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>> Mayor Reed: Good afternoon. I'd like to call the special meeting of the city council Redevelopment Agency to order. First is orders of the day. I want to talk about the sequence of how we handle these things in this meeting. Ordinarily we would start with a closed session-session, but we have a variety of things on. I know there are people on to talk on a variety of things. So what I think we will do is we will take care of the Redevelopment Agency item, there are only two. The item 4.1 on the city council agenda, and then have a staff presentation on the other item on the council agenda, regarding our ballot measures and fiscal reforms, et cetera and we'll take public testimony on that and then we'll adjourn into closed session, for whatever discussion council wants to have in closed session then back into open session. Then everybody that is here can testify. They don't have to wait for us to get out of closed session, sometimes it takes a while. People have been waiting, I understand, since last night. And I don't want them to wait until the end of the meeting to do the public testimony. With that are there any changes to the agenda order? Motion is to approve orders of the day, all in favor, opposed, none opposed, that's approved. All right, so we will take first the redevelopment agency board items, starting with item 7.1 which is a resolution to negotiate and execute an owner participation agreement with the center for employment training. We have a motion to approve. By the way if you want to speak, on one or more of these items please submit your cards. Any cards on this one? None on this one. We have a motion to approve. All in favor, opposed, none opposed, that's approved. Item 7.2, a resolution to negotiate and execute a capital assistance agreement with berg and berg developers. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I'd like to -- I submitted a memo essentially recommending approval of staff recommendation, like to make that motion right now and thank you. And just again reiterate my thanks, to the Redevelopment Agency, and their staff, who over the years has really made the biocenter into an extraordinarily successful model for what we can do in San José to help incubate technologies as well as create jobs locally and I want to thank Linda Richter from the biocenter for her leadership in creating successful model with the biocenter. Of course Hannon diagnostics will be moving into the first floor right below the operating biocenter. And Berg and Berg as well, I think Carl Berg and his team have been extraordinarily cooperative in trying to find ways to stimulate some of the uses of square footage that he has there, in a way that's -- in a way that's really synergistic with what's happening at the biocenter and some of the new technologies that require a lot

of tenant improvements in a very unique manner. So with this I'm hopeful that we can start really the first of many partnerships that can help some of these companies in the biocenter find a home in San José. Thank you.

>> Mayor Reed: We have a motion to approve. I just wanted to thank Carl berg of berg and berg for their \$2 million investment to make this happen, creating a new space for our bio-companies. Councilmember Herrera.

>> Councilmember Herrera: I just wanted to say thank you to berg and company and the biocenter and Melinda Richter and incubators moving into new space, thank.

>> Mayor Reed: On the motion, all in favor? Opposed? None opposed, that's approved. That concludes the Redevelopment Agency portion of the agenda so we'll take up the city council item 4.1. Which is construction and funding commitment for the first and Rosemary family apartments project. We have a motion to approve. I have one request to speak, David Wall.

>> David Wall: Good afternoon, Your Honors. One thing that is consistent throughout San José's leadership, is the inability to understand that the housing project especially in this time and day, are just about some of the dumbest things you can possibly entertain. Now, this housing project on first street in Rosemary garden area is another one of these such projects. This whole vacant lot should just be left there and maybe put fruit trees on it, because you have no city services to maintain these government-sponsored slums and the blight that's going to bring to the neighborhoods. You have no -- you've been reducing Police and Fire, code enforcement, everybody down to nothing. And yet you entice people to their detriment, government sponsored housing projects that come to San José, as if it's a good thing for the city. It is arguably very bad for the city because you have way too many people that you can't take care of. And so once again consistent as usual, I spend my time to come down here and give my piece as a citizen to tell you, you are wrong. In this particular instance, sometimes you're right to be congratulated. But not today on this particular issue. You're to be chastised and other people that live around that neighborhood, are going to speak ill will of you. Have a good day.

>> Mayor Reed: That concludes the public testimony on this item. We have a motion to approve, any additional council comments? I see none. On the motion, all in favor? Opposed, one opposed, Councilmember Oliverio opposed, that passes on a 10-1 vote. That takes us to item 3.1B. Report on providing council direction regarding fiscal reforms in three categories. I'm going to let the City Manager take that one.

>> City Manager Figone: Thank you, Mr. Mayor, members of the council. As the staff is getting into their positions, I'd like to introduce this item. We can begin with slide 2. I'll begin by saying that we are here today to provide the council an update, and present follow-up items to our May 18th and May 24th presentations to the city council, on the topics of retirement reform and the fiscal reform which I brought to you based on your direction in March. And there has since been subsequent council direction which followed which we also present to you today. The things that we will cover include recapping the council direction regarding the fiscal reform plan. We'll then move on to presenting our work and recommendations regarding the follow-up you asked us to do on revenues and what it would take to poll on certain revenue measures. We'll then move into, again, highlighting what continues to be the foundation for -- and our frame of reference for all of the work that we've done to date and the new ideas which are emerging, and that is to talk a little bit again about the fiscal reform plan and some of the direction that has evolved from there. An important part of today's session is to report back to you on the opt in programs that you asked us to study and then we'll conclude by updating you on the meet-and-confer status. So just a little bit about the council direction that we're operating under. As a reminder of council direction on May 24th, my fiscal reform plan was approved by the city council, with some amendments which came in the form of the May 13th memorandum from the mayor, Vice Mayor and two councilmembers. Also, we were asked to follow up on requests from Councilmember Rocha and Councilmember Pyle. This presentation today responds to direction from the city council to provide information on revenues, as I mentioned in my introduction, and opt-in programs that contains information in the memo that we released yesterday which summarizes our work to date on opt-in programs. In addition to the direction from May 24th, we received direction from the city council on June 7th related to negotiations with our bargaining units. And we will provide the status of those conversations at the end of this presentation. And let me just say our frame of reference as staff continues to be the fiscal reform plan and new ideas are emerging which is necessary and a natural part of the process, what is really clear to us from evaluating the issues and discussing them amongst ourselves as professional staff, it's really clear that there are

no easy solutions. And as we bring back to you the results of our analysis and our study on any of these issues, for example one being an opt-in program, where employees voluntarily opt in to a lesser tier benefits, it's important to recognize that we will point out to you, where we see them, the complications in any of these issues. And that's not to see that we're close to ideas or trying to throw cold water on them. But these are very significant issues, and ones that are very, very complex. And so it is important for us as your professional staff to point those out to you as we move forward and discuss these in more depth with you, as our policy makers, as well as with our bargaining units. So for example, even with an opt-in which I know there's a lot of enthusiasm about and certainly has merit, we could not even implement an opt-in even if we reached agreement on it as between our units and the city until IRS issues our resolve. And so we're going to try to point out these kinds of issues to you along the way just to ensure that as we move forward we're all going forward, managing our expectations and with eyes wide open. So with that now I will turn it over to Tom Manheim, to begin the revenues portion of the presentation.

>> Tom Manheim: Thank you, City Manager, mayor, council, Tom Manheim, communications director. Before I begin talking about specific bond measures, and timing, there are a couple of caveats that I want to put out that I think will be important for the city council to keep in mind as you think about revenue measures and when they might go on the ballot. The first is that under the California constitution, unless the city council makes a unanimous declaration that we have a fiscal emergency, any general revenue measure could only go on the ballot when members of the city council are also on the ballot. So the soonest that that could happen would be either next June, or the following November. A year from now, or the following November. So any measure that requires a simple majority would have to be in that out-time frame. Any special revenue measure, any special tax measure could go on the ballot any time. So that's one important backdrop to keep in mind. The other is a data quality issue. We have talked to the consultants and they point out to us that to the extent there are issues that would affect whatever the ballot measure is that's in front of the voters that are either unsettled or might change after we have done surveying, but before the voters have gone to the ballot, the data will be less accurate, in terms of predicting how voters will respond to a ballot measure. So what that tells us is that we should wait as long as possible to actually do a survey, get as close to the actual date of a potential ballot measure before we do surveying. The other data quality issue, the consultants have strongly urged us to limit the number of measures

we're testing to 3. Because the more measures you have as you talk to respondents, ask them questions, they -- if you ask them about one revenue survey and then another revenue survey and then another revenue survey as you get to those later surveys the responses you're going to get are not just reflective of how they feel about that particular potential measure but they can really be more reflective of it's really too many ballot measures, I'm being asked too many questions. They're strongly urging us to limit the number of measures. With that let me start into a discussion of the actual direction we receive today. Because the number of measures that we're testing you'll see will be something we'll have to consider. The first direction we've received is that we should examine whether the passage of any fiscal reform measures would affect the voter's willingness to support a revenue measure. Pretty simple, pretty straightforward. The next direction is that we should focus on revenue measures that have the most chance of passage, based on previous polling that we've done as well as revenue measures that would bring the greatest benefit to the General Fund. We have gone over all of our previous surveys over the past several years where we've asked about ballot measures. And the four that you see here are the four that most closely meet that test of both having a good chance of passage and helping the General Fund. The first is a quarter percent assets tax which will bring in \$34 million. That was supported by 58% of the likely voters when we tested in January. And 52% of them felt that they would either definitely or strongly support the measure, which is very, very good for a 50% margin. And I would just note on all of these, these are all general tax measures that would only take a 50% margin. A business tax modernization could bring in between five and \$10 million. Again, 58% were likely to support it. Disposal facility tax would bring in \$5 million. Slightly less support, 55%. And then the municipal water transfer could bring in \$11.6 million to the General Fund. We don't actually believe that we have good data on that, because anything -- while we did test the concept generally, it did not mention the word tax when we tested it. And we, after consulting with attorneys, are fairly clear that this would be a tax, and so we would want to test that again to let the potential voters know that this is in fact a chance that would change the responses, we're certain. The third general direction was that we should test the receptivity of potential voters to providing the city with more flexibility on the use of our transient occupancy tax. That brings in just under \$11 million annually and then we should also, and this is Councilmember Pyle's recommendation, that we report back to the council on an analysis of a gross receipts for business tax on personal services businesses, which is really sort of a subset of a general business tax modernization. I'm going to turn this over to Scott Johnson who can

briefly walk us through the idea of business tax modernization in general, and then the specific idea of the gross receipts and personal services.

>> Scott Johnson: Thank you, Tom. Mr. Mayor, members of the council, Scott Johnson, director of finance. On this next slide, in discussing the b-tax modernization, just want to refresh the council that our business tax was adopted in 1984 and it has not been increased or modified since that time. In the intervening decades the buying power associated with that revenue has eroded significantly. This tax which is charged to business owners, currently generates approximately \$12 million annually to the City's General Fund with approximately 75,000 businesses here in the City of San José. We have a -- generally we have a per employee business tax and there is a cap on the tax and we also have some other models in regards to commercial businesses and other types of businesses. But generally it is a per employee tax. There are a number of options that we could consider to modify our business tax which include increasing the tax to account for any changes in the consumer price index since the implementation of the tax or we could add a CPI adjustment going forward and another issue we've explored is adding an administrative fee as it relates to the processing of our business tax program, and then other cleanup and modifications to the business tax ordinance to modernize it and get it up to the current business climate to make it more business-friendly. There are some other potential options that we could consider. For example, a gross receipts business tax. The cities of Fremont, Oakland and Los Angeles use a gross receipts business tax structure. In that case for each of them have a tax that is generated on a per \$1,000 in gross receipts revenue that the businesses earn. Fremont's tax is \$1 per \$1,000 in revenue. And Oakland's tax ranges from 15 cents to \$13.95 for \$1 in gross receipts. And Los Angeles business tax for gross receipts ranges from \$1 to \$5 per \$1,000 in gross receipts. Oakland generates about \$47 million in their business tax. Fremont generates about \$6.5 million. And we don't have -- we weren't able to receive the information from Los Angeles yet. In addition, we also conducted a preliminary analysis on a gross receipts business tax if only personal services businesses which I'll discuss on the next slide. But before that the last model that we looked at as a potential would be a gross payroll business tax. For example, the City of San Francisco has this type of business tax structure. Generally they tax businesses at 1.5% of the business's gross payroll, which generates for them a business tax revenue for last fiscal year of \$352 million for the City of San Francisco. On the next slide, council asked us to look at gross receipts business tax specifically for personal services businesses. Based on the data

that we're able to compile to analyze a gross receipts business tax on these types of businesses we analyzed data that we received from the cities of Fremont and Oakland and as I noted earlier they both have a gross receipts business tax structure. By extrapolating the data from these two cities and averaging their tax rates and computing the annual gross receipts tax per business, we pulled information from our business tax database to estimate the amount of business tax that would be generated for the City of San José using a similar gross receipts tax structure only for personal services businesses. I do want to note that it's difficult to get a direct comparison. Because there are multiple variables that will be different for San José as opposed to both Oakland and Fremont. Such as the mix of the types of businesses, the amount of revenue the businesses generate and so on. So as this slide shows our analysis determined that we would estimate that we would have gross receipts tax for personal services businesses would generate about \$7.2 million. Those businesses currently generate about \$4.7 million out of the total 12 million that we receive. And so there's an estimated increase in tax revenue only for gross receipts on personal service businesses of about \$2.5 million and with that I'll turn it back over to Mr. Manheim.

>> Tom Manheim: Thank you. Let me just go through the recommendations that staff has before today. First we would direct staff to conduct stakeholder outreach on business tax modernization and return with that outreach to city council before the end of the year. We would ask that you direct us to survey the following measures based on your previous direction. The quarter percent sales tax, the overall business tax modernization and the disposal facility tax. And then we would also ask that you direct us to hold off on that surveying until February for a possible June ballot, since all of these are general tax increases which could not be on the ballot absent a unanimous declaration of fiscal emergency before June. I would also like to add two other quick notes about this. One is that I'm aware, we're aware that there is another proposal, timing-wise that might argue we would be polling during July. Two caveats about that, if we do do that, we would need to just waive sunshine, and we would probably not be able to provide that to the city council for review, as we currently do. So we would just ask, with any recommendation related to November ballot survey -- I mean pardon me -- July ballot surveying that we include that in the recommendations and then finally, I would note that we current have only enough money to do one ballot measure survey. So that should be in the council's thinking as they discuss ballot measures. Because were we to do something in July and then come back in February, we would need an additional

appropriation. And with that, I guess we'll turn it back over to the City Manager, and city council, for discussion or questions.

>> City Manager Figone: Actually, mayor I was going to continue with the presentation if that works for you. So the next section of our presentation is a very brief overview of the savings that could be achieved through the fiscal reform plan. We've had a very thorough study session on the full plan so we're not going to take you through that again but wanted to highlight a few areas in the context of now this retirement discussion. Some of the ideas which have emerged from council and also, areas in the plan which are subject to meet and confer but not necessarily subject to a charter change. So we wanted to now bring the fiscal reform plan into view from the more current conversation that we're engaged in. And just as a reminder, the fiscal reform plan from staff's perspective is our frame of reference for the conversations which follow. So we were directed to bring to you a plan which met some very specific goals and I want to recap those right now with the next slide. So one is to develop a plan to achieve \$216 million in General Fund savings in five years through cost reductions and/or new revenues. You've seen in the plan the revenue component, and then Tom has just taken you through what it would take to take that next step around polling and making a decision about new revenues. Another piece of the direction was to keep retirement costs at the fiscal year 2010-11 level. Another goal in the direction was to restore or keep police, fire, libraries and community centers at the January 1, 2011 service level. And then to open the libraries, community centers and fire stations built or under construction and the police substation within five years. So again, much of our conversation now is about other ideas on how to achieve this goal but again, until your direct to staff changes, all evaluations at least from the fiscal perspective will be against these goals and the ideas that we brought forth, certainly achieve those goals and then other ideas would be evaluated in that context. And let me just also say that always in background, and it's not the too distant backgrounds we do need to remember that you are facing a very daunting year for 12-13, and at least as your staff, we are already beginning to think about what it will take to close that, what is currently projected as a \$78 million gap and could grow. So the ideas in this fiscal reform plan really become very, very important to us as we think about 12-13. So with that I'll turn it over to Alex to take you through the rest of the presentation.

>> Alex Gurza: Good afternoon, mayor, members of the city council, Alex Gurza, Director of Employee Relations. As the City Manager indicated this slide is a summary of the council direction. The way we look at it are, the first two are fiscal goals which would allow the second two to occur. Which is achieve these savings so that the council could restore services. The first goal is in General Fund dollars which is \$216 million and we're going to try to avoid a little bit of confusion so we'll try to be clear during the presentation when we're talking about General Fund and achieving the \$216 million savings versus the second one which is keep retirement costs at the fiscal year 10-11 level. Retirement costs, everyone knows, comes from all funds, not only the General Fund. So the following slide demonstrates the number behind achieving that goal of maintaining our cost at the '10-11 level. So in 2015-16, retirement costs, city's contributions for both pension and retiree health care are expected to reach the \$400 million level. It is important every time we talk about retirement costs that are in the future is that to acknowledge that yes, they are estimates as they always are and not until the valuation occurs for each year do we know exactly what they will be. But those are our current estimates that the cost will reach 400 million in that year. In 10-11 the City's costs were \$186 million. So if you simply subtract those two it is \$214.7 million in all funds, that was our goal to save in retirement. So this is a very small slides and I apologize for that. This slide will be available on the Internet but we tried to make it on one slide, that we could compare two things. On the left is a summary of how the City Manager met the \$216.6 million target on retirement only. Remember, so this is now how do you keep the level at 10-11 in the plan that the City Manager produced in early May and was approved by the council on May 24th. The column on the right is as it was modified by the city council on May 24th. So if I could start with the one on the left. First, the first row is new employees. So in the City Manager fiscal reform plan the recommendation was that new employees would be participating in Social Security with the flexibility to add a defined contribution plan where the city would contribute at a later time. Just to finish that discussion on the new employees, in the maize 24th council direction, it was actually allowed for a more extensive retirement plan in that it was a hybrid plan that could consist of a combination of things: Social Security, defined benefit, and/or defined contribution not to exceed a city contribution of 9%. As we've discussed many times, and the council is aware, having a new benefit for new employees is a very important step but that it does not save funds immediately. It is a long-term solution that starts to save as each employee is hired. Then follows if you go back to the left column how we met the target. It is a combination of changes that do affect current employees as council directed us in March, and the changes for Police and Fire would save \$98 million, in Federated \$68 million. And then you go

down below and it does include reducing the cost of living increase which is currently a 3% fixed cost of living increase regardless of the CPI, reducing it to 1%, that's a value of \$28 million. Eliminating the supplemental retiree benefit reserve, which sometimes referred to as the 13th check, \$4.7 million. We also had a recommendation of lowering our retiree health care by seeking a lower plan, a lower lowest price plan by 28% which is \$18 million. And you'll see how we received our target of reducing our retirement cost by \$216.6 million. Now on the right side, we included things there that did not change from the May 24th direction. So if you start now, probably the easiest thing is start from the bottom up. There really wasn't a change in retiree health care, SRBR or the reduction of cola. The difference was in the future -- the accruals for employees going forwards. In the memo, it indicated that employees -- and this is also an important part of the City Manager's fiscal reform plan or in this, is that it doesn't reduce any benefit that was already earned by an employee. It's future years of service would be at a lower accrual rate. So the direction was, to have one -- to calculate it where it was 1.5% per year going forward and it had phasing in the increasing in age, the age issue I want to emphasize would not be implemented right away. You can see when we calculated those changes and again this is the first time we presented these numbers, that would be less savings than the City Manager's fiscal reform plan. Because you can see that the accrual rate is higher or more generous, at 1.5, than when we had to reach that \$216.6 million target. So if you go down to the bottom, what does that save? It's \$161.6 million. So although it doesn't achieve the \$216 million target, if we were able to achieve all the other elements in the City Manager's fiscal reform plan we would still reach the overall target. And that is because, in our fiscal reform plan we did leave some room so that if we didn't achieve all the savings in one area we would still hit the target. So again I want to emphasize that. The right column would still meet the overall fiscal target that the council set. This is a list of items that are fiscal reforms and we say they are fiscal reforms that are contained in the City Manager's fiscal reform plan that was approved by the council, that would not require a charter change, but still, subject to meet and confer. The first is a workers compensation offset in the Police and Fire department retirement plan. We already have that in Federated where an employee who is on a disability retirement cannot receive full workers comp benefits and disability retirement. Elimination of sick leave payout. Overtime changes, elimination of the Supplemental Retirement Benefit Reserve. Reduction of the lowest price plan for retiree health care and a reduction of the cola to 1%. A total of all of those items would be \$62 million in General Fund savings, and that is a General Fund number. Now, by having said that it doesn't require a charter change, we are not saying that there aren't

associated legal issues that we wanted to at least clarify which ones of those would not require a charter change. Now on the bottom are just other things that the city could do to achieve savings. You know, apart or in addition or instead of, the items that the council has approved. One is to increase employee retirement contributions. We did that last year where several bargaining is paid more in their contribution. That could be negotiated up. We put a question mark because that would be dependent on what is negotiated. And the other is pay reductions. As the council is aware, we've now achieved every employee and official participating in a 10% reduction in total compensation. We have not recommended further reductions but that simply remains an option that could be instead of any of the items the council has thus far approved. During the presentation we're going to try to answer some of the questions that were contained in the various memos, the last time we appeared before council one of the questions we were asked is to come back and list the benefit enhancements that were granted to retirees after retirement. What we mean is, normally when an employee requires, those benefits are then set. But in the past, the city council has expanded the benefit after the day of retirement. One was, the supplemental retirees benefit reserve, which has been in place in Federated since 1986, so quite a few years, but not quite as long in the Police and Fire plan. It was put in the plan in 2001. The other very significant benefit that was added as part of our retirement benefits is retiree health care. It was added in 1984, even though employees who retired before that date who met certain eligibility requirements were still granted retiree health care. And there was an enhancement for Police and Fire of the retiree benefit in 1996 and another enhancement for Police and Fire was the plan paying the cost of the Medicare part P supplement and that was in 2001. And there was also an enhancement to the cost of living increase. It used to be 3% but it was tied to CPI and it had what was called a banking feature, but wasn't always fixed, guaranteed at 3%. It was made a 3% guarantee in the Federated plan in 2006 and the Police and Fire plan in 2002. The other question that we were asked to come back and report on is the process by which the city could evaluate going to Cal PERS. We're going to give you a brief information about the process involved if the city were to decide to do that. First of all, as most people know Cal PERS is one of the largest pension funds and most employees, city employees in California, city and county employees in California are in Cal PERS, although not all. There are some independent plans like San José, San Francisco, Los Angeles, San Diego, Fresno, and there are also some counties that are in a different plan. CalPERS plan has what we will refer to as a menu of benefits. The left side is what they refer to. We don't refer to it this way, but they refer to as miscellaneous, that is all employees that are not sworn public safety. And

these are the short titles of the formulas they offer. An agency that participates in Cal PERS must select from that menu. Some are more generous benefits than others. And on the public safety side you see the menu that's currently available. Sometimes Cal PERS has expanded that menu. Most notably the 3% at 50 benefit that was added as a choice for public sector -- Public Safety employees and quickly became the most common public safety benefit in California. Important to note, that when you look at see the time of the benefit it doesn't necessarily tell you how it works. All the public safety formulas, whatever you choose in Cal PERS has a maximum benefit of 80 or 90%. The miscellaneous ones can go all the way from 95 to 120%. Now, I want to point out that that takes many, many, many years of service to ever get to that point. But the Cal PERS Website has descriptions of those benefit formulas. Now, options to go to Cal PERS. There are two primary options that we were advised of. One is to transfer all active and retired members with all prior service costs and have Cal PERS manage the city's plans. Again, all current retirees, future retirees, current employees. Or transfer all active members going forward, with the city continuing to administer the benefits for costs associated with past service, sort of on a go-forward basis. In order to do this we were advised it would require passage of state legislation in order for the city to be able to join Cal PERS and also legislation for them to be able to accommodate the City's current plans. There isn't any one of those formulas that we showed you that fits the formulas that San José has. So if we wanted them to take us exactly with the formula that we have, they would have to have legislation in order for them to be able to do that. Otherwise, some employees would ends one a benefit that would be better, some lesser if we just picked one of the benefit formulas. We also were advised that it requires a vote of the local system retirement plan members to join Cal PERS, and it would be a two-thirds majority vote. One agency that recently embarked on a study of this is Orange County, and so we contacted them to be able to ask them what they had to go through in order to find out exactly whether it was beneficial to them or not to make this transfer. They did advise us that it took over a year to go through the system and the process of the actuarial studies required to get an answer to the question. They did have Tao to pay a cost to Cal PERS for their actuary to do a study of that and it was \$60,000. And at the end of that process for Orange County anyway, and this is not to say that the same answer would be true for San José it had been more expensive for them by \$6 million than staying in their current system so they ended up staying. Again what the answer is for us we would not know that until we went through that process and then had the answer to that question. The City Auditor in her pension sustainability audit did include the issue of Cal PERS and did specifically talk about the administrative expenses

savings and concluded that there would be savings from administrative expenses, in other words not having to manage our own pension plan, as opposed to being part of a larger one. The current administrative expenses are \$5 million and the City Auditor in her report indicates that, for Cal PERS it would be \$1.4 million savings. If the city decides just to move a portion of the employees to Cal PERS we would have to pay both administrative expenses, the current employees and retirees. If we only move new employees, we'd still have the administrative expenses of the current plan. And lastly, the employer and employee contributions would be set by Cal PERS, we wouldn't have our own retirement boards who currently make those decisions. So if the council would like to -- would like us to go further on the issue of going to Cal PERS we have to engage in that study and again, knowing that it might take quite a bit of time, fit matched Orange County's experience it could take up to a year to get that study completed. So the next section is about opt-in programs. We did issue a memo yesterday so the information that we're going to provide is a summary of what was contained in that memorandum. As the City Manager indicated, opt-in programs would be subject to receiving an IRS approval letter, if the city does which we think it does wants to ensure that it's a tax qualified plan. One thing that we've -- it became very clear to us about an opt in program is that it's very difficult to estimate the savings or cost of an opt-in program. Actuaries have advised us that not until after employees irrevocably sign up do you really know what actually the savings or cost would be. You need to have an election period where employees would have to complete an irrevocable waiver, because of community property laws and rights. There would have to be a spouse signature as well. And after that, the actuaries could then look at the demographics, the numbers of employees that have opted in, and then estimate the actual savings that would be achieved through an opt-in program. One thing to point out is we don't have any experience with opt in programs so we haven't done one before. We aren't aware of any California plan that has an opt in program. As the ones being discussed Orange County has one however it's on hold has not been implemented because they are awaiting IRS approval. But the things that have been discussed that started at the bargaining table as we mentioned in our memo, it started with the San José firefighters followed by several of our other bargaining units proposed opt-in programs. And these are two of the types of structures that have been discussed. That doesn't mean that there may not be others. But the first one is that when employees opt into a lower benefit structure they would no longer receive any benefit under the fir tier. So they'd still have their years of service. So let's say an employees that has ten years of services if they opted into the lower benefit structure, they would sort of take their benefit their years of service with them and then at the end when they retired all of

their years of service would be you calculated at that lower benefit structure rate. So that is one concept that has been discussed. The other one was that you have employees who have years of service in the first tier and they would keep those years there, and if they opted into a lower benefit structure, when they retired, they'd have years calculated at two different rates. So let me give you an example. Somebody had ten years of service in the first tier and ten years in the opt-in program. Had 20 years and then they retired. You'd have ten years calculated at the rate, at the first tier, and ten years in the opt-in program. Again, we don't know how the structure of it might affect IRS approval. So if we were to proceed with this we'd have to make sure that we were properly advised by tax counsel of how to structure a plan that would maximize the chances of receiving IRS approval. We were also asked to provide -- I think what Councilmember Rocha in his memo asked us to talk about incentives that we possibly could consider for employees to opt in. Again, because it would be asking an employee to permanently and irrevocably give up their level of benefit and accept a lesser benefit. So it's logical that people would ask, well, why would an employee do that? What might cause them to want to do that other than to lower the cost of our retirement plan? One would be, there is a potential for a lower employee contribution rate. We say potential because we don't know exactly what that contribution rate may tend to be in that lower plan. But it's logical to conclude that there might be a lower employee rate to move in so that could be an incentive. The other possible incentive is to require employees who stay in the more expensive tier to pay higher contribution rate. That could be an incentive, if I stay in the more expensive benefit, I will have to pay for it but if I move to the other tier I wouldn't have to pay that amount and the cost would be less for the employee. And lastly, you could have higher wages for employees who opt in. And you could either -- that could be the reverse, you could have lower pay for employees who stay in the more expensive one or vice versa. These again are not -- every possible incentive but these are the ones that have been discussed as potential incentives that might cause more people to opt-in. So we've had various proposals. We summarized all of the proposals that we have received during the bargaining process. These that we're going to discuss are not all of them. The police opt-in proposal was discussed at length during the bargaining process. We have a specific agreement with the Police Officers Association about their opt-in program. We attach that particular agreement to our memo of yesterday. But it had an 80% maximum benefit, after 30 years of service. That contrasts with the current 90% maximum after 30 years of service. It would change the calculation of their benefit from instead of the current single highest year to a three year final average salary and instead of the 3% cola it would be a 2% cola. The San José firefighters in their negotiations had an opt in

proposal that actually was designed to match what new employees would get. And again instead of 90% maximum that they have now after 30 years it would be a 75% maximum. Also a 36 month final average salary at 2% cola but they had a specific provision that employees would share in the savings that the city would achieve through the opt-in program. There were also then two councilmembers who asked us during the May 24th meeting to cost-out or study two potential plans. And I'd like to take a minute to talk about the differences because they approach the two very differently. So one was Councilmember Rocha who had what we're calling a predetermined design. What that means is in Councilmember Rocha's memo he told us exactly the information that's in that column and then we were asked to go study what would the cost be of that. So the two for example in Police and Fire it would be 2.33% per year, a 70% maximum, certain age, 57, all of those elements were in Councilmember Rocha's memo. You see for Federated it was 2% per year, et cetera. Councilmember Constant, this wasn't in a memo but this was on an overhead slide that was in the maize 21st memo approached it from the cost perspective and asked us to design a benefit that would be based on 50% of the City's normal cost of the current level of benefit. So this is the result of doing that. We designed a benefit, that would achieve that 50%. It doesn't mean it's the only way to get there. It would be one way to get there. And you could see the multiplier per year of service in Police and Fire is 1.5%, and in Federated 1.25. I won't go through all of them, but to show you, though, however to achieve that the maximum benefit you would get is much, much lower, 45% in Police and Fire and Federated 37.5. Now what are the costs? As I've mentioned before it is very difficult to estimate what the costs will be in an opt in program because in order to do that you need to know how many people would have opted in. But the way we have found to be able to at least compare is to look at what's called the normal cost. And as we've discussed before, the normal cost is the cost for every year of service moving forward. It does not include -- this is important to emphasize -- any of the unfunded liability. So this is a way to look at it if you're just saying if we move forward, going forward, how much would the cost be. And we were asked to use and we were asked to use two different earnings assumption, one was 7.75, which the retirement department has advised us there is a 25% probability of achieving. We also used the 6.75 earnings assumption with a 50% probability. If we do these first row you'll see the current normal cost for the Police and Fire plan is 38.5% and again that's much, much lower than the actual rate because this does not show the unfunded liability. But again it allows you to now compare. So if you look at the police opt-in it's 30% and this is total normal cost by the way, both city and employees. It would be shared in the 8 to 3 ratio unless it was altered, currently the city charter provides normal

cost split on 8 to 3. So you see 30%, you see fire opt in at 28%, and Councilmember Rocha's design would be 23%. We don't have a number for Councilmember Constant there because he asked to design the boulevard, using a 6.75 number. If we use 7.75 it would have been a different design. Now moving to the 6.75 I won't go through every number but proportionally you'll see that the differences are there. This is Federated now. The current normal cost, total normal cost is 17.44, using the 7.75 earnings assumption. Councilmember Rocha's benefit design would lower that cost, again, assuming all employees are in it. I should have mentioned that. These numbers are assuming all employees are in that opt-in program, would lower it to 10.85. Using the 6 be 75, again the normal cost, would be 22.1. Councilmember Rocha's design 13.57 and Councilmember Constant's would be 8.93. Now that doesn't really tell you how much it would save, again, just tells you proportionally, how much less is it that the current benefit design. So we've thought a lot about well how do we give you some sense of what an opt-in might save? The more we've thought about it talked to actuaries, we're advised pretty much consistently that it's difficult to estimate. One of the factors in who might opt in would be what incentive is there? We talked about incentives. You have to know how big an incentive is there to move and whether they would move or not. On the May 18th council study session we showed this slide. And this was an attempt to try to demonstrate the impact of the Police and Fire opt-in plan. So I briefly revisit this slide to show you that the blue line are the current projected cost. And what we did is, we said what if 100% of employees opted in. And again we know that it was very unlikely that 100% of employees were to opt in but if that were to happen how much would it save? You can see the line, without going through them all, it lowers the slope but it still goes up. For people who weren't here on May 18th, you may ask why does it go down, down in 2023, that is because that is using the current amortization schedule for unfunded liabilities in the Police & Fire plan. But the other important part, though, to point out, is when we give these five-year estimates of \$400 million, people think that the sixth year the costs are going to go way down. Under current projections, they continue to go up. So you can see it does save. Now, to meet the council direction, however, of keeping cost at 10-11, I know it's kind of hard to do. But if you looked at that blue line at the 10-11 number, to achieve that, that number should be straight across. In other words, the goal is to maintain the costs at the 10-11 cost level. So you can see that even if 100% of employees opted into this, it would not achieve the council's goal to be able to achieve that. Now, clearly a different benefit design for an opt-in, a lower benefit would lower those numbers, again assuming that every single employee would opt-in. We also wanted to give you another sort of sense how do you get a sense of what might be

saved. For Councilmember Constant and Rocha's estimates, we wanted to give you some idea. So if 100% of employees opted into Councilmember Constant's opt-in program, in Federated these again are estimates, it would be \$52 million per year in savings. In Police and Fire it would be \$82 million. For a total of \$134 million. Again I can't emphasize enough, this is 100% of employees opt in. In Councilmember Rocha's opt-in program, again, because it is a more generous benefit, the savings would be less. Federated \$21 million, and Police & Fire \$38 million, for a total of \$59 million in savings again if 100% of employees would be able to opt in. Now you might say well if 100% is unreasonable, we don't think 100% of employees are going to opt in, the range really is from zero to 100%. And again it is very difficulty to know what kinds of demographic might opt in. Might it be employees with less than five years of service that might opt in, might it be a cross section of all employees? Again there could be modeling done and estimating done but again it would be an estimate, that it wouldn't be able to be certain about how many people would opt in. So if you'd like to pick a number in between, so if you look at Councilmember Constant's numbers at \$134 million and you thought, well, what if half opted in, you might be able to say it's half the number, but the actuaries might advise us you can't really be sure that it would be half of that, again depending on the demographics of the employees who opted in. What I mean by demographics is age, years of service, all those things would affect it. So we hope this gives you some sense of opt-in programs and some of the issues that we'll be talking to the bargaining units about when we enter into the negotiations. So the last part of our presentation, is give you a status of the meet-and-confer process, as one of the slides the City Manager showed is the council's direction for us to try to reach an agreement on a framework with the bargaining units where we might be able to meet and confer over two major issues. One is all retirement reform items, and the other is a potential ballot measure. We were able reach an agreement with engineers and architect, the city association of management personnel, the association of maintenance supervisory personnel, the San José firefighters Local 230, and the police officers association. We have signed agreements with them. We are looking forward to getting to the table. They had both expressed their continued interest in getting to the table as quickly as possible, and we're going to be setting dates in July, and we have a firm commitment that we will be completed with the process by October 31st. The other bargaining units, MEF, CEO, IBEW, OE3 and ALP, we have unfortunately not reached agreement on a framework and timeline for retirement reform and related ballot measure negotiations. However the city does have meet-and-confer obligations related to a potential blood measure. We have indicated to them that of course we will be providing them with specific ballot measure

language, and we'll give them an opportunity to request bargaining, and we'll meet and confer upon request with those bargaining units. In terms of the negotiation process, one of the things I wanted to mention, there always seem to be a little bit of question about how negotiations actually function. And we want to be clear that if the council, when the council sets a goal or direction save \$216 million whatever that is, that does not mean that bargaining units cannot make any proposal. They can make any proposal they choose to make. The city negotiating team accepts those proposals. By the way they are posted on the Internet in almost all cases on the day they are made and we discuss them with city council, in fact every Tuesday we've been in open session. So because the city council sets a goal doesn't mean that a bargaining unit may not have another I'd or proposal, they can make any proposal they wish to make on the subjects that are being bargained. There has also been a lot of questions about information requests and during bargaining it is very, very common to make information requests. We've in the last couple of years received many, many, many information requests during the bargaining process. We have been posting those information requests on the City's Internet site, in addition to posting the responses. In fact, anyone can go to our website today for example and you can look at the negotiations for a bargaining unit. AFSCME, for example, look at all the letters where they were looking for information and our responses. Because an information is made does not mean that we will be able to provide all of the information requested. But we will provide a response as to whether we do have the information available, whether we can provide it. We may have follow-up questions about the request but you can get a chance to see what those responses and the requests are like and that will be the same during the negotiation process, for retirement. It will be no different than the process that we follow. So with that, that's the end of our presentation. Thank you.

>> Mayor Reed: Before we get into questions or discussions we'll take the public testimony. We have a lot of people who wish to speak. We're going to limit the testimony to one minute so that everybody gets a chance to speak and we get a chance to have our own discussions and deal with the questions. So we'll take the public testimony at this time. Please come on down when I call your name so that you're close to the microphone. Nancy Ostrowsky, Amos brown, Charles Getsius, I'm not quite sure about the last name but I'm guessing.

>> Good afternoon, mayor and city council Nancy Ostrowsky, senior staff local 21 and chair of the San José coalition of the three unions at the table. The parties are fully committed to negotiating in good faith to reduce the cost of the Federated city employees retirement system and to preserve critical services in the employees who deliver those services. That's the first clause in our pledge of cooperation and our framework for retirement reform negotiations. It's first because it's most important. If we can't satisfy clause number 1 the rest of the process fails. We're here today not because we're resisting retirement reform and not because we're afraid of tough conversations. I think our groups have proven that we embrace legal pension reforms. I think we've proven we're capable of having the tough conversations and making tough decisions. We are the employees that have negotiated not one but two 10% total comp concession contracts. We are the employees that have been urging the city to get to the table on retirement reform. Don't throw away all our hard work by putting forward proposals that carry the name opt in but in reality are forced in proposals, don't throw in our hard work by insisting on proposals that will not hold up to legal scrutiny. Our standard for proposals should be does it save money, is it actuarial sound, is it legal? If you can't answer yes to all three of those questions, then it's time to return to the drawing board.

>> Mayor Reed: Sorry your time is up. Amos Brown, Charles Getsius, Rachel Sutter.

>> First of all I'm a little scared here so I apologize. But I want to say, what an honor it is for me to stand in front of such prestigious and valid people of my peers. I'm also a union man and my father's been a union man but I think there comes a time when we have to sit back and say you know the union is not doing it for us anymore. It is a tragedy to see that we're losing our police department because in fear of my son and what might happen out there. We do need this, we do need but we need a type of reform, pension form. I've often heard of men that have double dipped into their accounts and it worries me because we are at such a deficit. What worries me even more and should worry everybody here is that our governor doesn't know what's going on. And it's heartbreaking for me to be here. It truly is, to be here and to have to speak against my own union.

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

>> Thank you.

>> Mayor Reed: Charles Getsius, Rachel Sutter, Dale Depp.

>> Thank you for the opportunity, mayor and city council members. I'm here representing the California school employees association. We represent 210,000 school employees across the State of California including bus drivers, para-educators, clerical workers, gardeners and custodians. We are headquartered here in San José, and we employ 100 people in the City of San José, and about 300 across the State of California. We see this as a blatant attack against workers and against collective bargaining as a whole. We don't see this as being authorized under the law. And we don't think that San José should follow in the footsteps of Wisconsin governor walker or in the misguided extreme steps of the city council in Santa Ana. As a labor union and as an employer in San José we urge you to withdraw this proposal or reject this proposal. Please do the right thing and sit down and bargain in good faith with your employees.

>> Mayor Reed: Sorry your time is up.

>> Thank you for your time. I'll give you -- submit a copy.

>> Mayor Reed: Rachel Sutter, followed by Dale Depp and Kay Denise McKenzie.

>> Good afternoon, Mr. Mayor and members of the council. I am Rachel Sater of Moscone, Emblidge and Sater for the association of retired San José police officers and firefighters. I'm here this afternoon to say that existing retirees are different. They are different in the eyes of the law. This is because existing retirees have already fulfilled their commitment, their contract with the city. It's for this reason that existing retirees do not have any formal collective bargaining process. They shouldn't need to. The law protects their retirement benefits after they have retired. There should be nothing to bargain about. However, the city is proposing reducing pension benefits and other retirement benefits. This is legally wrong, morally wrong and fiscally short sighted. It will lead to litigation

in which the city will lose. The city will then have to make good on its promise to retirees as well as pay retirees legal fees for that litigation.

>> Mayor Reed: Sorry your time is up.

>> I urge you not to do this.

>> Mayor Reed: Is our next speaker, Kay Denise McKenzie and Kevin fish.

>> Good afternoon, mayor and council, my name is Dale Dapp, I'm the president of AMFC, speaking on behalf of AMFC and the coalition with AEA and CAMP. We formed a coalition to overcome the issues in a collaborative good faith effort and is have made significant progress in doing so. We then entered into a pledge but with the city in working on retirement reform hoping that others could follow the past. Approval of this memo which assumes a predetermined outcome not only impedes the progress we've made but also discourages other groups from following suit. Thank you.

>> Mayor Reed: Dale Dapp, Kay Denise McKenzie, Kevin Fish and then Bill Mishler.

>> Honorable mayor and council, my name is Kay Denise McKenzie, president of CAMP IFPTE local 21. It is unfortunate that just seven days ago after signing our pledge of cooperation we are here again asking for your help, to allow us to get to the bargaining table and negotiate over sound legal retirement reform. The mayor's June 22nd memo signed by five of you does not move us closer to that goal. In fact it significantly divides us. To say to someone, either you choose our way or potential personal financial ruin is not providing an option. I refuse to use any gun analogy, but suffice to say, your idea is suggestive of coercion, because there is no real choice. What the mayor's memo and associated proposal attempts to do is not lawful, and will not lead to an agreement. Please let us do our work at the bargaining table, and reject the mayor's proposal. Thank you.

>> Mayor Reed: Kevin fish. Followed by Bill Mishler and Claudia Shope.

>> Kevin R. Fish. This proposal to allow the voters to vote on wages and benefits contradicts collective bargaining, it is also illegal, it violates the national labor relations act, labor code section 157 guaranteeing the rights of collective bargaining. And this provision has been upheld by Supreme Court and appellate courts. Consolidated Edison company of New York 1938, truck drivers and helpers local union 568, 1967, Stanford hospital and clinics, 2003 and others. New York senator Robert F. Wagner, co-author of the law, says you obtain freedom and dignity only by cooperation with others in the group. An employer who dominates or interferes with workers limits their choice of representatives, and prevents those representatives from freely acting in the interest of the workers.

>> Mayor Reed: Bill Mishler, followed by Claudia Shope and Robert Sapien.

>> My name is Bill Mishler, I've lived in Willow Glen 13 years. City budget cuts will only make our local economy worse, not better. They could well worsen the city deficit because of the loss of economic activity that comes when middle class workers are laid off by the hundreds and vital services die. Last year I paid nearly \$7,000 in local, state and federal taxes. I've been a five-figure earner most of my life, right in the middle. We are past the point we need to look at revenues, yes, it's time to raise taxes. Today I'll be handing you a personal check for \$365.25. A dollar a day for San José. If everyone around and above my level of income and assets paid a dollar a day we would not be on the verge of suicidal budget cut backs that will leave our streets under-patrolled, infrastructure the least among us under-cared for. Our at-risk youth vulnerable to the evil attempts, I urge a tax increase, maybe a half-cent increase the details are up to you but let's remember --

>> Mayor Reed: Sorry the time is up but you can give the check to the clerk. [applause]

>> Mayor Reed: Let's hope that the dollar-a-day idea catches on. Claudia Shope, Robert Sapien and Arlene sidle.

>> Hello, my name's Claudia Shope, and I would urge you to be fair to the city employees. I am not a city employee. But I live in this community. And I think that the work that they do is valuable. And very important, and I think that the efforts that you've made really go against them. And I found it a little condescending about Chuck Reed had to say, oh I hope the people are you know, got a good night sleep last night or whatever, it seemed kind of dismissive. But I urge you to support your workers and urge you not to do this ballot measure. It is wrong. And I also caution about how you're going to be doing the polling. I don't seem to be getting polled. I don't know who does. But I would urge you to be careful about that and please, be fair to your employees. They are a valuable asset.

>> Mayor Reed: Robert Sapien he will be followed by Arlene Speidell and Lorraine Obock.

>> Happy Friday. Robert Sapien, San José firefighters. I began the week with determination, sincerity and optimism, for Monday, after months of requesting that we continue discussions on retirement reform we convened our first meeting. On Tuesday I stood before this council to affirm that firefighters are committed by way of the pledge of cooperation, to good faith bargaining toward retirement reform. On Wednesday, I stood before my membership and asked for their trust and confidence in our negotiating team and by virtue of that pledge of cooperation with the city. Thursday I learned of a memo signed by five councilmembers that moves to insert coercion into the City's bargaining approach. Today, a new memo seeks to guarantee substantial needless distraction for negotiators. By my estimate, the City's pledge of cooperation endured for less than 60 hours. While I am still determined and sincere my optimism is substantially shaken.

>> Mayor Reed: Arlene Spidell. She'll be followed by Lorraine Obach and David Wall.

>> Mayor and council, Arlene Speidell, 23-year former employee of the city. The use of a ballot initiative to determine the economic security of city employees and retirees is wrong on so many levels, that it cannot be addressed today. The economic welfare of the City's employees and retirees should not be subject to the political vicissitudes of the public ballot and the significant influence of the media on public opinion. The use of the ballot initiative to determine the economic fate of city employees and retirees would be the ultimate act of disrespect for

their welfare. What employee, public or private, would want their future dependent on the state of public opinion at any point in time? This is not the way to attract the high quality workforce that the city will need to address the challenges of the future. The City of San José is located in one of the most highly educated and, without a doubt, most creative and innovative parts of the country.

>> Mayor Reed: Sorry your time is up.

>> Okay.

>> Mayor Reed: Maureen Obach, David Wall, Charles Christianson.

>> Mayor and city council, my name is Lorraine Obach. I retired a year ago after 31-plus years of service to the City of San José, the last half spent promoting library services. I knew that my particular discipline could earn stability more in the private sector but I stayed with the city for two reasons: One, a passionate belief in the value of library services to the community and two, a belief that the promised benefits represented a reasonable tradeoff. While the retirement system may require some reform, I don't believe that it should apply to people who have already retired and have limited options for making up for lost revenue. If you continue with this proposal, without making an allowance for that, that excludes current retirees then I just have five words that summarizes my opinion on the subject. Breach of faith and senior abuse. Thank you.

>> Mayor Reed: David Wall. Charles Christianson and Aurelia Sanchez.

>> David Wall: Innovation requires a creative application of ballot initiative, because the actual and proximate cause of all this budget deficit is squarely upon council. Not city employees, it is council. So the ballot initiative that I propose is in twofold. One we need a streamlined way of getting rid of you. We really do. Secondly, before we get rid of you we need an incompetent decision tax, 33% for incompetent decision, three strikes, you're out.

>> Mayor Reed: Charles Christianson, Aurelia Sanchez, LaVerne Washington.

>> Most people call me Chuck. I'm the guy you may be some of you old enough to remember the headline in the mercury that said the garbage collector wanted a 59% increase. I'm the guy that stayed down and worked for two weeks until 1 and 2 in the morning and got them down to 4%. You also are saving \$10.5 million this year, unless somebody's given it away, on the landfill. In 1985, we contracted for 425,000 cubic yards at \$12.50 a yard. That current rate is \$37. That totals out to \$10.5 million and you have two and a half years to go on it. In 1976 we used to have management meetings. I don't know whether they still do it in the council chambers about 300 people, the deputy City Manager who oversaw personnel and all that stuff, got up and gave a long talk about how the city could not afford its pension plan. Nothing has been done since then, except to expand benefits.

>> Mayor Reed: Sorry your time is up.

>> I sympathize with you.

>> Mayor Reed: Aurelia Sanchez, La Verne Washington, Paula Martinez.

>> Hello, I'm a retired city employee and throughout this country we keep hearing that workers have to share the pain. Well I've got news for you. I've been sharing the pain for about the past 20 years as a city employee working for wages that weren't very good. But what I did like was the benefits. One thing is that really, upsets me, is that in my opinion, the workers keep getting the blame for this financial mess. There is not one political party, whether it be a Democrat, Republican or tea party have any proposals for the financial institutions that created this depression. We -- I hear talk about a proposed tax. Well, if you're going to put it in the ballot make sure that any money that is saved is used for public services or public repairs and not given to corporations. Another thing that really upsets me is that you know, there are people that here on the council that say oh my goodness, we are all for affordable housing. Let's step it up a little bit. Let's do rent control. Another thing is, anybody that's retired on this council should have the same benefits that's proposed --

>> Mayor Reed: Sorry, your time is up. The next speaker is LaVerne Washington followed by Paula Martinez and José Gonzales.

>> Good afternoon mayor and city council members. The city council claims to have a worthy goal of negotiating with bargaining units regarding retirement reform. But when the rank and file bargaining units met, we received a copy of the mayor's May 13th memo as the sole city retirement reform requirement. And shortly thereafter a framework for the negotiations. The rank and file bargaining units responded in kind with a counterproposal for the framework. However all of the rank and file bargaining units received a letter dated June 22nd stating that the city will not engage on negotiations with us on this matter since we proposed a framework different than the one passed to us by the city. There was no discussion or further meetings, simply a short sentence in a statement that the city would proceed to negotiate with the management coalition only. In his June 20th memo, councilmember Rocha recommended the city adopt negotiation direction that does not present the mayor's May 13th memo as the sole city proposal and use the framework as a model, not a requirement. In addition he indicated that the plan design proposed by city leaders be used only as a basis for discussion.

>> Mayor Reed: Sorry your time is up. Our next speaker is Paula Martinez, followed by José Gonzales.

>> Excuse me. Mayor thank you for not voting on the fiscal emergency and ballot measure but my husband and I are both city employees. He took a 17% hit this year and this year we are both being hit with a combined 27%. In a year and a half our income has gone down 44% however you're still imposing more financial cuts and benefit increases. As of July 1st no more health in lieu for family at \$221. Now it's 89, though you keep your 221. Decreased coverage for health and dental plus medical rates increase, copay doubled and meds increased significantly. In January you're also taking away our eco-passes this costly service is used extensively. No more sick leave payout but you all still have that option. The 10% reduction in pay is a false number. My family is it's up to 44%. Don't raise our retirement age. Leave our vested rights alone. Don't waste our moneys on a March ballot or you'll waste more in court. We implore you bargain in transparency and in good faith. [applause]

>> Mayor Reed: José Gonzales, Bridget Tapia, John Kenney, Matt Savage.

>> Thank you for your time. My name is Matt Savage and I live here in downtown San José and I'm also a member of Next Gen Bay area. I'm here today because I'm against the suspension of collective bargaining rights. The city council needs to work with city employees to find common ground to solve our fiscal problems and not suspend a basic civil right for all workers. Thank you.

>> Mayor Reed: Bridget Sapia, Joe Kenney, Victoria Bordone, John Max Reger. Come on down when I call your names, please.

>> Bridget Sapia, I'm a lifelong resident, have run a small business here for 19 years and more importantly, I am a firefighter's wife. Over 20 years ago my husband signed onto this department and at that time he was told you don't need Social Security. For the next 30 years you give us your retirement contributions, risk your life every day for us when you go to work, we'll take care of you. Trust us. He has had numerous injuries including three obliterated lumbar disks, saved countless lives, and nearly died on several occasions. He held his end of the bargain, and now I'm asking to you do the same. He will not get Social Security. His life expectancy has dropped dramatically. After fighting a fire he smells the smoke come out of his skin for three days. All of this for the bargain rate of less than \$34 an hour. During the boom years you took funds that should have been contributed to the retirement system and spent it elsewhere. As an employer I would go to jail if I did that with Social Security contributions. I'm mortified what many of you have skewed figures anyway, since you would say is there isn't enough money. What I know is evidenced by the drowning of the Alameda man, whether right or wrong --

>> Mayor Reed: I'm sorry, your time is up, I'm sorry. Jo Kenney. Followed by --

>> Mayor, city council, I just want to say one thing. Maybe I'll say it more than once. But I know that some of you are really offended that you've been compared to Scott Walker in Wisconsin. I want to know how you can think taking away people's bargaining rights is not what they're doing in Wisconsin? Right now, people from all over the country are watching what you're doing and if you don't think this proposal is going to be exported by people who hate working people, you're surely, surely misled. What you do right now is going to have ramifications all over

this country for working people. You really need to think about that. This is not a fair proposal. It means that people don't have a voice at work and that's what you're proposing is to take their voice away. Please don't do this.

>> Mayor Reed: John Max Reger, followed by Victoria Bordone and Fred Hirsh.

>> Honorable Mayor, honorable members of council, madam city manager, members of staff, I'm John Max Reger, I'm a city employee 19 years. I'd like to take us back to 2009, at that time when these issues came up on the budget. The focus was a third in employee concessions, a third in optimizing processes within the city, and a third in revenue enhancement. So I hope you put as much energy into revenue enhancement and optimizing processes within the city as you have on the employees. As a member of OE3 I took about a 20% hit last year. And I've also mentioned to you that, you know, it would have been helpful to provide us more time to talk to our members on voting, so the communications needs to improve, you need to work with your employees. 30-second sound bytes don't cut it. It's going to take hard work, honest, sincerity, truthfulness to resolve these issues or you can take the short run out, go to ballot and go through the jury -- judge system thank you.

>> Mayor Reed: Sorry your time is up. Victoria Bordun, Fred Hirsh, Steve Kline.

>> Good afternoon, city council. My name is Victoria Bordon and I'm a student and a concerned resident of San José. I am one of the young people who camped out last night and I have been here at City Hall since 1:30 p.m. yesterday. I'm here because I want quality services in the city that I live in and I want our budget issues to be worked out with collective bargaining. Because there are other more strategic ways to solve our budget issues and collective bargaining is a basic human right. This is why I urge you to take the ballot measures off the table. Thank you very much.

>> Mayor Reed: Fred Hirsh. Followed by Steve Kline and Maria Noyal Fernandez.

>> I'm Fred Hirsh. I'm a rank and file member of plumbers and fitters local 393. I believe that Ash Kalra and others have correctly warned us against this march into the costly quicksand into a ballot measure, to order drastic changes in the benefit plans of people who work for San José and of retirees. The cost of the legal wrangle that would follow would deepen the cuts to community services and city staff. But legal costs are the least of it. The mayor would erase the very right of workers to collective bargaining. He'd rob people of past earnings, benefits they accepted in fair negotiations, in exchange for wages, attacking the basic rights of city workers, does attack the right of every worker. This mayor's rerun of Wisconsin would turn the valley -- turn the capital of Silicon Valley, once called the valley of heart's delight, into a city of urban blight.

>> Mayor Reed: Sorry your time is up. Steve Kline Maria Noel Fernandez.

>> Just bargain in good faith.

>> Mayor Reed: Followed by Tom Linebarger.

>> Good afternoon, mayor and councilmembers my name is Steve Kline and I live in district 6. My apologies to Robert frost. Two roads diverge in San José, one that has been taken before and has not worked. It is the path of brinkmanship, confrontation and disrespect. The other has not been the taken. It is one where collaboration, meaningful interactive negotiations and reasonable people solving together a difficult problem occurs. Please find the courage to take the latter road, the one that you have not recently taken. Please reject the memos by the mayor and the vice mayor. Thank you.

>> Mayor Reed: Maria Fernandez, followed by Tom Linebarger and Craig Winthrop.

>> Good afternoon. My name is Maria Noel Fernandez and I'm here today on behalf of sacred heart community service. I'm here to make a simple request that we work together. As an agency we agree we need to live within our means and also know and value the essential services the city provides for all of its residents, particularly low-income families that we serve. For that reason, I'm here to urge you to commit to negotiations and talks that bring

us together. And bring solutions to our city residents and workers. We believe we cannot have the divisive atmosphere that has been created and instead ask that we make decisions based on dignity and respect. Let's respect the talks going on, let's look at the cost and savings from all the negotiating table. As the Mercury News stated today let's leave the door open for different ideas and let's make decisions that work for all of us. Thank you.

>> Mayor Reed: Tom Linebarger, Craig windrip and Anna Schultz.

>> Tom Linebarger, I'm an eight-year retiree from painters 913. I don't think that your proposals are following Scott Walker. I think they're leading Scott Walker. That's a very conservative government there that's making those decisions and I've worked for many campaigns of people and I know they're progressive people and I don't understand that move. Collective bargaining is basic to labor. It's basic rights to all working class people and we're all working class people here, everyone here, all of you are working class people. So we have to remember what caused the problem and be good to each other. What caused the problem is what Wall Street did to all of us. It took hundreds of thousands of dollars from most middle class people and put people in a situation where they're looking for solutions in the wrong place and it's not on the backs of working class people that they should be looking. Thank you.

>> Mayor Reed: Craig windripp followed by Anna Schultz and Rebecca Keiken.

>> Thank you for the opportunity to speak. My name is Craig Windripp. Here with Next Gen Bay Area and also in ATU local 265 VTA. Just want to come here and let you guys know we did stay here, I came after work, I spent the night out here to show you guys the solidarity in our youth for collective bargaining. And I'm really asking you that we need to keep the good faith bargaining so we can work out our fiscal needs for not only us as employees but for you as a city and we should be able to come to terms on this.

>> Mayor Reed: Anna Schultz. Rebecca Keiken and Steve pinkston.

>> Hello mayor and council, my name is Anna Schlotz, I'm here with next gen Bay Area. I'm also one of the young people who camped out at City Hall last night. And we slept on concrete because we passionately believe that collective bargaining is the best way to deal with the City's budget problems. Because it's a fundamental civil right and it's effective. You know as young people we have everything to lose. We're trying to build a future here and if you close the door to good ideas, and undermine and degrade the integrity of our city by undermining a fundamental civil right then that's not great for the future of young people. And when you attribute your decisions to future generations, and to our good, we ask you to listen to us. We want you to protect collective bargaining and not undermine it the way that these proposals do. Thank you very much.

>> Mayor Reed: Rebecca Keiken, Steve pinkston, Jennifer Keltne reservation.

>> One hour ago, prominent religious leaders prayed for you. Why? Because our churches, synagogues and mosques, all support collective bargaining. It is in our sacred text and in our social teachings. Why? Because the God of many names values the dignity and worth of mayors and city council members and managers and workers alike. We pray that you do not erode civil rights, of our people, and our congregations and our city. And if you engage in bad faith through political maneuvers, we warn you: By the God of Abraham, Isaac and Jacob, Sarah, Rebecca and Rachel, we will be a thorn in your side. We will return, again and again, and again.

>> Mayor Reed: Steve pinkston, Jennifer Kelpner, Sandy Perry.

>> My name is Donna Feruda. Reverend pinkston had to leave so I'm reading this in his behalf. My ops collective negotiation, collective dialogue is a must to achieve the best outcome for city workers in the city. Engagement in good faith dialogue that does not aim to sabotage prior labor negotiations as an ethical decision. Paraphrasing second Corinthians 12:8, at my season of abundance and your season of struggle I had no excess and you had no lack. There must be equity.

>> Mayor Reed: Jennifer Keltner, Sandy Ferry Helen Chapman.

>> Good afternoon Mayor Reed and councilmembers. My name is Jennifer Keltner and I was born and raised here in San José. Please keep negotiations open on the issue of this fiscal emergency. As a teacher I worry about the precedent of taking away previously agreed upon pensions. I work hard as do the city employees and I would be devastated if my pension was reduced as many years of service amount after my productive working years were over. I leave you with this question. How will these people make up this income that was guaranteed to them?

>> Mayor Reed: Sandy Perry, Helen Chapman, Shabui Sadiki.

>> Good afternoon, mayor and councilmembers, my name is Sandy Perry, I'm from Cham deliverance ministry. I'm here against declaring a fiscal emergency and against undermining collective bargaining. Our ministry has been trying to get city council to declare a state of emergency over housing and homelessness for 20 years but you wouldn't do it. Now our entire economy our whole economic system is broken. We have 14 million unemployed, a third of our homes are underwater. If you want to declare an emergency, let's declare an emergency to fix the economy, not to take apart unions. We need to get our money back from the banks. The unions -- we should be working with them to rebuild America. They're the best antipoverty program America's ever had and you can't claim to be antipoverty and be antiunion at the same time. So today I'd like to take the opportunity to honor the councilmembers who have been consistent on this matter, Ash Kalra, Kansen Chu and Xavier Campos, I salute you for your integrity and I urge the other councilmembers to learn from you.

>> Mayor Reed: Sorry, your time is up. Helen Chapman, Sabui Sadiki, Alicia Coff Ginsberg.

>> Mayor Reed and members of city council, my name is Helen Chapman, a resident of San José and a parent. My father taught me at a young age that hard work will pay off, you might hit some tough spots but in the end the experience of working through the issue will pay off by not giving up. I have raised my kids with this philosophy and I am proud to say one the a sergeant in the U.S. marine corps who has served twice in Iraq, and the other an Eagle Scout who is mentoring others in community service. My mantra is to lead by example. In the

neighborhood we have heard your message of crisis and uncertainty. We are tired. Now is the time to give us a message of hope. Thank you.

>> Mayor Reed: Sabui Sadiki, Alicia Coff Ginsberg, Henry Servene.

>> Good afternoon, mayor and councilmembers. My name is Sabui sadik, and I'm from Ahmadea Muslum community and also commissioner in office of human relations in Santa Clara County. Muslims value support and justice and fairness, so we support the tool of collective bargaining. Please make sure that the structure and scope of your proposal does not endanger collective bargaining which is the most effective way to solve city labor issues. Thank you.

>> Mayor Reed: Alicia Coff Ginsburg. Henry Servene, Bob Brownstein.

>> Good afternoon, I'm Alicia Coff Ginsburg. Today I speak to you as a social worker. When someone says that person is not paying attention to my needs, we find it helpful to ask what would it look like if they were? Keeping that in mind, what would negotiations look like, under the memo that five councilmembers signed? A union negotiator would say, here are ten ideas to meet our collective needs. The city would say, sorry, here are the options that meet the City's needs. The city would -- the union would say I think we're here to negotiate. The city would say we are. Here are the options to meet the City's needs. Negotiation by definition needs to take two parties' needs into account. If you asked the public what they think it would look like if the city was negotiating in good faith I don't think they would answer under these rules. Thank you.

>> Mayor Reed: Henry Servene, Bob Brownstein, George Beattie.

>> Thank you, Mr. Mayor and honorable members of the city council. I'm Henry Servene, vice president of the association of engineers and architects. I'd like to let you know that we're just getting started on these negotiations and both the union team and the management team have gotten off to a very good start. A heavy handed proposal at this point will do nothing to make these negotiations go smoother. Instead we ask that you

provide a broad direction to your negotiators so that we can leave no stone unturned. However, if you are insistent on putting great risk to the city then we ask that you provide your negotiators with the ability to share your legal analysis that says your approach is lawful. If you're going to ask our unions to expose ourselves to huge legal liabilities, by agreeing with your proposals, the least you can do is share this legal analysis that none of our attorneys seem to have. I urge you to reject this June 22nd proposal and continue to work with us. Thank you.

>> Mayor Reed: Bob Brownstein. Followed by George Beattie and Yolanda Cruz.

>> Mayor Reed, members of the council, the memo recently released by the mayor and four others seems designed to sabotage promising pension reform negotiation and cause those talks to fail. Because the memo's late arrival made a complete mockery of San José sunshine policy my calculations regarding its effects are only approximate. But it seems to suggest that police and firefighters for example should opt into a pension plan that pays less than 5% per year to make less than one-half percent per year work, retiring at 55, if they choose not to opt in they would have to accept pay cuts which, when added to the other pay cuts already experienced would reduce their compensation to \$35,000 a year. Faced with these choices, San José's sworn officers will not opt in. They will opt out. They will work somewhere else, and the most experienced and most qualified will leave first. Those who support such unreasonable directions have no interest in negotiations.

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

>> Their agenda is political.

>> Mayor Reed: George Beattie, followed by Yolanda Cruz and Gary Jensen.

>> Good afternoon, Mayor Reed and members of the council. I'm here this afternoon to speak out on councilmember Ash Kalra's 3.1 proposal on protecting public safety on the emergency. A year ago we warned this council that if you eliminated the violent crimes enforcement team, otherwise known as Vset, that bad things

would happen. We were accused among other things of trying to cause fear mongering with our citizens. Today, a year later, more than 50% of the City's 27 homicides have been identified as gang related. 9% of them -- nine of them are unsolved as I speak. This can be directly attributed to the elimination of Vset. Today I'm here to tell that you police layoffs will result in more crime in this city. I implore you to adopt Councilmember Kalra's memo. The men and women of the San José Police Officers Association --

>> Mayor Reed: Sorry your time is up.

>> Mayor Reed: Yolanda Cruz, Gary Jansen. Followed by Vera Todorov.

>> My name is Yolanda Cruz. I am here today to make one point very clear on the issue related to negotiations with my union. AFSCME has never, I repeat never refused to negotiate with the city. It is the City's action and positions that have made our negotiations unproductive. With the latest letter we received from Gina Donnelly on behalf of the city, all the rank and file unions have been cut out of discussions on ballots and retirements. We are the largest percentage of employees in this city. To be shut out and vilified by you and others and scapegoated as unruly children who don't know what's best for them so then must be punished until we comply is not only not true and no other group of employees has felt the harsh realities of your actions more personally than mine. Entire workforces in my union are being eliminated and reduced far greater than any other group. To those who have signed agreements it is for the very reason we the rank and file unions rejected the City's framework as written.

>> Mayor Reed: Sorry your time is up.

>> We offered a counterproposal that was unilaterally rejected.

>> Mayor Reed: Gary Jansen, Vera Todorov, followed by Jerry Chapui.

>> Hello, Mayor Reed and members of the council. It appears to be that there's at least three distinct groups here: The people already retired and gone, the people currently employed, number two, and the future employs who

haven't even signed up yet. I'm here to talk about the people already gone, out the door. They followed the rules, you can't change the rules on them after they're gone. These are old folks. They followed the rules, the game is over for them, they earned their Super Bowl ring, you can't give back a piece of that ring. Many of them can't go back to work. These are the most vulnerable of all the groups, the old folks. Some of them no doubt are in rest homes right now. We don't want to think about that but they are you got to admit that. They can't just get up and get a job, to keep up with inflation. These are not people on welfare. They worked for their pension. They contributed, they followed the rules. They made their decision based on the rules at that time. Some of them may have kept working. So don't change the rules negatively, on the most vulnerable. Inflation --

>> Mayor Reed: Sorry, your time is up. Vera Todorov, followed by Jerry Chapui and then Peter O'Reilly. Your time is up, sorry. Come on, everybody wants to speak, we're going to give them a chance. Vera Todorov Jerry chapui and Peter O'Reilly.

>> Good afternoon, Vera Todorov on behalf of the Association of Legal Professionals. After listening to LaVerne Washington and Yolanda Cruz from AFSME, we've had exactly the same experience. We had two working days to take a look at the city's framework which is really the guidelines for negotiations of pension reform. We responded and basically were given -- basically told, okay we're done with negotiating guidelines. We'll tell you if anything comes up, and you can ask to meet and confer. That violates Meyers, Millius, Brown. We have a right to negotiate over guidelines. One of the reasons that we could not sign the framework that was proposed by the city is, it includes provisions that are contrary to the tentative agreement that we signed with the city just one month ago. We expect the city to exercise the reopener under the conditions in that agreement that we reached one month ago, and we expect the city to negotiate a proper guidelines and framework for negotiation. We are open to negotiations based upon facts. But we are not open to having something that we did not agree to, even one month ago, rammed down our throats. Thank you.

>> Mayor Reed: Sorry your time is up. Jerry chapui followed by Peter O'Reilly and Gaye Gail.

>> Jerry Chapui, AFSCME MEF. The June 22nd letter made apparent the city decision that negotiating changes to federated retirement benefits for all employees means only negotiating with management without input from the rank and file the majorities of employees. This action states loudly and clearly that the city does not want to negotiate in good faith, or work with bargaining units that differ in opinion. These actions are not only unlawful they are unconscionable. Councilmember Rocha has stated the city has a chance to engage our employee unions on pension reform and productive context and the City's primary goal should be to work with its bargaining unions. He expressed hope that city staff and bargaining units should work together. This is also the hope of the rank and file bargaining units. To ensure successful retirement security and reform, all bargaining units and employees must be engaged, heard, and actively participate. Tell your negotiating team it is imperative that they engage and work meaningfully with the rank and file bargaining units who represent the large majority of employees. Thank you.

>> Mayor Reed: Your time is up. Peter O'Reilly Gaye Gail, Bob Leninger.

>> Good afternoon Mr. Mayor and city council. My name is Peter O'Reilly. I'm a retired letter carrier. I live here in San José, and Nancy Pyle's district. Like I said I'm retired. And I can't believe that you're voting on something that says it's an emergency. I don't feel like I'm in an emergency. Doesn't feel like that. And I think there's a lot of people out in the neighborhoods that feel the same way. Including a lot of people that voted for somebody, the mayor and the city council, purporting to be honest, campaigning on being honest. Well this emergency created sounds to me a heck of a lot less than being honest, you know. I think you should respect the workers and respect collective bargaining and you know drop this emergency. What emergency?

>> Mayor Reed: Gaye Gail, Bob Leninger.

>> In 1997, when I returned to the United States after working in Canada for 20 years, I could live anywhere. I did my research and I chose the Bay Area and the City of San José in particular. Because San José embraced Stephen Covey's Seven Habits of Highly Effective People, and principle-centered leadership, plus I could make a difference in doing a job where I made the quality of life better in the city I chose to live in for the rest of my

life. Well, things have changed. I love working in City Hall, although today's my last day of one job. I'm lucky enough that I get another one. Three of the last four years my job's been eliminated so I know what it's all about. But I'm one of the lucky ones. In 53 weeks, I will have 15 years with the city and I'll be 65 years of age. I would normally stay longer, as long as I was able. But I'll be leaving because I need to find an employer who does not change his commitment to me. The City of San José values that you embrace our integrity, innovation, excellence, celebration and collaboration --

>> Mayor Reed: Sorry, your time is up. Bob Leninger is our next speaker. Bob Leninger.

>> Mr. Mayor, members of the council. Been here with you many times before. Have heard some of our speakers, some of our retirees speak. I'm receiving phone calls and e-mails from people who can't come here as the last speaker, last retiree mentioned and this current retirees and the impact on them is serious. You've received my letter, letter from our attorney that we went under contract with two weeks ago. You received an excellent letter. I recommend you read the one from Joan Gallo, your retired City Attorney, and the court case that was attached to that, and from that learn. These are serious issues we're not going to take them sitting down. You got a tough issue. You got a tough situation here we sympathize with you. Current retirees cannot take this burden will not take the burden. Read those memos because we as the one speaker said will be back again. Thank you. [applause]

>> Mayor Reed: That concludes the public testimony. We will now adjourn into closed session. We'll be back, I can't say if it will be five minutes or one hour. We'll be back when we get done in closed session. [Recess into closed session]

>> Mayor Reed: No report out of closed session. We still have some items that we need to decide. One is to decide whether or not to give any direction regarding a possible opt-in tier, and the other is to give direction to staff on the scope and timing of polling that need to be done and when, I guess. I'd say that would be right, scope and timing of polling to be done. So we will start with the discussion of direction regarding analysis across the possible new opt-in tier and other proposed changes in retirement benefits. And I'd like to start that discussion

with some comments. I want to take everybody back to May 24th, when the council previously gave direction to our staff. And the council approved a memorandum dated May 13th, 2011 from myself, Vice Mayor Nguyen, Councilmember Herrera and Councilmember Liccardo. A lot of that has been discussed but some of it has been missed. Including this which is in the first part of the memo in the introduction and I just want to restate that. So everybody understands that the council direction that has been given includes some things that have gotten lost in some of the discussion. The dramatic impacts of the budget shortfall on our community demonstrate why we have to gain control over skyrocketing retirement costs. If we act now, we can preserve the retirement benefit levels our employees and retirees have earned and accrued. And we can restore jobs and vital services. If we fail to act, jobs and services will be decimated, and a fiscal disaster and retirement benefits will be cut. This proposal is not the only solution. It is one combination of ideas that we believe will solve the problem. We are open to other solutions. And our proposal directs our staff to engage with employee groups, many of whom have said they're eager to work in partnership to solve this crisis and to discuss alternatives that also solve the problem. Now we have a very real problem we have to solve. We shrunk our workforce, eliminated 800 jobs this last year. This next week our workforce is going to shrink by another 500 jobs and today is the last day of employment for hundreds of really good people. Who are not longer going to have jobs with the City of San José. This is all been driven by skyrocketing retirement costs, and it is not over. Next year, we're facing a budget gap of somewhere, I think, 80 to \$100 million. Again, retirement costs are going up dramatically. So it's a real problem affecting the lives of real people who are losing their jobs. And I hate doing layoffs, as I've said before. But I do want to thank in particular our employees, the remaining employees have taken a 10% cut in total compensation. I appreciate that, because that saved about 400 jobs. It would have been 400 more people leaving the city today if we hadn't gotten concessions from the employees and I appreciate that. I want to thank the five unions, some of whom have representatives here today, that have agreed that we have a problem, and want to engage in trying to find a solution, through negotiations. That's our firefighters local 230, our Police Officers Association, AEA, CAMP and AMSP. I appreciate their willingness to step up and engage, as unhappy as they may be about some of the things that we've had to do, they are still willing to take the professional approach to try to save jobs of their people and the services to the city. And finally, there's been a lot of questions asked focused around legal issues and what it is we're trying to do. And I'd just invite everybody to take a look at the memorandum that I issued May 24th, 2011, with a copy attached of a law journal article, called declarations of fiscal emergency, a resurging option for public

entities attempting to deal with the current economic climate. That article was authored by one of our lawyers, John Holtzman in others. And I just want to read one part of a paragraph, so anybody who wants to know what it is we are trying to do and the legal basis on which we're proceeding has a better idea. Although both the United States and California constitutions prohibit government from enacting legislation that impairs contracts, courts have long recognized that this prohibition is subservient to government's power to protect the lives, health, morals comfort and general welfare of the public, i.e. the public agency's inherent police powers. So that is I think interesting reading for anybody who cares to read it. And with that I'd like to open it up for council discussion. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I'd like to put a motion on the floor. The motion would incorporate and improve the mayor's memorandum dated June 20th, 2011. And also approve the recommendation of the memorandum dated June 22nd, 2011, co-signed by Mayor Reed and five -- or four other councilmembers. With the following modifications: In paragraph 2B of the recommendation, regarding the additional employee contributions, that would be negotiated to pay for unfunded liabilities, that would be modified to incorporate the notion that the amount negotiated would be flexible, so long as the total package achieves the overall goal of returning retirement costs to their fiscal year 2010-2011 levels, that is \$186 million from all funds. That would be the first modification. The second modification would be to include a letter D to paragraph 2, to include consideration of positive incentives that might be proposed by any bargaining groups, including cash payments, again, under the condition that the overall cost savings achieved reach that \$186 million goal.

>> Councilmember Herrera: Second.

>> Mayor Reed: All right, we have a motion, by Councilmember Liccardo, and in stereo I think Councilmember Constant was a nanosecond of Councilmember Herrera on the second. That's because he's like three feet closer to me. That's why it sounds faster. Councilmember Liccardo. On your motion.

>> Councilmember Liccardo: Yes, if I could mayor. I just wanted to briefly explain first that some of -- raise concerns about whether the change in direction, it's -- I believe as I -- as the memo reflects, this is consistent with

council's ongoing direction we've had since March that we're trying to, at the very minimum, restore service levels to where they were in January of 2011, and to do so we are trying to achieve savings that will return retirement costs to those levels. Second, I think it's important for everyone to understand the context of this. We've been told several times, by Alex and his negotiating team, that he lacks any direction currently to be negotiating over any opt-in provisions and so going forward without this memorandum would leave any opt-in negotiation simply off the table. Third, I think this memorandum in various ways has been referred to as being overly prescriptive and not allowing enough room for negotiation. On the contrary, I encourage everyone to read it carefully, paragraph 3, which explicitly encourages bargaining units to offer other alternatives that achieve equivalent savings under the same assumptions, and also, to consider that of all the proposals, all the memoranda that come out, this is the one that does not specify any retirement age, any accrual rate, any cola, anything, that leaves that purely for negotiation with the bargaining units. And obviously, I think the intention for everyone is, let's give the maximum benefit we can, within the cost envelope that we've defined. And the goal is to achieve those cost savings so that we don't continue to bleed as a city, the human -- the valuable human resources that we continue to lose, and we're losing several hundred this week. Several hundred good people as the mayor referred to. And people we simply can't afford to lose. We can't afford to lose any more and we can't afford to lose the ones we are now. And finally I know there's a lot of discussion around paragraph 2, looks too heavy handed and so forth. I think it's important for everyone to be cognizant of the fact that there's absolutely no way to arrive at a clear understanding of what anyone's going to achieve from an opt in program unless you know exactly who's going to opt in, exactly what percentage of the people are going to opt in, what their demographic is in terms of age and years of service, the only way to get to a cost savings number that's reliable is to actually have a proportionate reduction in compensation, or proportionate savings, I should say, from those employees who choose not to opt in. That's the only way you could be assured of getting any savings because you simply don't know who's going to opt-in. And actuaries will run around in circles without any answers unless you can settle up some plan by which you can assure the city and the employee groups exactly what you're going to say. So that's why that provision was in there. And it's very critical that we at least be very clear about what our choices are. And we don't simply throw darts at a dart board in the hope that we get a lot of folks opting in simply because we hope that people will choose a less costly retirement plan. When we know in most cases that's not the optimal choice for most employees. So it's important that we consider this. It's also important that we consider that while there are

undoubtedly legal hurdles that have been discussed publicly and privately with every option we choose, we talked with the problems with the IRS, on any opt-in program and so forth. One thing is absolutely certain, which is the only two legally safe routes to cutting cost that we know of are laying off employees and cutting salaries. And we've been doing that year after year and it's painful and I don't want to do a single bit of it more. It's time to stop the cutting of salaries, it's time to stop the layoffs and it's time to actually get to a place where we're able to keep people employed, and hopefully, add services over time. So I hope that my colleagues will approve the motion.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I'm going to support the motion. And I thank my colleague for clarifying the latest direction that the memo that I also signed onto on the 22nd. I want to reaffirm what he said in terms of the purpose of that, was to really give our negotiators the ability to negotiate an opt-in plan. And we wanted to make sure that that was possible. We certainly didn't want folks on the bargaining unit side negotiating, busily negotiating opt-in programs when our lead negotiator had no authority to do that. So now that that's more consistent, I think that's going to work a lot better. The other part of this is point B. And I think it's very important to understand that -- how I view that is the worst case scenario. The way it was written was the worst case scenario. If nobody opted in, this is the cost that would be sustained and I think it was more illustrative of the challenge. I'm much happier of the modification of that to allow the negotiators to look at what that formula will mean and work towards the goal of achieving the savings we need to achieve. Because I think once we're all in agreement on that working towards that number I have faith in the negotiators on all sides, that they can start to work to put together plans that are going to achieve that savings. I also feel very strongly that we need to consider not only the disincentives that were proposed but also positive incentives, carrots if you will to cause people to want to move into a plan that might, on the one hand, provide maybe a little lesser benefit but maybe there might be a cash incentive to do so on the other end. This is working in other government agencies, it works in the private sector. There's no reason why we can't look at that. It has to meet the cost targets, but I think we need to look at different kinds of incentives. And again, I think negotiators are capable of coming up with some of those things and we don't want to be too prescriptive up here, we want to give you the ability to negotiate. I want to say thank you again publicly to Nancy Ostrowsky in particular, local 21, CAMP, AEA AMSP, and Police and Fire for

taking the pledge of cooperation and working with us. I think you've got some challenges but I realize wish everyone well over the next few weeks in negotiating these things. Again, we're trying to prevent -- a lot has bin made for our original purpose of this meeting or what's on the subject line declaring fiscal emergency but what we're really trying to prevent here is, we're trying to prevent laying more people off, and we're trying to preserve pensions and we're trying to protect services. We're trying to protect our city. If we can restore service levels to January 20th, 2011, that will at least be a start. And part of that is obviously getting ahold of the exorbitant or the growing retirement cost, that's a piece of the pie. So I wish you all luck, I wish you the best, and I say let the negotiators negotiate, and good luck, everyone, and I'll be supporting the motion.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I think what's important for us to keep in mind is the broader context of why we're having this discussion. And Sam touched on it. But I just want to emphasize it even more. I agree with everything that has previously been said. But we have had ten solid years of deficits. Where the primary method of dealing with those deficits have been cutting services. And we have decimated services throughout our city. We got to a point this year where I think we truly have gotten to an unsafe level of staffing that we're going to have in our police department, in just a week, when we hit the new fiscal year. We know that we have multiple years of deficits in front of us. In fact, next year, I agree with the mayor, it's going to be at least the 80 to 100 million, potentially even significantly higher. And we know the actions that will -- we're taking today we won't even see those results probably by the next fiscal year. Because things take so long for us to realize the differences. Even if we're able to achieve every dollar of these savings, it will simply allow us to have the inadequate service levels we had on January 1st, which is a terrible level of service in this city. And I think we have to remember that we're not trying just to save the amount of money that we're talking about here. We're also trying to figure out how we are going to restore those services, not only in the midst of the economic situation we see ourselves in, but all of the other cumulative challenges that we have in front of us on the city council. The cost of this action is significant. And it's going to be felt by a lot of people. But the cost of inaction is significantly higher. If we don't take positive steps to reduce these costs, we will have a city that very quickly will be a vacant city. We'll have no services, residents will be leaving, businesses will be fleeing and we can find ourselves right

behind cities like Detroit, and Cleveland, and others, that went from very prosperous cities to nothing, seemingly overnight. We cannot afford to let that happen in San José. We simply cannot afford to let that happen. We have to take significant actions like this. I really hope that Alex, you get all the help can you get in getting this over the goal line. You have got a Herculean task in front of you. I know your team is up to the challenge. But really, this is a significant issue. It's going to be tough on you guys. But I'm hoping and praying, you'll be able to pull it over the goal line because we desperately need it. The residents of our city are counting on us to get this right so that we restore services. And we have to remember. I said this before and I'll say it again. The only reason we exist is to provide those critical essential services to our residents and we're not fully doing that and this is where we need to go. I implore my colleagues to support there so we can continue to move forward in negotiations.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I keep hearing over and over again that we need to do this. I agree that we need do this. I don't think this is the only way to make things work. I'd just like to point out the following, and I would as I do this want to thank Kay Winer who was able to get me the following statistics. In June of '07 we collected 72% of the appropriation limit. There she is. And yet, in November of 12, we are collecting 61% of that appropriation limit. If we were still collecting 72% of the appropriation limit, we would increase our General Fund dollars by almost \$100 million for just this year. And why am I bringing this up? Because we need to do something in the meantime to increase our income. We have not emphasized that nearly enough. And if we can get our tax collections back to the June 7 levels, we would be far better off. We have to do that. The amount we collect in tax revenue doesn't even keep up with inflation and our increased population. I think therein lies a lot of the problem. Kay, did you wish to --

>> Councilmember Pyle, I know that one of your interests has been in revenue generation and you've made that very clear. The issue I actually discussed with your staff was not that. But of a concern that you expressed, and I've heard you at the podium talking about your concern about how our employees are feeling about working in this environment. And do we know what is actually creating people who are employees leaving, when they before -- and even when they retire, they're retiring sooner than they might have if the working conditions were better.

>> Councilmember Pyle: I was going to bring up the entire discussion for this particular item.

>> No, but on this particular item I wanted to just maybe -- this was information that was actually very revealing to me, too. There's been some -- a real consistency for the last five years about our number of retirements, the percentage has -- not the number. The percentage has been roughly about the same, in the high 40%. Right now there's just a lot more, it seems like a lot more because there's a lot of activity of people leaving voluntarily as well as involuntary. Our involuntary separations of course have gone sky high because of the termination over the last couple of years. However, the voluntary separations which I know you're interested in, why are people actually leaving the employment of the city. Are the things, policies that the council has adopted that actually make it so the employees do not want to stay. The interesting thing is that over the past five years, the number of employees that leave the city on a voluntary basis has been pretty constant. It's been about 120 to 130. So even this year it's the same. It's just out of a percentage of 800 departures if you will, separations from the city, that -- you need to weigh that into the whole equation. But I think it's important for us to start gathering information that helps you for next year about what is actually going on with the workforce. And Alex and I have talked a bit about reinstating an employee exit survey that we used to be very diligent about asking each employee when they turn in their badge and when they turn in whatever other equipment they have, you know how they feel about working for the city, why they're choosing to leave. And even if they are retiring, are you retiring earlier, because of some -- what are the personal reasons for that and if you are separating from the city voluntarily, what are the reasons for that? I think what I hear is the perception that a lot of employees are leaving the city voluntarily to look for other employment. Because they think working somewhere else is better and that this is not a good place to work. And if there are elements of that, that are the case and there are things we can actually do. It is also a good workforce planning tool for us as we look at the future with fewer employees, who is actually leaving and what kind of skills we actually need to develop with the employees who are still here. So that's sort of a long answer to a shorter question because it got me really interested in the whole idea of our workforce. And some of the things that we really need to do and some of the perceptions that are accurate and some of them that are really not really there but we all think it is. So I don't know if you have any other questions but that was what you'd asked me to search out for you.

>> Councilmember Pyle: But we do know that our income has gone down substantially and 11% over five years is a pretty bad hit. So that's my main purpose here today, is to really emphasize the fact that we must go over additional income as well.

>> No, I don't think anybody would disagree with that.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you. Let me start out by saying how much I appreciate Councilmember Liccardo for incorporating the amendments that he made to the current memo that was signed by the mayor myself and three other councilmembers. I don't think I want to go into talking about why we need to do this. I think we all understand why we need to do this. But what I wanted to say briefly is that why it's so critical for the bargaining units to continue to negotiate. You have been more than fair in your efforts to negotiate with the city. You have done everything we've asked you to do up to this point including taking the 10% cut. Signing the -- signing the framework and the pledge of cooperation which we really appreciate. And I think that this opt-in program is not something new. We have talked about it, we have heard it, Police and Fire have actually come up with the ideas, and I think this conversation should continue. Because I think that we will reach a point where we will come up with the solution. And I think it's really tough right now because everything is starting new again with a new plan. But we have done everything we could and we have worked together to get to this point. And right now, moving forward is not the time to stop the negotiation process. And so I'm just hoping that you know with the flexibilities that was just provided by Councilmember Liccardo, that the unions or the bargaining units can come to the table and continue to work with us. Because my hope is that we all agree that we have a fiscal crisis. We all agree that we need to do something to bring our service level to January 2011. Those things we can agree with. What we can't agree is how we're going to get there. And I think that gives -- if we give ourselves the next couple of months to really have concrete conversations about the various processes that's going to take place, I

believe that we will get there and I hope that we will get there. So I just hope that you can continue to help us to negotiate in good faith and to really, you know, have some faith in all of us to make this work. So we're going to be off in the month of July but I know you guys are going to work really really hard and I hope when we come back in August that you can come up with some ideas that we can work with. Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. And I thank you again for that offer to always be open to better ideas. So using that I'm going to move into what I believe is a better idea. So I'm going to look to staff to answer a few questions first if you don't mind. In the direction from maize 24th there's been some confusion and to me that common theme has arisen way too often. And I think some of the goals today were to try and move away from that and hopefully we will do that. I'm not confident but some my colleagues are pretty optimistic that we will. I don't share that but I hope everybody proves me wrong. The direction to negotiate and go forward, I'm looking at the mayor's memo from that date of the 24th, to amend the charter in order to limit retirement benefits and to require voter approval of increases in retirement benefits, it goes on to say return to council on June 21st with proposed changes to the charter to implement these recommendations. Was that absent did we change the direction of that meeting if you don't mind refreshing my memory or did we not do that any longer?

>> Alex Gurza: I'm sorry councilmember, could you repeat the question there?

>> Councilmember Rocha: It would be Item B in the recommendation from the mayor's memo for the May 24th -- May 24th. May 13th memo for action on May 24th.

>> City Manager Figone: Alex, it's the May 13th memo that council reviewed on the 24th.

>> Alex Gurza: Yes, I have the memo. I'm just trying to make sure I understand --

>> Councilmember Rocha: Item B at the bottom.

>> Alex Gurza: -- the question.

>> Councilmember Rocha: The direction to return on the 24th with the changes to the charter implementing these recommendations.

>> Alex Gurza: Yeah, our understanding is, that was approved among other things that day. This wasn't the only memo that was approved.

>> Councilmember Rocha: Weren't we supposed to return today and approve --

>> Alex Gurza: Yes, but that was subsequently modified. So on that day --

>> Councilmember Rocha: Yes, that's what I'm trying to get at. It was modified that day to what?

>> Alex Gurza: No, no, no, I'm sorry. No, I don't think the date was modified, on -- when this was heard on May 24th, I don't believe there was any change in that June 21st date. That date was sent then, on May 24th. It was after that changed.

>> Mayor Reed: There were two changes in the date. First we said, instead of the 21st, to bring it today on the 24th. And then we bumped that action from the 24th, today, to August 2nd.

>> Councilmember Rocha: Okay. So specific to that action then in your mind this is a ballot measure on these changes and not all the other items at the end of the memo, are we still proceeding in some sense on section -- let me pull it up here -- section 1 or C item number 1? So are we still proceeding with all of those, then, if we adopted the direction that day in total?

>> Alex Gurza: Yes, all of -- well all of these things that start with B, which is 1, 2, 3, 4, 5, and even C, all of that is direction that was approved by council, as -- that would be part of a ballot measure.

>> Councilmember Rocha: Okay, so now we're moving towards a ballot measure that's going to include all of that.

>> Alex Gurza: Correct.

>> Councilmember Rocha: Okay, part of the direction was also to include my direction for what was in my memo and also to do a cost analysis for a side-by-side comparison.

>> Alex Gurza: Correct. Your memo was approved on May 24th, as well.

>> Councilmember Rocha: So in the memo it states approve the Manager's fiscal reform plan with the amendment that staff be directed to bring back, number one, proposal recommended in the May 13th memo issued by my colleagues, and two, my proposal described below for a side by side consideration at the June 21st meeting. So help me, this complex issue that we've been and you've been working through in trying to have these negotiations. So between the date of that meeting, and the negotiations you've had since then, we've all -- we also dealt with this once already, the proposal you put forward was the mayor's memo, and that was it, and then we clarified that, it is my understanding we've continued along that track.

>> Alex Gurza: That's incorrect Councilmember Rocha.

>> Councilmember Rocha: Okay.

>> Alex Gurza: So there are a variety -- the direction is a variety of things on May 24th. So on May 24th the council approved the memo dated May 13th signed by the Mayor, the Vice Mayor, Councilmember Herrera, Councilmember Liccardo, with some comments that were made from the dais that day. They also approved the

City Manager's fiscal reform plan which has many components, many issues, including revenue recommendations, sick leave payouts, lots of things that don't have anything to do with retirement, that was approved. Then the council also incorporated into that direction Councilmember Pyle's memo which has to do with revenues. Also, incorporated your memo, which had element to study. It wasn't direction to negotiate. It wasn't, go negotiate this, it was study a variety of topics, including your recommendation on a particular opt-in program, going into PERS, variety of questions that we attempted to answer during our presentation earlier this afternoon. It also included Councilmember Constant's studies, there's a difference in our view, direction to go study something versus direction from the council to negotiate. Now, this issue that has come up about what we said to bargainers at the table, we've tried to clarify. We never indicated that the only thing we were willing to talk about was the May 13th ballot measure. The clarification is, the only direction from the city council regarding a ballot measure is contained in the May 13th memo. That is also the only thing that we'd be negotiating under what's called Seal Beach bargaining of a ballot measure. So -- and it is important for us to clarify that issue and again, a lot of our bargaining units, and us, don't have a lot of experience in the Seal Beach bargaining process. And we need to be clear that those two things are separate. But we actually haven't actually started the bargaining process anyway. That was part of the discussion about trying to reach a framework on combining bargaining over a ballot measure versus the broad bargaining. But your memo that you issued has not turned into council direction to negotiate.

>> Councilmember Rocha: Okay so then item 1D and item number 2, those we really didn't address in an analysis I guess. And again maybe I'm incorrect as you just pointed out on that one.

>> Alex Gurza: Councilmember Rocha I'm sorry in your memo dated May 20th, which one are you asking about?

>> Councilmember Rocha: D, 1D and section 2, item number 2 on the second page.

>> Alex Gurza: Yeah, well, 1D actually asks to prioritize policy alternatives that minimize legal risk. Again, we did not -- staff did not feel it was appropriate for us to make legal determinations or provide the council with legal advice.

>> Councilmember Rocha: Gotcha.

>> Alex Gurza: Although it has been pretty clear and I haven't heard any issues about legal issues that Councilmember Liccardo raised which is either to continue to cut pay lay off employees things like that. Other than that I think everything that has come up has been discussed here, somebody has raised that there's legal issues. But in terms of ranking those would I defer to the City Attorney.

>> Councilmember Rocha: So I'm not following what's the relevance of the legal issue with firing and cutting pay?

>> Alex Gurza: The issue was, if we were to prioritize them or say that the -- I think that what I was trying to say, along the lines of what Councilmember Liccardo said, is that nobody has said those things have legal risk. So it's pretty clear to say that if you were looking for something that had no legal risk, layoffs and cutting pay, doesn't seem to have those. After that all of the topics we've talked about, opt-in programs, first tier changes, changes for retirees all have some legal risk and again it wouldn't be our place to rank those for the council in terms of legal risk.

>> Councilmember Rocha: I wouldn't suggest ranking legal issues, but thank you for clarifying that.

>> Alex Gurza: Well, maybe I misunderstood your memo. It says prioritize policy alternatives that minimize legal risk.

>> Councilmember Rocha: Based on all items above, not legal actions we've been taking in terms of compensations and firings, et cetera. Okay. Now, assuming the action today continues as it's directed, the

proposal that you put forward, hypothetically, you have a meeting tomorrow, what would that be? So you put this memo on the table, just so I understand the negotiation process, or maybe not this memo, but you would clean this up and talk about this as council direction for the negotiation.

>> Alex Gurza: I'm not sure I understand your question.

>> Councilmember Rocha: Tomorrow you have a negotiation meeting.

>> Alex Gurza: We have no negotiation meetings tomorrow.

>> Councilmember Rocha: Hypothetically.

>> Alex Gurza: With whom? Which bargaining unit? It makes -- I'm not trying to be difficult, Councilmember Rocha.

>> Councilmember Rocha: Doesn't agree at --

>> Alex Gurza: We have 11 bargaining units. We have five of them where we have an agreement to negotiate together on a ballot measure versus others, and some not. So how would I approach negotiations -- and it's unlikely to be honest with you that any first meeting that I actually make a proposal during that first meeting.

>> Councilmember Rocha: So then what would you do that first meeting and can you pick which bargaining unit.

>> Alex Gurza: Would you like to describe, would you like us to describe how negotiations actually go in that first session?

>> Councilmember Rocha: Sure.

>> Alex Gurza: It depends on the bargain unit it's usually if we haven't met before there's introduction of the teams, people go around the room, introduce each other, know who each other are. There's discussions about how things are going to work during the bargaining, where are we going to meet our frequency of meetings, locations, lots of things that are discussed in a first meeting. How do you think we should proceed. Lots of discussions. So it's very rare that I've ever had a negotiation that usually -- the first meeting wasn't more of a planning session for future negotiations.

>> Councilmember Rocha: So we've had meetings with some of these folks, that's where we established the MOUs. I'll just call them MOUs.

>> Alex Gurza: We just got done with bargaining with 11 bargaining units, so yeah, we've had lots of meetings, so we are at different places with a variety of different bargaining units. So for example, I just got -- I concluded successful negotiations with the Police Officers Association not that long ago but these negotiations on retirement actually bring in the San José firefighters because we've agreed to do it together. That -- so we've already met once, we know each other. Now next step is to set meetings, and the first meeting again is really how do we go from here, where do we go from here on the retirement issues.

>> Councilmember Rocha: Using that group as an example would you now introduce council direction?

>> Alex Gurza: I'm not sure what you mean by introduce council direction.

>> Councilmember Rocha: I don't know how to say it tonight differently than that. I really don't.

>> City Manager Figone: I think we're struggling with what it is you want to know so we can be responsive to you. So are you questioning the approach to bargaining? Do you want to know when we're given council direction in closed session do we lay that out on the table? What are you trying to get at so we can be helpful to you?

>> Councilmember Rocha: I guess I could ask the question again in maybe a different way. In the next meeting with the ones we establish an MOU with, do we introduce whatever council approves today in that next meeting?

>> Alex Gurza: I wouldn't anticipate that that would be the topic of the first meeting.

>> Councilmember Rocha: What would you be talking about? You going to go back to that first point of introductions? We've already met I guess and gotten an MOU to do the framework.

>> Alex Gurza: Well, Councilmember Rocha, what we talk about at the first meeting is not only up to us.

>> Councilmember Rocha: Okay.

>> Alex Gurza: It is a bargaining session with bargaining people on the same team. The firefighters and police officers probably combined with lawyers are probably 12 of them on their side. So what we're going to talk about at a bargaining session is actually a product of both sides. Discussing how we should approach it how we should proceed. So that's the struggle I have with your question is exactly what will be discussed at the first meeting is something that's discussed by both bargaining teams, their side and our side.

>> Councilmember Rocha: How will you introduce council direction, just in this form? Or do you lay out this as a proposal, in a different form?

>> Alex Gurza: Well, things are different given the times -- in the time that we have council direction that's public so, for example, it wouldn't be uncommon for us and we have in the past, if direction has been given to the negotiators in public, as it is here, it's to make sure that they have copies of the memos that have -- that reflect sort of the direction. So if that's what you're asking, that would be typical, that we would provide memos, have done that in the past while we continue to do that. But if maybe if what you're getting at is providing proposals, yes, at a certain point we will be providing proposals that are consistent and reflect the council direction. In what order or how will that all go is something that the city council leaves to its negotiators to decide. So at this point

we haven't drafted any proposals, but we will be doing that, and I don't know exactly what date or what session that will occur.

>> Councilmember Rocha: Okay, that's generally the answer that I was trying to get to.

>> Alex Gurza: I apologize, I really, as the City Manager indicated, was not sure what you were trying to get me to answer.

>> Councilmember Rocha: So if this is any indication of how the negotiations go, I can understand why you may be frustrated or the other side may be frustrated. Probably not a fun conversation --

>> Alex Gurza: Well --

>> Councilmember Rocha: -- to dance around the issue. So can I move on? Now, we haven't done a cost analysis for the proposal that's in front of us from my colleagues. And we had taken great pains or at least staff had taken great pains to do that cost analysis to go forward and measure those out so we know what the final benefit looks like when we're done. So now I'm being asked to vote on a proposal that sets goals again but has no cost analysis, no benefit analysis of what the final package is going to look like. I've talked about this before. I'd prefer to what that looks like before I either give direction on negotiation positions, which to me this is a very hard position, I have more of an interest in interest based bargaining and honestly I don't feel that this is. And a number of folks that continue to come and talk about this, over and over and over and over again, to me, at a certain point you have to listen and say clearly they're frustrated with the process as well. I will not be supporting the recommendation, and I have a memo that in my mind provides a specific direction for staff to negotiate, they've been asking for that. Our new negotiation has been analyzed. If I may also ask, in terms of the approach for interest-based bargaining, do you feel that the approach that we are doing or is going to be doing on this is interest-based? And just so I understand, I don't do your job.

>> Alex Gurza: Yeah, when you refer to interest-based bargaining, there is a certain way of doing bargaining that when I refer to interest-based bargaining, I would ask you if you're referring to capital I, capital B, capital B, because there are trainings and sessions that people go through that are called IBB, very common in school districts. You've been on a school board, you are very familiar with that process. I'm familiar with it. I would say this, that any good negotiator uses interests, what are the parties' interests. Proposals normally reflect those interests. So the city council giving us your direction, there are interests underlying those directions. And so in bargaining, even though you make proposals, let's say a bargaining unit that makes a proposal to us. We would ask them what the interest is underlying that proposal. In bargaining if they make a proposal for example to modify a section of a contract, you get to the interest. What are the interests that you're trying to solve by that particular proposal, vice versa on the other sides. So you know it's very hard to reach an agreement if you don't understand each other's interests, and if the proposals aren't trying to meet and find a way to solve that interest.

>> Councilmember Rocha: Okay.

>> Alex Gurza: Ideally the interests are mutual and you work together to try solve that mutual interest.

>> Councilmember Rocha: Thank you. I'll skip the rest of these questions and just jump to the end here. I'd like to offer a substitute motion which is approval of my memo dated June 20th. With sections A, number 1 and 2, withdrawn, the deferral dates which are the deferral dates of the emergency declaration and drafting the ballot measure and also removal of any reference to a March election in both sections B4 and B5 and incorporate the remainder of my memo to include the action from my colleagues as they've amended in the mayor's memo and the other four colleagues, and combine the two and using theirs as one of the proposals for negotiation on opt-in as a discussion point to begin negotiations. And let me take this a step further, and I would also ask for an analysis. I again go back to having -- I think it's really important to have that. And then I'd also like to include the memorandum from my colleague, Ash Kalra as part of that substitute motion.

>> Mayor Reed: Okay, we have a second so the substitute motion is on the floor. You done, Councilmember Rocha?

>> Councilmember Rocha: Yes, thank you.

>> Mayor Reed: Okay, Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. My comments are not on the substitute motion. But I seconded the motion so my feelings and position on his comments are strong. My comments are on just in this whole process, you know, we're both freshman councilmembers and can I tell you that -- I can't begin to describe the frustration. And I'll tell you what's even more frustrating, is that just the level of disclosure, just in these memos that have been flying around this week, you know up to one, the one that seems to be -- that seemed to get the first proposal out, with the second, that had less than 72 hours' notice. And got five signatures. And if memory serves me correctly, a few years ago, the council had set up guidelines on how to disclose proposals in memorandum form that are going to have the public's interest. And especially that are going to spend tax dollars towards rectifying our pension system, or our budget. And so that, in itself, you know I'm perplexed as to even how to take that. Because it's -- I know Councilmember Kalra put out a memo yesterday, or it was the day before yesterday, and he was the only signator. And I'm assuming he was the only signator because it was a great idea and I would have loved to have signed onto it but there's rules here that require disclosure, you know in terms of if you're going to put a memo out you can't have multiple signatures on it, you know, X amount of days out. So those are -- I just needed to state that. You know, it's very frustrating. Thank you.

>> Mayor Reed: City Manager.

>> City Manager Figone: Yes. Thank you, mayor. As the council entertains the substitute motion I must go on record with being very concerned about what is in this memo, which I would consider to be basically prescribing the way staff does its work. And so I encourage you to avoid what I would view as interference with my responsibility as labor -- your labor relations lead for the city. To frame your direction in terms of the policy guidance and the parameters that you want to achieve and then leave the sequencing, the order, how things are exchanged, the technique, to staff.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Well, thank you mayor. And thanks, City Manager because I was going to make comments very similar. And, you know, I was very disturbed by your comments, Councilmember Rocha, and the way Alex was treated. You know, we have a council-manager form of government. We give direction to the City Manager. And their job is to execute it. And it's set up that way for a reason. And to berate Alex in public, and to ask him hypothetical questions that were vague, and you're right, it was confusing, it was confusing because of the way you proposed the questions. And for you to question how the City Manager executes her authority and management through her labor negotiations think is wholly inappropriate. And I think you actually owe them an apology for the way you treated them. So I think that if you have a problem with the message, don't shoot the messenger. Shoot those of us who created the message. And it's the majority of the council. That's our job. And I was seriously personally offended by the way that exchange went. And I don't think it's the appropriate way to behave as a councilmember. That being said, I'm very troubled by the motion that's on the table. I think that we really do need to go back to the original motion and support that motion.

>> Mayor Reed: I'm not going to support the motion. I think it totally confuses what we're trying to do. Confuses the negotiations, makes it impossible for the negotiators to negotiate and bargain in good faith during the month of July which we hope to accomplish something so I'm not going to support the substitute motion. Councilmember Herrera.

>> Councilmember Herrera: Yeah, I can't support the substitute motion, I think it's too prescriptive and as I said threat negotiators negotiate and Alex thank you for your fine service to our city. I didn't thank you in the earlier -- when we were talking earlier but your team is incredible. Thank you for all the good work you do.

>> Alex Gurza: Thank you, Councilmember Herrera.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. I think the original motion that was put forward handcuffs the ability of negotiations to occur, first of all. I think at least Councilmember Rocha is making an effort to give something that has really routinely been mentioned as an issue when it comes to make agreements. Which is setting forth guidelines as to how we're going to go forward and how the negotiators are going to, at the table, try to achieve some of these bold agreements that we're putting forth, or at least as far as the obligation we're putting before them. Look, I am very troubled and -- by the original memo being put forward and I believe that it's not only counter to good faith but I think once again it puts us down that path of major, major legal ramifications. Mayor, you alluded to that article and what is not mentioned when alluding to that article, the fact that case law -- there's a number of cases referred to in that article. All the California case law and Ninth Circuit case law is against what we're trying to do. And so we can hypothetically talk about well, it's a fiscal emergency and we can do certain things but the reality is that these are all legal paths that we're choosing that we're taking our residents down with us. And so it's not just a matter of oh let's see if we can test this theory, let's see if we can test that theory. We all are aware that we are all going down not just a risky path but one in which the assumption is that we're going to be in years of litigation and years of cost and ultimately achieve not any of the goals that we are all trying to keep our eyes on. Now, in terms of knowing for a certainty and this is speaking to the five signatory memo, in terms of the talking about item 2 in that, which I think really item 2, in that memorandum with the five signatories, really is a sledgehammer that's punishing our employees, if they opt to not -- if they put forward an opt-in program that does not achieve \$186 million in the aggregate cost of pension retiree health cost for 10-11 to 12-13. What we know is that first of all it's not legal. You can't make a requirement that forces individuals or employees to pay for unfunded liabilities that are not of their doing. Secondly, it's not opt-in. We can call it opt-in all we want. Just because you say it's opt-in doesn't mean it's opt-in. If you are forcing one of two very unpleasant options that is not something that's going to hold up in a court of law. And saying it's opt-in and sitting down at a table and pretending that there's really an option that can be negotiated, doesn't help our cause in a court of law. So the idea that we are negotiating in a manner at which we can actually achieve a common solution, at this point is just not accurate. And for the bargaining units that signed on Monday or signed this last week, but they're willing to come to the table and negotiate in good faith, I want to apologize, on behalf of the city. I think that a day, at 9:30 in the morning the day before this final meeting we get a memo that handcuffs any ability for real negotiations I

would be personally offended if I had gone to my membership to sign on the dotted line or I'm leading my membership and then the council, not the bargaining team from the city but the council, almost a majority of the council, comes forward, to handcuff any ability for real negotiation. So I think that we are really continuing down this path that started over a year ago, of continuing to talk about coming to the table and about partnership and collaboration. But not following what our lips are saying through our actions. I do appreciate Councilmember Rocha's memo, and with the addition of Councilmember Rocha's memo which I think provides much better direction to give space for an agreement, I at least think there we have an opportunity, we finally have an opportunity which, frankly, gives guidance that has never existed, when back in February, March when these numbers came out that we had this great unfunded liabilities then months later there's all of a sudden a fiscal emergency and still up until this day until I read Councilmember Rocha's memo there's very little sense of how we're going to get to a place where we can at least try to come to an agreement. We might not at the end but we can at least try. So I definitely appreciate that memo and I want to thank Councilmember Rocha for including my memorandum, as Councilmember Constant indicated, we currently have an unsafe level of staffing, and that's going to get worse in about a week. As the mayor stated, even getting to the point of declaring a fiscal emergency, we have to re-use our police powers, and ultimate amongst our police powers is protecting our citizenry and our residents. I do want to make one mention as to the memo. It is my understanding in talking to Rick, and that's what I went over to talk to him about, is that recommendation number 2 I had asked that the maker of the motion and seconder can just amend it slightly just so we don't have -- because the appropriation aspect cannot be agendized and dealt with at this moment. But what could be stated is that we direct staff to prepare the appropriate budget amendment and appropriation amendment as soon as possible, so that that money can be used to save police officer positions, because officers are out the door in a week. Is that acceptable?

>> Councilmember Rocha: I'm fine with the modification.

>> Mayor Reed: Councilmember Campos had the second? Is that okay? The substitute motion is modified.

>> Councilmember Kalra: I appreciate that Rick, for putting that out since I don't want us to put something out that cannot be complied with. But I will support the motion that's on the table because I think Councilmember Rocha has shown leadership that I think has been vacant in terms of make declarations without having any opportunity to guide our negotiators in the way that can help us achieve those goals. I also will support it because it includes my memorandum and all of us have indicated how important public safety is, and we know that a November election would cost \$3.4 million but we know that a June election which is consolidated would cost \$2 million less. And what we're trying to accomplish even under the mayor's prior memo was trying to be achieved by a ballot measure does not need to be heard in March, it can be heard in June. Because the cost savings, according to the city manager's report, for the 12/13 budget, do not require anything to go to the ballot. And anything that's required to go to the ballot is for future years of savings. So basically those three months we save \$2 million. And why wouldn't we? Why wouldn't we, especially if we have a public safety emergency, why wouldn't we if we are claiming to be fiscally conservative and fiscally cautious we have to get those officers keep them here before they walk out the door. And although, as I said, if it was a stand alone, if the original memo, motion was a stand alone I would not support it because I think it's contrary to the principles of good faith bargaining and again puts us in even further greater legal risk than we were starting when I woke up this morning, I will support the motion because I do think Councilmember Rocha lays forth the groundwork that can finally get us into some sense of reasonable negotiations and because it includes preserving \$2 million for police officers which police officers we need on the street right now.

>> Mayor Reed: I think that concludes the debate on the substitute motion anyway. The substitute motion is on the floor. All in favor? Opposed? I count opposed one two three four five six opposed. So six to -- five to six, the motion fails. Opposed, to the motion, were Oliverio, constant, Reed, Nguyen, Herrera and Liccardo. Got that City Clerk? All right. Now we have substitute motion fails so we're back to the motion that was first made by Councilmember Liccardo. Additional comments or questions on that motion? Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Just Rick, on my question about sunshine, what is -- what's the rule and what happens to this memo?

>> City Attorney Doyle: Memos with multiple signatures are required to be provided four days in advance. The council, it's a policy, the council can always waive it.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I just want to clarify. Because some comments were made during the discussion of the substitute motion. It sounded like there was no recognition that point number 2 on the memo in June 22nd, now has been modified by the direction today. That's contemplated by this motion. And so we are not being prescriptive in number 2 anymore on this and we are letting the negotiators work from a total amount of savings, which is \$186 million, and not prescribing what's contemplated in 2, except that we need to meet those savings and we want those formulas determined in negotiation.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Rick I assume I should incorporate within my motion, the motion to waive the notice preferred in the council policy?

>> City Attorney Doyle: It probably is a good idea. I want to note the rules committee did waive sunshine, sort of a generic waiver on Wednesday, but it is probably a good idea.

>> Councilmember Liccardo: Just to be safe I'll be happy to include that in my motion. If that's okay with the seconder?

>> Mayor Reed: It is okay with the seconder so the motion will include.

>> Councilmember Liccardo: Thank you. And just in terms of Councilmember Kalra expressed a view about the legality of this opt-in proposal, about it won't hold water in a court of law. Well, the truth of the matter is, none of this has been tested. Not any opt-in proposal, to my knowledge, unless Rick can think of an opinion somewhere.

The reality is there are lots of very bright legal scholars out there that are trying to wrap their heads around what is or is not legal. And we recognize that I think whatever we do is going to be subject to legal challenge in some way or another. That hardly means it is legal, it hardly means it's unconstitutional. At least from my layperson's perspective I think this is the most -- this is a very legally viability approach assuming IRS allows us to move forward. And until somebody can show me a case that says otherwise I certainly am not persuaded.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. First I want to say I think it's a challenge for staff to sometimes understand the council direction because we speak with many different voices and difference nuances and just want to acknowledge that's sometimes difficult, especially when you are merging memos together. That just happens on a variety of topics on any given day. So the situation we're in, and we're discussing, affects our residents, affects the retirees, it affects the current employees, and it's just evident. So at the end if you know a retiree doesn't want to see no change to the 3% compounding cola, then that means that has to happen somewhere else. There has to be more from the employees or there has to be more in tax revenue or we have to lay some people off to reduce services. If the current employees don't want to make any changes, then that affects possibly the retirees, again that affects revenue. But this is a discussion that is an education process because I don't feel everyone gets all the information. And in the end, we're going to ask to make a decision, we as the council. And the residents of San José possibly, but certainly again, the retirees and the employees. So for me, it's extremely important, and this should be no surprise to anyone, that I feel that this entire process for July, this negotiation process, needs to be as a public meeting, much like you did with the association of legal professionals, where a councilmember could attend, a resident could attend, an employee could attend, any one of those given folks. At the end it's not a public meeting you know where you get to speak and you get to lobby but you get to see firsthand about what's being transcribed. The city has numerous facilities both small and large where this can be done. And for me, for my vote today, I need to see that happen. So there's a motion on the table. I need -- I would like to request a friendly amendment, that these negotiations be done in public, as some of the bargaining groups have asked.

>> Councilmember Liccardo: Councilmember Oliverio, I know that some bargaining units have asked and others haven't and I'm concerned about specifically the five bargaining units who have signed on to negotiate under the agreement that I think we all seek. What I would like to do, if possible, is to modify the friendly amendment to accept it as directing staff to inquire with the lead negotiators of the bargaining units if they would like to have a public negotiation, and in the course of negotiations, the parties can then decide whether to do so or not.

>> Councilmember Oliverio: Councilmember Liccardo, that's correct. We cannot force a bargaining unit to public negotiation. But if they would like to accept and would like to go under those as the ground rules then we should certainly afford them the opportunity to do so.

>> Councilmember Liccardo: I agree. I'm just a little concerned about directing our negotiating team to do that.

>> Councilmember Oliverio: Well let me phrase it a different way. I believe if a bargaining unit wants to hold their negotiations on these topics that we're talking about today, and they would like to do it as a public meeting, then we should allow that option to happen. But for us to continue in the manner that we do, when you don't have any trust, and I think for some times there on some levels, the only way is to open the Kimono and build the trust. And I think the current system would not allow that. Now, I'm not forcing every bargaining unit to do it, but certainly some will want to, and I think there's value there.

>> Councilmember Liccardo: Allow me to propose this. We're not going to be here anyway. Well we'll be here but we won't actually be in session through July. If perhaps negotiators could be given the direction to make the inquiry if there's a desire from the labor bargaining unit to have an open session, then that information be brought to us back in closed session, and in closed session, as a council we can then vote to direct the negotiation be in open. I'd rather not make the decision here and now without knowing under what conditions and terms the negotiation will be conducted under. I think we all know there are lots of variations in terms of how this can be conducted and I think it's important for us to hear from our negotiating team as to the advantages and disadvantages based on the context in which the agreement may come.

>> Councilmember Oliverio: I disagree. I know there's -- that we -- there will be reasoning to not do it but I think the value of doing it far outweighs any risk. This city is broke. And we can lay out the books and we can see -- have everyone see exactly what's going on. Again, the process is brought a lot of pain to a lot of people because of mistrust of what happens. And we as the council aren't allowed to even attend. The public cannot attend. Membership that's not an elected union member cannot attend. To me it's the most important thing we can do. Because this is a -- it's such a -- there's no other topic in this city that's as important as this topic right now. And I think we should -- you know we should do it in public.

>> Councilmember Liccardo: Perhaps if I could, if I could ask for staff to comment as to the specific friendly amendment that's made, to seek their input. If either Alex or Deb would like to respond.

>> City Manager Figone: Let me begin. I don't think it's a good idea, not necessarily because we're afraid of transparency, because the process of labor negotiations despite what anybody thinks about our technique is one of give and take. And talk about undermining trust, I think that it would put our bargaining units at risk, they can speak for themselves, with you offline. But I do not believe we would have gotten a deal with the POA at the last minute if these had been public negotiations. And there's a process that's involved, there's a give-and-take. Our bargaining units are engaging in discussions which, in which they're talking about changing our employee benefits. And in that exchange, they are taking risks, in fact, in some ways I think our direction is maybe clearer to us than how they might approach the problems when there is so much pressure on them. So I do not think would you get the free flow of exchange of ideas, the expression of emotion, the give and take that happens in that creative process by treating it like this technical straight-line path that has to happen out in public. And that's my experience with labor negotiations. Things come together in sometimes the strangest ways around I think you are realize underestimating the undermining of the process and the undermining of trust that will happen if you put this on display. That's my input, councilmember.

>> Mayor Reed: Let me agree with the City Manager. And to thank our negotiating teams for getting six contracts out of 11 over the goal line during the last round of negotiations. And I know it was very difficult. One of those contracts was our legal professionals. And the negotiations were done in public but that's not how it got

resolved. It did not get resolved until the parties had a mediator and confidential, nonpublic communications. And I think that's just an indicator of the importance of being able to pass proposals or make supposals or have what-ifs and do brainstorming sessions in a time when it's not in public. You will not get that kind of thing happening in a public negotiation session. I don't believe. So I agree with the City Manager on that. I don't know if Alex wants to add anything to this. I think the City Manager put it pretty well. So I don't support the friendly amendment or the proposed amendment. But we ought to do what George Beattie said in his letter, let our negotiators negotiate in the month of July. They have got more than they possibly can do in July. We have agreements with five bargaining units that does not call for public negotiations. And I know if Alex gets a proposal from one of the other bargaining units to do public negotiations or any other kind of negotiations, he'll bring it to us, and we can deal with it when it happens. But they got way too much work to do already without trying to layer on yet another level of complexity to what they're doing. So let's just let them work in July and see if they can accomplish anything. Councilmember Oliverio.

>> Councilmember Oliverio: Mayor, to your example, certainly if both parties said, you know what, we've tried this public negotiation thing, we need the mediator, they're more than welcome to do that. But before then everyone got every step of the way because what happens now is we get a final package and it comes with a lot of scars and emotion and then we vote on this thing. And this thing is so important. I can't -- I can't support going forward unless we have this public. Again, of those that are willing to accept. It's that important.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I really appreciate where Councilmember Oliverio is coming from. And I know that he actually sat in on some negotiations with the legal bargaining unit. And it was really informative for him and he's found a lot of value in it. I'm concerned about the risks that our City Manager's outlined, the mayor's outlined and Alex has outlined. I'm trying to see, if we had the ability -- Councilmember Oliverio, if -- you've publicly now stated what you want to happen and you've stated it many, many times too. And I think actually your continued emphasis of this has created more opportunity for us to have these discussions in public. I think that's probably why we start off in the morning with having those public sessions, it's because of you. So you have made a lot of

progress in this area. But would you consider at least letting the bargain units who want to do this come forward with proposals to us? Like, you know, we've got this out here now and move this forward with the direction being if a bargaining unit wants this to be public, let them present that proposal to Alex and then we can consider it?

>> Councilmember Oliverio: So some bargaining units have done that. But what I think you're saying Councilmember Herrera is that you'd want the council to review the ground rules of that public meeting, to make sure that the 11 of us feel that it's a fair public process?

>> Councilmember Herrera: That would be it, yes.

>> Councilmember Oliverio: Well I would say I'm warm to those words. But certainly, Alex, I'll ask you this: The way we did the association of legal professionals seemed just fine.

>> Alex Gurza: I would have -- I've never conducted labor negotiations in public --

>> Councilmember Oliverio: I'm sorry, you weren't in that one. Gina Donnelly.

>> Alex Gurza: That's right, I do not conduct the negotiations with the Association of Legal Professionals. Since my wife is in that bargaining Unit, Gina Donnelly conducts those negotiations, so I would defer to her.

>> Gina Donnelly, deputy director, employee relations. Councilmember Oliverio, the negotiations that we conducted were the first that I had ever done in public. So considering the deal that was actually struck occurred in mediation, which was done privately, I would have to say that that was more effective from my perspective. But I really don't have any other public negotiations really to gauge that against.

>> Councilmember Oliverio: Yeah you know Gina someone who has sat there for four years and listened to both sides, I think sitting in that session was one of the best thing I'd done on the council, because I got to hear from their own face, their own words how they saw the situation. And sometimes I said, you know what, I can't

disagree. Other times I thought, wow, that's way off base. But I got to see it. And I think that process is so important. We have unions represented by more than a thousand people and that message doesn't trickle down to the actual rank and file employee. That message doesn't trickle down to the resident that's ultimately possibly going to vote to change the charter. You know, Councilmember Herrera, I still stick with it, that we need to have something. I'm not feeling I'm getting anything and this whole month of July left without this amendment means we continue in a closed door fashion and I have to see some labor leader here tell about how the negotiations failed and the city meant them to fail. But if I'm there in public, or residents are, or the Mercury News or whoever, we know the step by step, the play by play. This is going to be a very contentious thing. We're talking about changing many different fast et cetera of a retirement system where there is many contentions and many legal questions. This is a true negotiation and there is no reason why a retiree from our city shouldn't be able to hear discussions about their cola. And what that really costs and if doing nothing makes it so expensive for an employees to be -- remain employed in the City of San José we force people to quit. And I think that discussion needs to be held outside.

>> Alex Gurza: Could I add -- Councilmember Oliverio, if I could add a couple of things. Number one, my understanding about the negotiation of legal professionals is, you were one of the only people who attended. I think there was another city employee president of another bargaining unit who attended.

>> Councilmember Oliverio: Alex they were held on a small room on the 17th sometimes the 18th floor. Let's use the council chambers.

>> Alex Gurza: If I can reflect what you're saying you'd like to hear directly from the bargaining units. The question becomes whether or not the council wants to bargain directly with the bargaining units. There have been bargaining units that have proposed to do it with the public with all 11 councilmembers there engaging in it. There was another bargaining unit who proposed not really public negotiations, but where two of you would be present, and they would select the two of you that were there. I'm not -- again in terms of the negotiations believe me my staff does not enjoy having people come to the podium and accuse them of certain things that occur in bargain. It's not an enjoyable process to them, I can assure you of that but I can tell that you I don't know of

another city in California that provides more information publicly about its labor negotiations than San José. If there is another one I certainly would like to visit their Website. I don't know of one that puts the proposals on the Website for public review. We can't modify those proposals, they are what they are, right? In terms of the discussion and be able to hear what discussion is go on at the bargaining table again yes it is different hearing directly than us being able to summarize that negotiation. If we have a four-hour session, an eight-hour session or when I negotiated that deal with the POA, late until 11:00 that night you might want to know exactly how that all happened. So my summary to you is going to be very different than if you were there. And I understand that issue. The question becomes, is that the way that you want to do labor negotiation which is quite a different process. And again, I've done this for a lot of years. And I don't know of a labor negotiator that does it on the management side that thinks there aren't the real down sides to it. The upsides for us of it is you're right and the accusations are going to be there, you're going to be able to know whether my staff was polite and professional or were they not. You're going to be able to hear the discussions. That's a positive -- we see that as a positive but again in my experience when you reach agreement when we can focus on the six that we did those bargaining units worked very closely together. We have some of them right sitting in that front row, who worked very closely with our bargaining team who -- who by the way appreciate how much they complemented the professionalism of my staff, and they were as well. It wouldn't be the same if it was done with anybody being able to attend, including people from other bargaining units, dynamics I think really shift when you do that. So but that doesn't mean we have -- we don't want anybody the mistake, that means we have something to hide. Again look at the proposals, look at the website and do all that. But you know if you want to have them open that's a council policy decision and we can make our best professional recommendation and then it's up to the council to decide if you wanted to have them in public.

>> Councilmember Oliverio: And I would add Alex it would be fine with me or to the -- someone who made the motion that council cannot be used as a pawn in this in direct-dealing with the council. I remember proposals before where someone said well let's just do it at a council meeting. That's wrong. We don't have that type of time and we have other business to conduct here. But if the council is left to you know just attend as a member of the public and if we even want to say you know that there will be no mention or direction of what the council can't do or cannot attend, I even be -- suffice it to say to lock it and say you know no more than a councilmember or staff

can attend anything above you know four or whatever the Brown Act would require. But at the end we're just public. We're just watching what's going on. I garden you we won't get the majority of the council at these meetings based on our schedules and time. I know I would attend some of them but again, I think it's the most important thing we can do. I mean we are declaring an emergency.

>> Councilmember Liccardo: Mayor can I perhaps respond to the request for a friendly amendment?

>> Mayor Reed: Certainly.

>> Councilmember Liccardo: I'd like to propose a modification of the amendment that would require, as Councilmember Oliverio suggested, first that an inquiry be made of bargaining units whether they want to negotiate in open session. If the conditions around that negotiation are such that our bargaining team is comfortable doing it in open session, they should accept the invitation. If they are not comfortable with those conditions they'll return on August 2nd, at our very first opportunity, when we can discuss in closed session whether those conditions are in fact appropriate for an open negotiation.

>> Councilmember Oliverio: I would be fine with that.

>> Councilmember Liccardo: Thank you. Is that acceptable to the seconder? Pete you're so easy today.

>> Councilmember Oliverio: Understanding this: If a group's going to come forward, much like ALP did, then that's acceptable. If they want to have something extraordinary, then come back to the council. But the way ALP laid it out where there was no public comment, people from the public could attend and there was no question on anything about councilmembers, that was fine. So I want to make sure that's going to be okay because if any proposal is going to cause a wrinkle then nothing's going to happen in July so I want to hear that from our professionals.

>> Councilmember Liccardo: Here is the problem Councilmember Oliverio. As far as I know only one of the 11 of us have any knowledge at all about the negotiations and what the conditions were. So I'm very uncomfortable saying that's the only model because the only knowledge that I have about those negotiation is they failed and the successful part of the negotiations went to mediation.

>> Councilmember Oliverio: Because mediation isn't allowed to be public that's why.

>> Councilmember Liccardo: They succeeded in private.

>> Councilmember Oliverio: But all the process before was in public.

>> Councilmember Liccardo: But it didn't succeed.

>> Councilmember Oliverio: We're not going to agree. We need to do what we did with ALP. If someone comes forward with ALP's ground rules would that be acceptable? If Gina and Alex want to huddle for a minute, that would be fine.

>> Alex Gurza: Ultimately, I don't recommend that council put that on my negotiating team. I think the council should make a decision. Six votes makes them public if they want to and I do want to point out however, the framework that we signed with the five bargaining units does not provide them to be public.

>> Mayor Reed: Okay, we have a call for the question, that's a question to cut off the debate. In order to cut off the debate we need a two-thirds vote, and I'm not sure what the motion is. So I'd at least like to know what the motion is before we --

>> Councilmember Liccardo: The amendment has been made as I just described. That would allow the bargaining team the discretion to accept open negotiations if they're under conditions in which the bargaining

team is comfortable. If they're not then bring it back in closed session and we can discuss under what conditions open negotiation would ever occur.

>> Mayor Reed: All right, so that's the motion. The motion is whether or not to cut off the debate at this time. It takes eight, right? City Attorney, eight to cut off the debate. All in favor of cutting off the debate? Opposed, one two three four opposed. So we're not going to cut off debate. I'm concerned about the motion as amended with the friendly amendment, because it is not clear what we're asking our bargaining unit to do. And so I need to have that understood before I can support it. Alex is saying, he doesn't want the burden to fall on his team, to make the decision of whether or not to do something in public.

>> Alex Gurza: Yes, that's exactly correct. Because again, what I'm afraid you'd be doing is setting up a bargaining team to make the decision that they have something to hide, so they want to do it closed. The question becomes: It's really a policy issue as to how to conduct labor negotiations. Again I'm not aware there have been some people that have told plea some agencies do it in public. I'm not aware of any current ones that conduct it in public. I've consulted with a lot of people about the challenge. And actually, most of the reaction I get is more about the level of information we provide publicly. Meaning that we do more than most, including providing direction to your negotiators in public, that is very, very unusual. But anyway I don't think that we ought to then have my staff in a position where they say no, under these conditions we won't do it, then what will happen back in August is you'll have people at the podium saying that my staff is trying to hide something. I think it really is simply a policy decision which is the council, does the council want these negotiations to be public?

>> Councilmember Liccardo: I'll withdraw the amendment.

>> Mayor Reed: Okay with the seconder? Okay. So no friendly amendment on the issue of the bargaining at this time. Councilmember Pyle.

>> Councilmember Pyle: Well, because this has become almost a separate issue unto itself, to be fair to Councilmember Oliverio, and to everyone here who would really like to go home, I think that something that we

should bring back, come to Rules and it should be agendaized for future discussion. I don't think this should be something that keeps us from making the vote that we are here to make. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: So on the motion on the table, and I know that some of you are discussing the -- this most -- the latest edition to it. But on the motion at the table, I have previously discussed it briefly and one of the issues I have, again, is in the opt-in by putting the \$186 million as a goal, it really, in trying to make sure that we can actually calculate precisely what we're going to get, it's contrary to how we operate in general. The whole expectation, the reason we're having layoffs, the reason why we have such an aggressive manner in which we're approaching this fiscal issue that we're in is because we're basing -- because we're relying on projections, relying on market assumptions on actuarial opinions and that's how we're coming to these conclusions and yet when it comes to devising an opt-in program we want such precision from our bargaining units that we're going to have certain savings and if we don't get that we're going to hit them with a hammer. And that is -- not only is that not fair, it is certainly contrary to how we've been acting in regards to the rest of this fiscal crisis we're in, when we're using projections, some of which are based upon -- some of which are based on market assumptions, some are liabilities that are amortized over decades. And yet we are using all that information to lay off police officers and close library hours. And so when we talk about going down this -- the parameters we're putting forth for this type of how we're going to go down the path of an opt-in program, yes, you know, no one knows, it may be some uncharted territory in terms of the law. But there are some bright legal scholars that serve on our state courts that have deemed that vested rights are protected. And when you put in such strict parameters on an opt-in program, you cannot deem them to be voluntary. And negotiations are being set up to fail. And that's where we're going to be at great legal risk. And although we don't -- may not have case law on this exact fact pattern, the reality is there's no way we can have a rosy prediction as to how they will go forward with a blank slate in terms of what the courts have done. And if anything, based on current case law, it puts us in a very dire position. Now in terms of -- in terms of going forward, you know I just -- what my greatest concern is again is that we are so aggressive and so specific in what we're demanding that we lose sight of what we're doing to our city. We lose sight of the public safety risk we're putting our residents through. We lose sight of the fact that even the goals, as ambitious as they

are, are almost impossible to be achieved in the manner in which we are going about them. And at some point I hope that we certainly come together as a city, we come together as a council, we come together as employees and as residents, and determine what kind of city we want to live in and what kind of conditions we want to live under and use that as the foundation of how we build our budgets and use that as a foundation of how we conduct ourselves and use that as a foundation of how we serve our residents.

>> Mayor Reed: Councilmember Oliverio. [applause]

>> Councilmember Oliverio: Thank you, mayor. If I may ask Vera Todorov, who is in the audience, so Vera, can I ask you a question? Yeah, I think you need to go to the podium. So vera, you were on the negotiating team of ALP.

>> Yes I was.

>> Councilmember Oliverio: Essentially the way I saw it was, the public could attend, I was not allowed to speak, that's fine, I didn't want to. Let me give you a specific question: How did you think that worked for you?

>> I frankly think that the open negotiations -- we had absolutely no reservation about talking with the city about what we wanted, what we were proposing. The problem was the city's responses, I lay it flat on the city's negotiators. They were consistently unbending, unflinching. They lacked explanation. In fact even when we went through mediation, that was the case. The mediator from vacation in Hawaii ended up basically you know mediating what was revisions to what we thought were basically unlawful reopener, that stalled negotiations for about three months with us.

>> Councilmember Oliverio: Okay so Vera I know you got a lot of insight --

>> Open negotiations I think made absolutely no difference. I think it was good to maybe have a mediator in at the end but I think we could have resolved this three months earlier than we did but it wasn't because the negotiations were open. It was because of the position the city was taking.

>> Councilmember Oliverio: I just want to ask you on the structure of the public negotiations, what is like three things you need that would allow it to be a no-brainer for you, like because I sometimes think we're caught up in the process of what would this public negotiation look like.

>> I think we would see, off the public sites, for example, things that have been proposed by other bargaining units that the city negotiators were willing to take to council to recommend approval. When we asked the negotiators what they meant they said you'd have to ask we don't know because it's not our proposal. That's counterproductive. I don't think that being in public or being in a private -- a closed session would have changed that response. I think being in a public session was exactly the same. I must say that there was one difference between our negotiation sessions that you would find from the other bargaining units and that is because we're lawyers that have a duty of representation to the city that when we felt that we might be bringing up issues that would cause liability to the city or somehow compromise the city in any manner, legally, that we left open the fact that we could close the negotiations for that purpose. That would not apply to any other bargaining unit. But that was something specifically that we requested, in order to protect ourselves, and to protect the city council who we represent. But other than that I think the public negotiations were fine. You know, Pierluigi took a -- you know Councilmember Oliverio took some hits in there. I remember turning to him one time and saying, this is all your fault, you remember that? But otherwise you know I think that it was a very good session. I think that the fact that maybe a number of people did not attend who could have as Mr. Gurza indicated it doesn't matter. You may be here late at night with two people in the audience --

>> Mayor Reed: I think I'm going to have to cut you off.

>> It doesn't matter.

>> Councilmember Oliverio: Appreciate that Vera. I wanted to point out but still people were able to observe the process. I don't want to belabor it mayor, I hate to take up the council time when we're on a special meeting but for me to support there going forward I need some way for -- some way for this to allow to go forward for a bargaining unit that sets up with reasonable open negotiations. Now if again if they come with some great very detailed onerous type of thing then I think that would be difficult but you know I need something to be able to move forward.

>> Mayor Reed: The way to go forward is as Councilmember Pyle suggested, which is if a bargaining unit wants to discuss the ground rules and they want to propose that, that our negotiating team brings it back to us and we decide.

>> Councilmember Oliverio: We'll lose a whole month.

>> Mayor Reed: We're going to lose a whole month with what you're proposing so either way. We need to let our negotiators negotiate, quoting George Beattie again. Let them do it. See what happens. If somebody wants to change the way they negotiate then we can deal with that but I'm not going to -- I can't support a blanket rule or direction that puts our negotiating team at a disadvantage. They have enough work as it is. And let me just ask one rhetorical question. Is how well would the negotiations go, if Councilmember Oliverio or anybody else is sitting there blogging the whole time about what people were saying, how they were looking, or anything else? That people could do if it was open. I think it would have a negative impact on it, and the ALP negotiations didn't have that happen because you were there. You weren't blogging on it. But if that was happening it could change the whole nature of the negotiations and I'm just not ready to understand how we might do it in a way that doesn't create that potential.

>> Councilmember Oliverio: Well, mayor I imagine you believe in a free press. I mean at the end of the day if people want to observe a situation and say one side's reasonable or one side's unreasonable and that was an offer or that one was an offer, we have that right to judge in society about what we observe.

>> Mayor Reed: I don't disagree with that. What my objective is to get a contract. If my objective is to get a contract, we got to let our negotiators do their jobs. they're the professionals, they understand what needs to be done. They've got lots of years of experience. They say it's not going to be helpful to do this in public. I believe them. Based on my experience doing negotiations, I think they're right. You want to defend yourself --

>> Alex Gurza: Well, you know, it's interesting. Because in all the years I was negotiating in the '90s when the economy was good and we were giving raises, there wasn't this discussion. To be honest with you, there wasn't the discussion of the trust and the life at the table that we have now. Some of my staff have worked here for ten years, seven or eight years, six years, I've worked here 17 years. We're not different people and the issue becomes, I don't want to make it seem that it's going to make it easier to negotiate, right? 10%, concessions, very difficult negotiations. You're sending us in to go negotiate incredibly difficult changes to pension benefits. I don't want to mislead anybody that if we go in a room with nobody there, that it's going to be easy. You're sending us off with great challenges, so we may not be -- who knows, we'll work hard, we'll try to be successful. But I don't think it hangs on open or closed. These issues we are dealing with are extraordinarily difficult. We're talking about pension benefits and again I think we're -- to be very frank with you, off on a topic that isn't really the underlying issue. The underlying issue is how to solve an incredibly difficult issue and whether it's public, whether it's open I don't think is really the underlying issue.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Yeah, I just found it remarkable that Ms. Todorov even after going through open negotiations, still accused our negotiating team of being obstructionist which tells me that exhibit A as to why open negotiations still don't save us from the very issue that Councilmember Oliverio identified as being the problem. And the truth of the matter is, none of us in the room except for the one or two people that actually sat in have insight as to whether or not our negotiating team was being obstructionist because 99% of the world still isn't going to watch it and you're still going to be left with the assertions at the dais. We got to recognize that this is a very heavy lift that we are expecting our team to prepare, this team sitting to my right is extremely exhausted after very difficult negotiation with 10% concessions and they're going to be very challenged to make these tough

deadlines this fall. I think particularly given the enormity of the challenge of dealing with very complex issues around retirement, I say if you've got even one bargaining unit that wants to have an open negotiation and it becomes a circus it will excuse me everybody's time and they won't be able to focus on the really critical task which is negotiating.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: We're getting sidetracked. We need to focus on the real issue, which is solving these problems and letting the negotiators negotiate. Alex said, great; let's move on and let's just vote on this.

>> Mayor Reed: All right, we have a motion on the floor made by Councilmember Liccardo some time ago now, but I think we're done with the debate and the discussion. So on the motion on the floor, all in favor, opposed, I count opposed one two three four five six opposed. Opposed -- let me make sure I got them right -- was Kalra, Oliverio, Chu, Campos, Pyle and Rocha. Six, right, six opposed, so that motion fails on a 5-6 vote. So we have no direction on opt-in programs.

>> Councilmember Liccardo: I'd like to make a new motion.

>> Mayor Reed: Okay, you got the floor.

>> Councilmember Liccardo: The prior direction plus the amendment that I contemplated earlier, which was retracted. Relating to allowing open negotiation, under conditions which are appropriate. And if there's any reluctance or return to those negotiation then it's brought back to the council to decide in August.

>> Second.

>> Mayor Reed: We have a slightly different motion. Anything else on that? Alex you want to speak to that?

>> Alex Gurza: I'm sorry, I know everybody wants to go home. What's important when we leave these sessions is at least our negotiators ups what you mean. So when you say under conditions that are appropriate, I really don't think looking at you that we all know what that would mean.

>> Councilmember Liccardo: I don't know either because I'm not a negotiator Alex. You know how to negotiate. If the conditions are such that you believe are appropriate then I believe you will say so when you bring it back.

>> Alex Gurza: We don't believe that labor negotiations are most effective when it's open to the public. We believe -- I wish George Beattie and Jim Unland were here. They have very recent experience, at least with me personally, and I think they would agree that if those negotiations were in public, they would have been very challenging, to work through the issues that we did. So I think I'd like to leave you with now that our recommendation is, not to conduct labor negotiations in public.

>> Mayor Reed: City Manager.

>> City Manager Figone: Alex, if the council wanted negotiations, it is their position, we would accept that. What you're accepting is you're making a value judgment about what's acceptable and is that not what you're concerned about?

>> Alex Gurza: Yes I think the council knows that you've sent this in on very difficult direction in the past and you know that whatever direction you give our staff we will do 100% effort to achieve that goal. If you said, Alex and the team do them in public we will do them in public and make them work the best we possibly can and give them our best effort. I guess what I'm saying is rather than leaving them up to us to decide, our recommendation is they're not, is to have the council decide whether you want them to be. If you decide that they are, then we will do that.

>> City Manager Figone: And I think what the councilmember is trying to give us the space to weigh in on, Alex, is if a bargaining unit comes forward with guidelines as we have articulated are a problem for us, that we would not agree to negotiate in public, such as having two or three councilmembers in the room, and some of the other things that we have found just problematic.

>> Alex Gurza: I guess -- our recommendation is very simple. We do not recommend them to be public. So I don't want to -- I mean again, so I can't think of a condition under which we would say yes, now we think it is, if it's public it's public, it's not something difficult. To me it's a very simple issue. Are the negotiations public or are they not? Then if they are then we work with the bargaining units about meeting location, noticing, you know whether people should talk, that part's the easy part.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Please don't be offended by this. But I think in some regard here we're overthinking this. So we've already had a public negotiation with the legal professionals, right? That's happened.

>> Alex Gurza: Yes.

>> Councilmember Herrera: Not that it was ideal, in your view, but it did happen. So all we're saying is if a bargaining unit comes forward and requests it, we're not saying everybody, we're saying they have to request it and if the conditions are if you see that there's any issue then you bring it back to us. If there isn't an issue then it goes forward. We're trying to give you some latitude, just like in other situations where you have latitude. I think you have latitude to decide that I think you're overthinking it, I really do.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I just want to ask Alex directly, sorry Alex, I know you are trying to get some information here. I would trust that you could use that time to get a sense from our employees as to

where they're coming from. There is no question in my mind that every employee group understands what it is that we're trying to do. Do you have -- do there have to be that pointed a mandate for to you meet with groups or do you -- I mean what's an option here? Could you take the time off, come back later when we come back from recess? I don't -- I don't understand -- I would like to understand. If it's possible for you to just do some exploratory work. With the groups to see what their ideas might be in reference to opt-in?

>> Alex Gurza: Oh, absolutely. I would envision that a lot of the discussions would be surrounding opt-in especially from those bargaining units that have proposed them to understand them yeah we would be doing a lot of those discussions.

>> Councilmember Pyle: Is that something I could turn into a --

>> Mayor Reed: No, we have a motion on the floor. On the opt-in so I think that's -- yeah, the issue -- we have a motion on the floor regarding the opt-ins including the change with regard to the negotiations in public piece. Let's see, Councilmember Liccardo. Anything else? Okay. City Attorney, looking like you're ready to hit the button there.

>> City Attorney Doyle: I'm ready to vote.

>> Mayor Reed: Let the staff vote on whether or not we should stop talking. Don't vote on that. On the motion on the floor, all in favor? Opposed? Kalra opposed, Chu opposed, Campos opposed, Reed opposed, Pyle opposed, Rocha opposed. That fails on a five-six.

>> Councilmember Liccardo: I have to try one more shot at this.

>> Mayor Reed: Let me suggest that if somebody wants to have a public negotiation, they want to propose grounds rules, that we call a special meeting in July and just deal with it.

>> Councilmember Liccardo: I'm happy to incorporate that as -- to replace the last amendment. That would be the motion.

>> Mayor Reed: I think that fails for lack of a second. I didn't hear a second. I'm sorry you want to restate the motion?

>> Councilmember Liccardo: Sure. That -- that the prior motion would be made with the requirement that if there is a bargaining unit that wants an open negotiation would come back for special session right away for council to make the decision.

>> Mayor Reed: Okay, we have a motion, get a second down here, the motion is to bring it back to us and if we need to have a special meeting in July to do that, we will. Okay, on that motion, all in favor? Opposed? I got an opposed, Kalra, Chu, Campos, and Rocha. That passes on a -- and Pyle is opposed, that passes on a 6-5 vote. That is done. Leaving us with a question of polling and scoping and the time of polling. Councilmember Liccardo.

>> Councilmember Liccardo: Mayor I'd like to make a motion to -- as to approve paragraph 3 only of a memorandum dated today.

>> Second.

>> Councilmember Liccardo: Which everyone may not have had a chance to see so I will simply very quickly cite the memorandum that City Manager shall conduct polling this summer, and shall include questions in that poll that seek to assess the level of support for revenue generating measure where it is, one, included -- first of all, assess the level of voter support for revenue generating measure under various conditions, as recited there. Second, a specific tax to support public safety, versus a general tax. And finally, that ballot language should be vetted with organizations experienced in proposing and supporting a ballot measure such as the leadership group, the South Bay labor council and the chamber of commerce.

>> Councilmember Herrera: Second.

>> Mayor Reed: We have a motion to approve and I have a question with the motion. I assume the motion contemplates polling in July.

>> Councilmember Liccardo: Yes, I guess that's about the only opportunity we have. I said this summer but --

>> Mayor Reed: Staff was talking about maybe doing it in February ahead of a March election. We're going to poll in July, that's the motion?

>> Councilmember Liccardo: Yes.

>> Mayor Reed: On the motion, Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Point of clarification. On polling, A, I guess it would be 1, 2 and 3, is that included in your motion?

>> Councilmember Liccardo: Yes it is.

>> Councilmember Campos: Okay thank you.

>> Councilmember Liccardo: Those various conditions. I think it's apparent at this point, it's probably not relevant at this point, we may need this for the March, that's fine. If that can be done this summer without creating, I know you're concerned about keeping the number of questions short. So if that can be included, great. But I would say that's the lowest priority, is testing elements one two and three. But I think we clearly want to test the specific tasks of core public safety, so I want to make sure that's a priority.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I wanted to refer to Tom Manheim, I could have sworn you said you have to make the call pretty close to the voting time in order to be most effective.

>> Tom Manheim: Thank you, councilmember. When we talked to the consultants they did urge us to, as we think about polling, poll closer to when we're going to do an election. So my question actually was, whether this was contemplating a November election this year, or whether it was contemplating any particular date.

>> Councilmember Liccardo: It is. It is contemplating a November election this year. Obviously recognizing that an off year November election is a very heavy lift. But also, recognizing that there's going to be enormous rush to the ballot in 2012 from lots of different jurisdictions for tax measures and so we ought to at least ask the question this year to see if we've got any shot at all in November of 11. And I think particularly the rising concern around public safety may in fact create an environment in which people recognize there needs to be public support for revenue measure to put more police out there on the street.

>> Councilmember Pyle: If I may though that would require \$2 million more and I think that would be a tough sell for taxpayers out there.

>> Councilmember Liccardo: If I might respond we're talking about a measure that could raise \$34 million every year. And I think that would be a happy tradeoff to spend \$2 million now for the -- for \$34 million revenue measure.

>> Mayor Reed: So the only thing that could go on a November ballot would be a special tax because otherwise you've got to have a unanimous right --

>> City Attorney Doyle: You can get a special tax with only six votes.

>> Mayor Reed: Okay, if you don't poll it in July, you can't do it in November. I guess that's the point. On the motion, all in favor? Opposed? Got some opposed, Kalra, Oliverio, Campos, Pyle and Rocha, I think that passes on a six-five vote. Tom Manheim.

>> Tom Manheim: Yes, if I could get some clarification, we also had some recommendations about direction to work with state holders regarding possible business tax modernization that would be not for any particular date but to start that work now. And I'm wondering if that's part of the direction.

>> Councilmember Liccardo: My understanding that's prior direction so did I not include it in the motion because I just assumed that was prior direction.

>> Mayor Reed: You want more specific direction Tom?

>> Tom Manheim: If we're already directed to go out and work with stakeholders on that, no, I don't need anymore.

>> Mayor Reed: Okay, nobody's objecting to that. I think we are done. Is that -- am I right, City Clerk? Open forum. Already did. No open forum. No cards. All right. We're adjourned. Enjoy your July, folks, we may have a special meeting if necessary. We'll let you know.