanish language only citizens police academy. they've gone through

some training it's all done in Spanish where we teach them exactly what our officers are trained to do in a variety of circumstances. They are giving car stop training and asked to give car stops so they can see what that's like. We've done that. It's been successful. The feedback we've gotten has been very positive. As a result of that we look forward to doing one in the Vietnamese language at the beginning of next year and of course as we move our way down the trail we can do that -- excuse me -- with other languages as well.

>> Councilmember Chu: Thank you, Chief, that's really a good progress those training videos are we videotaping those, so we can make a training video, able to put it on tape so we can share with a vast audience?

>> Rob Davis: There are portions of that time are that are typically lecture and they are in Spanish ooms. It is certainly something we could explore although I don't know that just strictly a lecture part, we could explore that councilman.

>> Mayor Reed: City Manager has something to add to that.

>> City Manager Figone: Thank you, Mr. Mayor. From the issue of outreaching to bilingual communities, AACI is hosting a forum where our police department is presenting to the community that they've been able to yeh, what we would like them to know about away it means to encounter mentally ill patients on the street. And one of the quis that we are going to ask of that group is what additional outreach they think we should provide to fewer that we're getting the word out to the mental health community.

>> Councilmember Chu: I assume that we will be providing some translating services for tomorrow night's meeting?

>> City Manager Figone: I'm not sure that that will be needed tomorrow. Actually, AAKI is managing that. To the extent it is needed moving forward we would provide that.

>> Councilmember Chu: Appreciate that.

>> Mayor Reed: That concludes the discussion by the council. Now we have members of the public. Ross Signorino, and Ross Signorino and Ross Signorino. That's only one item, Ross, you can speak on all three. There's only one item.

>> Ross Signorino: I didn't appreciate, to get more time from the subject. that's my mistake, one item at a time. One thing in regards to the brutality you might say or the preb preparatory that our police department has to go through and explain to the public that they're trying to be a good police force. Here you had the chief just a few minutes ago, I didn't fully get it where he's training police officers that only speak Hispanic, I don't think that's said, it's bilingual is that correct, you can shake your head, chief.

>> Rob Davis: Citizens.

>> Mayor Reed: Get that on the record, it's the citizens academy that is all Spanish.

>> Ross Signorino: But it could be nurses, doctors in ER, so on. All job has its stress point and policemen has that too. And policemen don't know the day to the day they go to work, whatever route they are, whatever shift they're on, they don't no what their igoing to be up against and they try to handle it in the best way. Wasn't too long ago, just about a week ago you had a professor from San Francisco university San Francisco college who gave a talk on police behavior and some of the things. And he talked about the minority groups, there's only -- he mentioned that in -- there's a certain minority in a minority group that seemed to do the most complaining about our police department. And maybe they're right and maybe he did say that there are bad apples there at the same time, bad police officers that don't know how to control themselves. They take on this authoritarian position. That's not all of them by no means. We certainly have confidence in our police department and I hope that this does not demoralize our police department which it should not do. Thank you.

>> Mayor Reed: That completes the public testimony. Councilmember Nguyen.

>> Councilmember Nguyen: Thank you, mayor. I'm comfortable with moving forward with the staff recommendation, with one addition, and that is, just alluding to what Councilmember Kalra mentioned earlier. To reach out to key stakeholders in the community to elicit the input prior to presenting the recommendations to the full council as it relates to the public safety issues that we are dealing with. So that would be the one addition that I would include with the currently recommendations that are on the board. So that would be my motion.

>> Second.

>> Mayor Reed: There is a second. We have a motion on the floor. Let me just review what is I believe included in it. Looking at the recommendations as it came from the public safety committee, which was to accept the report from the staff, on the current efforts underway, accept my recommendations in my memo, as modified with the language modified, and I had one question about the reporting back piece on

this when the public safety committee looked at it, the public safety committee is saying, report back to the city council through the public safety committee within 90 days. And so that's the recommendation from the public safety committee. And so that is the motion with the addition that Councilmember Nguyen just added to have the City Manager confer with the community groups before the recommendations come to the council. That's the motion, I believe.

>> Councilmember Nguyen: That is the motion.

>> Mayor Reed: Okay. Further discussion on the motion. Now, we have a motion. All in favor? Owned? None opposed, that's approved. That concludes item 3.7. I want to thank the staff for all their work on this. Our work is not done but we're making some progress. We will now move to item 3.8, first quarter investment report and annual review and update of the city's investment policy.

>> City Manager Figone: Staff is available to answer any questions.

>> Mayor Reed: I'm sorry, there are a couple of items that are not before 4:00, so we're planning on working through the agenda. And then take those items up when we get to them. That's why 3.8 is the next item. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. I just wanted to thank Julia and Scott and the team from housing for their hard work and their willingness to incorporate these social responsibility criteria into the - into these investment policies. I'm hopeful that this will be a tool among the many other, I know the housing department is working very hard on to help us gain some traction in the foreclosure crisis. I also want to thank and the mayor for their support I want to make my motion to approve.

>> Mayor Reed: Motion to approve. I do have some requests from the public to speak, Gina Gates and Elias portales.

>> Good afternoon, mayor and city council, my name is Gina Gates and I am a pact leader, people acting in community together. We have 50,000 members in Santa Clara County, and we like to thank you. There is a very good first-start. But I'd like to share with you some of the things that we have been doing. We have commenced a divestment campaign against Bank of America, started on Friday. And we chose Bank of America because they are one of the most deplorable corporate business neighbors that we have in San José. We have a company, and it's not just them, but companies that are not responding to our homeowners. I'm sure you've heard all of those stories. But in San José we have a fair living wage. In San José, we need to have fair business practices. And that is why we commenced divestment campaign against Bank of America. we hope for your support. This is just a first step and we hope to continue the dialogue. Thank you.

>> Mayor Reed: Elias portales? Not here. That concludes the public testimony. We have a motion, all in favor, opposed, none owned that's approved. Number 3.10, acceptance of the comprehensive annual financial report. I asked a few, I have a few more. On page 9 we had a \$46 million increase in the loan loss reserve for receivables from developers on various housing projects. We have elsewhere in there we have a loan portfolio of about 300 million in the housing department. How do we track and where do we track the bad debts or the loan losses or the nonperforming loans and how is that communicated to the council?

>> Scott Johnson: Thank you, Mr. Mayor, members of the council, Scott Johnson director of finance. The numbers that you quoted in regards to the 300 plus million for the loan portfolio, that's net for an allowance for doubtful accounts. This allowance increases that jackie is here from the housing department, she has done a very thorough analysis in regards to our value of the portfolio and the likelihood of lows and so forth. I'd invite her to come down and speak specifically in regards to the housing program.

>> Jackie mor a.m.est brand assistant director for the housing department. As Scott has stated, the loan loss reserve is really an accounting requirement and it asks us to potential loss to the housing portfolio. The housing anything we've experienced gains over time. Because we've managed to make collections and improve on interest and so we've actually made more than we've actually lent out. So we have been required by the auditors to apply a more stringent application to our loan logs where the development is in the development process. So when we have construction loans that are out, or when developments are in, the development process and haven't converted to final loans, we have an increase in our loan loss reserve rate, because that's when the loan is at risk. So again, we haven't really experienced any significant losses. But because of our audit, we've been required to apply very rigid and careful standard.

>> Mayor Reed: Well, it's always good to be careful and the auditors usually get the last word open what's careful enough and that's a good thing. Where have we provided for losses or have there been losses?

>> We provide to notify council and the city regarding what we have lost over the previous year. So the actual loss is reported annually.

>> Mayor Reed: Okay.

>> Scott Johnson: Mr. Mayor can I add on page 65 of the CAFR in the footnotes there is a section called loans receivable. So there it shows the detail of the total gross loans that are outstanding for the various funds, including and then backing out the allowance for uncollectible accounts in accordance with the standards that Jackie had explained.

>> Mayor Reed: Okay, do we have a policy for how we handle those bad debts? I know we've had a lot of work I've seen on collection in other categories. I've never seen anything on collection of secured loans. How do we handle that and are we still doing business with people who are not paying their loans, I think is ultimately the question.

>> So if you're referring specifically to the housing department and what's our policy regarding how -- what happens if someone's not paying, we do have a very specific policy regarding nonpayment. So we have rehab loans where if somebody's not actually paying, we have a watch list and then we proceed to analyze why they're not doing it and we can go so far as to proceed with foreclosure to make sure we get somebody's attention. When it comes to development loans we report all of that back to our underwriting team to ensure that that's taken in as a factor regarding a developer's compliance or noncompliance with them actually paying. But the majority of the loans are actually structured so that we only get paid at the time that the developer receives the residual receipts, so they're actually receiving a profit. So only 13% of the portfolio actually paid last year on the development side as a result of residual receipts. So we are doing more careful analysis to ensure that what we're collecting is what we should be collecting, and we do that on the annual basis.

>> Scott Johnson: And Mr. Mayor, on a general note, in regards to our general miscellaneous receivables, we do have a policy working with the auditors whereby if we have a receivable, miscellaneous receivable that's over 180 days, we put that into a reserve for uncollectible accounts. But we still very proactively intent to collect that through the city attorney's office or collection accounts or agencies working with our investor collectors .

>> Mayor Reed: It seems to me the big loans are in the housing departments department. How I can see the information how the public can see the information about who's performing and who's not, whether they're lending money to people and whether or not they're performing, is that public information in some fashion?

>> Scott Johnson: We could make that information available.

>> Mayor Reed: It's not currently available then?

>> We do not currently publish a report that's available online or anything. We definitely have internal reports that are watch lists that shows who's paying and who's not.

>> Mayor Reed: We do publish reports when we go to collections, because I've seen them on council agendas of pages and pages of people who owe us \$25. What about people who owe us \$5 million?

>> Scott Johnson: Mr. Mayor, I think we could issue a report available online. That's something we've talked about in our CSA, have a report available of funds owe to the city.

>> I just want to be clear, we don't have any developments available now that are not currently paying as required .

>> Mayor Reed: That's a really good thing. city Manager find some way to make that information available. So the public can monitor it if they want to. I had one other question. I think one other question. Page 153, it appears there's a City Hall transfer of \$2005 million. I believe that the debt service payment on our City Hall complex here, is that correct?

>> Scott Johnson: That's correct. Yes.

>> Mayor Reed: And then, in one of the other reports, there's another report on how much we still owe on City Hall. So \$25 million is this year's debt service. And I'm trying to see if I remember it right. But that number's likely to go up every year as a variable of some kind.

>> Scott Johnson: Well, we have the -- in our footnotes we do have a recap of all our debt outstanding including City Hall. And to your point, Mr. Mayor, also in the CADR, the comprehensive annual debt report that you just referred to, we do have the debt related to City Hall .

>> Mayor Reed: I just wanted to confirm that I had read that correctly. Any other questions on the CAFR? Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor, on the comment housing made money. It actually made money. I'm just wondering if that extra money can be used to pay park fees. If you're making extra money and we're exempting it from affordable housing from paying park fees, can we use that bucket of money to pay some park fees?

>> Mayor Reed: I'll ask the City Manager to answer that question.

>> City Manager Figone: Jackie you may need to answer specifically. The issue of PDO fees and affordable housing is something that we're currently reevaluating isn't it Jackie?

>> Sure, we are currently reevaluating that and bringing it back to council. The money that we collect is all -- continues to have the same restrictions as it had when we lent it out. It goes back into the pool and we relend it out for development loans.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. I just wanted to first thank Scott and your team, Julia and everybody else for the very important point that's made here on page -- well, little Roman numeral 4, that in the first full paragraph that San José has the highest rating of any large city in the state. You recite all the ratings, triple A, double A plus, AA 1 from the various rating agencies. I think that's testament to your great work and I want to thank you for that. I wanted to add a question, though, also which is I'm looking at some of the more simple presentations here on balance sheets and fiduciary fund asset and so forth. I'm referring to pages two and 36. I don't know if you've had a chance to look at all of this. But I'm assuming that GASB doesn't require us to be requiring the extraordinary unfunded obligations that we have runedding in the billions in this area, and that's probably why you let them out. But then when we do, in the notes sections when we talk about notes, the basic financial statements, and now I'm going to page 95, where there's some description of the funded status of pensioned and then the following page where you look at postemployment health care plans, it seems as though we shy away from any explicit estimates of the scale of the obligations that we have. Just to give you an example, page 95 the first sentence recites how the plan in the most recent actuarial evaluation, which is back in 2007, the plan was completely funded. I know there's some qualifying language not just estimating the extent of how unfunded we are?

>> Scott Johnson: Councilmember to that point, on page 110 we do have GASB does require us to provide supplemental information in regards to our funding status for our pension plans and our GASB 45 other postemployment benefits. So we do add that information. But to your point this information is somewhat outdated because we only do our actuarial reports every two years. And that's an issue that's going forward to both of the retirement plans, to look at annual evaluations for both the pension plan as well as the retiree medical program.

>> Councilmember Liccardo: Thanks Scott, I appreciate that. And just for the record, page 210 does describe the actuarial accrued liability but then also the most recent evaluation date is 81 of '07 as you mentioned. So I think we all know the world is much worse since then. And I know accounting's not my thing. I'm just a little concerned if we don't have a number that looks closer to what we think reality is.

>> Scott Johnson: And councilmember to that point, in the front of this report, the management discussion and analysis, we do bring up that point.

>> Councilmember Liccardo: Okay.

>> Scott Johnson: In regards to the timing deferral and we also point out to the reader that over this past two years we've lost over a billion dollars in value in our two retirement plans.

>> Councilmember Liccardo: Thanks, Scott.

>> Scott Johnson: Okay.

>> City Manager Figone: Scott, if we were to go go out for a bond issue we would have to disclose the most current information that we have, correct?

>> Scott Johnson: The most current information that is available, that's correct, and any estimates that are available to us.

>> City Manager Figone: Okay, thank you.

>> Mayor Reed: Any other questions on the CAFR? I think -- City Manager.

>> City Manager Figone: Not a question, but Mr. Mayor, earlier you had asked about the ending fund balance. And I think in light of the time, what we'll do is issue the info memo because the questions do keep coming up.

>> Mayor Reed: All right, so one question relating to ending fund balance. If I have a park project in my council district, when I was a councilmember I used to have one, we would carry over hoping we'd get funding next year. Where does that money go vis-a-vis the ending fund balance?

>> Scott Johnson: It goes in a carryover reserve, earmarked reserve in an budgetary process that's the difference in a CAFR and the ending fund balance. To the City Manager's point, I think we can provide a lot more information. This is a snapshot as of June 30th. However, we have to keep in mind by June 30th the council provide a budget for the he next year. You're earmarking from that ending fund balance that will be used in the future year.

>> Mayor Reed: Okay, thank you. I think that concludes questions on the CAFR. All in favor, opposed I that's approved. 4.2, historic landmark nomination and mills act historical property contracts.

>> Councilmember Liccardo: Motion to approve. Can I take all the items under 4.2 together?

>> Mayor Reed: I think so if we make sure we get them in the motion.

>> Councilmember Liccardo: All of the items.

>> Mayor Reed: Okay, so 4.2 includes how many items?

>> Councilmember Liccardo: I believe A through F.

>> Mayor Reed: A through F.

>> Councilmember Liccardo: A through H. Excuse me A through H.

>> Mayor Reed: I have no cards on any of those, we can discuss them at great detail if you wish or we can just vote on them in one motion. Looks like we're going to vote on them in one motion. All in favor, opposed, none opposed, those approved. 4.3 mills act historical property contract for the stern Fischer residence. All in favor, opposed, those are approved. 4.4, Brookwood terrace family apartments -- oh, I'm sorry, we're getting a little out of order. 3.5, is that the one I'm trying to get back to?

>> 4.5.

>> Mayor Reed: Straighten me out here. 4.4, let's try 4.4.

>> City Manager Figone: 4.4, there was a question about staff's recommendation to defer, and so we wanted staff to answer the question that Councilmember Liccardo had . That.

>> Mayor Reed: That was the Brookwood terrace family apartments.

>> City Manager Figone: I think the question was, will the financing be in jeopardy if we wait a week.

>> No, the financing is not in jeopardy if we wait a week. In fact we're wanting to wait a week, because we're applying for a special program available from the federal government, we are applying that will enhance, we just heard we are accepted into the program we have details we wanted to work out and we wanted to provide you with more details and wanted the one week to defer.

>> Councilmember Liccardo: Thanks Jackie, I'll make the motion to defer.

>> Mayor Reed: All in favor, opposed, none opposed, that's approved. Councilmember Liccardo, you had asked that item 3.5 be heard not before 4:00, we're now past 4:00.

>> Councilmember Liccardo: I'm happy to have it heard.

>> Mayor Reed: Why don't we do that. Since we're into the 4s lets get the 3s done. Item 3.5, terrace drive settlement contracts. Councilmember Liccardo. I have no cards to speak on it, I believe.

>> Councilmember Liccardo: I'd be happy to make a motion to approve. I just wanted to thank -- I know a couple of terrace drive homeowners are here. I wanted to thank them for their patience in work through all the challenges and problems with the city, and special they'd like to speak there's an opportunity to speak if you like to. I also want to thank Rick and Nora from our city attorney's office for their willingness to be flexible and to incorporate a somewhat novel approach to resolving this. We had a basic conflict in terms of valuation, in trying to understand what the impact would be to home values. I think the approach we tried, I know it is somewhat novel but I appreciate the fact they're willing to engage with the homeowners so we could get to somewhere where everyone was comfortable, thank you.

>> Mayor Reed: All right so we have a motion to approve. All in favor? Opposed? None opposed, that's approved. Now, 4.5. Takes a long time to get here. When you get here, it's very quick. 4.5, designating San José as a recovery zone under the American recovery and reinvestment act.

>> Councilmember Kalra: Second.

>> Mayor Reed: We have a motion to approve. I'd just like to note that President Obama today talked about his jobs planned, and one of the points in in was to put additional funding in areas that were oversubscribed in some areas. So I think there's some prospects that we may get some of those grants that we had applied for and this will help us do that. Councilmember Liccardo. Did you have anything on this? I'm sorry, I just need to clear the list.

>> Paul Krutko: Mayor.

>> Mayor Reed: Paul Krutko.

>> Paul Krutko: I know the time is short. I just want to make sure the council understands what the capacity is. We were as was San Francisco and San Diego and other major cities around the United States, were closed out of this funding source. \$2 billion was awarded to California. It's my knowledge at this moment that none of the other jurisdictions have issued these bonds. So we have the opportunity to put together projects both for public facility financing, if we have a source of repayment, as well as for private sector job-creating projects. So this action positions us for that reallocation process that's going to start in January. So this would be a -- this is a potential source, I'm just alerting the council. If you are talking to businesses, this is an I.R.B like financing with very liberalized terms that the city itself could issue if we can put together projects, a short window, because this was under the stimulus, and the current authority only runs to the end of 2010. We're trying to position ourselves, we need to respond very quickly. So as you're out talking to clients we can give you some quick bullet points about what to say and then connect them back to us.

>> Mayor Reed: I think it would be very helpful if you gave us some bullet points on that because we are talking to people that can't get access to the capital markets and this is something that would be helpful.

>> Paul Krutko: I wasn't prepared to do a presentation on this but we are in contact with patten Boggs, they used 2008 as the cutoff for unemployment, December 2008, and we lost 30,000 jobs one no later, same thing happened in San Francisco, same thing happened to San Diego. We will ask that the program expire or ask them to include us if they extend it.

>> Mayor Reed: Thank you we have a motion to approve All in favor, opposed, none opposed, that's approved. Item 4.6, a proposed earthquakes practice field. We have a motion to approve. I have no cards requesting to speak on this, I would like to have staff come back with an info memo after this has been executed or not, I guess to let us know what happens. Because this is an authorization to negotiate and execute. And it will be good to get us filled in later afterwards. I'm looking forward to seeing the earthquakes on those practice fields in San José. Hopefully as a prelude to them getting their stadium up. We have a motion to approve, all in favor, opposed, none opposed, that's approved. Greenprint update, item 5.2 is our next item.

>> Councilmember Campos: So mayor, if I may introduce this as the chair of the neighborhood service and education committee. I know that we are pressed for time, we still have many items. But I think that what I wanted to do was just give you a few highlights of why this Greenprint is important and why we need to have Julie comment a little bit on it. We know that the Greenprint was first adopted in 2000. The document has supported more than \$228 million through the measure P bond. And we know that some of the things that the Greenprint has been able to accomplish is 400 recreational projects, 30 parks, 99 community centers, 90 playground renovations, five skate parks, and the list goes on and on . I know that as you will hear a few things from Julie regarding the update of the Greenprint documents, we continue to look at things that are important. And one of the newest visions for the policy is the goal of creating 100 miles of trails by the year of 2022, and planting over 100,000 trees. I wanted to thank the community, the parks and rec commission and our staff. I'll turn it over to you Julie.

>> Thank you, Councilmember Campos. Mayor, councilmembers 2009 Greenprint update. As the councilmember explained, this is our master planning document for the Parks, Recreation, and Neighborhood Services department. It's really our vision document. It also outlines our policies, our procedures, our strategies for moving forward into that desired state. But throughout the planning process, staff has also been very mindful to the council's direction to ensure that we incorporate and manage expectations to ensure that during this closing fiscal time do not set up expectations that we cannot deliver upon. So the capital action plan which is planning areas is segmented into a current plan for 2009 to 2014 which aligns perfectly with the CIP, and in addition, talks about future more ideal projects in a longer term process, so identify that. We have had a lot of engagement, a lot of input over the two-year period, community meetings, outreach and engagement with a lot of stakeholders. So we're here today to have for your consideration, approval of the document itself which includes a resolution to rescind two policies, council policy 1-6 and 6-8, which are outdated and would be replaced by the Greenprint itself, we've also issued a supplemental memo after our final outreach which concluded with the parks and rearing's services, and make three time changes including removal of the ellipse in the Willow Glen spur area, making it -- culling it out as the primary trail alignment, the Willow Glen spur, and that's also in conjunction with -- works well with the bike marm which indicates the Alma alignment, the on street alignment and then would leave the Willow Glen spur for the offstreet alignment. So these two work well together. In addition, we've focused and redesigned the term accessibility to really target the access

for equal access for people with disabilities and finally we've recognized additional land in door park that's city owned and could be available for expansion. So with that myself and division manager Matt cano is available for questions.

>> Mayor Reed: Thank you, this I realize this has taken a lot of work to get here but we only do it every ten years, is that correct? It takes a lot of work.

>> Yes.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I have to commend you, this is absolutely beautiful. I have to say I fell asleep before I got through it. But I did go through my direct.

>> Thank you.

>> Councilmember Pyle: I'm struck by the fact that it's only expected to grow by by the year 2020. I can't wait for the census to come out because I believe it's a lit more compact than that. I'm mazed by the incredible and amazing amount of information in here. And when you look at what's been accomplished in the last ten years for anyone in our district, it is something that the constituents definitely need to see . It's a good chronicle of all your hard work. Thank you for this.

>> Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I'm happy to defer until there's a motion on the table. I simply wanted to ask that any motion include the recommendations I've made in a memorandum dated December 4th. I don't see anyone jumping to make the motion so I'll be happy do it.

>> I will.

>> Councilmember Liccardo: In that case why don't I make a motion to approve the Greenprint with the additional language that's been recommended or language substantially similar to that language that's been recommended in my December 4th memorandum.

>> Mayor Reed: That includes the staff supplemental language as part of that?

>> Councilmember Liccardo: It does.

>> Mayor Reed: We have a second by Councilmember Oliverio. That's the motion on the floor. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Julie and hopefully Albert is recovering well from hi surgery and we know he can you basically adopted the parks commission's unanimous vote on making the spur the preferred route on the abandoned UP lines?

>> It would be the preferred route.

>> Councilmember Oliverio: Correct.

>> In addition, you would still have the Alma route in the bike master plan, for the onstreet alignment. We would have both alignments.

>> Councilmember Oliverio: They don't conflict. They're just alternates for people to get around. Striving the nonprofit fund raiser much easier way to do so having it in the vision here for the parks which is important. And I must say I did want to compliment my colleague, Councilmember Liccardo on his memo because I think he really touched on the truth about managing private property for trails. Your memo speaks specifically as in most cases, most railroad related transaction, price exorbitantly above the market. We're not only dealing with the market but we're dealing with folks that are sometimes difficult to procure from. It is at the same time allowing the nonprofit and people that are center for public land and other organizations, I can't recall them all right now but they're certainly organizations that are doing that with open space opportunities and I think that's really good and you know obviously it starts with a vision and in fact we did this as a council in December 17th, 2002 where we actually laid the language to, if I can find it here, reinforce the intent of the city to convert abandoned rights-of-way, such as UP into trails. Of course we are doing it with the wordsmithing that your memo mentions with the City Attorney. So that's very effective so I just wanted to add those comments thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you mayor. I want to add my brachtions and appreciation for this work. I really appreciate staff's efforts to make our park system more sustainable. And bringing in line with our Green Vision goals and creating our trail network. I wanted to ask, and I think my staff's already spoken with your staff Julie.

>> Yes.

>> Councilmember Herrera: Regarding adding something to the Greenprint specifically, I don't think it needs to be part of a motion, I think it's just staff direction, but if it does need to be part of a motion,

somebody will let me know. In terms of last week the council voted to general plan amendment for the Arcadia development which included another 18 acres for open space and sports fields and a potential for a community center in Arcadia for district 8 appropriate language to add the development of 12 to 14 acres of land at the Arcadia property for new public park use as a priority 1 project for the Evergreen action plan.

>> Yes, if that were part of the motion that would simplify incorporation into the Greenprint.

>> Councilmember Herrera: I would like to ask the maker of the motion if I could add that.

>> Councilmember Liccardo: That would be all right.

>> Councilmember Herrera: That would be a great part of the Greenprint if we could add that and if we could do that thank you.

>> Mayor Reed: Friendly amendment that is acceptable to the seconder. Councilmember Oliverio got that addition. Councilmember Pyle.

>> Councilmember Pyle: Thank you mayor . I would be completely remiss not to thank all the people who served on the Greenprint subcommittee, put in countless hours ensuring that this document will be a guiding force for the next several years. Those people are Connie Langford, Susan Espinosa, Michael La Rocca, Mike flower, Jean Dresden and Virginia Holtz. I am a liaison to this subcommittee so I wanted to be sure to keep peace.

>> Mayor Reed: Let there be peace and then let there be public testimony, which I'm going to do next. Joan martin those are the four cards that I have, come on down. If anybody wants to come down now's the time to get them in.

>> Hi, mayor and councilmembers, I'm here to support staff's recommendation. And your motion to include the three creeks trail or the Willow Glen spur trail in the Greenprint 2009 update. I'm in favor of a trail which follows along the old western Pacific railroad right-of-way to connect residents to our history at history park. San José's agricultural history is embodied in this particular rail spur. It was built around World War I to serve canneries and manufacturing plants along the line in shipping goods across the country. The WP fishhook ran through residential neighborhoods, as well as industrial corridors. We have an opportunity here to connect all of our trails with this historic path, to add to the greening of San José, and to give families a safe and healthy passage to our history at San José. Living with our history in our daily lives will ensure that our rich heritage stays alive and is passed on to future generations. So I thank you for this opportunity.

>> Mayor Reed: Ruth Tichnan, Roland LeBrun and Martin Delsum.

>> Mr. Mayor, honorable members of the council, good afternoon. As you know I represent save our trails. I've sent you two letters open this matter, one a week ago, one yesterday. I hope you've had a chance to review them. Please disregard my last paragraph relating to Councilmember Liccardo's memo. I was in error. I'm glad you're proposing yet another trail along Union Pacific property and that you're not afraid of the railroad, which I don't think you need to be but I realize they've been around for 150 years, are the largest railroad in the nation, one of the oldest, the one that built the transcontinental railway from Topeka, Kansas to railway point, and are largely responsible for making the word "railroad" a verb in our language as well as a noun. I'm sure the easy City of San José can vote for the motion as I understand it now to keep the designation of the three creeks trail alignment along the old Willow Glen spur rail line will relaunch this time I am sure successfully the grand vision of the three creeks trail. And if you let all of the people in the community who want to get out there and raise the money for it, do so, with this motion, in ten, 20, if necessary 30 years, you will have established San José's grand boulevard, the grade promenade, in which families from the east side and everybody else will be able to reconnect with each other in a leisurely bike ride or walk, to all the major parts of the city, the ballpark, the arena, the downtown, the Guadalupe river park and gardens, the Diridon station. And also, you'll be launching San José's green commute route of the future --

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

>> Thank you.

>> Mayor Reed: Roland LeBrun, Martin Delsum.

>> Good afternoon, Mr. Mayor and members of the city council, my name is Roland Debrun. Very briefly, I would like to express my appreciation to Councilmember Liccardo and PRC and director Balagso, for supporting their recommendation and specifically their recommendation for the three creeks trail and the discontinued spur trail. The canal specifically the Coyote aments Alamitos canal.

>> Mayor Reed: Tin Delsum, our last speaker.

>> Thank you very much for this opportunity. The supplemental memo that was just mentioned i'm very much in favor, I'd like to acknowledge the work done by the Greenprint committee and urge that council vote to adopt it. Thank you.

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

>> Councilmember Oliverio: Just wanted to thank the members of the community for sticking around for three-plus hours waiting for the other items to finish it's a vision, it's not legally binding, that's where the council has to make future decisions.

If we want to procure land for trails, if we want to procure a school site that wants to be sold for housing, it might be to go to the voters to decide if they want to pay for land acquisition for future generation but that will be another day.

>> Mayor Reed: I think that concludes the discussion, we have a motion made by Councilmember Liccardo, as amended with friendly amendment. Further discussion? All in favor? Opposed? None opposed, congratulations. That is approved. Our next item also dealing with parks, 5.3, deferment of park land in-lieu fees. I've need to disclose, that prior to this meeting I or my staff had discussions with the Shanehauer group and to defer projects that haven't started in hopes that projects will start and will actually get some fees when it happens. We've had a lot of projects that have moved along the way to fruition, but capital market crash of last year and the bad economy have stalled a lot of projects. And we hope to keep the people with their investments engaged in San José. And if they don't build the projects, we're not going to get any fees. And if we charge the fees before they build the projects we're not going to get any fees. So this deferral will allow us to keep hope alive and that some of these projects will actually get started and we'll get some park land dedication fees. I don't think there's any additional staff report on this and I want to thank staff for putting this together and figuring out how to make it work. I do have one request from the public to speak and that would be Eric Shanehauer.

>> Good evening, Mayor Reed, members of the council, my name is Eric Shanehauer and the Shanehauer company represents the Morrison park homes LLC on this issue. We appreciate the work at the speed of business. Unfortunately in this case we need to ask you to slow down. And this recommendation we will be fully obligated to pay all of our parks fees. We're just going to delay the date that that happens, hopefully to a time when we can actually finance our project. Main reason for speaking I wanted to thank the parks director and the parks staff. When we were faced with this dilemma of fee payment, they immediately recognized and understood and were cognizant of the real world challenges that real estate development faces and brought this forward to you very quickly so we hope for your approval. Thank you.

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

>> Councilmember Oliverio: Thanks Councilmember Pyle for making that motion. I just wanted to say, one of these projects is in my district and it's just a big hole in the ground and essentially they can't get financing, they can't go forward. It's hard to get -- you can't get money out of a rock is that what they call it or a stone, I'm not sure. But long story short, it's pragmatic when they do get the construction loan to start that will come at that time but not when you don't have any money and there isn't any employed building anything.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you mayor. So what I understand is that this is going to be extended for about a year, year and a half, is that correct? If somebody can --

>> Yes, that's correct, be extended to extended to December of next year, 2010.

>> Councilmember Campos: And if they're still in the same position what happens then, it comes back to council and we reevaluate it or you provide them an extension?

>> One year would be an appropriate amount of time for there action should additional action be needed we would need to return to the mayor and council for additional consideration.

>> Councilmember Campos: So those are the checks and balances that will have to come back to the council if there's -- okay thank you.

>> Mayor Reed: Have a motion to approve, all in favor, opposed, none opposed, that's approved. We'll now take up item 6.2, an ordinance ceasing processing for new applications for taxicab driver permits. We'll let our transportation staff to get in place. Anybody who wishes to speak on this item please turn in a card. And you're all welcome to come down closer to the front. There's plenty of room. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I'd just like to put a motion on the floor. I'd like to move the staff's recommendation along with the recommendations included in their memorandum dated

December 4th this year from myself and Mayor Reed as well as the memorandum dated December 8th from Councilmember Kalra .

>> Mayor Reed: Motion on the floor. Councilmember Constant .

>> Councilmember Constant: Thanks, first of all, Councilmember Liccardo and to the mayor, thanks for addressing some of the concerns that I expressed at the Rules Committee meeting I think it was when we last spoke about this. I think that as we all know this is a complex issue, and for everybody who's for it, there's probably one that's against it or some ratio one way or another. It's a very interesting area of legislation for us. I know I expressed my reservations about the first memo and my concerns on where we were going with the ban, and couldn't support it initially. But after reading how some of my issues were addressed in the memo on December 4th, and my extensive conversations with individual taxi drivers and companies and all the people who are involved in this, I still have reservations, I'm not 100% sold but I am willing to support this and see how it moves forward. Hopefully if there are issues of greater significance that pop up we can ask that it gets back to committee and have some discussion. And as I mentioned in the committee, I was also uncomfortable about the missing of the T&E committee and I understand there were quorum issues and stuff like that. But I understand when there are issues that tend to be divisive and have people taking sides, even if we can't reach consensus or agreement, let alone consensus, that it just helps to have that avenue for people to really feel like their voices are being heard, one way or another. I am a little concerned about the memo that came out this morning. And I'd like to hear more about some of the thoughts from my colleagues and from Councilmember Kalra on that. I'm just worried that we're going to be digging this all up and creating a whole lot of more controversy before we find out what we're doing is fixing anything. I feel like some of these problems you have to make incremental progress and measure the progress and if we jump to the next step we won't know if the incremental progress has worked. And I know I'm going out on a limb by supporting something I'm not 100% comfortable with, and I'd really like the opportunity to see where it goes and how it gets and see if the rationale behind it works or if some of my concerns really come to the surface, and it doesn't work. So I just have a problem marrying the two together.

>> Mayor Reed: Councilmember Nguyen.

>> Councilmember Nguyen: Thank you. I have a question in regards to the mayor's and Councilmember Liccardo's dated November 13, item B, which states that this ordinance will require the staff to create an exemption process whereby taxicab company or new market immigrants can demonstrate hardship due to securing of new account contract results and the need for more drivers. So my assumption is, this is also the responsibility of the police chief. Is that correct?

>> Councilmember Liccardo: Yes, that is probably my own inartful drafting. Probably should have just said City Manager but perhaps Jim can respond.

>> Jim Ortbal, assistant transportation director. Councilmember Nguyen, it would be the authority of the City Manager to hear in the ordinance.

>> Councilmember Nguyen: Just a follow-up question. Trying to locate when is the turn around time for a decision to be made and I really didn't see any so I'm not sure what is the anticipated turn around time.

>> We did not put a specific turn around time in the ordinance. We obviously would do it as quick as we could. It would be certainly dependent upon did we get enough information to make an accurate assessment. I assume if we did get complete information and we could interpret it very quickly we would turn it around probably no more than a couple of weeks.

>> Councilmember Nguyen: That's good but a couple weeks to me if someone is experiencing heartship, if the company is on the verge of going down I don't think they would want to wait a couple weeks for us to make a determination for the exemption process. So I Woo would like to ask for a friendly amendment to see what the maker of the motion would think about this. I would like the turn around time for the police to make a decision to be somewhere between five to seven working days. Again, because we're dealing with economic hardship, I'm just very concerned that a company might not be able to survive if they have to wait a couple weeks or a month.

>> Councilmember Liccardo: Let me ask, Dave Cavallero is here and perhaps he can respond as to whether or not that is a feasible requirement.

>> Councilmember Liccardo I believe that five to seven working days would be a significant challenge for the police department to meet. I think the two-week recommendation from Jim Ortbal is probably more reasonable considering everything that has to be done, the information that has to be gathered and presented.

>> Councilmember Nguyen: So two weeks meaning ten working days?

>> Yes.

>> Councilmember Nguyen: Okay, if we can have that specific language in the motion I can support this. But anything beyond two weeks or ten working days is not something that I'm willing to support. Again, this is hard enough and I think that if we're pushing it, we might face a lot of angry taxicab drivers.

>> Councilmember, I think we understand that it is a hardship proposal and we would absolutely move to do it as expeditiously as we can. I think one of the caveats though is the information that is submitted from the companies has to be complete. It has to get to the essence of the issue. Over the years, information that has been submitted from the industry hasn't always been complete, and completely understandable. So assuming we get accurate and complete information, we would work very hard, and meet the ten working daytime frame. Recognizing, though, that this isn't an existing responsibility of staff, we are drawing from other priorities to implement this new system, and we're not collecting any fees or having any additional resources do this, but we'll absolutely give it our best professional effort to do it within 10 working days, assuming we get complete and reliable information.

>> Mayor Reed: City Attorney wants to comment.

>> City Attorney Doyle: Councilmember, I can suggest that maybe if the council wants the ten-day period it is from the date that the matter is submitted or the application is deemed complete, not from the date of filing the application. It's to address the concerns of the staff that you may get the information but you go back two or three times to get the full information that's required.

>> Councilmember Liccardo: I'd be heaps happy to incorporate that friendly amendment as described by Rick.

>> Mayor Reed: I don't know who had the second on this motion. Councilmember Herrera had it, okay.

>> Councilmember Nguyen: Thank you.

>> Mayor Reed: All right, Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I understand that every industry has been crippled by this economic downturn, including the taxicab industry, and I do feel for the taxi drivers. However, as a recent immigrant, people might argue, how recent is recent? As an immigrant in this country, I believe an opportunity if choosing one's destiny was and still is the heart of being in America. Whether or not they were successful is a chance that one has to take. As a matter of principle, I cannot support a policy, a policy decision that will limit the opportunities for those seeking a chance to succeed in America. I would like to work with my council or staff and the taxicab community to see how we can grow and create more opportunity for all, for more people, and not to harm them. You know, I thank Councilmember Liccardo, and Kalra and the mayor's working on this issue and I know there's a lot of good recommendation from those two, three memos and, you know, including maybe expediting the process of a possible fare increase for the taxi drivers or maybe increasing the permitting fee to discourage people to jump into this business, and Councilmember Nguyen's suggestion of limiting the time that -- the turn around times are all very good for the proposal. However, I cannot support this policy decision because I thought limit the opportunity for people that's seeking the chance to succeed in America. I just don't want the history to be repeated.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I certainly want to thank all the taxi drivers and company representatives that are here today that took the time to be here. And I want to thank the mayor and Councilmember Liccardo. I know that I find the initial memo have been signed, subsequent ones. I wouldn't have signed the original one if I didn't feel there was something that needed to be done to reflect the economic situation we're in, certainly understand the sentiment of Councilmember Chu and I wanted to start by first thanking Councilmember Liccardo for including the memorandum that I put in at the late hour and I wanted to respond to Councilmember Constant's questions on the memorandum as far as the reasoning behind it and so on. First of all this was not something I was holding onto and I decided to file as I think policy by surprise has been raised at times and that's certainly not my intent. I've spent hours talking to stakeholders. I wanted to thank Jim Ortbal for taking the time out not only to meet with me but talk with me and discussing with me on e-mail in discussing his thoughts and opinions on the direction I was proposing to go and I want to thank Councilmember Liccardo as well as the different representatives both of the taxicabs and the small companies that have taken time out to talk with me as well. And in my discussions first of all, there's certainly is and will always be folks that aren't going to be happy with whatever the council does. I think I've definitely come to that conclusion. We don't make everybody happy and rarely do we in any of the decisions we make. In my recommendation laid out in item number 2 in my

memorandum the reasoning behind it some of it certainly is, as has been indicated, you know, information that is already compiled or for the most part is put together and reported at different tipples, either to committee or in information -- Times either to committee or in information memos, the idea behind the memorandum is to have the opportunity, the policy, the initiation of the policy of five years ago, by the trial this request is complied with if the motion passes it will be approximately one year post full implementation but parts of the policy have been in place and they continue to be amended. But my understanding is April of this year, there was the first allocation upon the final agreement on what criteria exist in order to qualify for airport permits. Now, if you notice in my memo I don't speak to that issue. I think that the criteria that have been put forth, for the most part, been agreed upon by the companies, the drivers understand them, and so I don't think we need to address that. I wanted to very consciously narrow the scope of what I was requesting staff to do, understanding the staffing issues, and understanding that I certainly don't want or don't feel the need to revisit the entire issue. However, there's certainly a sentiment not just amongst one or two companies, taxi companies, but I've seen a pretty broad sentiment including representatives of the taxicab drivers that they -- they feel that the current policy can be improved upon. As stated in the memo, I don't necessarily know if I agree with that and I think that this will be giving an opportunity for all of us to decide if the policy is effective and can be improved upon or if it sham remain in place as-is. But I think as -- and I've heard the stories and the history behind this and that at times can be contentious at times there are going to be disagreements but I certainly don't feel that we should avoid those difficult discussions if at the end of the day we can find a way to do it different. As I said, I didn't file this memo lightly, I haven't done it with presumption or a sense of where I think the right answer is. I think it sounds from what staff is saying the current policy is working fine and I'm willing to listen to staff, elaborate on that with a more full report to the -- first to committee and then to council, and I think that will give an opportunity for us to see not only this first year of its operation but upon -- on the verge of it being on a new allocation because we get a sense of how it's working and also allows us to revisit this issue in a way that allows the information to be very clear and open and transparent and well in advance of the opening of our new airport which I know we all want to succeed in a successful manner in all areas of operation. So although it appears -- although the -- it appears to be a simple request, I think it's an important request that I think will allow for more of the folks in this room to be comfortable with a thought of a moratorium. It certainly makes me feel more comfortable with a moratorium with the thought that we're looking at other issues, Councilmember Nguyen's thoughts the ultimate amendment is an improvement and if presenting this in other ways can make it more clear as well as fair to everyone, I think we should. So that's kind of the basis for this. It's not and I don't want -- I certainly don't want to comply that I think the current system is wrong or incorrect however I do think that like any other policy, that we've put forth, that the council should have the opportunity to review it and to hear from the staff, with appropriate data on how the policy has been -- has been operating. So that being said on that issue on the underlying motion the couple questions I did have for staff, one has to do with the ability for a taxi company to show hardship. The discussions already made as far as the time line of that. My question is in terms of hardship, what, in -- I know that there have been in the past sometimes it's been difficult to get accurate data from some of the companies or at least that's been at times a struggle. Now of course with the airport cabs, those, you know, have to be part of a computer system and so on. Now some of the -- that doesn't apply to all the cabs. Maybe some of the companies don't have the resources to add that. How can they show data that you would be comfortable with Jim, or whatever the staff that is rufn it, be comfortable with the if they don't have the computer system that is required by the airport departments?

>> Councilmember Kalra, prior to the requirement of having a computer dispatch system, companies submitted manual data, taxicab driver trip logs and those types of data submittals. We would anticipate that those companies that didn't have the computer dispatch system today would submit that information. We would do our best to verify it. You know, there are other types of relations dealing with customer complaints, that they're not able to respond to customers in a timely way, documentation that reflection that they're getting new business, they may have an agreement or new contract with outriech or some other type of business where they clearly have new business that they didn't previously have. So there are a number of items in the ordinance that identifies what companies could base a hardship request on so we would certainly work on it request them and to the best of my ability, determine the reliability of that information. In our best jment if it's reliable that would be some we would approve. If we didn't think it was reliable obviously we wouldn't approve the exemption and the police department and the would coordinate on that matter.

>> Councilmember Kalra: As far as the three criteria to prove hardship, documentation of new business would be the easiest one. Dhas something you have to have some contract or something to show that anyway, so that one I'm not as concerned about. The oashtd two, particularly the trip data only because I know there have been concerns raised with those that didn't have the system. So I just hope that -- my hope is that we understand that there can be legitimate hardships and they may not have the same data that now that you may be more accustomed to looking at, because companies are required to have airport permits and you're accustomed to the technology and the ease of getting that data and not to discount data that may not include all of that and still be able to trust it and rely on it. Do you understand the question?

>> I fully understand your point on that councilmember. We will give all that information a fair review and we certainly have ways of evaluating the information to determine if there is a concern or problem with it and if it meets, you know, normal data review requirements we will absolutely give it a fair shake and do the right thing.

>> Councilmember Kalra: Yeah, and you know, I think all of us when we're talking about legislative acts for moratoriums, what have you, it's uncomfortable for us to do that, I don't think any of us are saying I feel 100% confident in it. I think the discomfort can be eased in knowing that there are opportunities for that -- the hardship because it's been mentioned, there's real opportunities to show, to gain that exemption. I think a way -- we certainly don't -- I certainly understand the economic climate that we're in and I understand the purpose, the moratorium for the taxi drivers. However, it's also, it certainly can be very daunting for some of the cab company owners, knowing that, you know, they're not going to have the same ease of getting new permitted drivers. And so, you know, the concerns that have been raised already and maybe others will have their concerns, maybe someone in the audience, I'm not sure, but I think those are legitimate concerns. I just want to make sure we go forward with an open mind, understanding that it's a very scary situation for those cab drivers economic cycles.

>> I will just criment we will have an open mind, we expect if information to be legitimate and no manipulation in the data, that is something we've seen in the past.

>> Councilmember Kalra: Maybe still keep an open mind that maybe something has happened in the past and it is a new day and there's hope that things don't recur that way.

>> I understand your position completely like that .

>> Mayor Reed: Let's take some public testimony. Mohammed Ali, (saying names).

>> Good afternoon, thank you honorable mayor and all the council. Thank you, I'm here to support 6.4. My name is Mohammed Ay Ali. I'm a driver. I've been driving for the last 20 years. I know how the business is it will there is businesses declining, since 2008. It was going down. There is a figure right now, I can tell you a long story but let me get to the point because I don't have no time. We have 600 driver according to the police department report. 600 drivers mean 600 licensed businessmen. Not just drivers. They pay for the City of San José 150 to \$275 every year. So this is business people, small business. If you want to help the councilman, please when there's business out there, when the business come back and the City of San José get to the street or airport report good or downtown, then, we can talk. Adding new permits, we're suffering on all this 600 drivers, they are the head of the family. Most of them they're head of the family. They're feeding the kids. So they're working Ty 16 hours a day, thank you, and thank you all of you guys.

>> Mayor Reed: Devada Kavwa, snawms Naples Shakir bmentuni.

>> Honorable mayor, members of the city council. I'm Kabeda Kava president of the San José taxi drivers association. We travel a long way for the last six months to make our issues heard. The moratorium proposed by Mayor Reed, Councilmember Liccardo and Ash Kalra clearly address our main economic concerns. This is a time of economic crisis that affects all business. No one can deny the part that the taxi business are also greatly affected by the economic crisis. So our request is to get a temporary limit on new drivers, purely based on the economic problem. We are a small business owners, and as much as we are to one of these companies we prepare many taxi companies operating successfully to attract the already existing drivers. It is important to understand, we are not guaranteed a wage by our employer. We are not covered by an employer's health plan. We have no sick leave or vacation benefits. We have no employer sponsored retirement plan. Drivers, please stand up. Dear councilmembers, we, the taxi drivers, wish to point out those important distinctions. Because we in fact are small business, that we suffer if this proposal is not adopted. We kindly request you to support the existing individual business owners, who work hard to meet San José's transportation needs. Thank you for listening. Thank you, all of you, for giving us all of your times, and ears in the last six months. Thank you again. [applause]

>> Mayor Reed: Kerpaul Bujwa (saying names).

>> Honorable councilmembers, mayor and city staff , good evening, thank you very much for giving me the time to say a few words. I want to commend the leadership of councilmember Sam Liccardo, mayor Chuck Reed and councilmember Ash Kalra and his support, all the support we appreciate your efforts to help protect the economic well-being of the drivers. As an industry we all must work together to ensure we can provide the best service possible, while ensuring companies big and small and drivers alike make a reasonable profit for their efforts. Adopting to this proposal is necessary to ensure many of those drivers will be in business when the economy rebounds. We urge you, please, to adopt the recommendations put forward today regarding the moratorium on the taxicab drivers. Thank you very much and have a good day. [applause]

>> Mayor Reed: Shakir Buni followed by Charles hope and Sarjit Singh.

>> Good evening, Mr. Mayor and members of the council and their staffs. My name is Shakir Buni and I am a member of the board members of driver association. First we wish to applaud the leadership of Councilmember Liccardo and honorable Mayor Reed on this issue, we truly appreciate your willingness to listen, and create a fair solution to this pressing issue. We also support the proposal to have the transportation and environmental committee to effectively evaluate this program for 18 months. It is no secret that the economy is hurting, as point out of out in Councilmember Liccardo memo. In May 2008 average daily trip of a taxicab driver was 12.5. Now the daily average is 5.6 per trip per day. The result is -- the result is, we barely able to support our family. Our drivers work extremely long days, up to 17 hours a day to make enough money. Some of our youngest drivers have been taken to sleep in their car, so they can stay for the street longer. This is not dignified for the drivers, and because of the drivers, fatigue is ultimately not safe for the driving public. The current proposal is reasonable, it allows many opportunity for memorandum to adjust, and it is easy to track data. Due to the number of drivers, the moratorium will not hurt customer service and it will not affect the customer fares. As a small business we are respectfully asking for your assistance in helping us with this hard time. Thank you. [applause]

>> Mayor Reed: Charles hope, Sarjit Singh, Sherry Singh.

>> Good evening, honorable mayor and councilmembers. My name is Sarjit and I'm working with American cab as a taxi driver. And I've been serving the City of San José since eight years. And I'm here on behalf of all the small company drivers who don't have a privilege to pick up the fares from San José airport. So ever since I have my permit, you know, all of the drivers have the permit. We pay the same fees to the city, and we go through the same training. And the only question is, why don't we have the privilege to do the business at San José airport. So I'm requesting to just look at this point and this, you know, open the permits for every drivers. Thank you. [applause]

>> Mayor Reed: Sherry Singh, Najit Singh, gnomes gnomes.

>> My name is Sherry 6, I'm here on behalf of American cab. We have proirmt concerns regarding Mr. Liccardo, Councilmember Liccardo's proposal. Define a process for the small cab companies to replace drivers in an easy and quick way so they can survive, which is not there, has no defined process to do that fast and quick. We support your efforts to help the independent drivers and operator but not in a way that terminates our business and ability to grow. We ask that you don't put the smaller companies out of business, because big companies can offer lower fees and can take all of small company drivers within a week, within a week. We can't hire more drivers. They just need to drop the gate, that's all. Before we started. And finally our councilmembers, took effort to resolve our industry's real problem, that is airport unfair airport policy. I really appreciate Ash Kellar's memo, evaluate the process and I strongly support his memo, that's what I would like to say thanks.

>> Mayor Reed: Najit Singh, Tony Alexander,.

>> Honorable councilmember, good afternoon still. I'm here to support the mayor and Councilmember Liccardo's memo on that. I've been meeting with the drivers association and we've been participating in some of the things that they've been doing and we're here to support that. I would also like on a side note to support Councilmember Kalra's memo also. I think what happened on that is we need to push forward on trying to fix the taxi industry. And we've been working on this for over five years. A number of you that I've worked with, when we first did the airport and redid everything, we have to continue to work on this. And so again, we want to support the mayor and Councilmember Liccardo's recommendation on that. And also, I'd like to thank Councilmember Kalra for his, also, memo on that because again, it does address the issue and again, we support that. Thank you. [applause]

>> Mayor Reed: Julia Miller, Dimitri Vorek and Vickram Singh.

>> Honorable mayors, councilmembers, I agree, in this matter. I have been working for consensus for all factions to be on the same page until I arrived today and saw Councilmember Kalra's amendment, we weren't all on the same page. And this motion only addressed a small part of a complex problem that doesn't treat all companies and drivers fairly. Please note the chart. Independent drivers will be helped, which is a good thing. They will have no additional competition and small companies will be hurt. Their 149 drivers were not part of the discussions with Dan Fenton and can be bought with lower fees to go to larger companies potentially putting 11 companies out of business. So unwittingly you may have been creating one large company as a monopoly plus independent drivers that have no oversight or accountability creating an unsafe situation for the public. The statement to allow the transfer of permitted taxi drivers between licensed companies supports our view. What is the criteria for this transfer? Has a process been identified? Can the number of drivers transferred from a small company be limited within a specific period of time? With a sunset date of three years the council can easily see a company with only ten drivers could be out of business in two weeks or less. So thank you, council, for hopefully passing this motion to direct staff to consider defining these issues, and directing staff to continue to work on refining the whole taxicab permit process and thank you for supporting Councilmember Kalra's number 2 in his memo. The ability to allow small companies to affiliate their vacancies and hire drivers to fill their business in an expeditious way is the American way. Thank you mayor.

>> Mayor Reed: Sorry your time is up. Dimitri Vorek and Singh. .

>> My name is Dimitri Vorek, I represent American cab and executive cab. This is the first time ever since 1997 that I decide to make a speech in front of city council members. Because whatever is happenings in this town, upsets me very well. Dan Fenton never talked to me an either of my drivers in all most of the driers with on airport permt. The same driver a year ago, been crying here and begging you to increase meter rate, now they're complaining that the linkers are taking their business. We cannot ooms taxi industry in the world. Cabs in Paris are cheaper than here. Now, the driver the days they don't work at the airport don't want me to compete and my drivers compete with them on the street. I don't think it's fair. Somebody here will say there are 600 drivers out there and I'm supposed to compete for these guys. I will be very honest with you, half of these drivers I don't want to see in my yard but there are good guys there. How am I supposed to compete with a company that offer drives \$190 a week, I offer \$150. It's going to ooms customer service worth is already joke in this city. Can you take a cab and the city goes three blocks, you'll see what's going to happen. I'm sorry, I'm a little nervous here so -- now, what I didn't get it is, so you telling companies existing companies who generate hundreds of thousands of dollars to City of San José, that they can't grow and can't hire people but at the same time you're allowing companies new companies in this city, don't makes any sense to me at all. And one more thing I want to mention here. Everybody's talking too much about recession, depression. Yes, we work hard, it's hard out there. But with this law, you'll bring recession in my yard and you'll put me out of business and nobody wants that.

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

>> Thank you.

>> Mayor Reed: Bikram Singh.

>> Honorable mayor and councilmembers, good evening. I'm Bikram Singh talking about the members at the table today. Few things I wanted to bring up such as when we were first given this service model, the primary goal for the city's taxicab service model was to require all the cab companies to have to have some kind of a market strategy to develop their business, so we can increase the trip volume. Which we did. And that trip volume is for other drivers. Also, part of that model was to implement a better dispatch system, which cost us hundreds of thousand dollar to put the new GPS tracking and computer which can satisfy the staff's reporting model. We operated this system as the city requires. Now we definitely want reward for that. I wouldn't say reward, I would say what we deserve, equal distribution of the airport permits. We came here, spoke so many times. I know there is a councilmember, Ash Kalra and Sam Liccardo's great efforts which will bring us back on this council to revisit this airport permit reallocation which we request, please bring this ASAP so we can be treated equally, fairly, we are good citizens, we pay our tax. I pay my airport fee. I don't owe one penny for the airport fee or the tax or anything. I don't know why I've been kept away from the airport. I deserve to go back and serve the airport. And that's, you know, as a good citizen and good businessman, I live in San José for many, many years. I've been doing business in San José for many, many years. I would like to continue doing business in the city and live in the city. I would say please, I strongly support Ash Kalra's memo.

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

>> And please help us, thank you.

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

>> Councilmember Liccardo: Thank you, mayor. I wanted to thank all the folks who came out to speak and all those who didn't come to speak but came to speak very eloquently by their presence. I know there are many drivers here whose livelihoods are very much in peril because of the state of the economy now. I want to express my appreciation to Kabeda and K Paul as well as the taxicab owners for expressing their concerns as well. I really wanted to thank Jim Ortbal, Dave Ca valerro their patience in the council and the committee in working through these various challenging issues. One thing I'm sure of, Tony Alexander made reference of us fixing the taxi industry. I'm sure City Hall won't fix the taxi industry no industry can be fixed by this city or any other city. Industries are inherently market-driven. They're challenging. I believe we need to allow the current allocation process at the airport play out. We've only had one year in which to evaluate a reallocation. I think it makes sense for us to look at it around the time in which that reallocation decision comes up for its annual review. I know we have new councilmembers on. It would be helpful for all of us to be helpful to hear something about the history of how we got here what criteria were used to get here but I'm not eager to somehow or another believe that we can jump in and fix, if folks on one side or another feel as though they have been left out. And the allocation, the airport permit allocation process I'm quite certain for whatever decision we make there will be an equal and opposite reaction. So I certainly share Pete Constant answer concerns about reopening this issue. It is my interest and my intent to simply hear the matter in terms of an information memo. I know there will be attempts to try change the policy. But I want to be very clear about my own position, which is I think we need to allow the process to work. We need to allow what has been enormous amount of thought and effort by staff in collaboration with the various stakeholders in the community and in the industry to actually let this thing play out and see how well it can work first. I also wanted to thank from the mayor's office Jeff Jansen, Christine Fernandez and from my own team for all their hard work. Thank you.

>> Mayor Reed: I'm going to support the motion. I just want to take everybody back five years ago, there were many people in this room who were drivers or otherwise involved in this industry five years ago when we made very significant changes in the way we thanld airport in particular and I am not interested in going back to the old system. I don't think there's a lot of sentiment for that anywhere. It's not to say that our system is perspective but it's a substantial improvement over the way it used to be for the drivers at the airport. And there are many, many ideas of what to do at the airport. And we've been through all of them over the course of these 95 years. And there is no perfect solution. That much I'm sure of. And we cannot make everybody happy unless we have no regulation at the airport, and that's never going to happen. We have to have this system of regulation, in order to ensure that the airport is served and served well. I think the system is working reasonably well, and it's a vast improvement over what we in before for the drivers. And that's why I've supported it all along. So I'm not interested in redoing the system because I'm pretty well up to speed on the issues, having been through it. But not on the council mass had the hours to look at it the way we have because we started a long time ago. Councilmember Kalra.

>> Councilmember Kalra: And I appreciate the comments of both the mayor and Councilmember Liccardo and recognizing not all of us had that same history and maybe a review sooner rather than later can certainly be constructive for many of us. I have a question Jim in regards to the economic indicators, and my understanding that on a -- I just want to make sure I'm clear in my head, my understanding it's on a quarterly basis those indicators are reviewed by the Chief of Police. And on a quarterly basis is it just -- and everybody -- I'm thinking that I read this it's based on just that previous quarter's numbers compared to the year before's quarterly numbers?

>> That's correct, Councilmember Kalra. We would look at current-year numbers? Compared them to the previous year numbers. The same time period and we would do it on a quarterly basis.

>> Councilmember Kalra: Okay, because I see the phrase during the same period of time. I just wanted to make clear when you say the same period of time, we're talking about the quarter. Not a snapshot of a week or a month. But a quarter.

>> That's correct.

>> Councilmember Kalra: In order to trigger the moratorium.

>> That's correct.

>> Councilmember Kalra: If the moratorium is triggered as soon as the economic indicators at the next quarterly review indicate otherwise it is again lifted?

>> That's correct. If there's not a decline in both of those characteristics, the current year data compared to the previous year's data for that quarter there would be no moratorium or freeze of driver permits.

>> Councilmember Kalra: I just mention this to make it clear for those drivers that are not here or listening to this later, that the three year period with that 18 month interim review is during that three year period it could be in and out of place the moratorium depending where the economic indicators are. Obviously we all hope that very soon the justification won't be there although we may presume I mean who knows it wasn't like -- it wasn't like the '09 has been a great year. So it's very likely at some point in '09 those economic indicators won't be on the negative and so any proposed moratorium although the policy will be in there, the won't be in place as we see things turn around from this year. I just wanted to say that but thank for the comments.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I agree with Councilmember Liccardo, that we can't -- council up here can't fix an industry, not the taxi industry or any industry. And I'm going to reluctantly support this. I'm more excited about Councilmember Kalra's addition and since these all are coupled together, I'm going to support it. But I want to just talk a little bit about how I got involved in this, and that was at the T&E committee, when this issue was supposed to come here and was not heard because we didn't have a quorum, I was very concerned about that so I did go to Rules and register that concern. I think it's very important that we follow our process and that these issues are heard and I was concerned that we were not. I also come from a place of having been a small business owner. And I really believe in competition and letting businesses be able to hire. And the whole idea of a moratorium is really unpalatable to me. However, I was not here five years ago and I know very little about the taxicab industry, I have to say. I'm learning. I've spoken with quite a few of you. Those that support the moratorium, those that don't. And so I'm definitely learning about that. And I look forward to at least hoping that this policy will not hamstring or put companies out of business. The time frame of 18 months worries me. That we have that long of a time frame. And I appreciate Councilmember Nguyen's addition on looking at the turn around time on some of these requests for a hardship exception. I think we should - I guess we're looking at ten days with all of the material in but I think staff should try to reduce it if that really -- if there is a way to reduce that time frame, I know our staff, I have great respect for our staff, and I know that they will try to reduce it even further. That's sort of the standard we're looking at but we could try to improve that. I want to thank the mayor and Councilmember Liccardo for their most recent memo addressing bandit cabs because that was a big issue that I heard from some of the smaller cab companies that that was going to become a bigger issue. Again I want to thank Councilmember Kalra for going boldly where no one wants us to go, and that is looking at, at least how these permits at the airport are allocated. I think what I heard from him is, we're not talking about redoing everything, and every aspect of that policy but at least let's see if the allocation process is fair. I'm interested in that. And I'm interested in all of this coming back to the T&E committee so that we can move forward with it. So I will be supporting this motion.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Quick question. And I know this has been to council multiple times since I've been here and for very lengthy amounts of time in both committees, et cetera. In what percentage is it cost recovery for us managing this taxi program for the administrative licenses et cetera?

>> I'll give you some estimates councilmember. In the transportation policy and planning area, 0%. We have no funds to support that.

>> Councilmember Oliverio: That is zero with a Z?

>> That is zero with a Z. I'll let chief Cavalero.

>> On the police department part it's about 50% .

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: I was encouraged to see Councilmember Kalra's memo because I thought a great that Councilmember Liccardo and the mayor put out. I was here five years ago, and back then I thought there was a lot of work to be done . I'm not completely comfortable and supportive of everything that is in Councilmember Liccardo's memo. But I know that we need to do something at this time. I think that when we think about a free economy, and supporting small businesses, I think it would serve us well to be putting forward Councilmember Kalra's memo as well, and directing staff to look at that. But I hear the concerns that my colleagues have expressed about revisiting that. And I am not going to debate that at this time. So I will be supporting the memo, with a lot of reservations. And I'm going to hopefully be

encouraged that the memo will serve us well and that we will see a turn in the economy. But as I sit here right now, it doesn't look hopeful. But I'm going to support it. I thought that Councilmember Liccardo was a good start, and you have some thoughtful ideas to be considered Mr. This proposal. But I do have reservations but I'm going to support it.

>> Mayor Reed: I think that concludes the discussion on this item. We have a motion to approve. All in favor, opposed, Councilmember Chu's opposed, so that passes on whatever the math is, 10 to 1. [applause]

>> Mayor Reed: Please be quiet as you leave, we have a little more business to do so take your conversations outside, please, outside, please. Okay, we're going to move to the redevelopment agency portion of the agenda. We have the consent calendar and then we have a joint item on the redevelopment agency. So anything on the redevelopment agency consent calendar you wish to pull for discussion? The motion to approve. The clerk get the maker of the motion on that? I think it was Councilmember Oliverio. Okay. Motion is to approve the consent calendar. All in favor? Opposed? None opposed, that's approved. Item 8.3. Approval of amendments to the cooperation agreements between city and agency for the loan of an agency employees to the city. We have a motion to approve. Councilmember Pyle, with a second Councilmember Nguyen. All in favor, opposed, none opposed, those are approved. That completes the redevelopment agency portion of the agenda. We need to take up the financing authority agenda. We have item 2, actions related to the 30s, okay, Councilmember Pyle is on staining and getting to leave early, but not by much. The commercial paper program. I have two requests to speak on the commercial paper program. Is there a staff presentation? Or a motion?

>> Motion to approve.

>> Mayor Reed: We have a motion to approve. We'll take the public testimony. Martin Delsin and José Mederos. I don't see Martin but I do see José, come down, José. I'm sorry? This is it. This is the last chance. This is the last item on the agenda. Okay, José's going to take it to the next meeting. So there's no public testimony on this item, the commercial action on the financing authority. We have a motion to approve. All in favor? Opposed? None opposed, that's approved. Next item is open forum. We have no cards under the open forum unless José wants to speak. Okay, no cards under open forum, we are adjourned, thank you very much.