

The following transcript is provided for your convenience, but does not represent the official record of this meeting. The transcript is provided by the firm that provides closed captioning services to the City. Because this service is created in real-time as the meeting progresses, it may contain errors and gaps, but is nevertheless very helpful in determining the gist of what occurred during this meeting.

>> Councilmember Liccardo: Okay, we'll call this meeting to order. And we'll just do our own little roll call here. Councilmember Campos, here. Councilmember Rocha, here. I'm Councilmember Liccardo. And I'm here and I believe that Councilmember Herrera is absent today. So we'll move on then to B, the review of the work plan. There are items here that are both recommended for deferral.

>> Yes.

>> Councilmember Liccardo: I'll entertain a motion.

>> Ed Shikada: Members of the committee we'd just like to show a couple of things that are in the spring work plan.

>> Councilmember Liccardo: We'll entertain a motion.

>> So moved.

>> I'll second.

>> Councilmember Liccardo: All in favor, passes unanimously. Move on to consent. Are there any items that anyone would like to pull off of consented between the sanitary sewer and mitigation monitoring, I am checking, there is one speaker I believe, actually, there's a speaker on -- yes. Okay, so we're actually going to pull both of these items off for public comment, specifically C-1 sanitary sewer. David Wall. David, come on down. Yeah, please do, sorry for the tight fit there. You may have two minutes to speak on sanitary sewer master plan update.

>> David Wall: I would like first of all to welcome the new councilmembers to their positions to serve the city. Welcome to T & E. Second I would like to thank the Public Works department for all the valuable work they do especially with regard to the sanitary sewer projects. However, I would think with fiscal year 2011, 2012, 2013, or 2012-2013 and 2013-2014 is too ambitious to entertain anything associated with this Envision 2040 plan. There

is a potential for serious financial problems with the city, the likes of which associated with the biblical plague. I think in this reference, this computer modeling and ancillary cost should be reviewed with a more focused approach: What can we do to keep from sewer overflows happening within the next two years, the status and upgrades to lift stations, and associated operational costs with reference to the funds. Thank you.

>> Councilmember Liccardo: Thank you, David. David, don't go away. Okay. Is there any comment from members of the committee on item C-1? Okay, we'll entertain a motion after we have public comment on the second item, mitigation monitoring status reports. David.

>> David Wall: Again, I'd like to thank our director of PBCE, this is a very tenuous ongoing problem, not a problem, but project. What I'd like to, see since the administration, with reference to the office of City Manager, not with the director of PBCE has been somewhat lax in providing a list of these projects also sorted by fund. Now, these projects sorted by fund is necessary to start allocating how you can create a new funding for overhead, how you allocate city employees to deal with these different projects. I am under no circumstances pleased with the office of City Manager in this regard. I think there's a lot of costs that could be captured, a lot of discretionary uses of residual funds within these projects to be used. And finance should also be tasked to look at this. Above all, each project here today and I will speak to this in some detail, should have a funding mechanism to allow the attorneys access to each one of these projects that they have their hands in. In other words, performance it is the attorneys that are the brain trust of the organization, not the office of City Manager. We should make sure these attorneys are well funded with benefits and their cost of living increases so we may retain them, retain the best attorneys we can. The rest of the people that sit behind me that are referenced to office of City Manager are completely expendable to what they do. So thank you, and look to the attorneys.

>> Councilmember Liccardo: Thank you, David. As a recovering attorney I just wanted to thank you for your rare public stand for attorneys. That was supposed to be a joke. In any event. I wanted to move on then to a motion on the consent item.

>> Councilmember Campos: Move approval of items on consent.

>> Councilmember Liccardo: C-1 and C-2.

>> Councilmember Rocha: I'll second but I do have a question for staff.

>> Councilmember Liccardo: Oh, certainly.

>> Councilmember Rocha: On C-2 what prompted us to have revision, if you don't mind, is it state mandated or us improving our system?

>> Ed Shikada: Actually the latter. The director of Planning, Building, and Code Enforcement brought forth an item in the fall and perhaps Darryl could expand on that.

>> Thank you, Mr. Chair, Darryl Boyd, Department of Planning, Building, and Code Enforcement. In response to the question, this is actually an item that's been ongoing for a while. We first started working with the Audubon society with Craig Brion when he was still there several years ago. It was an item we were working on mutually, and we essentially decided for ourselves to make it a more formal process, just because we continued to get comments from the public about it, and so we, as Mr. Shikada indicated, we brought forward an item last fall, and so the intent is to do quarterly reporting on the improvements that we're trying to make to the process as noted in the attachment to the staff report today so this is an ongoing item that we just need to be diligent about making sure that projects that are approved are in fact following through on the mitigation measures that they've been required to implement.

>> Councilmember Rocha: All right, thank you. I'll second the motion move approval of consent.

>> Councilmember Liccardo: Thank you Darryl. All in favor? That passes unanimously. Let's move on to the first report to committee. Status report on rate study for sanitary sewer storm sewer sewage treatment. Sewage treatment plant recycled water connection fees. Welcome Dave.

>> Dave Sykes acting director of Public Works. I'm joined by Mike O'Connell from Public Works. This represents really a joint effort between Public Works and the environmental services department. I'm going to do a brief presentation and we'll be available for questions. What we're going to talk about today is connection fees. Connection fees are primarily paid by developers, to either buy capacity in the system or to provide capacity in a system. This is different than what the ratepayers pay. Ratepayers pay for really upkeep of the system. There are scenarios where we may construct improvements that are funded by both sources because sometimes an improvement will provide capacity, while also add to the efficiency of the system. So why are we changing the fees, are we looking at the fees? The current fees that we have are very old. Most of them have been in place more than 20 years. The storm fees have been in place at its current rate since 1980. The sewage treatment plant fee has been in place since 1983. And the sanitary fees have been in place since 1990. The basis for these fees, as we collect them today, really doesn't reflect the way that the development has an impact on the system. So for example, on sanitary, we're on a per-lot basis. Versus examining the flow characteristics that are generated by that use. That's a good example of why we should change the basis of the fee. And so we are proposing here as we go through this process to change that basis to something called a equivalent residential unit where if we do evaluate the flow characteristics and then the fee is based on that. The connection fees also really don't align with our ability to create capacity in the system. In other words it doesn't provide enough revenue for us to construct improvements that provide the capacity for that development that's going to occur. And that's why we are collecting that fee. We are proposing the adjustments that we'll go over in a minute. The theory here is that growth pays for growth. Development pays the fees so that we can provide the capacity when they walk in the door and want to develop. It makes for a much more orderly way of providing the infrastructure versus trying to do it on a project-by-project basis which would leave developers having to fund improvements that sometimes would go beyond the nexus or the impact that they've created. Also, our current fees have no provisions for recycled water. And recycled water is a critical element to how we manage the effluent coming out of the plant. And so this is in essence to modernize our fee to reflect that process. What we've proposed so far, and this is still a work in progress and I'll describe in a few moments the outreach we're doing to the development community. The study has recommended that we move to the equivalent residential unit as we have shown there, and the proposed connection fees on the lower right-hand corner of the table reflect our thinking at this point. The fee is based

primarily on the cost of the improvements that we've identified in our various master plans. Sewage treatment plant master plans, storm and sanitary. Those are in various degrees of completion. The storm master plans we've just begun that process so in essence this fee is a place holder for that. But the goal that we collect through the connection fees the ability to provide the capacity for development. The other thing that we will be building into the fee structure is a credit process. So in other words, if the developer comes in, there is a lack of capacity for that development for some reason, we haven't gotten to those improvements yet, we would be able to credit that developer for constructing that improvement. This slide represents where we are now. And where we would be if we implemented the proposed rates as I've shown on the previous slide. So we are -- and these are I think 17 differently jurisdictions that we looked at, we're at the very bottom, in other words our fees are the lowest of any of these. If we were to raise the fees to what we proposed, we'd be in essence in the middle of the pack. So we're certainly not stretching the boundaries of the program. As far as outreach we've done a lot of outreach with the development community. It's really a process that they're very engaged in. To some degrees this is something that the development community wants. Not that they want a higher fee but they want capacity. And what they don't want is when development activity turns around and to come in the door and have us tell them we don't have capacity and they have to build something. Hopefully we can avoid that and I think we've done a good job of kind of getting out in front of this. We've had recent meetings with the development industry so they can understand where we're at. We'll continue to include them in our process of master planning and how that translates to the rate that we develop. Certain areas of town may require either a special fee or a special way of dealing with infrastructure, for example, with the intensification of North San José the fees that we're talking about here are likely not to provide all the capacity for the build-out of North San José and intensification there. So we would look at what capacity is needed and work with the development community on how to build and how to pay for that. Maybe they'd want to do that and need a special fee and we'd help facilitate the construction of those improvements. The goal as I mentioned is to make sure that we are in position and the fee does allow us to facilitate that development process so they're not held up. Our goal is to refine this process, come up with our proposed rates, finalize them over the summer, and be back to the council in the fall time for approval. We're ready and available for questions.

>> Mayor Reed: Great, thanks Dave. Questions or comments.

>> Councilmember Campos: I do have a question. Pushed the button?

>> Councilmember Liccardo: Actually it will stay on.

>> Councilmember Campos: Thank you for the work that you've put into this. Just getting back to your discussions with the developer round table, have they given you feedback more detailed feedback as to you know, with -- obviously at some point increased pricing you know makes something potentially you know not pencil out or not feasible. And one thing we want to do especially in these times is to be able to balance out you know costs, things that might be cost prohibitive to our future development. Have they given you any -- you know any indication that you know what, these fees, looking at the fee structure I mean they did go up quite a bit.

>> Right. And so the -- they certainly haven't gotten to the point where they've given us the thumbs up or thumbs down. Our goal though is that they would be supporting these fee increases so hopefully by the time they get to council we've got that support. It needs more work with the development community so they understand exactly what we're doing in terms of the improvements that will provide that capacity for them but that is our goal to have their support through this process so they can see the logic and justify the fee. At this point, given the dollar amounts that we're looking at, you know our goal is not to put a fee out there that would overwhelm that project and I don't think we're at that point here given these thresholds.

>> Councilmember Campos: Okay, thank you.

>> Councilmember Liccardo: Councilmember Rocha.

>> Councilmember Rocha: I noticed the comment about recycled water I believe it was the term there gray water. I'm used to the purple pipe versus the other. Can you talk a little bit about the difference between the two?

>> I might need a little help. What we're talking about today is really addressing the fact that when it comes to the sewerage treatment plant a big component of managing the effluent that comes out is our recycled water program and bringing water back into the city. We currently don't have a way of funding capacity-enhancing improvements for recycled water that the developers contribute to. It is no exaggeration when I say developers are asking when are you going to have a fee for this rather than me having to sort this out on my individual project? The fees are all about the infrastructure in the public street, not about what they're going to put in their building. That's a separate process. So hopefully, by incorporating this fee into that, we would be in the which is of providing that infrastructure and relieve them of that burden, if they did have to do it we'd have the credit process that I mentioned earlier on. As far as gray water, the gray water process is really more of an internal to that building or that system reusing some of the water within that building, to flush toilets and reuse it in that manner. Versus treated recycled water. That goes to the treatment plant and comes back.

>> Councilmember Rocha: It can be done on site then?

>> It can be done onsite, I'm not sure how far along we are in our processes for requiring that. I don't think we're that far along of requiring that of development.

>> Councilmember Rocha: Can you -- I know this is a complex question but can you give me a percentage breakout of how much is going to operation, how much is going to future infrastructure improvements, how much is going to what you just talked about recycled water?

>> As far as these fees?

>> Councilmember Rocha: Yes.

>> I could say virtually -- 100% of these fees are going to either provide capacity through new construction or to provide capacity by allowing the developer to buy that capacity from the system. So these fees are not going for the day-to-day upkeep of the system. The ratepayers pay for that. So we're very careful that we draw that line. As

I mentioned in the beginning, there are times when we can say this particular improvement fills both so we feel justified in using that money. But we do pay close attention to where these fees are going so that we maintain that nexus to the development community.

>> Councilmember Rocha: And these are all industrial, commercial --

>> Residential and all uses. In essence, when the developer's coming in, if it's a new connection, or if they need a bigger connection, if you will, they're paying this fee.

>> Councilmember Rocha: Now I don't know, I did read this and I'm trying to remember. Was there any mention of the treatment plant's master plan and the relationship between the two or is there none?

>> There is a rich between the two. These fees do rely on the master plans of all those facilities, the storm, sanitary and sewage treatment plant so that we can identify the need. What do we need to provide the capacity? There's a cost to that and that helps us determine what the appropriate fee should be.

>> Councilmember Rocha: And these fees get paid to ESD or the city?

>> The fees come in to each particular program, so the fees go directly in or actually --

>> Councilmember Rocha: Responder?

>> The storm sanitary fees are connected at our counter in development and go into each program.

>> Councilmember Rocha: Is there overhead cost to those fees?

>> There is. There's cost to managing the programs and implementing the project. There is overhead associate Wednesday with each those programs.

>> I'm not sure if this is the case. The regional water quality control board, do they have any role in terms of oversight, fee increases, approval, any of that, or is this all local levels?

>> They don't have any oversight in terms of fees.

>> Councilmember Rocha: Fee structures?

>> Right. The goals of all of our programs for example the goal of our sanitary program is to provide service, to reduce sanitary sewer spill so there's a relationship between. But they don't have oversight over the fees that we collect.

>> Councilmember Rocha: Thank you.

>> Councilmember Liccardo: Any other questions? Thanks Dave, and I know you are in the unenviable position of taking over a department when fees haven't been updated since the '80s or '90s in some cases, and you get to role these out, so congratulations for that. I was interested in understanding in better context what the equivalent residential unit really means for the nonresidential customers. Because I can imagine what ERU means for a typical two bedroom home, but as we look at these fees and say we're thinking about say a 40-seat restaurant, typically is that multiple you know 5 ERUs or a lot less than that? Do you have any context you can provide us to help us understand how this will all impact commercial or industrial folks?

>> I'm going to ask Mike to help, as is customary, the tough question goes to the --

>> Councilmember Liccardo: Yes, Mike.

>> Mike O'Connell, deputy director, Public Works. The average single family home we make assumptions that there are three to three and a half people in it. We go town did to how many gallons a day. You end up with

typical ERUs is about 220 gallons for a single-family home. You then multiply that for the commercial and industrial uses and you also do a calculation of the typical wastewater flows from those businesses or industries, in terms of the suspended solids that are in it, the ammonia loading in it. So these, the existing fees occupy many, many tables in the Muni code right now and part of our work is going to update those to be reflective of all the different uses will have and an equivalent amount of ER use.

>> Councilmember Liccardo: I understand that process and I certainly understand it is very complex. What I was hoping is some kind of context. That is, we want to know when we are talking with folks who are building for commercial or strum how these are really going to impact them. So if you have a prototype throw out a 40-seat restaurant just as an example, whatever that might be to give us a sense, we know how it's going to affect a civilian dwelling but what we don't know is what these numbers mean for a. Typical business.

>> We haven't committed that ground yet. We have committed with the development community that we'll have a meeting with them and work with through some of those typical examples, exemptions or anomalies in the fee schedule. Certainly some of the large industry, it is a metered flow coming out of that industry that has more monitoring than a restaurant or some other type of business. So that is a piece of our work that will be occurring in the next two to three months.

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

>> I'll just add that on the sewage treatment plant side, that's already been the basis. Really, the shift is more on the storm and sanitary. So it won't be a wholesale change for all fees, it's just bringing those two up to date.

>> Councilmember Liccardo: Okay, that's helpful. Because I would imagine, I wouldn't know, but I'm just speculating as we look forward over the next few months, as this comes back to council, there may be a different policy based calculus that we may use for residential as opposed to job-producing uses, and that we may decide that there's -- I understand you've got prop 218 concerns here but there may be a reason why you would not

necessarily want the same barriers to industrial development. And I'm not suggesting what direction we're going. I'm simply saying that may be a calculus we entertain as we assess the --

>> Mollie Dent: Actually, these fees are not -- one of your earlier slides, these are not prop 218 fees, these fees are restricted under the government code, though. So one development sector is not making up for the fees charged to another development sector. But it's not exactly a prop 218 calculation, though.

>> Councilmember Liccardo: Understood. The other question I had related to the recycled water connection fees. I know we have a cost basis historically that's been -- that's sort of remaining from whatever we kicked in from grants and taxes and developer fees in the past. And I've always understood when we were building out the purple pipe, at least in the recent times we've always had grant money or fees directly from developers to do that. And I wasn't sure what's left. Is there -- can you give us a sense about how much of that purple pipe isn't already covered by all those sources that we really have to go pay for retroactively?

>> I will need help from ESD.

>> Yeah, good afternoon, John Stufflebean, director of ESD. Most of the system has been either built with bond money or grant money. We're pretty much have completed those projects, so at this point, almost all future development is going to have to be developer-funded. So that's pretty much where we are.

>> Councilmember Liccardo: Okay, so there's not a lot of leftover I mean residual fee that has to be paid for within this fee?

>> John Stufflebean: That's correct.

>> Councilmember Liccardo: Thank you, Councilmember Rocha.

>> Councilmember Rocha: I believe you've covered this already or proved it, it's pretty clear nexus hearing. .

>> Certainly there's the legal aspect of it but for us, it's more working with the development community and getting their support for the fee. We have to make that nexus connection excuse is pun so that they are supportive of the fee an understand what the fee is going to provide in terms of agriculture.

>> Mollie Dent: I think in terms of nexus, I think that you did mention that there may be some areas in which there will be some fee differentials. If there are specific improvements that are going, for example, I think you mentioned North San José. So in general it can be sort of a uniform system, particular moor for storm sewer than the other two. There may be some differentiation.

>> Councilmember Rocha: So then I guess you don't see the need given these funding levels for assessment districts in the future, or is that to be determined?

>> I think an area would, as I mentioned, that might be potentially useful is in North San José. I think we've gotten to the point where we understand that the infrastructure needed there, probably mostly for sanitary, actually, perhaps storm, would go beyond what we could afford through this fee structure for the city as a whole. And so if that type of intense infrastructure is required, what is the best way to fund it? Is it through a special fee where we would implement those improvements, is it through an assessment that we would assess those property owners, and fund the construction in that manner, that is something that we would work out with the development community.

>> Councilmember Rocha: But outside of North San José you don't see it returning?

>> Perhaps if the growth returns, and North Coyote Valley is built up, that would be another location where the neighborhood trunks as well as the local collection systems could be financed, as one project either funded by the developers or with the special impact fee.

>> Councilmember Rocha: Thank you.

>> Councilmember Liccardo: Okay, unless there are other questions, we'll have time for public comment, David.

>> David Wall: Now it's time for criticism. I have serious problems with how this rate study is being calculated. There are too many variables that affect the assumptions of calculating flows from residential housing. For example, in district 3 Your Honor, there are multiple houses that just don't have one or two people in them that have been converted into all sorts of living arrangements. All throughout the city this is council districts 5, 9, and you pick one. The flows have to be really quantified here to be able to do this type of study and rate structure. In addition, one thing that council does which I do not understand is developers get routine Mulligans, where they buy large sectors of property, and then they come and they say let's have a deferral or put in abeyance a rate or connection fee. That has to just be outdone. They either buy a property and develop it and pay their fee or be subject to the fee at the date they begin development. None of these floating Mulligans that are out there. Another issue that I don't see, I don't see anybody from finance or the auditors. This is a perfect spot for the finance folks to be all over this. Because you are going to be relying on these calculations, and I personally wouldn't rely on any of them because of the flow. Growth does not pay for growth in this town, let's establish that. Because if this was the case, you have had -- not you, the new councilmembers, or even you, your honor, but several years, and this office of the City Manager hasn't come up with the rate increases until now, when you're in a catastrophic budget situation, a catastrophic environment for the economy, and all of a sudden, now, there's an impetus for this type of rate stuff. Which is needed. I'm not saying that. But we've had too much incompetent decision making, that office of the City Manager. These assessment districts also should be focused, too, often increasing the quality of the reclaimed water. It starts with what you put into the system, not after the faculty.

>> Councilmember Liccardo: I'm sorry, Mr. Wall.

>> David Wall: Thank you.

>> Councilmember Liccardo: Okay, entertain a motion to accept the report.

>> Councilmember Rocha: I move acceptance of the report.

>> Councilmember Campos: Second.

>> Councilmember Liccardo: All in favor, passes unanimously then. Item number 2, litter and trash reduction plans. Welcome, Melody.

>> Good afternoon, John Stufflebean director of environmental services again. We're pleased to bring forward to you today our initial framework for our litter reduction plan and this is based on two things. One is, that the storm water permit requires us to significantly reduce litter in creeks and the second thing is that a few months ago at the T and E we were asked by council to bring forward a plan. Let Melody walk you through it and we'll answer any questions or comments. Thank you.

>> Good afternoon, Melody Tovar assistant director of environmental service. I'm joined by Elaine Marshall, she's our storm water program manager. And we're pleased to bring you today an update and really a primer for what is going to be a comprehensive trash load reduction plan for San José. Why control trash and litter? While litter is a common problem for urbanized communities like our own, long understood to contribute to urban blight and to have a negative impact on the quality of life for communities, we have seen renewed motivation to take a comprehensive approach on to how we manage litter because we more fully recognize that there is also a significant environmental impact. In particular, the impact of litter to water quality and habitat. Most of this impact from litter is seen through our storm water. Storm water remains a significant and in many cases the largest remaining contributor to water pollution. Among the many pollutants that we deal with in storm water management, trash has become a priority water quality issue, and really, it's the most visible. So of all the pollutants we deal with, trash is the one you can actually see. And so it also serves as a good illustrator for the impacts that we find from our daily activities as water moves through our watersheds. The regional water qualities control board has spurred the formal listing of five creeks here in the area, the San Francisco Bay shoreline, and some 20 plus other watersheds or waterways throughout the Bay Area as impaired by trash. This is a formal

regulatory destination that sets in motion formal requirements to address a pollutant. As we've previously presented to the committee, the San Francisco water board has also issued us a new storm water permit, became effective in December of 2009. It regulates storm water discharge for us and 75 of our closest friends here in the Bay, other cities. And it includes a wide array of actions that are needed in order to demonstrate compliance with our discharge limits into the storm sewer system. And it requires that we reduce pollutants into our systems so that those pollutants are then reduced from being discharged into the bay and our creeks. Specific to this storm water permit has some very ambitious targets for us to hit, with respect to reducing trash coming from our storm sewer system. The permit itself is five years in length and so it specifies that during that permit cycle we are to reduce what's coming from our storm sewer systems by 40%. It also lays the groundwork quite explicitly for future permits, that they intend for us to hit a 70% reduction by 2017, that would be a future permit, and a virtual 100% reduction by 2022. It also requires that we submit a formal plan to document our approach to achieving these targets with the 40% target plan due to the water board in February of next year. So we have about one year to develop the plan. While the focus of our permit end requirements is specifically what comes from our pipes and our storm water outfalls, trash comes from many places, and it has many ways to actually get to our creeks. Shown here are a few common sources of trash, including pedestrian litter, illegal dumping, and waste container management. How it gets to creeks doesn't have to be just through our pipes. It can also be through illegal dumping or other windblown sources, be it from a neighboring road or an adjacent riparian area on a trail or local encampments that we find along our creeks. Given the diversity and complexity of the sources and pathways for trash to our creeks, the solutions are going to be varied, and it's going to involve a variety of entities and organizations in order to make real change. Already staff from several agencies and many city departments touch litter in some way, shape or form. We have maintenance crews from our collection system, from our trails and from our parks, our park rangers, as well as environmental program staff. So while the city currently invests considerable resources in responding to and cleaning up litter, a comprehensive plan has not yet been developed. Having such a plan would allow the city to address litter more strategically, to direct our resources more effectively, and to enlist more partners. We have identified some guiding principles to help align the City's efforts to meet the regulatory requirements but also achieve other city priorities. Specific tactics would be considered for how well they show progress toward these new merit goals of 40, 70 and 100. How well they balance cost and effectiveness for actually removing litter. How well the tactics improve the quality of life for our

community, businesses and residents. How well they support our other water quality and environmental objectives and how well they leverage and build partnerships. It is with these guiding principles that ESD with our many partners here in the city are developing a trash load reduction plan that is essentially going to be organized with three main strategies. They are prevention, interception, and cleanup. These main strategies address trash reduction at each stage of the process. From the sources of litter to its accumulation in the creek. The trash load reduction plan will build on established city efforts. It's going to incorporate new technologies and actions to capturing trash and explore new partnerships and approaches to changing behavior and preventing and managing litter. Taking a closer look at some of the tactics, on prevention you know the common philosophy of pollution prevention is it's typically cheaper to prevent it in the first place. And so with reducing trash at its source, it can be the most cost effective means of controlling litter as an outcome. Prevention, whether it come from education, regulation or enforcement, is intended to target the most ubiquitous or common types of litter such as plastic bags, disposable takeout food containers, convenience food wrappers, and the like. These types of actions can also have other positive environmental outcomes such as reduction in greenhouse gas emissions, solid waste reduction, and conservation of natural resources used in producing some of these products. The council's recent action to place an ordinance on single use carryout bags is just such an action. As our staff report describes the city has already banned expanded polystyrene food service ware from large city events and city facilities. Staff will be engaging over this year various stakeholders and returns to the committee in December with a recommendation to address expanded polystyrene food service ware at food service establishments broadly. Interception is a strategy that focuses on removing the material after it's already become litter but before it actually gets to the creek. Shown here is an existing practice, street sweeping, which helps us pick it up off the ground before it enters our storm sewer system. And the other two things shown on the lower part of the graphic are newer technologies to capture trash within our storm sewer system. These are called full trash capture devices and they're actually required as a separate part of our permit. So our permit says we have to do some of this, but it gives us a fairly modest target for how much of that we need to do. More of it will be needed in order to get anywhere close to the 40% reduction target. The device shown in the center is a screen device installed in individual storm drain inlets or catch basins. We have 29,000 catch basins here in San José. We have installed a little over 100 of these devices as a pilot and we continue to learn from those installations. The larger device on the right goes into the storm drain system main lines, and it actually uses the force of water and the flow of water

to have the trash move to the center of the device and fall out for maintenance, while the clean water flows out of the device. They are considerably more expensive, a capital cost of a ratio of about 4 to 1 based on the drainage area you will serve between the small device on the middle and the large device on the right. Both of them have their limitations as infrastructure retrofits, but the larger devices do have a lower cost over the life of the device. So the maintenance costs are considered to be considerably lower given that you will go to fewer places in order to maintain the device than if we went inlet by inlet by inlet. These devices will play a significant role in their plan but certainly not the only part of the plan. Once material has gotten into the creek, our only option is to clean it up. Cleaning up large accumulations of trash in our creeks is labor intensive. It is something that we have gotten better over time. Our permit requires that we identify and clean up every year 32 hot spots of trash in our creeks here in San José. We also have a very successful memorandum of agreement with the Water District, a partnership to do large cleanups and large encampment cleanups. Homeless encampment cleanups do effectively remove large amounts of material. Some of it very toxic. However, the locations remain clear for only a very short period of time. So as we're looking at cleanup we're also looking for more sustainable approaches that help us reduce the amount of cleanup all the time. Staff in partnership with the water district, the county, and San José housing's destination home and an organization called the downtown streets team are aiming to try a newer approach to more permanently address the impacts of encampments by addressing the root cause of homelessness. Such an effort would be far too daunting for an environmental program, so this is truly being approached as a collaboration across social services, public safety and environmental protection. This particular approach would have this organization called the downtown streets team recruit and employ homeless individuals living along our creeks to pick up trash and conduct peer to peer outreach, in exchange for them receiving food, housing, job training and experience, and other case management services that are aimed at moving them permanently out of homelessness and into housing. We've developed a pilot project scope that is aimed at just a short stretch, a three-mile stretch along Coyote from about the southern part of downtown to Kelly Park and we have applied for EPA grant funding to the tune of \$900,000 to seed a two-year effort. The goal of the pilot would be to permanently transition 50 individuals out of homelessness. The recent surveys of Santa Clara County homelessness indicate that there are more than 7,000 currently living out of homes. And so we know that the 50 individuals will be just a step in the right direction but will not solve the whole problem. So the city and other partners are also hosting a round table discussion to bring together public safety, social services, municipal

agency personnel to talk about how different -- how we can better manage the impacts of the homelessness even while we try to also stop it. You can see that neither creeks nor litter obey jurisdictional or geographic boundaries, and so regional approaches are attractive and partnerships are essential. As we built the plan, we will be building on existing partnerships, our strong partnership with the Water District, our existing relationship with the other cities in our countywide storm water program who are all similarly motivated to reduce litter in their communities, the successful coordination of community cleanup activities under the existing Silicon Valley anti-litter campaign. We will also explore additional partnerships and opportunities to identify creative solutions with transportation agencies, with social services agencies, with neighborhoods, businesses, and environmental groups. Having that trash load reduction plan offers a comprehensive approach which is needed to bring cohesion and citywide leadership and really countywide leadership to trash and anti-litter efforts. Given that the water quality driver is what has accelerated efforts for litter reduction, our department is well seeded to support the city in this endeavor, along with our partners throughout the city. So in recap, our next steps here are to determine how much trash is really coming from our storm sewer systems. It's called a baseline load estimate. It's also required to be provided by our permit. And then load reduction credits. Once we've established how much we think is coming from our community and our system, what kind of credit do we get for the various actions that we've described here and the various activities that we do to reduce litter. We'll then refine the trash load reduction plan components we talked about over the next six eight to 12 months engaging stakeholders in the planned development itself and prepare to submit the plan to the water board in February of 2012. Our recommendation is to accept the status report and to allow us or direct us to come back in December of 2011 just before we submit the plan with our actual trash load plan. That concludes our presentation. Thank you.

>> Councilmember Liccardo: Thanks, Melody. Okay, questions, comments?

>> Councilmember Campos: I do have a couple of questions. I'm not sure if I should ask them -- you know what, I'll ask my questions after public comment.

>> Mayor Reed: Okay.

>> Councilmember Campos: Seems like we do have a lot of cards.

>> Councilmember Liccardo: Why don't we come back for public comment and then we'll come back for committee discussion. Marion Gordon followed by Gil Chesso. Good afternoon. Thank you.

>> Thank you. Members of the council, my name is Miriam Gordon, I'm the California director of Clean Water Action. We have 85,000 members in California, about 6,000 in the City of San José. We go door to door and talk to people about environmental issues and communities around the bay and unanimously people hate polystyrene litter. They hate the foam. And there's been a huge amount of support statewide for banning polystyrene food ware. 48 jurisdictions have done so already and I would encourage you to consider move forward on a ban. A polystyrene ban in San Francisco reduced polystyrene litter by 30% since it was passed and polystyrene is a predominant source of litter in storm drains about 15%. And so what are the solutions? Well, recycling doesn't really make sense. There's no market for recycled polystyrene. It's a cheap material. That's why it's so popular. Around once recycled, really increases the cost compared to the virgin stuff. And really, the only recycling that's been developed just down cycles it into a few other things, there have just been some fabricated examples, no real recycling exists. I know there's a strong push by industry for it but it won't pan out and it doesn't make economic sense. Even the American Chemistry Council's website had a whole article about why it made no -- has no economic value. So banning this material because it's really the most pernicious of all litter production. It's lighter weight it breaks apart easily the foam and it distributes into the marine environment. That should be a core aspect of the trash reduction effort and finally I want to support the staff and their focus on reduction. We are partnering with the city and the staff on a project called Taking Out the Trash where we're doing litter audits upcoming in March, street litter audits looking at what the sources of litter are. Nobody's really asking where is it all coming from. But this pilot project, we're started in three other cities and we're going to start working in San José and can I tell you that the main problems out there on street litter, the products are, aside from cigarette butts are snack food wrappers and cups. And since the city has already taken a big, huge leap in prevention, in banning disposable bags I think you might want to consider what we're going to do about snack food wrappers and cups. And with beverage cups, hot cups like the coffee to go, there is a reusable option just like there is for bags. So you might want to consider some kind of action on reusable cups. Thank you very much.

>> Councilmember Liccardo: Thank you, Miriam. Gil. Gil Chesso followed by Johnson Choy and Ed McGovern.

>> Good afternoon, members of the committee, I'm Gil Chesso, I'm with Allied Waste and Newby Island Resource Recovery Park. I just wanted to let people know that we have recently installed and expanded polystyrene densifier at the recycler. The initial plan is to target commercial customers and EPS block in our service areas of San José, Milpitas and Santa Clara. And we will be working and are in the process of developing a pilot program. It's in its baby steps right now in Milpitas for a dropoff which could possibly include food service dropoff, we just haven't gotten there yet. Thank you.

>> Councilmember Liccardo: Johnson Choy.

>> My name is Jonathan Choy with Dart Container Corporation and we happen to be the manufacturer of many of these food service products in question. And like all of you, we're concerned about the environment, and litter, and so what we've done as responsible manufacturer, we have two manufacturing facilities here in California working with 35 different plus municipalities up and down the state to in fact take back the program, recycle it. So we realize that more and more of what we're seeing a push especially at the local government level which is really admirable because the reality is that so much of the unfunded mandates get put on you guys, just like the regional water board is doing with the MS 4. We need to be responsible as a manufacturer to help solve the problem. Making sure it doesn't become a litter issue. The majority of your recovery rate will be best addressed with our takeout food, hence the word takeout is back to residential community. That's why we're really trying to aggressively push for -- from our vantage point extended producer about look at it from the curbside collection because that's where the recovery rate is the highest. Looking at the realities of a dropoff collection such as Allied is doing. Just to kind of take those baby steps to see in a huge jurisdiction like San José as diverse and as populated of a city as this is, maybe it's incumbent upon to look at those baby steps and say does the foam recycling does it in fact work? Before just saying, dismissing the fact that it doesn't work. It is not a hypothetical situation. It is real. We would enjoy in fact to host the community members to our facility in Lodi. I know that Allied has hosted some of the committee members as well, and we'd just be delighted to work with you. Thank you.

>> Councilmember Liccardo: Thank you. Ed McGovern followed by Brian Schmidt.

>> Good afternoon, councilmembers. Ed McGovern. I'm here with the plastic packaging industry. I just wanted to talk about a couple of things. One there was mention that recycling isn't working. This is expanded polystyrene reduced 50 allied waste dense firing into a block that's now being sent off to two companies in California that do recycle it. Turn it into products baseboard, picture frames, plastic, rulers and tools. So there is a viable market. And it is being turned into new product. Secondly, there's a couple of things in your report that woe would take issue with. One is, in the report, there's a mention of an analysis, 10% of the material going into the storm drains is expanded polystyrene. We -- one of our colleagues asked for that report. We were told by staff that it is not a public document. We find it difficult to understand how you're making policy on documents that aren't available to taxpayers. Secondly if that 10% figure is accurate as has been mentioned that's not all food service. The majority of it if it's indicative of what is going to your lands affiliate is nonfood service. Meaning you are still going to have expanded polystyrene ending up as litter. So a recycling program is a program that we think is worth looking into, as a number of communities including Los Angeles have done. Third there's no discussion and report about enforcement. What's the cost of the city to have -- are you going to have styrofoam cups going around and telling people in food service industries that you can't use it? Given your budget crisis, how is that going to happen? Fourth, even in cities where there are bans, polystyrene food service is prevalent. We went on Friday, my office is in San Bruno, to three stores in San Bruno, all food service products. Poultry, fish, meat, gummy bears. I mean it was -- it's prevalent. So a ban isn't going to get you the impacts that you want. Recycling will.

>> Councilmember Liccardo: Thank you, Mr. McGovern. Brian Schmidt followed by David firestone.

>> Good afternoon, Brian Schmidt wearing my hat as committee for green foothills and just to speak briefly that we support this trash load reduction plan and especially that we support one that is strong and moves quickly into dealing with the many trash issues that we have. And appreciate the comments from the production industry and I assume that those comments can be dealt with. I look forward to seeing that as part of the trash load reduction

process. And to the extent there's a stakeholder process which was mentioned during the report we would be very interested in being involved as well. Thank you.

>> Councilmember Liccardo: Thank you, Brian. David Fire Stone.

>> I'm David Firestone, Timberland International's director of recycling. One, styrofoam is and can be recycled. We are the guys that make this product which the gentleman referred to, which is the decorative molding product. We solicit material throughout the United States of America, Canada and Puerto Rico in Home Depot stores extensively, so we're continually looking for new sources of recycled polystyrene or styrofoam as it's called commercially and we typically struggle to find more material. We want more of it not less of it as being able to recycle it. Our product itself is 95% recycled with styrofoam. So it is great for the environment. We keep styrofoam out of the environment. We work very closely with a lot of municipalities across California, and we're interested in getting material from California, because we compete continually with the Chinese for -- to recycle styrofoam. A lot of it unfortunately goes overseas, gets processed into this form here, (inaudible) so it is very effective and there is a huge market for styrofoam and I compete with it on a weekly and daily basis to find product. So we're actually very interested in working with MURFs here in California. We actually work with a MURF down in Los Angeles and we receive material from them. We manufacture in stock in California and so also provide jobs for California. So we're very interested in working with local MURFs like Allied, and we get food service through MURFs, as long as it's clean and rinsed off from local curbside recycling programs. So I just want to communicate the message: It can be recycled, we're very effective. We actually run about eight to 10 million pounds annually of recycled styrofoam in our plant to make this product, and you guys are welcome to come out to our plant and see we do have the stock and at your convenience. Thank you.

>> Councilmember Liccardo: Thank you, Mr. Firestone. Mr. Firestone, I was hoping I could just ask you, since you do an awful lot of the recycling, are you actually recycling any food service?

>> Yes, we are. We actually have some egg cartons at the plant right now. We are recycling -- obviously they are a little dirty, but as long as it's not contaminated in a big way, like MURFs, as long as it's cleaned off, rinsed,

and not a lot of food contamination, we're cool with that. Just have to be careful with it. And it can be done at a MURF level, also, as long as the programs are implemented properly.

>> Councilmember Liccardo: Okay, thank you. Next, would be David Wall.

>> David Wall: I would suggest that you reject this report in its entirety. It is objectionable open the basis it is an incompetent work product. I say incompetent work product because off to my left there's approximately what, \$500,000 in management. And this is the best program that they could come up with? How long have these people been on the payroll? In reference to the litter issue? This is the best they can come up with, 15 pages. This in itself is litter. Now, to address the litter, the 29,000 storm drains, these type of interceptors are not going to work on a large scale. This is cost prohibitive. It is fun for project sustainability. For people that will outlast you as far as being on a payroll. But actual litter reduction, no. Let us look also at exceeding the scope of what they're entitled to do with reference to looking -- defining their public use funds. Now they're in the homeless prevention program? No. The amount of money that's off to my left would be better spent by creating a new management structure and addressing what can you do now, today, with the litter? Not and also none of this business of coming back in December, which most of these city departments like to do and special interest groups come in the last month of the last meeting, and hit you about what they do before you get to talk about it. If you're going to accept this tripe, make them come back every single month with updates of what they've done to justify the money they're being paid. Thank you.

>> Councilmember Liccardo: Mr. Wall, I encourage you always to speak out. But please, avoid being abusive towards members of the committee. I appreciate that but if you think I'm going to sit here and allow you to be abusive to people consistently, you're kidding yourself.

>> David Wall: I'm not kidding at all.

>> Councilmember Liccardo: We'll be cutting you off the next time. Discussion by the committee.

>> Councilmember Campos: I have some questions. First of all my concern are the small businesses. I have a number of small businesses in my district as I'm sure most councilmembers have small restaurant-type businesses where their profit margin is very, you know, very, very small. And you talked about putting together stakeholder process of which it seems like you've already come up with an outcome without getting input from the stakeholders. So with small businesses like you know, little mom and pop restaurants, I mean, what happens if they tell you, you know what if you go this route, I'm done, you know, businesses like McDonald's and the big chains, they can afford to go to a different type of product you know because those are national corporations. They can afford passing on the cost to the consumer. But some of these neighborhood places you know they can't. They're always going out of business, you know, because the profit margin is small. And any deviation whether it be the economy or the way the wind blows, they close down. So what -- I mean really what's the outcome of the stakeholder process?

>> So we're just beginning that process now so this is a good time to indicate who we should have on it and certainly small business is top of the radar. When we're talking about food service establishments we're generally talking about small business food establishments so we've already been talking to the California restaurant association, though not specifically about this process so really this is the launch. And it's going to take us the next six to eight months to engage the variety of stakeholders that do care about what happens with food service ware.

>> Councilmember Campos: Because I'm sure we all got letters from the California restaurant association and one of the comments they made was okay you're doing a stakeholders process but it's almost like you're pushing the stakeholders to a direction before you even sat down and said well what do you guys think? And even the -- you know we did have some stakeholders that came and spoke to us regarding -- regarding the industry has changed, as long as if styrofoam is -- there's the ability to clean it to some extent it's usable. As well as the -- it would seem to me that the vast majority of polystyrene doesn't come from food containers. And it's going to end up in our landfill anyway because we're still buying televisions, radios, et cetera, wouldn't it make more sense to as part of this stakeholder process, that create an option, that could lead to recycling?

>> I think that the large, big box store type styrofoam is less prevalent in our creeks. What we do see in the creeks is the stuff that came from our individual convenience cups and food ware. I think that as we go through the process, though, we are going to find that the industry is changing even as we speak. We heard today speakers come forward to talk about pilots they are implementing right now, on smaller scales, to see how some other product action alternatives might pan out. It's exciting to hear about manufacturer responsibility and wanting to take an extended producer responsibility type of approach to this. All of that we will explore through the process, in addition to I think what some have already decided would be a ban on it. So that's not the only thing we're going to explore through the stakeholder process.

>> Councilmember Campos: So, I think I heard you say that you're saying that going through this process that you're not pushing to an all-out ban but you're looking at okay, what are our options? Is that what I'm hearing you say?

>> That is correct.

>> Councilmember Campos: Okay. Thank you. Oh, and by the way, I did, just for purpose of disclosure, I did go out and see this machine that compacts the polystyrene.

>> Councilmember Liccardo: Thank you. Councilmember Rocha.

>> Councilmember Rocha: I guess I start there too. I did also visit the site. Did anyone from ESD look at the equipment yet?

>> Looking at my solid waste cohorts and see if they have. I know I have not.

>> Jo Zientek, deputy director of environmental services. We have gone to the Tiburon facility and we're at allied often. I'm not sure we have seen the new dense fire but we have seen the same equipment at other MURFs.

>> Councilmember Rocha: Do you know how much they generally cost for that equipment?

>> I think \$150,000 -- 40,000.

>> Councilmember Rocha: 40,000?

>> I do want to point out that recycling just as we talked about in the bag discussion doesn't do anything to mitigate litter. It's the same benefit to litter whether or not the foam food ware ends up in the landfill or the recycling facility it is still not littered. The issue with litter is it's ubiquitous, and people tend to toss it and it gets in the waterway. So recycling doesn't solve the litter issue, just does something in the landfill. Recycling and dumping in landfill have the same impact on litter. In both cases, they're not littered. So it doesn't address the behavioral issue which causes the styrofoam to end up in the water base.

>> Councilmember Rocha: Thank you. Thank you for those last comments but I also think recycling efforts do help using water bottles and cans as an example, I think it can help. I also have a tough time honestly looking at legislation that regulates human behavior, but that is going a whole 'nother direction of where my questions are going to start. So I'm curious about the storm water permit you mentioned early on. Can you explain a little bit about the mandates or the requirements for that and talk about what are the outcomes if we don't meet those goals? Are there fines, or do they hold our permit up, can you please?

>> The road to fine is possible, but it's a road before we get to fines. Compliance will be evaluated as products and time lines are passed and so once we get to 2014 we're going to need to submit a plan that demonstrates that we've made progress toward and to the 40. And no doubt will be evaluated across the other 75 agencies that are also in the same compliance boat. Our bigger risk is probably that we look at much more stringent regulations the next time around. In Southern California they went through a much more formal regulatory process to achieve trash reduction. And it required -- it was litigated and even after litigated it required getting something close to zero in I think 12 years, and they've invested hundreds of millions of dollars primarily in infrastructure changes because it is the most demonstrable thing you can do.

>> Councilmember Rocha: And who are they?

>> Los Angeles.

>> Councilmember Rocha: The city or the county?

>> County and neighboring communities. City as well, so there have been five to ten regulatory mandates in Southern California that drove a county wide bond initiative to the tune of \$500 million for additional resources from the community to go towards litter reduction, in particular infrastructure retrofit. So that's probably the bigger financial and community risk to us, if we don't make progress in the right direction.

>> Councilmember Rocha: And was that mandated by a local regional water quality control board as well, or was that a state?

>> It was. In California, the state water quality control board has been managed through regional boards and we are in a different region than Los Angeles. But yes, sir, it was at a regional board level. All of those have to be upheld though at the state level and approved by EPA as well. So those regulations at the regional go up to the state for approval?

>> They do.

>> Mollie Dent: These are permits, they're not regulations so each regional water quality control board issues the permits, within its jurisdiction. Those permits are subject to review, by EPA, and they're subject to review by the state word board but they don't necessarily go to the state board. The San José permit that's mentioned in the staff report here is the same permit that all of the municipalities in this region currently have. We have one storm water permit for-d.

>> It's 76 agents. Almost all the Bay Area.

>> Mollie Dent: 76 agencies all have the same permit in the Bay Area. San José's targets reflect its size and population. But they're scaled. So it's the same permit for all of the agencies in the Bay Area. It's not identical to the permits though down in Southern California.

>> Councilmember Rocha: Thank you. You mentioned was it five creeks I believe or five waterways?

>> Waterways.

>> Councilmember Rocha: And how were those selected? Was it based on a review or just random selection or was it based on actual visits by --

>> The listing process entails opening for anyone to provide data to the regulator on a particular condition in a creek. And so in this case, it was based primarily in photographic evidence of creeks throughout the Bay Area and then a review of those to determine a certain threshold of what they call visual impact that was expected to then result in a poor quality of water for recreation and or habitat. Mostly photographic evidence.

>> Councilmember Rocha: Gotcha. Who advocates for the waterway in terms of maybe a different opinion that that waterway may not be as polluted, to use I guess that term as suggested by whatever images were provided?

>> San José among other communities actually did provide comment to the water board primarily to the tune of them listing entire waterways where our observation suggests that there are parts of the waterways that look good, and there are parts of the waterways that look quite poor. And I'll ask Elaine to find -- keep going to the one with the center photo, that the center photo that you see there on the bottom is a San José creek and that is largely litter that has accumulated in our creeks. And so we have areas that look like that and we have areas that look nothing like that. And so our comments and concerns to the regulators were that they were applying a regulation broadly on a problem that we find to be somewhat sporadic but sporadic in a lot of places.

>> Councilmember Rocha: Okay, and were those all listed within the boundaries of the City of San José, urban service area within --

>> The entire waterways have been listed. So for example it is San Tomas creek and it includes the small he stretch that actually comes through West San José but --

>> Councilmember Rocha: All the way to our borders?

>> All the way to the other jurisdictions that also have that creek running through there.

>> Councilmember Rocha: What is the relationship with the county on this effort, is there any?

>> Our municipal water system is owned and operated by San José. The county has pockets in some area they have sewer infrastructure as well, and they are a co-permittee. That they -- so we are partners and both need to implement common things but they do not have a responsibility for our discharge.

>> Councilmember Rocha: We are partnering with them on this report or this document in terms of options to resolve this or future mitigation?

>> Absolutely, absolutely, here in Santa Clara County we collaborate with 12 other agencies including the Water District all of whom are permittees to this same permit on a variety of activities under the storm water permit including trash.

>> Councilmember Rocha: Would that include funding to help with any efforts for doing or just part of a co-permit?

>> Our collaboration is funded by us. So it would be a bit of giving them money to give us back money. So it's not a separate entity that has its own funding but it is a collaborative forum for us to implement things on a scale that is expected to get us savings as individual communities because we're doing it as scale.

>> Councilmember Rocha: Okay, I'm going to go a little bit different direction now and talk about our recycle contracts that we have. When are those coming up for renewal, reviewing, or new?

>> Councilmember Liccardo: Let me just check with Mollie on this. Are we okay with Brown Act?

>> Mollie Dent: I think the question can be asked, I don't think we can get into much of a discussion with the recycle contracts but --

>> For the residential system the council just extended the contract last year to 2022. But whenever we come up with new technologies or new things to recycle, we can amend the contract, and we've done that several times over the past years.

>> Councilmember Rocha: Does that require mutual approval to amend?

>> Yes, we would go to council for an amendment but we've done that several times when new technology or new things are ready for commercialization. We add more material to the contracts, and we negotiate and bring an amendment to council. Our commercial contracts, we're proposing new agreements and we're expecting to bring those to council for consideration in March, for 2012. For another 15 years.

>> Councilmember Rocha: Thank you. So the -- forgive my ignorance on this but to me it seems, when I read this, a point of maybe addressing this that might have been included would be through our recycle contracts and promoting recycling of the material regardless of whether it's compostable or not. I'm curious why it wouldn't have been listed in here, again my ignorance on this issue, being my first meeting, that isn't something that could be considered normally?

>> John Stufflebean: I can ask Jo, to what extent do we recycle these materials through our existing contracts?

>> We do through our apartment waste all the garbage is currently recycled and everything that is compostable is composted. We have the only system in the country that does that. So that program is comprehensive. They do pull out most of the plastic, during the process, either before it goes to composting or pull it directly out from the garbage and all of it goes to landfill. Our residential service is the same, everything that goes into the blue bin, everything that can be recycled at the facility is pulled out. Most of the film plastic and polystyrene goes into the trash through that program also. It's recycled in the blue bin.

>> John Stufflebean: Right. I think the point is we have perhaps certainly one of the most comprehensive residential recycling programs in the country. We've been working at recycling polystyrene and plastic bags as much as anybody has and so we're pretty familiar with sort of the problems with that and the barriers to that. Now, we are entirely open to continuing to push that. But we have a very comprehensive program, we've been working at it for years, we have some success but there's still -- we're still seeing some problems.

>> Councilmember Rocha: So why wouldn't we include that as one of the goals in this report?

>> John Stufflebean: Increasing the recycling or --

>> Councilmember Rocha: Looking to recycle some of the materials as an alternative as opposed to just a specific narrow recommendation. It seems like one we should consider.

>> John Stufflebean: We'll take that as a suggestion from council.

>> Councilmember Rocha: That is letting to include?

>> John Stufflebean: Absolutely.

>> Councilmember Rocha, Elaine Marshall, storm water program manager. One of the things we are still on a regional basis is a methodology for just developing our baseline trash load, as well as a crediting system. So what we're going to be looking at is a full inventory of different trash control and management strategies and dirge kind of what credit level each of those efforts is worth. Kind of at the end what you end up with is an assessment of what our baseline trash load is, what programs we're implementing and how we're getting credit towards that 40% or 70 or 100% trash load reduction. So we will be examining kind of what effectiveness different strategies have and our final trash load reduction plan will incorporate that information.

>> Councilmember Rocha: Okay. Well, I am going to share the concern of one of my colleagues on the impact to local businesses, and I understand that's not a reason to not pursue this, you know, I mean being a leader on these issues as we did with the recycle bag is important. Clearly this is an issue that a lot of residents have talked about so I'm not ignoring that fact. But you know, the bigger issue of the polystyrene I guess and the impact on big business, we have a lot of this I guess that comes from computer manufacturers, the packaging. I don't know how we're going to be able to talk about a ban on that level when you've got corporations that are international. To me it seems this is going to impact just the smaller companies, smaller businesses that are specific to mom and pop, so to speak, using that analogy. That's a concern I have but again, that doesn't mean we shouldn't pursue talking about this. But I need to publicly state that I have a concern about that. Now in terms of a priority of our efforts in recycling, where do you consider this a priority of our enforcement, so to speak? I wasn't here for the recycling or the bag issue so can you talk about where you see this?

>> John Stufflebean: In terms of a --

>> Councilmember Rocha: Priority, yes.

>> John Stufflebean: Ban of polystyrene?

>> Councilmember Rocha: Yes.

>> John Stufflebean: Polystyrene is close to the top of the list in terms of priorities, because it is largely what we see when we go out and do cleanups. We see a lot of polystyrene. So naturally it is a material that we consider high priority and it's also a material because it light, because it blows around, because -- it's very difficult, once it gets out in the environment it's difficult to recapture.

>> Councilmember Rocha: Can you help me understand how this would work if we did talk about a ban and how that would affect the larger corporations that are selling products that -- the local fries or whatever the case may be?

>> John Stufflebean: Right, so we'll come to you with that in the next version. But certainly as Melody mentioned, those larger products like the foam packaging like when you buy a computer or whatever, that isn't typically what we see as litter and trash in the environment. It's more of the cups that you see as litter. So in terms of addressing the litter issue, that's not as much of a concern as the spaller containers. So we would certainly look at both but that's kind of how we see it.

>> Councilmember Rocha: And then help me understand are we talking fines for businesses that don't -- that continue to use that product?

>> John Stufflebean: Certainly, in terms of enforcement, that could be the ultimate result.

>> Councilmember Rocha: How are the other jurisdictions handling it?

>> John Stufflebean: Normally you try work with them and encourage them to comply. By far most businesses do that. But ultimately if you have someone who refuses you and you continue to work with them and they don't, and certainly, fines is an option under the Municipal Code.

>> Councilmember Rocha: And enforcement comes from our code enforcement, or ESD?

>> John Stufflebean: All right, we have environmental inspectors similar to what we talked about on the plastic bag enforcement, or the single use bag enforcement. It would be the same model probably, yes.

>> Councilmember Rocha: Okay then I need to do my homework on that so I can understand what that means. And I did have a question about the homeless effort that you talked about. I didn't see that in the report and maybe I missed it. I saw a reference to -- and would that be in coordination with local agencies as well or would San José be the point person in terms of managing that?

>> So for the way that the pilot program is envisioned, San José is leading the effort. We applied for a grant from the EPA as Melody mentioned for the total project cost is a little over \$900,000. What we're asking for in grant funds is about \$680,000. We have secured partnerships from and commitment to provide matching funds from the Santa Clara Valley Water District as well as destination homeless also securing some private funding for the effort. So at this point it would be led by San José, but definitely, involves a lot of other partners to the effort.

>> Councilmember Rocha: Thank you.

>> John Stufflebean: I would like to reinforce the point that we totally understand that ESD is not going to solve the homeless problem and it's not in our mission to do that.

>> Councilmember Rocha: I didn't read it that way.

>> John Stufflebean: Thank God. But when we look at the sources of litter it's out there we certainly have to address it and that's where we really need other partners to help us.

>> Councilmember Rocha: Okay, those are the questions I have, I'll defer to the chair if you have any yourself or at some point maybe make a motion.

>> Councilmember Liccardo: Councilmember Campos.

>> Councilmember Campos: Thank you. Getting back to the homeless situation, do you find that the homeless population is bringing most of the polystyrene into our waterways or is it -- so you're finding that polystyrene is falling out of trash cans and blowing its way into the waterways?

>> Yes, we find it much more -- much more spread out. It's beyond the encampments. It is not just the encampments. Our concern is the encampments is litter circulation other material that tend to be used and stored there and some of the other behaviors of the encampment members, so it is broader even than litter. But specific to expanded polystyrene, know that it's not exclusive to the homeless population.

>> Councilmember Campos: So if you had to put a percentage of the polystyrene in our waterways where would that go, and then I'll ask a follow-up question to that.

>> That's probably a level of detail we don't have right now. Percent coming from various --

>> From various sources?

>> From various sources, no I would say we don't have that now.

>> Councilmember Campos: So what's in our waterways is paper, food wrappers from candy bars, et cetera, plastic, plastic bags and polystyrene. I mean that's pretty much a good collection of what you're finding in the water ways but you don't have the percentage. So my next question is you did use a report giving percentages of polystyrene in our landfills. One, is that report available to us and is it public and if it's not why isn't it?

>> I misunderstood your question earlier. I thought you were asking about the percent of polystyrene that was coming from encampments versus other areas. The citation in the report is based on a recent on-the-ground study that is part of our countywide effort, and it's going to be included in a countywide report that I think is coming

out in June. It's -- does that sound right? It's part of our baseline load reduction, and credits, effort that we talked about. How do we figure out how much credit we do for a thing? For example if we do take an action that significantly reduces polystyrene in litter, knowing what percent of the litter profile is comprised of that polystyrene will be the basis for us telling the water board, we want X percent credit toward our 40 based on our litter characterization study. And so that information is not published right now but it will be in the coming months.

>> Councilmember Campos: Thank you. And as my colleagues stated, we've always -- or we seem to have been the leader in you know, in setting the tone in term of how we deal with waste and our recycling program. And certainly, my intent, the intent of my questions is to one, continue to do our part, and you know being environmentally friendly. But at the same time, you know, we also need to be very conscious about you know I mean in our neighborhoods we're you know we could potentially be affecting livelihoods of a lot of people that are out there. And so some of the suggestions that I would make in terms of your outreach, to include in stakeholders definitely, the environmental justice community, just as much as the industry, just as much as your small business source and you know, ethnic business you know chambers of commerce. I think you need to cast that net out there, because you're going to come out with what I believe is going to be a better policy, that I think we'll all be able to live with.

>> John Stufflebean: Yes and we totally agree with that. And I guess what we would offer as a model, our efforts on the single use bag ban where we did extensive outreach over a two-year period and in the final meeting, there weighs very little opposition to our recommendation and that's because we all did exactly what you're saying, we worked very hard with the stakeholders, we don't want to put one small business out of business, slum. Weigh affected.

>> Councilmember Campos: Okay, and everything being, you know being looked at including you know, I mean what would a recycling program look like? We don't know. I mean technology is changing all the time. So just wanted to put that out there and then lastly just want to thank you for all the work that you all have put in. I know that my colleagues, really appreciate all the work that you guys have done.

>> Councilmember Liccardo: And I want to echo that, particularly on the speed in which we're moving forward with this homeless encampment partnership, I think it's extraordinary. I spent a lot of time in the creeks between national river day cleanups and friends of Coyote creek cleanups and I've been on encampment sweeps with the police department. What is down there is entire villages of human beings who are living there for extended periods of time. We know there's a significant source, obviously, of environmental damage from that in addition to obviously they're a real human challenge and problem of homelessness which is bigger than any one department can address in the city. But the fact that we are moving from a model in which we are pointing fingers at the homeless as being the problem to one in which the homeless are part of the solution I think is a fantastic development. This is an innovative approach. I'm really eager to see this move forward, and that we came out with a memo only a couple months ago, I don't know, three months ago and I know various folks are working on this, and it's great to see the progress that's been made already with the Water District approving what they have, what, I guess a couple weeks ago, and it seems like we've got a lot of momentum and hopefully EPA will follow through as well and we'll have some money and be able to move forward. So I just wanted to commend you on the great work that's already happened in that area. On the question of polystyrene, only two words that come to mind are déjà vu. Two and a half years ago being an environmental T&E committee meeting, and exactly the same concerns were raised, all very reasonable concerns, certainly, about making sure small businesses, particularly small ethnic businesses where there may be linguistic challenges and barriers. Concern whether recycling will take care of the problem. You know, these are very, very familiar concerns. I know ESD has been very engaged in outreach, plastic bag issue. There was an enormous amount of opposition when we started this. I think, John, you characterized it well, by the time we got to the finish line, I can't say we were all walking arm in arm but it was remarkable how California grocers association was willing to be completely non-oppositional to this. You know, we had a significant amount of the opposition had really realized that you know what, this is the way the world's moving and I think we're going to figure that out too. Three of the four largest cities in the Bay Area have already banned foam food service foam and polystyrene and it does not seem to me to be such an extraordinary leap that San José, the remaining large city in the Bay Area would join them. So I look forward to moving forward to study this issue to provide more information. Obviously we as a council all need more information. I would encourage inquiry among a couple ever areas that maybe very obvious to you already but I think one that's very important is understanding the distinctions between the polystyrene that's coming from

industrial sources commercial sources independent of food. I think we all would agree that there is recyclable polystyrene out there. And the stuff that comes from computers and TV certainly has a different pathway but it also has a different result or end as well in terms of the ability for folks to be able to recycle it because it's not contaminated with food. I think understanding what the challenges are of fee contaminating the food service polystyrene would be really helpful also. I know we saw that in the plastic bag context and understanding whether there is any secondary market whatsoever for food service polystyrene. I'm really interested in any hard data of anybody debate about that base it's not apparent out there that simply because there are MURFs out there recycling this stuff that there is any hope or likelihood of food service polystyrene having a secondary market. I guess the concerns around the outreach and the impact on small businesses I think can pretty readily be resolved by really understanding what's happening in the cities around us. After all we have a city right here in our own county that's already done it. I think there's a lot of information out there and we're very early at this process and just at the start. I expect all of this information is going to come out and the council will be able to have a good set of facts on which to make a sensible policy judgment. So thank you for all your hard work.

>> Councilmember Rocha: I have a question I forgot to ask, looking through my notes. Your thoughts on the point about the same result, let's just say we do ban this type of material that it's just going to be made with a different type of material and it ends up in the landfill anyway, just a different material. Can you share with me your position or thoughts on that so I understand from the professional side? Not that the other side isn't professional. I just meant city professional side.

>> John Stufflebean: Sure, I mean well each material has its own characteristics and its own ability to be recycled or composted. I guess our general professional thought is that polystyrene is particularly difficult to either recycle and of course you can't really compost it. It is kind of unique, in that it's particularly difficult as compared to paper and other products that would be more readily recyclable or composted. So that's our thought on it.

>> Councilmember Rocha: All right. I guess I did have another question jump in my head, I'm sorry, if you don't mind.

>> Councilmember Liccardo: I'll throw in one if you want to think about it.

>> Councilmember Rocha: I already know what it was.

>> Councilmember Liccardo: You do, go ahead.

>> Councilmember Rocha: It is state or federal legislation that addresses this issue. We are the low man on the totem pole and the one with the least amount of revenue and seems to be the highest hit right now with the current recession. Now, do we get engaged or support or recommend to our state or federal reps to address this at this level, because to me, in my mind, the impact would be a lot better not just for us but for the industries, if it's statewide, and having business, having different issues from a 7Eleven to a liquor store, on some these issues. That was a long question but generally stayed federal.

>> John Stuffbean: We're actually engaged at both levels particularly the state level for example on the plastic, on the re-- on the single use bag issue we were right up there pushing state legislation, almost got passed so we're certainly there and the same thing on the polystyrene. If there's any possibility of state legislation or even federal legislation which is pretty unlikely in the near future but we're certainly there helping to put our position. The other thing I would mention is that San José also historically and even recently has sort of been a leader in that, is that things that we do here tend to influence legislation because we're one of the bigger cities in the state. So the policy discussion that we have here can help to nudge state action as well which is, right, that's the best of all words is it's done at a state level and then we don't have to worry about it here, but typically we because we're so big tend to push that.

>> Councilmember Rocha: So again that's my question and when you're ready for a motion.

>> Councilmember Liccardo: Around I think that's an important point that also came up in the plastic bag context. I appreciate for those of us who are in the middle of two and a half years ago or a year ago, there was really a concerted effort to make this a regional push on the plastic bag. And I think as a result we're now seeing

Sunnyvale going forward on their plastic bag I'm sorry single use bag. I know that Palo Alto has already moved forward so I think continuing to push this as a regional effort to reduce litter and trash and improve our environment I think will be a sensible approach this time around. As well. Okay we'll be open for any motion.

>> Councilmember Rocha: Can you as I make a motion can you pull up the last slide I believe that had a recommendation? To my point a little bit earlier, I'd like to recommend approval, or acceptance of the staff report or status report but I'd also like to include those two points that I made. One, to look at -- look at recycling as an option through our recycle contracts. And in addition, continue our efforts at the state and federal level or whether you just want to be specific about the state. But to promote or look for resolution on these issues as well at those levels, and to add those as efforts as part of this process that you're going through.

>> Second.

>> Councilmember Liccardo: Second, great. Okay so motion's on the floor. All in favor? Any opposed? That passes unanimously. Thank you very much. Thank you for the -- I know there was a lot of information in that report so thanks for all your hard work. Okay we move on now I believe to public comment. David Wall. This is open forum.

>> David Wall: I would like this committee to direct the administration, with all due diligence, to focus in on looking at the number of funds at environmental services department and allocating the requisite funding for the attorney's office as decision makers, there needs to be far more attorneys at environmental services than -- and let me pause, I may be cut off, than overpaid, nonperforming managers. I have an incredible level of expertise what goes on in that department. So when I speak of these matters, it is from that background. The attorney's office needs to be, in my opinion, in positions of authority, throughout the organization. Because of these complex regulations, and the programs that administrators create, that appease you for a certain period of time, until election cycles are what they are. And you go on to other callings. And nothing gets done in the meantime. The attorneys and the auditors are inviolate when it comes to mistakes. They are asymptotic to perfection in their decision making. That's why I'm so adamant about this. You have no money. And what money you do have

coming in from these restricted use funds is going to be put on incredible pressures. And that's why we need more attorneys funded, not at a level, as they're -- or equal too contemporaries in the office of City Manager. These folks should be compensated because of their expertise. And this gets to the performance issue that is before you with these performance appraisals. Thank you.

>> Councilmember Liccardo: Thank you, Mr. Wall, exactly 1 minute and 59 seconds. That's remarkable. Thank you. This meeting's adjourned.