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>> Mayor Reed: (gavel strike) Good afternoon. I'd like to call the San José city council meeting to order for September 25th, 2012. We'll start the meeting with an invocation. Councilmember Herrera will introduce our invocator.

>> Councilmember Herrera: Thank you, mayor. Pastor Tim Woods is going to be conducting our invocation today. Pastor Tim has been in the ministry for over 26 years. And he and the entire congregation of Evergreen valley church are dedicated to serve our community. Their kids program provides after school programs for kid at Cadwallader and dove hill elementary schools and now five other schools. They minister to the homeless at the envision center on Montgomery road, and to seniors at regency of Evergreen and vintage Silver Creek living centers. Every year they sponsor 75 families during the holidays, and Evergreen valley church hosts a fall festival on Halloween and the hunt, an annual Easter egg hunt, where they give away 10,000 eggs. I also want to say the has been an honor to work with pastor Tim for the mayor's gang prevention task force. Pastor Tim and his congregation played a critical role in beautiful day last April, a project where volunteers conducted service projects throughout the city in areas hardest hit by blight and gangs. In District 8 Pastor Tim and volunteers work in the Tochna area, around Overfelt High School, and removed graffiti, picked up litter, mowed lawns, brightened homes, schools and homeless shelters. And Evergreen Valley Church has been instrumental in working with volunteers from churches in our community to promote this great service event. I thank pastor Tim for all of his work in Evergreen and throughout San José and now invite him to share the invocation, to perform the invocation today.

>> Thank you, Councilmember Herrera. Shall we pray. Gracious father thank you for blessing us with the gift of today. This is a day that you have made and we will rejoice and be glad of it. And we acknowledge you as the giver of every good gift. You have given this day to be glad if and to do good things in for your glory. As we acknowledge you today O God we pray your blessing on our mayor and city council. Bless them with your wisdom today as they deliberate and make decisions. I ask you to given them the courage to do what is right in your eyes, may they not grow weary in doing good things. For know we will reap a harvest if we don't give up. I ask you to fill them with the joy of your presence, let them experience your blessing, because it is more blessed to give than it is to receive. So bless them in their service to our city. Let them experience your peace in the midst of trying

times. Peace in their mind. Peace in their homes. Peace in their workplace. And thank you lord for each of their lives and their skills and their experiences and their compassion for everyone who resides in our city. And father, bless our city. May San José be a shining light to other cities. Thank you lord for hearing our prayer today and for being such a good and gracious God. In the name of Christ, I pray, amen.

>> Mayor Reed: Thank you, pastor Wood. Next we will have the pledge of allegiance, helping us out with the pledge today are students from the third grade class of Franklin elementary school district 7. Please stand. [ pledge of allegiance ]

>> Mayor Reed: First item of business are the orders of the day. Have some changes from the printed agenda. Need to add the presentation of a proclamation regarding histiocytosis awareness month, and item 2.10 D final adoption of ordinance should be deferred a week to October 2nd. Any other changes to the agenda order? Need a motion. Motion is to approve orders of the day. On the motion, all in favor, opposed, none opposed, orders are approved. As noted in the orders of the day, we're adjourning this meeting in the memory of Norman Friborg. Who passed away on July 22nd after being inducted into the Piedmont Hills athletics hall of fame having served as a high school basketball coach at Piedmont Hills and others for 30 years. Councilmember Chu has some additional comments.

>> Councilmember Chu: Thank you, mayor. It is with deep sadness that we learned about the unexpected passing of manfriborg who passed away on July 22nd, 2012 at age 74. Norman was born on January 6th, 1938, in Oakland. And raised in Walnut Creek. He graduated from San José State University with a master's degree in physical education and worked as a guidance counselor and teacher for Eastside union high school district for 38 years. He was also the basketball coach for 30 years at James lick and Piedmont hills high school and was recently inducted into the Piedmont hills athletic hall of fame. Norman was highly respected, admired, and recognized as an excellent role model for all. Norman is survived by his loving wife of 52 years and his daughters, Sandi and Susie, his sister Judy and brother Charlie. His aunt Alice and many cousins, nieces and nephews and two grandchildren. Norman Friborg has been a great asset to the community and will be missed by the community dearly. May his memory and legacy live on forever in our hearts and minds. Thank you.

>> Mayor Reed: Thank you, Councilmember Chu. Our next item is the closed session report. City Attorney.

>> City Attorney Doyle: There is no report today.

>> Mayor Reed: We'll move to the ceremonial items. I'd like to start by inviting Councilmember Constant, Anish Shashadri and his parents and medical staff from Stanford Medical Center to join me at the podium. Today we're recognizing the month of September as Histiocytosis awareness month in the City of San José. Councilmember Constant has the details.

>> Councilmember Constant: Thank you, mayor. With me I have Anish Shashadri. He is 12 years old and he is the reason that we have started to bring attention to this issue here in the City of San José. He's joined with Shrubha Shashadri, his mom and Surunda Shashadri, his dad. Hopefully I pronounced that correctly. We are here to talk about histiocytosis, and what this is, it is a collection of rare blood diseases that affect about 200,000 children and adults throughout our country. The national histiocytosis association has designated this month, the month of September, as Histiocytosis awareness month. The cause of this disease or these diseases are overproduction of certain blood cells in the body, and this is a situation that can become fatal like more commonly known conditions that we all know about like cancer, leukemia and many of those other diseases that receive higher priority for research and funding. Anish was diagnosed with histiocytosis at the age of one and a half. He is now one of our champions going out there, bringing awareness of the condition throughout the community. Patients with this disease may be treated with chemotherapy, surgery and/or radiation, and the goal really is to bring the situation into remission. Because there is no known cure. The histiocytosis association is the only nonprofit agency in the world that's working to raise awareness to provide educational and emotional support to families and patients. They work to seek grants for peer-reviewed research to the National Institutes of Health, and of course continuing to strive to find a cure. Please join me as we recognize again for the second time here in San José, the month of September as histiocytosis awareness month here in San José and I urge every resident of San José to take the time to encourage greater knowledge and awareness, encouraging research into these disorders and others, and give special recognition to those who have worked tirelessly with the histiocytosis

association so that we can continue to offer hope to patients and families. And Mayor, if you can provide that proclamation to anish. [applause] And I believe anish has a few words to share with us.

>> Hi, I am anish shashadri and I'm in 8th grade at Stryker Middle School in San José. Ever since I can remember I've had a condition called histiocytosis. histiocytosis Involves an abnormal increase in the number of immune cells called histiocytes. It can affect single or multiple organs. It is a little known disease, that affects both children and adults and hence spreading awareness is key to getting funding for research and finding a cure for this condition. So I'm here today to raise awareness about this disease and to help other patients that have dealt with disease just like I have. I would like to thank our San José mayor, Mr. Chuck Reed, for proclaiming September as Histiocytosis awareness month and my councilmember, Mr. Pete Constant, for putting forward this proclamation. I would also like to thank Mr. Shane Patrick Connolly for planning this event and giving me this opportunity to talk to all of you today. I would also like to thank my doctors and nurses at Lucille Packard research hospital to find cures for the condition called histiocytosis. Thank you.

>> Mayor Reed: Thank you. Let's back up and take a few pictures.

>> Mayor Reed: Now I'd like to invite Councilmember Herrera and the tribal leadership of the Muwekma Ohlone tribe of the San Francisco Bay Area to join me at the podium as we proclaim September 28th as Native American day in the City of San José. Councilmember Herrera has some details.

>> Councilmember Herrera: Thank you, Mayor Reed. I'm very excited to invite the tribal leadership of the Muwekma Ohlone tribe of the San Francisco Bay Area, and we have several people joining us today. Chairwoman Rosemary Cambra, Charlene Cambra Himen, tribal member Luis Ramirez, and Liz Hunt from the Indian Health Center and also our tribal historian Allen Leventhal. Allen works as an information technology consultant in the office of the dean, college of social sciences and continues to teach as a volunteer in archaeology in the anthropology department at San José State university. The City of San José takes great pride in its diversity including the Muwekma Ohlone tribe of the San Francisco Bay Area, which has existed in the Bay Area for the past 13,000 years. Presently the Ohlone tribe comprises over 550 enrolled members while

revitalizing its culture tracing its ancestry to the three Bay Area missions, and from the previously federally recognized Verona band. Although the Muwekma Ohlone tribe was once pronounced extinct by anthropologists, its members have been documented by the bureau of Indian Affairs, and continue to advocate for reaffirmation of their federally recognized status in order to acknowledge and honor their heritage and traditions. Just last week the Muwekma tribal leadership went to a federal court hearing in Washington, D.C. for the reaffirmation of the tribe status. And with that said, to honor and celebrate the history and heritage of the native American cultures such as the Muwekma Ohlone tribe, I am happy to present this proclamation to vice chairman Monica V. Arano, on behalf of the tribal leadership of the Muwekma Ohlone tribe, proclaiming September 28, 2012, as native American Day in the city of San José. Mayor would you present the commendation to Monica or to Rosemary.

>> Before I go on and talk a little bit about my people, I want to acknowledge and congratulate your community, the Vietnamese community, I want to say that what you have done in our community is well well respected and well created within your community and have the opportunity, the freedom to speak out loud and make your rights known. And make your wishes for your own children and grandchildren and most of all your elders, to provide for them. I realize that you have created this healthy partnership with the City of San José. And actually, I praise you for that. I humbly praise you. The resolution, proclamation that my tribe received today, as well as myself, do you realize, has taken 30 years? My ancestors have been here for over 15,000 years. 30 years. And we, too, the Muwekma want to be able to create a partnership like yours. Where we have acknowledgment. And this is where I'm -- this is where we're at today. I want to be able to be acknowledged as a tribe just like I'm acknowledging you today. So with that I want to thank the mayor. And the council. For being so gracious, and acknowledging us today. Thank you. [applause]

>> Mayor Reed: Next I'd like to invite Councilmember Constant, Councilmember Oliverio and Colette Navarette and Mike Penn to the podium as we honor Santana Row as it celebrates its 10th anniversary in San José. Councilmember Constant has some of the details.

>> Councilmember Constant: Thank you, mayor. We're very happy to have Colette and mike with us here today. Colette is one of my favorite people at Santana Row. It is great to see you here today Colette. Ten years

ago just before the holiday season in 2002, Santana Row opened. And as we know, Santana Row has become quite the destination spot not only for the people in the immediate community, people who live right around it and people from the City of San José but quite frankly from throughout our entire region. Santana Row has become the destination spot whether it be for shopping, dining, night life. Hotels, everything. Santana Row has become quite a magnet for activity here in south -- in the South Bay area in the San José area. Over 600,000 square feet of retail, restaurants, houses, outdoor cafes, the chess set that any kids love to play at every day we go there, every time we go there, the fountains, the parks. Many of you have seen me, I hold at least one day a month that I have office hours, I hang out there, let people meet me there for meetings throughout the day. It's become quite an asset to the City of San José. It was named the project of the decade by the Silicon Valley business journal. I'm thrilled that it's almost in district 1. I got gypped out of it by about ten feet, in redistricting, I won't go there. I'm proud to have them as a San José asset as really looking forward to their new expansions which were recently approved and the additional shopping and office options that are coming to Santana Row. I know the first ten years have been great. The next ten years will be even better and so will the ten years past that. And I think Councilmember Oliverio has a word or two to add.

>> Councilmember Oliverio: Thank you, Councilmember Constant. I think you've listed every attribute that the Santana Row can provide and we appreciate their investment in San José and the private investment that has spurred jobs and revenue for the city as well as a fun place for people to congregate within San José and out of town. At this time mayor if you could provide a commendation to the folks at Santana Row and being a great place to come in San José.

>> Thank you. We're honored on behalf of Santana Row and federal realty, to accept this award. Without the community, Santana Row would not be where it is today. So thank you. [applause]

>> Mayor Reed: Next item is the consent calendar. We have a motion to approve the consent calendar. We have some people who want to speak on the consent calendar. Councilmember Chu.

>> Councilmember Chu: Mayor I'd like to pull item 2.3A for discussion.

>> Mayor Reed: Okay, 2.3A. We have some requests to speak on the consent calendar. On other items. Mr. Wall.

>> On the rules for 8-1 we discussed the sewer service and use charge and the need to have that reformulated. The \$12 per cost per enplanement may not be attainable. That was another issue. There was an issue of funding police or linking police as an essential service to libraries. I refute that. I think police are a little bit more needed. Although I support the libraries. The open forum dealt with the BLT engineering contract. Mr. Mayor there's an error in your report. It wasn't five amendments to that contract. It was only three. On 8-15, rules committee report, we talked about the pay pilot program for the fire department. Most of council approved it. There was one person that didn't. We thank the council for approving that pay pilot program. On 8-22 we had the storm water permit which is a very touchy subject because of its enforcement capabilities with reference to nonperformance of the environmental services department. We also discussed the rocketship schools. And how they may have a detrimental effect to the San José public school system. We talked about cap and trade, as cap and trade has very significant cost effects for everybody in this room and everybody within the sound of this voice in California because in 2014 you're going to be taxed for the energy sector for the electricity in your home, PG&E at home fuel taxes and all of this is going into a fund that has no real controls on it. On 8-29 we talked about the city pay plan amendments. This is council's reaction to the folly of cutting benefits and salaries to people that work at the water pollution control plant and how you're trying to remediate your foolish decisions on that matter. Thank you.

>> Mayor Reed: That concludes the public testimony on the items generally on the consent calendar. I have request to pull 2.3A for further discussion. Any other items to pull for further discussion? We have a motion to approve the balance of the consent calendar. All in favor, opposed, none opposed, those are approved. Councilmember Chu you wanted to pull 2.3 A.

>> Councilmember Chu: Yes, Mr. Mayor, I would like to have a discussion on item G-5 on the August 1st rules committee minutes regarding resolution to support freeway designation sign. I wanted to emphasize that it's not a

naming issue. I believe we put the naming issue behind all of us now and this is really an issue of economic benefit for our city. The fact that the street and highway code 101.12, stated that the local governing body must adopt a resolution requesting that CalTrans post signs on the freeway. The City of San José as a governing body where the business district is located must adopt a formal resolution in order for CalTrans to install a signage. Councilmember Campos was trying to bypass this administrative passage by introducing AB 95. Unfortunately her bill will no longer go through because of this is ultimately a local issue. So we have confirmed with the City Attorney that under current state law the city council would really really need to adopt affirmative resolution in order to move forward. So the letter from the staff of CalTrans or from the staff of Department of Transportation does not satisfy the requirement from CalTrans. So I at this time I would like -- I would like to make a motion to agendaize adopting a resolution to support freeway directional sign for the next council meeting.

>> Second.

>> Mayor Reed: All right, we have a motion to add to the agenda. Let me speak to the motion. First, I have been talking to Barry Do who is here today, we had a meeting rules committee meeting in August, and at that time Mr. Do insisted this would not create a division in the community even at the time it was an emotional and wedge issue and I suggested to Mr. Do, why don't we talk to one of the stakeholders and figure out if there is opposition or if it is going to be a big fight that I personally don't oppose having the signs on the freeway but I also don't want an emotional issue on vietnamese community as a result of the you know the big fight. So I think we ought to give Mr. Barry do a chance to speak to some of the stakeholders as he has started to do and let's see if we can just handle this so it is not an emotional divisive issue. And after a little bit of stakeholder work is done it could go on the council agenda, it probably isn't a big deal. I just don't know. Because I have talked to some members of the community who still think it's a problem. It's hard to assess that without reaching out to the stakeholders which Mr. Do has agreed to do. So I think putting it on the council agenda is appropriate after some period of time after Mr. Do has had a channels to do his work and then the other element is the timing. As we've noticed in the past sometimes when we're pushing up against an election day that people will take advantage of the fact we have an election coming up trying to create difficulties, interest, trouble, whatever you want to call it. And so I would suggest that this at least ought to be taken up after Mr. Do has had a chance to talk to the stakeholders sometime

after the election day so that we don't have people that can think that they can get some publicity on their campaign. God only knows what will happen around election day, we have seen some of that. At an appropriate time it can come back to the council but not next week. I wouldn't support that. Councilmember Liccardo.

>> Councilmember Liccardo: Just a question. I guess really for Rick. Is there -- you know I appreciate the concern about avoiding a fight. But I guess the question is, why couldn't we simply adopt the resolution today? Is there a problem with noticing?

>> City Attorney Doyle: It is a probe with noticing, it's a Brown Act issue, the only thing agendaized are the minutes from the Rules and Open Government committee. If you want to pull the minutes and have council take action, you direct staff to take action at a later day in this case a later resolution.

>> Councilmember Liccardo: Thank you.

>> Mayor Reed: Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you mayor. I agree with the mayor. We have been through this before, it's been a very divisive issue. Obviously that part of the controversy has now left us and the community's at peace again. And I think that we should give Mr. Do an opportunity to speak to some of the stakeholders, some of the community organizations. We have some of those representatives here today and we will hear from them. Since this issued surfaced last Friday, we have received phone calls from people who are not so supportive of the signage issue begin the fact that there is not a lot of information out there about this. So I'd like to hear from these community groups and at some point perhaps earlier next year we can bring this issue back. But I agree with the mayor that in the midst of the election I think it's pretty incumbent upon us not to hear this item before November 6th.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. First of all the only reason is this being pushed up next to an election, is because we lost a lot of time from August 1st where we could actually appropriately had this referred for resolution. This could have all been done by now. In looking at when I reviewed the meeting of -- from the Rules committee meeting there was a mistake in the belief that there was not a need for a resolution. The reality was that there was a need for a resolution. So you know the whole idea there is always elections going on. I have no problem waiting, until after November. This is nothing I don't see how this has anything to do with a November election. The only concern I have timing wise we already missed a meeting of the assembly because at Rules committee we had D.O.T. send the letter that was not true. I mean, legally, it should have been cleared up at that moment that we had that resolution but it wasn't. And so now we have to get a resolution and assembly member Campos had to pull her bill. All of this could have been done so much more smoothly. The reality is, you have seen this correctly, the naming issue is gone. Little Saigon. Unless we have lil Saigon just like so many other jurisdictions do, little Tokyo, little Saigon, there are so many areas that attract people to that community and so there's no reason to revisit the naming issue as is alluded to right now by bringing people who are for it, against it. None of that is necessary. Let's just as quickly as we possibly can get this resolution done, get the resolution to assembly member Campos office so she can get this bill back on up and get it to the governor and get this over with. It would have been nice to have these signs up before Christmas holidays, it's not going to happen. But as soon as assembly is back in session assembly member Campos will have the resolution with her and she can get this done.

>> Mayor Reed: I'd like the City Attorney to clarify that. I don't think this resolution has anything to do with a bill, that if the resolution or whatever action the city takes, is based on the existing state of the law. Based on what CalTrans has told us.

>> City Attorney Doyle: Right. And Councilmember Chu talked about that. That the streets and highways codes as currently exist requires a resolution of the governing body to ask CalTrans to post these signs. When it went to the Rules Committee there was a report from the City Manager's legislative affairs staff member who stated that the bill was moving forward in the senate and was expected to get through. And so all -- everything that was done by the Rules Committee was on the assumption that that bill was going to be passed. That bill would have

negated the requirement of a formal resolution of the city council and the letter from the director of our own D.O.T. would have sufficed. We're back again because that bill was pulled.

>> Councilmember Kalra: But my understanding was that they need a resolution from local body in order for it to be approved.

>> City Attorney Doyle: This is administrative only. It is only to go to CalTrans. It's not to go to the stay assembly.

>> Councilmember Kalra: My point is it was pulled because it wasn't going to get supported because it wasn't a local resolution.

>> City Attorney Doyle: That's correct. About.

>> Councilmember Kalra: The process was to do a local resolution through CalTrans and it --

>> City Attorney Doyle: As outlined by Councilmember Chu.

>> Councilmember Kalra: Then that's even better, we don't have to worry about going to the legislature at all. We can get this done locally and send it to CalTrans and get it done with. Hopefully we can do it as soon as possible as far as time as necessary. I just don't see why we have to do this whole you know dog and pony show again, and we're just going to cause so much more strain than just simply saying, staff, come back with a resolution. Allowing you know to send to CalTrans to allow these signs on the freeway as markers for little Saigon.

>> Mayor Reed: Connor.

>> Councilmember Rocha: Thank you, mayor. While I was not here for that time, I do understand that there was disagreements and different opinions on how to approach this and also even today but democracy is not always clean. And there are disagreements and I'm not afraid of that. So I'm quite comfortable going forward and putting this on the agenda. If I may make a friendly amendment and that would be to put it on the first meeting in December that's an evening to get past the time that you're talking about such as December 11th, I think two and a half months is plenty of time for the folks and the stakeholders to speak to the folks that we're talking about and also for staff to prepare.

>> Mayor Reed: Hear the motion?

>> Again please?

>> Mayor Reed: December 11th council meeting date.

>> Councilmember Chu: December 11th. I would like to see that we can move forward a little bit faster so we can have the sign there before the Christmas and holiday season so I don't think -- I know that assembly member Campos staff is here. Maybe we can ask herring and we can turn off the timing issue, would December 11th be too late for CalTrans to do -- do anything for the year 2012? Can we ask the assembly member staff's come down and address the council? Thank you.

>> Councilmember Rocha: That is an evening council meeting. That's assuming we are interested in the public's participation. We can always move it earlier but that's the first evening meeting after November. I'm not sure if we acted that quickly they could ensure signage placement.

>> Councilmember Chu: Next week's meeting is there a chance we have the sign installed by Christmas holiday season?

>> Thank you for the question, Councilmember Chu, Maria Fernandez from assembly member Nora Campos's office. CalTrans is waiting for the city council to move. So as soon as they have that resolution in their hands they can move forward and expedite that process in collaboration with the community get private funds from that community will raise and get those signs up immediately.

>> Councilmember Chu: Great, thank you very much. Again, this is really, really not a naming issue.

>> Councilmember Rocha: I understand that.

>> Councilmember Chu: This is a signage issue. I may not agree with all the signs in the City of San José but you know I believe that installing this designation sign will attract people to just you know get off the freeway and spend their money in the restaurant there or do some shopping or get some personal services there. So I would really like to move forward as soon as possible so we'll be able to get this with some of the sales tax benefit as early as possible.

>> Councilmember Rocha: Understood. My interest is also to establish a date so this doesn't linger.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you. Staff, when in October, when is the evening council meeting in October?

>> Dennis Hawkins: Councilmember Campos. October 23rd.

>> Councilmember Campos: It would be October 23rd. I was wondering if the maker of the motion would accept perhaps -- you know because I do understand Councilmember Rocha's wanting to put a date on it so it doesn't linger. So perhaps 30 days from now, have it agendized to come back to council, would that be sufficient?

>> Councilmember Chu: That's pushing a little bit but I'll compromise, I'll accept that friendly anatomy.

>> Mayor Reed: I don't know who had the second. Councilmember Kalra had the second.

>> Councilmember Campos: For the evening session.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I think we all agree this should happen quickly but it's also apparent to everybody there is an election. Why don't we pick the first Tuesday after the election which is only a few days away from that date. I think that is something probably done on consent. There could be a large celebration afterwards but let's do this efficiently, without I think the politics that I think has accompanied the issue in the past and let's all agree this is something we want to do because it's good for the city and you good for the community. I would suggest that we simply push it off to the soonest Tuesday after the election whatever that November date might be.

>> Mayor Reed: Actually based on our past experience if a matter is heard on election day it is not a political issue because everybody's -- it's too late to make it a political issue, right? So November 9th I think is election day, November 6th.

>> Councilmember Liccardo: That would be my request for friendly amendment.

>> Councilmember Chu: Push it even further. Again my concern is to have the sign up by Christmas. And is this the only election left in the city council is district 8 and 10 and none of those signs would be in the district 8 or 10. So I don't really see that as a political item that -- tied to the election. Like Councilmember Kalra just say, that if we have put it in the consent calendar get a resolution done in August, and you know, we'll probably have the sign up already. So this -- I really really not a political issue to me, it's really really not a naming issue. If later days you know the council decided to change the name of the district I'd be happy to change the name on the freeway sign. This is just a signage issue. I just cannot emphasize enough to state that that really is just an issue. You

know, assembly member really, really want to have the signage there for the benefit of our city. And so she went out of her way to bypass the administrative process trying to author the bill, did author the bill 2095 which pretty much no longer go through because of the various reason and this is just really follow-up with the state, administrative process, and I would really, really like to see that we do it sooner than later. Have nothing to do with any you know political issues. At least from my point of view.

>> Mayor Reed: I think November 6th is the best date, while you may think it's just a sign issue, and not a name issue, and you think it might not be an election issue, we have a vietnamese community and if you look at what happened last time Vietnamese candidates who ran for office after this got enormous amount of publicity didn't fare very well. I political purposes have it on election day and then you know that will be enough time to get it done before Christmas, probably. Councilmember Kalra.

>> Councilmember Kalra: I'll -- you know I'll support Councilmember Chu I think he has some further comments, I'll let him respond, mayor. But November 6th then does not have an evening session so your suggestion is to have it in the afternoon session of November 6th?

>> Mayor Reed: We believe it is noncontroversial, nonpolitical issue, nobody will show up so it's okay for an afternoon agenda.

>> Councilmember Kalra: I'm okay with having it in the afternoon or if it's on the 23rd or before the 23rd, if we can do it in the afternoon we can do it any day and get it done with. I'll defer to Councilmember Chu, if we have an afternoon we don't go through exercise of finding an evening at a day that no more council meeting until the last Tuesday in November. So November 6th or earlier certainly, but I'll defer to Councilmember Chu.

>> Councilmember Chu: Well we're really pushing so Sam you want to put in a friendly amendment to put it on November 6th?

>> Councilmember Liccardo: Yeah I would and I assure you I will be supporting the motion when it comes up on November sixth. I think we all would like to do this in a way we can be collaborative.

>> Councilmember Chu: Is that okay with you Councilmember Campos?

>> Councilmember Campos: Sure.

>> Councilmember Chu: All right.

>> Mayor Reed: November 6th is okay. Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Actually I was just going to make reference to the fact that since we all pretty much said this was a nonpolitical issue, obviously that's up to interpretation but we have a large significant number of people here who want to speak. I think we settle on the date which is fine but I was going to say why don't we hear from the members of the public and at that point we can decide what is the feasible day to put this on the council agenda.

>> Mayor Reed: Okay. I do have cards from the public, we'll take that testimony, please come on down so you're close to the front so we can move quickly. Tay Vu Nguyen. Lok have you, Moses Ramirez, Tay Vu I don't see him now, Lok Vu, not here moses Ramirez. And then Lee Tong. So Lok Vu, Moses Ramirez, Lee Tong.

>> My name is Lok Vu, I am 80 year old. I live half a mile here in San José. The little Saigon issue divide our community. Before I have a friend on both side. One side was wrong and the other also was both right. I have enemy on both side. I view the first Vietnamese museum in the United States. Nobody help, nobody care. I sold my house in Evergreen and moved to mobile home so I can complete the museum. The one and only one in the world, you may come to see in Kelly Park. Now I have only one wish before I go away: I want to have little Saigon sign on the highway 101 to show the way to my museum. I have nothing more to say. Thank you.

>> Mayor Reed: Moses Ramirez, Lee Tong, Gloria rivera.

>> How do you do. My name is Moses Ramirez. I live in the McLaughlin neighborhood association between capitol expressway and Tully road. There are 2100 homes in my area. I'm the president of the association there. The reason I'm here is because I am against little Saigon area to be posted with signs. This itself is a gathering an area for an exclusion I remember sometime back I was told that the people practice inclusion. Well, when I think about that word, I think about just the opposite. Exclusion. They include themselves and exclude everybody else. And I don't believe in that. I believe that the whole area should be for the total amount of all the people that live in it. Representation of everybody there, not just the few. So I'm totally against it. I would live in this area here 47 years. And I have had experiences with people coming in and what they do, is, they claim an area and they want to rename the area. At one time we were -- we built a library in our area called Tully branch library. Now, at that time, the name had to -- the library noticed to be named. So there was a meeting at the library downtown. It's Martin Luther King library. There were over 200 people that came there. But nobody from my area was invited there. Now, that meeting was to name the Tully branch library.

>> Mayor Reed: Sorry, your time is up. Our next speaker is Lee Tong and then Gloria rivera, Carlos de Silva. [applause]

>> Ladies and gentlemen, I would like to read again the abbreviated agreement supported by mayor Chuck Reed vice mayor Madison and other councilmembers on March 12, 2008. This is a four year issue but too short compared to 30 years of issues native American issue. With the proclamation declaring September 20th as native American day today. Thank you for mentioning and encouraging Vietnamese community on this speech, this agreement on March 13, 2008. Prior to allowing any community sign to be installed, over public street or sidewalk, city law requires the identity of any name born extraordinary formal and informal public outreach concerning the name little Saigon resulting in a thousand members of the community coming to City Hall to voice their support for the name little Saigon. Three, due to the extensive outreach on March 4, 2008, the city council recognized widespread support in veed name ease American community for the name little Saigon and in the area of Tully road, four since that time members of the Vietnamese American community have approached the members of the

city council expressing its willingness to raise money to construct and install a sign or gateway bearing the name little Saigon. Five, the city staff will A, conduct required outreach under council policy 9.3 and the sign ordinance for the permanent installation of such a community sign at or near the intersection of the story and McLaughlin road in accordance with council policy 9.3.

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

>> Thank you sir.

>> Mayor Reed: Gloria rivera Los de Silva, Christopher Dol.

>> My name is Gloria rivera. I am a long time resident of district 7, 20 years. I'm a neighborhood leader for ten years. Our community, the Cunningham association is not in support of this sign. This request is just bringing a message that one group could have everything they want, and what about the rest of the ethnic groups, what about little Mexico or little plaza San José? A need of an additional sign, our technology, we really cannot get lost now. We have google maps, iPhones. If we want to find one place, we will find it. So there is a little design, no. In this political, maybe yes. So I am please requesting to don't support this request. Thank you very much.

>> Mayor Reed: Carlos de Silva, Christopher Dol or Dil, Robert Sandoval.

>> My name is Carlos de Silva and I lived in San José over 50 years. I lived in little Portugal which is right at Alum Rock and 101 and now I've lived in Evergreen of Evergreen for over 20 years. I'm part of the Evergreen association and NAC. Not political? Yes, it's political. I've already read the Mercury News and there's councilmembers who are making it political and a couple of supervisors who are making it political. So anybody who thinks it is not political you're absolutely wrong. Look back and see the facts and it is political. Little Portugal has been in existence since the '60s. Wrings our freeway sign? If this goes through I'm going to ask for a freeway sign on Alum Rock and 101. Designating little Portugal. You worried about Christmas? You should have been worried about that 30 years ago. Now we're going to bring another individual another community in that says we

want a sign on the freeway. That's all we need. We can put a sign for every single community. I request one, Councilmember Liccardo, I'll be working with David Vierra. If this one goes through then I'm going to demand the same sign for the Portuguese community who had roots in this city for 40, 50 years ago but acknowledgment there has been very little. I think this sign is just the wrong way to go. I congratulate the Vietnamese community for what they've accomplished. They've moved forward done great things for the city but I'm totally against this type of signage not unless we do it for every kind of of group. Thank you.

>> Mayor Reed: Ropt Sandoval Christopher Dole, Moses Ramirez Barry Do.

>> Honorable mayor Chuck Reed, Vice Mayor, honorable councilmembers. You have heard, the neighborhood leaders have spoken that they totally agree that they are against the installation of the little Saigon sign on highway 1 01 and Story Road. We are asking that the city council members deny the request of Councilmember Kansen Chu. Mr. Kansen Chu must not interfere with our professional representative Vice Mayor Madison Nguyen. She is a proven and has a proven track record to settle all disputes, complete all projects she has started. Mr. Kansen Chu: You should mind your own business, take care of your own problems in District 4. We don't need your poor recommendations in district 7. We don't need you to represent the -- we don't need you, we don't want you. Open August 8, 2012, you stated that you represented the whole city. You weren't the mayor. You aren't the Vice Mayor. And I'm requesting you get the heck out of the affairs of District 7. Mr. Mayor, I would have had much more people here, had this been in the evening. People have to work. And a lot of people went to work. And a lot of young grandmothers are babysitting, so they couldn't make this meeting, either. Thank you.

>> Mayor Reed: Barry do. Lap tang. Amy Drun.

>> Mayor Reed and city council member, today I would like as I hear the conversation today and I would like since the time is very critical, just like councilmember Kansen Chu and councilmember Ash Kalra has mentioned, since the city hasn't paid anything for this project at all, since this came from the Viet community unit, the faster we move on this matter the faster the monument already there, as mayor Chuck Reed mentioned yes did I receive the list of the stakeholder but I notice that the list are most of them say neighborhood association and

couple or three or four Vietnamese individual groups. But the list supply now, I already talk two of them and they publicly told me that they do not against the sign right now on freeway since the monument's already there and the is already there. You the reason why people show up here strictlyly the business, we have a lot of business people in that area. It's the business revenue and the tax revenue for the city which is the he main reason why now is not the politics like we have back in 2007. So I would like to strongly request mayor Chuck Reed and councilmember to agendize this item as soon as possible so we can move on with the fundraising from our own community and we can have it celebrate not for the political reason but for the business stake at the area, where is in Sacramento, San Francisco and Southern California, the so-called little Saigon businesses bring a lot of revenue to the city. And the reality is, you look at that area, mostly with the Vietnamese American business. So we talking about the business revenue right now whereas the city does not pay anything, and the city in turn can get some revenue from the business. So that's my summary. So couple of weeks from now when we come back, and I'm sure that the stakeholder that match up probably won't change much because we're not talking about the majority of the business here we agree to --

>> Mayor Reed: Sorry, your time is up. Lap tang, Amy Jung and hung Nguyen.

>> Members of the city council. I am the owner and developer of (inaudible) and Vietnam tile on Story Road. I am here to express my opinion on the proposed little Saigon directional, highway directional sign on the freeway. In my opinion, in order for the California transportation department, they need to have physical setting or real entity for them to install a sign. So I would like to check with Councilmember Chu and the City Attorney Doyle to make sure that the signage proposal will not bring up the naming issue. If the naming issue is going to come up, then I don't like to see our community will be deeply divided once again. If the -- if the naming issue is arising, coming up again, then I am going to oppose to the proposal of putting a sign. Thank you.

>> Mayor Reed: Amy Jung. Fran Kim Nguyen, Van Lei.

>> Hi. My name is Amy Jung and I'm the business woman who was here, 25 years and I'm the mother of (inaudible) last year I took my children to Sacramento, and on the freeway to little Saigon, business area of

Sacramento, we saw a sign to little Saigon. And guess what? Right away, my older son opened his iPhone and did some research and he asked me, mom, how come Sacramento already has 30,000 Vietnamese population and they have this beautiful little Saigon entrance sign and San José community, Vietnamese community in San José is about 100,000 population and we don't have one and we didn't mention about this issue, a few years ago. My second son ask me, I think this little Saigon sign for tourist like us, we right away want to visit the area and spend some money and isn't it good for the business of the city? My little daughter who is only 13 years old, she asked me, mom, we have Madison issue the -- she's the Vietnamese council. Why didn't she help out community to have the name? Mayor and the councilmembers, I'm here today to request you, whatever your vote today, if you vote no, please, vote no, don't vote no with your silence. Vote no with your exclamation so I can deliver your exclamation to our children to the youth of our community. Please explain that we don't know because little Saigon will be in the community.

>> Mayor Reed: Sorry, your time is up. Tran Nguyen Van Lei and tran Nguyen.

>> Dear mayor city council. My name is Jan kin Nguyen. Here today north to assist myself, Vietnamese citizens of America and I come here two years ago. When I first come to the United States and my first land is China town. And my impressed that I wish one day that where I live I live right now is near sign of little Saigon. What is easy for tourists and bring this business to all the community, if my business not exactly on the little Saigon, mine is very far away but you know easy way for tourists to come in and to join our Vietnamese food which is heaven. Thank you very much. I hope you all vote for little Sy GOP. Thank you.

>> Mayor Reed: Van Lei. Fon Gno tin Nguyen.

>> Honorable councilmembers, my name is tin Lei, East side school board member we just heard the contradiction between what Mayor Reed said one hand that we did not meet the approval of the resolution from the city council and City Attorney view that we do need the resolution in order to CalTrans to start the project. We are very frustrated with city policies on this issue. And we hope that we could move forward today. So that we don't waste our time and taxpayer money. Approving this resolution will show our citizens that the city is willing to

listen to the community voice. This resolution does not even cost the city a penny because the community will finance it. We have been bouncing back and forth for several months. We have patiently worked with business organization, CalTrans, county and even state assembly to move this project yet we have still not resolved this issue with City of San José. Councilmembers the little Saigon naming of little Saigon there is no denying that as community members we have Vietnamese community are in the best position to know what we want to see in the very neighborhood where we live and shop. As community activists and I have worked closely with the community for more than three decades, and I understand the need of the community and try to work with different organizations. So we can have the little signage on the freeway. We also believe the little Saigon signage will help bring more businesses tourism and tax revenue to the City of San José as well as the prosperity and diversity to District 7 and the City of San José. Thank you. Councilmember Chu, and everyone that support it.

>> Mayor Reed: Thung Nguyen, Ton Gno, tin Nguyen.

>> Speaking in foreign language.

>> I'm here to support the resolution submitted, mayor Chuck Reed, Vice Mayor Madison Nguyen and the whole council of the City of San José. [ Foreign language ]

>> I'm here to address the whole council that my own wish is also the wish of all the Vietnamese who are not able to be here today because they're working. [ Foreign language ]

>> I don't think there's anything difficult for us to raise the sign of little Saigon. I saw it on Alum Rock, the sign to show to the Mexican heritage building there. I'm not that any people who are able to be here to understand that, that is discrimination against our community. Last time the mayor said that if we raise that sign, the road sign there would be divisiveness in our community. That is not true. Only the one who create the problem would divide our community. One more time, please, support us. To raise the sign of little Saigon. Thank you all. [applause]

>> Mayor Reed: Tan Gno, chin Nguyen, David Nguyen.

>> Good evening, dear mayor and city council. I present for two officer incorporation. I want to city and the council, we don't support this little Saigon sign because it divide our community. Thank you very much.

>> Mayor Reed: Tien Nguyen. David Nguyen, Min Wong.

>> Dear mayor and city council. I'm Tien Nguyen. On behalf of Vietnamese American community of Northern California, I represent thousands of Vietnamese American and their families in the City of San José. I proud to voice the community's recommendation that city San José adopt a resolution in support of freeway signage on U.S. 101 and Interstate 280 and 680 directing commuters to little Saigon, district on story Road. Sign on freeway will help draw customer for this critical economic and cultural hope in San José and assist this growing. Also contribute a lot of economic activity helping create jobs and support our local tax base, thank you.

>> Mayor Reed: David Nguyen. Min Huang.

>> Good evening, honorable Mr. Mayor, honorable council. On behalf of the regional council in San José I want to raise my voice about this city, San José for years down the road a lot of things happened going on and everything going on in San José. So we want to try to do it United on the Vietnamese community. I understand the city gave the Vietnamese community three years trying to combine everybody make the United everybody come one a common name then the city will problem of that name and resist to the city council. That happen any sign will be created. Right now I understand that little Saigon not in San José city, if that is incorrect that means little Saigon not officially in San José city and the sign will be done later not now. Thank you.

>> Mayor Reed: Min Huang, Stephen Wong, H.G. Nguyen.

>> Good community my name, Huang Min. I want talk on item for another sign little Saigon. I don't want it because little Saigon too many for plan for my community Vietnamese because that I want all and I stand for my community Vietnamese, no, I don't support for another sign. Thank you.

>> Mayor Reed: Stephen Duvan, H.G. Nguyen, Dat Nguyen.

>> Dear mayor, Chuck Reed and council City of San José, today is my 28th anniversary coming to this -- come many to live in this great country with an absolute freedom. I have so many reason to thank so many people, and to thank especially the council today to let me have -- to give me chance to go to address the issue. I feel great coming to the city today, to voice my thankfulness to the mayor and all councilmembers of the city to help speed up and to eliminate all hurdles, in order to install the highway sign for our little Saigon. As my previous letter to the mayor and to the council that it is a time to heal the unfortunate wound to bury the ax not to portray if hatred against the American culture. Put everything to the back and move forward. Today at this moment please allow me to thank the council Kansen Chu who is my representative of district 4. Dear councilman Chu as we all knew the limit on this district its recognized contribution of the Vietnamese community towards the community in the city of San José in California. It is not only for District 7 as a few people misunderstood. Your involvement as my rep is must as your commitment to show people in your district 4. The little Saigon district in my mind in San José is issue up only the whole Vietnamese community in San José. It should not involve other people from ethnic community against the little Saigon sign. Literally it should not evenly involve Vietnamese in other city especially people from San Mateo or Oakland. Notice for the last time there were people from other city coming to talk against Kansen Chu and asked him to do the work that belong to the federal level. So councilman Kansen Chu --

>> Mayor Reed: Sorry, your time is up. Sorry. H.G. Nguyen, Dat Nguyen Charlie Lee.

>> I'm Stephen Nguyen I haven't spoken yet he took my space, I don't know why.

>> Mayor Reed: Go ahead.

>> Do you mind? Thank you mayor and councilmembers. I've been listening a lot and as you know I've spoken out on this issue before. I just recommend think positive. You will never get 100% consensus, okay? It's a democracy. Furthermore the Vietnamese have contributed to much to the rere-gentrification of the area, Story

Road for goodness sake there's only way to decide and that would be to pass the resolution and also to listen to the people's voice. You know there's been thousands in the past and I can guarantee you 95% were for little Saigon, you cannot deny that and sac Liccardo acknowledged that in his motion. You could read that again as you know. He acknowledges that fact. So without further ado, please pass the resolution, and get it over with and help the city and help the people. Thank you.

>> Mayor Reed: H.G. Nguyen. Dat Nguyen and Charlie Lee.

>> Matt Loesch: , members of the city council good afternoon, my name is H.G. Nguyen I'm here to support the signs in this area. May I suggest a few benefits by voting yes to this resolution. Number 1: Ladies and gentlemen, your support today will help promote the local businesses and bring prosperity to this area. Number 2, ladies and gentlemen, it is the way that the city can do to support the local businesses. Number 3, your support today will bring hip help, will help bring harmony to the city and I'm here to urge you each and every one of you to vote yes today. And I can guarantee you that your decision today can never go wrong. And I thank you for your time. [applause]

>> Mayor Reed: Dat Nguyen, Charlie Li or Li, and Lee Pham.

>> Good afternoon, laming and the city council. My name is Dat Nguyen. Please allow me to be brief. Sis the business areas known as little Saigon has been established, as a point of interest in San José a beautiful city, want to travel and want to get lost, therefore, a direction to that area is definitely needed for potential visitors to be able to find it conveniently. I understand that, your approval is required to complete the process prior to the installation of the related sign on the nearby highways. Councilmembers I urge you to pass the approval or resolution, whatever you call it, as long as it's legal. Before the conclusion of today's hearing. Your understanding and favorable consideration would be greatly appreciated. Thank you. And see you there. [applause]

>> Mayor Reed: Charlie Li or Li Charlie. Li Pham, Dave Wong, Wong min Nguyen, Maria Fernandez. Do you have more to say? I know you were asked a question, if you have additional comments come on down. Michael Herrera.

>> Hello, good afternoon. Clearly, in support. I'm here to represent assembly member Nora Campos. Although she couldn't be here this evening she did request that I read the following statement on her behalf. Honorable mayor and councilmembers, as the assembly member representing the 23rd assembly district I write in support of the as soon as possible. And for the passage of a resolution authorizing installation of directional signage on U.S. 101 and Interstate 280. Highway signage directing commuters to little Saigon would only serve businesses located in this district and help to generate additional sales tax dollars. Helping to support critical city services like Police and Fire protection, gang prevention and intervention efforts and programming at our libraries and community centers. This is a local matter that should be appropriately addressed at the local level. I respectfully urge you to support the community apples desire for highway directional signage by agendizing and adopting a resolution as required by state law. Thank you. [applause]

>> Mayor Reed: Michael Herrera, Van An, Teresa Tuhun.

>> Hi my name is Michael Herrera. I'm the vice president of the West Evergreen neighborhood association, a resident of our community including myself are completely against the installation of the little Saigon sign on 101 and story Road in our city in San José. Thank you for your time.

>> Mayor Reed: Van An, Teresa hung.

>> Good afternoon, Mayor Reed and councilmembers. My name is Van An Trun. I'm here today to request the city council to pass a resolution to have the little Saigon sign erected on freeway 101. Without this resolution, CalTrain as you know cannot go ahead with the project. Regarding the concern that this issue would cause conflict and bring division in the Vietnamese community, this is what I think: Any time we bring up an issue for decision, this always conflict. There's always people who oppose as well as people who support. But should we

say because of this conflict we should drop the issue? Of course not. Look at the coming election in November this year. Of course, there would be strong division among voters regarding the candidates. Should we say because of a division and conflict we should stop the presidential election? Of course not. And then saying that this is an issue that divide the Vietnamese community, I honestly don't believe so. As you can see as many years of painful circle by the Vietnamese community to get the name little Saigon you can see that the majority of Vietnamese support this name, very, very few oppose it. And going with the majority is a rule of thumb. So, in short, I am here to respectfully request, city council, to spurt the little Saigon sign of freeway 101. Thank you.

>> Mayor Reed: Teresa hung. If you put in a card, and you didn't hear my -- me call your name, now is the time.

>> My name is --

>> Mayor Reed: I'm sorry Teresa, if you put in a card, I called some names of people who didn't appear. Go ahead.

>> I'm a practicing attorney here in San José. Serving clients within the little Saigon area. I hear their voices on a daily basis. Each one of them prefers the area of little Saigon. I have spent close to 30 years in San José. And witness firsthand the growth of the Vietnamese community in San José. And the establishment of the little Saigon area. I support the little Saigon signs of highway 101. Having the sign on the freeway would help bring further recognition to the area. Direct people to what we are really identity as little Saigon and in turn would be a great economic benefit to the businesses of the little Saigon area. Those not from San José or those not familiar with little Saigon would be directed by this sign where they can shop, they can dine they can good assistance, they can help to bring our local economic. I urge you to support to vote for the little Saigon sign as the way to support the Vietnamese community in San José. Thank you. [applause]

>> Mayor Reed: Teresa was our last speaker. So we have a motion on the floor to agendize a resolution for November 6th. I just want to make clear what the agenda item is, and I want to ensure that staff pays attention to how they put together the words. Because I don't want anybody to think we are revisiting the name. We have a

monument sign. We have banners. We're done with the name. So people shouldn't get afraid that we're going to change it or do away with it or anything else. That's not the issue. The issue is whether or not we put some signs or whether or not we have a resolution to allow CalTrans to put some signs that somebody else is going to pay for. We need clarity in the agenda language so people don't get -- think that we're going to have another argument about the name. So that's important. And then November 6th is the date. Further discussion on the motion. Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I just wanted to thank congresswoman Zoe Lofgren's support and Dave Cortese and Shirakawa and requests on behalf of citizens of San José to CalTrans. I'll really be supporting the work but looking forward to working closely with Councilmember Liccardo to have the freeway sign little Portuguese on 101. I think that will be cult. I really truly, thank you very much.

>> Mayor Reed: Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you, Mr. Mayor. signage issue. Who actually came and spok in opposition. We have members of the Vietnamese community although not in large numbers but also spoke in opposition. I'm going to support agendizing the resolution. But I do highly encourage Mr. Barry do to reach out to these groups and so we can get consensus. Direct conversation at the end of the day we do want to put the naming issue behind us. If people are constantly saying this is a nonpolitical issue I'd likely to believe that it's not and I'd like to believe that it's time that we have peace in our community which we have. And I think that by everyone coming to an agreement and bringing solidarity in a community is something that we all want. So it's going to be very difficult for me to support the resolution when it comes before the council if we don't have support from some of these organizations, again, which I believe if you contact them and you speak with them, they will be able to be supportive, which is my hope. So having said that obviously this is an issue that has impacted you know, me for a number of years. To say the least. And I'm ready to put all this behind. I'm ready to move on. I'm ready to work with the community which I have been. And I hope that there will be no more misunderstanding and there are no more miscommunication and that we can work together and be proud of our accomplishment for the past 37 years and moving forward so thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor and you know this sounds as largest Vietnamese community outside Vietnam, this should not be a controversial issue. I've been to many China Towns, many Japantowns, and little Italy areas once they get established. I want to say something in defense of Councilmember Chu. This was brought up on August 1st to be dealt with not the day before the election not a month or two before the election at a very nonpolitical time to get this done only because there was no movement happening otherwise. And so the representative for that district for whatever reason chose not to go forward. There's an obligation on us to at least look into it. We have an assembly member looking into it, support from a Congressman. Councilmember Chu chose to pursue this issue, if he wouldn't have done it I probably would have. The naming issue is already decided. The issue should not be political. I understand why Barry Do the folks in option came because they were asked to come. It seems clearly apparent. What bothers me the most, we have had four years, we have had leaders the backbone of district 7 oops four years to create some hearing and hasn't done and frankly it's not Barry do's responsibility to create that healing, it is the responsibility of the elected officials to create the healing. If we come back Vice Mayor to vote against it but to call on members of the community to create that unity, I understand there is always going to be members that's okay but there's been four years and it's like we're rehashing it here today when it really doesn't need to be rehashed because the naming issue has been decided. This is just an issue of having a resolution so CalTrans can put a sign up on a freeway to mark what's already been designated as little Saigon. It is much more complicated than it ought to be. Let's come back on November 6th and hopefully get those signs up hopefully before Christmas.

>> Mayor Reed: Vice Mayor Nguyen.

>> Vice Mayor Nguyen: With alt due respect, Councilmember Kalra I think you went off on a tangent on something that really isn't necessary. I think Mr. Barry do is the person of the little Saigon foundation. I think it's right upon me to ask him respectfully to work with some of the community organizations in our community so that we can come together to get a consensus. I don't think it's anyone's fault or calling on anyone to do that. I think

we all do that at a certain point when we want people to work together. And he does have the list that he mentioned. And so I'm just respectfully asking him to do that, with me, to talk to some of these people. But to you know pinpoint and telling me that I'm calling on an individual in a council meeting like this I think it's very inappropriate and I don't think it's something that should come from any elected official.

>> Mayor Reed: Okay, we need to vote on this agenda item so we can get done with the consent calendar. On the motion to agendaize for November 6th. On that motion, all in favor? Opposed? We have none opposed we'll take this up November 6th. We now need a motion on agenda item 2.3B. Which is where we get started so we have a motion to approve the minutes of the Rules Committee meeting 2.3B was the last item on the consent calendar. Correct? I'm sorry.

>> Dennis Hawkins: Mr. Mayor I believe we need a motion on all of 2.3.

>> Mayor Reed: Motion to approve 2.3. Motion is to approve 2.3. All in favor, opposed, none opposed, motion is approved concluding the consent calendar. Takings us to item 3.1. Report of the City Manager.

>> City Manager Figone: Thank you, mayor members of the council. I do want to remind the council that we have now completed the tier 2 of the the Federated retirement system the new plan is a lower cost plan compared to the current one. The city council approved the new ordinance establishing tier 2 for Federated system employees in August and the new system will take effect this Sunday, September 30th, for all new Federated employees hired, rehired or reinstated after that date. I wanted to take the opportunity to acknowledge the outstanding staff work that has made this change possible. We started the journey with council direction about three years ago. And the San José voters approved charter changes in 2010. That allowed us to proceed with the second-tier plan for new employees. And along the way we've had two fundamental goals. First to reduce the projected long term increases for our pension cost by sharing cost with employees. And second, to continue to be competitive as an employer. We are seeing many other public employers adopting second tiers and I suspect most would have something like it in the future. This has been a complex and challenging task for all of us. It has involved the city attorney's office, the office of employee relations, the Federated board and the unions and the

council the ordinance itself is nearly 100 pages long. It was a very significant work effort by our staff. Alex Gurza and his team has also prepared a useful fact sheet for the public, prospective employees and staff. It can be found under the retirement web page and also posted on the retirement services Website. I'd like to help all who have helped us achieve this critical milestone for the Federated plan and for the City of San José. We haven't yet developed a second tier component however, for the Police and Fire retirement plan. The maximum parameters for tier 2 benefits were approved by the council and San José voters in measure B in June and we're hoping that we can reach an agreement with our two public safety unions as soon as possible so that we can move ahead here as well. This is vitally important because we need to clarify the retirement situation for new hires for our Police and Fire departments especially now that we have academies in process. Although the matter now appears to be headed for arbitration I am hopeful that we will be able to resolve differences quickly. And that concludes my report.

>> Mayor Reed: Next item is 3.3, the Telecommunications user tax cap extension. I had a couple of comments on this. Back in 2008, when we --

>> Councilmember Liccardo: Mayor may I interrupt?

>> Mayor Reed: I'm sorry we got --

>> Councilmember Liccardo: I'm sorry I need to recuse myself from this item because of my ownership of Cisco stock.

>> Councilmember Herrera: I also need to recuse myself for the same reason.

>> Mayor Reed: Councilmember Herrera, Councilmember Oliverio.

>> Councilmember Oliverio: Can the City Attorney please say how much money you have to have in stock to recuse yourself?

>> City Attorney Doyle: Over 2500 dollars.

>> Councilmember Oliverio: Over 2500? I will recuse myself.

>> City Attorney Doyle: It's a fortune 500 stock so that is what triggers it.

>> Councilmember Herrera: Excuse me I have other questions for the City Attorney. Rick I don't meet that threshold for stock but there are other considerations in terms of recusing on this. Can you elaborate on that?

>> City Attorney Doyle: He's are looked at on a case-by-case basis and what we work off of are form 700s, which we work off of. That is where we get the rough dollar amounts. But these are, Cisco is a fortune 500 company and they are an applicant for a -- in this matter. And as such, if you have a financial interest and you cross the threshold, then the trigger will be if it has an impact, potential impact on their expenses of a certain amount. And it really is case-by-case. As you're aware there have been other instances and I think in those cases there are some areas where there was a potential conflict and you recused yourself and there are other cases where you didn't.

>> Councilmember Herrera: Have I ever been in conflict with any vote on the Cisco stock?

>> City Attorney Doyle: Not in our opinion.

>> Councilmember Herrera: So it is -- so it is -- item by item?

>> City Attorney Doyle: Yes, so it is item by item, case-by-case on a conflicts analysis.

>> Councilmember Herrera: Thank you. So I will recuse myself just on the outside chance that there may be a threshold with regard to Cisco.

>> Mayor Reed: I'm hoping we're going to have a quorum left here.

>> Councilmember Kalra: Mayor, Councilmember Chu has --

>> Councilmember Pyle: I'm pulling the item, there will be no discussion about this.

>> Mayor Reed: We've got to take action on this. Anybody else got anything to say on this? Councilmember Chu are you out too? Okay, we have Councilmember Liccardo, Councilmember Chu, Councilmember Oliverio, Councilmember Herrera, not -- not participating in this. So that leaves, and Councilmember Constant is out of the room. I don't know if he's got Cisco stock or not. We still have six of us left. Okay. Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I would like to say that I am dropping this item. This memo to defer extending the T.O.T. cap and I move approval of the staff memo. I would like to say that my memo was not about Cisco or about any corporation that currently benefits from the T.O.T. cap. My memo was about revenue generation. Council approved fiscal reform plan included revenue generation and San José has not updated over taxes such as the business tax since 1984. And we didn't put a sales tax on the November ballot. However, I was educated very nicely by Mike potter who represents Cisco and he was also representing the other companies that benefit from this. So I learned a great deal. And what I would like to do is just say the following: At the expiration of the camp program in 2017, include in the analysis for extension or termination of the program the following information: And this is 2017. Should cap increases be based upon 2% per year? Or should T.O.T. cap also look at company growth? Such as the number of employees, in order to take into consideration both the increase in the cost of purchasing telecommunications services, and the growth in the size of the companies participating in the program. I would like too make a proposal too, to include this in the special session that Councilmember Rocha has put together. I think it would fit very nicely and with that I'd like to hear a reaction from Councilmember Rocha on the motion.

>> Mayor Reed: Let's see if we have a second for your motion. We are back to seven people on this Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I think you're referring to the proposal that I've submitted to Rules Committee about taking a look at the study sessions. And including the topics from councilmembers as suggestions. I think it's a wonderful idea and it would be great to include it.

>> Councilmember Pyle: And I was hoping too that we could include members from the community, from the corporate community, from the chamber, people that would be very interested in providing us further information that would help us in our decision.

>> Councilmember Rocha: Assuming that council agrees, this is one of our study session items I think that's a fantastic idea. Thank you.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: Let me just speak to this. I'm going to support the motion to approve the staff recommendation. Back in 2008 when we put together measure K which ultimately was approved by the voters, strongly approved by the voters, we had to spend a lot of time figure out how to structure the changes because we reduced the rate and broadened the base. And having a cap was an important part of having support from the business community.

>> Councilmember Pyle: Right.

>> Mayor Reed: For measure K and we did get very good support. So I do think we need to keep the cap in place. We'll extend it for a while and we can review it in 20 -- as we approach the 2017 time frame. But I do want to just note that one of the reasons we have a cap is the complexity of figuring out what the precise number is for large corporations who are doing worldwide business and have worldwide communications. Because I remember

the stacks and stacks and stacks of documents that people have to go through cap to figure out whether or not they are below the cap. I think it has more than one purpose. But in the past, due to tax measures, support from all corners and that was one of the reasons we had the cap. So I'm supporting the staff recommendation and the motion. Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I don't think can I afford one share of Apple stock let alone 2500 of Cisco. But any case, I'm glad Councilmember Pyle that you brought up this issue. I think it is an important issue and it speaks to just a general principle that we do need to be as creative as we can in trying to find revenue sources and given the fact that you know, we've made collectively and citywide and our residents have certainly faced a brunt of it in terms of cut back of services that at some point we have to really start figuring into the equation where we get revenue and we can't always look to giving tax breaks or fee breaks at the expense of critical services especially since we didn't go to the ballot in November. In this case maybe this is not the right one to do because it certainly does have an impact on very important parts of our -- some of our important employers. It has a dramatic impact on them. And so there may be other ways so I certainly support Councilmember Rocha and Councilmember Pyle's commitment to doing more and certainly putting together a study session where we can really have a hard conversation since we did not go with the sales tax revenue. There aren't really many more avenues. My ears are open to any other ideas in the community and as we go forward we'll certainly reach out to the community to allow ample opportunity for ways to bring in revenue at this critical time . Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: I wanted to disclose that I mike potter was hired I shortly thereafter sold it, thank you.

>> Mayor Reed: We do have a motion on the floor. On that motion, all in favor? Opposed? None opposed, motion passes on a 7-0-something-4, we have four abstentions. That concludes work on this item so

councilmembers can return to the dais. Item 3.6 which is approval of citywide insurance renewals. We have a motion to approve staff recommendation.

>> I did have a question.

>> Mayor Reed: I'm sorry, back to 3.3. Mr. Wall I forgot to call on you. You wanted to speak on that. Sorry, councilmembers we got one more comment on 3.3. So.

>> Thank you for calling on me after you voted. First of all, you folks give fee breaks and tax breaks as a matter of routine. So let's not belay the issue that this is something out of the ordinary. For the folks at home they don't realize that this is a cash cow to the city. It represents approximately from fiscal year 2008 to 2009 to the present, about \$31 million a year, average, for a total of \$124.5 million. Now, if you had prudent ways of spending that money that would be different. I consider this tax on business to be burdensome and oppressive and I think it should be reduced if San José's going to attract large financial houses and other banking concerns. I also think the five-year extension to 2017 is far too long for reductions to take place, and other type of reformulations of this tax. I think the report that was given is an outstanding report in all regards. This cash cow business is an excellent opportunity for you to take this revenue, or a reduction of this revenue, which I support, and create enterprise funds for it to fund in part lest say finance the Office of Economic Development, fire prevention, the fire department, this is an amazing amount of money that I think is just being wasted year after year. And I think you're really putting nails into the feet of businesses by going ahead and extending this instead of reducing it and making the appropriate modifications to the formulation. Lastly, I want to bring it home once again. You people, council folks, Your Honors, you routinely give tax breaks and fee breaks to developers for high-density living projects that don't pay for parks, don't pay for traffic mitigation. So at least on this issue when you vote lower your heads so we don't have to see smiling faces entering into the record of untruth. Thank you.

>> Mayor Reed: That concludes the public testimony. Anybody wish to reconsider their vote on 3.3? All right, no requests for reconsideration, so now we'll move on to 3.6. Councilmember Campos did you have something on 3.6?

>> Councilmember Campos: Yes, just a question to staff regarding city assets. Would -- so are all city assets covered under these insurance policies? And the reason why I'm asking is, and I think I've asked this before, given that folks have stolen metals and copper out of our utility poles and so forth. Why wouldn't we insure certain assets?

>> I'm going to have to have John Daum our risk manager answer that question. He'll come down.

>> Councilmember Campos: Okay.

>> Good afternoon, honorable mayor and council. My name is John Daum. The answer is yes, all city assets are insured. The reason, we have a deductible of \$100,000. Unless our loss exceeded the amount we wouldn't be able to recover from the ensuing carrier.

>> Councilmember Campos: When people are stealing copper wires throughout the city, that never meets that threshold, never gets to that amount of loss?

>> We have not seen a loss exceeded that amount. Yes.

>> Councilmember Campos: I understand once the copper wire gets stolen or other metals get stolens, certainly we have to replace them right away, we need light. Once we replace them we wouldn't be able to build upon okay over this certain amount of time we have replaced X amount of dollars of metals that have been stolen or copper wire and we wouldn't be able to get reimbursed at that time? .

>> According to our policy each loss treated as occurrence and a deductible applied for each occurrence so we cannot add, the entire year into loss of one event.

>> Councilmember Campos: Okay.

>> Mayor Reed: Thank you. We have one request to speak, Mr. Wall.

>> I'd like to thank Councilmember Campos for raising the issue of copper theft and other metal theft from basically all over the city. I speak on this issue because I've seen, by experience, people using illegally stolen shopping carts, transporting large amount of copper wire and other type of metals that come from construction projects in my opinion or from other industrial uses, coming into the various recycle places, surrounding North 10th street, North 10th at horning. This has been a matter of record for many years for reporting of stolen shopping carts. It's interesting to note that the city hasn't figured it out to start regulating these recycling houses with very stringent protocols when it comes to large amounts or even small amounts of these metals. These people chop them up the wires, sometimes they're in bundles and yet this underground competent is facilitated by first, nonaction of the city and two, by the city's permitting the crime of these stolen shopping carts. Now it is true, I have seen pickup trucks full of wire, conduit and other type of metals, city signage, for example, even show the mayor, a picture of someone stealing a city sign. And the city just turns a blind eye to this for whatever reason it does. And I would like to thank Councilmember Campos for at least bringing this to discussion, and jogging my memory of the many incidences that I have entered into the public record. I think it's well over 168 or 200 individual letters on this issue. Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I did have a question on page 8, forgive my ignorance and also if I missed it the reference to number 18, rancho Del pueblo, the reference to page 8, the reference to rancho I Del pueblo.

>> Page 8?

>> Councilmember Rocha: Sorry page 9.

>> I think that has to do with the fact that we are spotting the insurance debt service fund though, we'll check on that.

>> Councilmember Rocha: And why that one is --

>> The only one called out. Yes, we'll check that.

>> Councilmember Rocha: Thank you.

>> Mayor Reed: We have a motion on this City Clerk? We do have a motion on 3.6. On that motion of? Opposed? None opposed, motion is approved. Next item is fop 1, actions related to workforce investment act fund. We have a motion to approve. I have a question for staff about this. This is funding taking advantage of federal funds to help the folks who got laid off when Solyndra closed. So my guess is, that Jeff ruster and his staff have been working on this for months, since it was months ago that Solyndra got closed. Do we get reimbursed for are we getting everything we should get is the question.

>> Exactly. Work2Future responded to the workers of Solyndra back in twefn. We're working with other workforce investment boards for clients that live in their areas. And in the interim what we are doing is using our own formula funds that we receive from the Department of Labor every year. It is 100% fintd from Department of Labor workforce investment grant reimburse our own formula funds for which dislocated worker clients.

>> Mayor Reed: Okay so you have people that have have enrolled, so all 1100 of the Solyndra employees who got laid off haven't necessarily showed up at your door?

>> No, they haven't. Some have retired, some have gone on to find other employment and some have in other areas.

>> Mayor Reed: How do we engage with.

>> Directly, we are 24 for 24, 24 of those clients from stliend have entered our program and have gone through our services including training in a wide array of professions all 24 have found employment elsewhere. The remaining balance the other 106 are still in our program getting other kinds of services going through training and have not yet been exited from our program.

>> Mayor Reed: Okay I think it's important for our people to understand these are federal dollars, we can't use this money for other things, it is strictly for workforce investment board activities.

>> That's correct.

>> Mayor Reed: Okay. We have a motion to approve. On the motion, all in favor? I'm sorry, I have one request to speak, I'm not going to call the vote. Mr. Wall.

>> I am very sympathetic to all the taxpayers that lost money with the Solyndra fiasco. I'm very sympathetic to those that relied on Solyndra as their means of economic survival. What I am suspect of is whenever I see grants, and grants aren't bad at all. But what I'd like to see and what's not included in today's presentation is, any long term obligations to the city once this grant money runs out, is there any further obligations that the city must go forward and also revenue either from the city or from the state to continue whatever obligations follow from these grants. Now, absent these obligations, I am very suspect, and I don't support taking this money until it is made public what these obligations are if any. But for the most part, from what I've seen over the years every time you take a grant you also incur some form of Dracula that sucks your blood out past the grant money. And I think the people should see this. Further any reliance on the state of California to assist the City of San José with this program should be suspect due to the fact the state of California is basically broke. So once again, the issue is, long term obligations, and also, lastly, unreasonable expectations that may crop up from this -- from the participants, and/or the city that governs this program. Thank you.

>> Mayor Reed: That conclusion the public testimony. We have a motion to approve. On the motion, all in favor, opposed, none opposed, the motion is approved. Item 4.2 is an ordinance amending the sign code. I think we'll have a staff presentation on this. Give them a minute to get in place before we start Joe Horwedel is going to take the lead I think.

>> Joe Horwedel: Andrew Crabtree has got the helm on this one.

>> Thank you, Mr. Mayor, members of the council. As the council is aware in 2010 the city gave direction to the staff to work on a comprehensive update of the City's sign code sign ordinance title 23 and staff has been bringing forward a series of phase 1 phase 2 phase 3 of updates to the City's sign ordinance. And June of this year June 5th we were having a community related to this and the number of community members came to the meeting requested we also look at the issue of gas station canopy signage and so staff has been working open that over the course of the summer and that's the primary ordinance that we're bringing forward today. The proposed ordinance also addresses some cleanup issues. Not particularly substantive nature as well but just related to the gas station canopy signs, during the month of July, staff talked with sign consultant representing a property owner in question and also did some research about what surrounding jurisdictions allow and brought forward the proposal. We've also posted on the City's Website a description of the proposed ordinance and sent out e-mail to community members as a form of outreach on this amendment. This slide just shows some images of gas station canopies that are existing in San José and as you will see, in this case three out of four actually don't have any signage on them. City's commercial design guidelines encourage the development of roof forums for one of these gas station canopies that are sort of architecturally engaged in the form and so through the City's design review process, it's not unusual for gas station canopies to come out like that. But there are some that do have signage in the City's sign ordinance that provide for that signage. Specifically what you see on the left is an image of what the city's ordinance currently allows. It allows a relatively small sign about four feet square maximum height of two feet. So two feet by two feet. On the canopy. And you can have one of those signs per face of the canopy. And generally allow two of them in total. The ordinance that we're bringing forward is drafted would allow for one of those smaller signs to be replaced by a larger sign as you see in the example on the right side which would be up to 40% the length of the canopy. We also are aware that the property owners have requested that we would really

go further in terms of what we allow, and that there's a recommendation out related to that. There would basically allow a total of four signs on the gas station canopy. And two of them could be placed on one side of the canopy, so you would basically have the one large sign, as we're proposing, and up to three additional small signs allowed. So that would be a more generous provision. Just want to read into the record that staff has done analysis of this request, as required under CEQA. And that we've completed an addendum to our negative declaration that was already prepared for this ordinance, that provides environmental clearance for this alternative should the city council want to pursue that. Also that the ordinance has been drafted to allow action by the council on that today as well. Also staff would like to confirm that both proposals fall within the title of the ordinance and the general language for this item and we'd like to note that while we haven't done any specific community outreach around the more extensive proposal, the input we received related to the increased cap by signs was generally favorable. So with that staff concludes the report. Thank you.

>> Mayor Reed: Thank you. I want to thank the staff for all the work you've done on the sign ordinance over the last couple of years. We were fortunate in San José to be the metropolitan area with the largest job growth in the country in the last fiscal year. And a lot of small pieces go into that. Signs in particular, are particularly important to retailers, especially small retailers. So this canopy issue is a small issue. But it's going to be very significant to the people who are running a small retail operation. So you've done a lot of work on signs. I know it's taken a huge amount of staff effort over extended period of time so I just want to thank the staff, congratulate them and I think probably the work's not done but we have certainly done a lot and got some good things accomplished. Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you. I also wanted to thank staff for all your wonderful work and to also bring this issue back in a timely fashion. I think this is a request that came from a couple of councilmembers a couple of months ago and I also wanted to thank you for having the community meetings. Obviously that was very helpful to hear from community members. My office met with the art Calderon from Calderon tires and this is one of the issues that highly impact their business. I think we can all agree that signage is very helpful to all the businesses, especially gas stations. I don't know how many times when I actually drove around and wanted to look for a gas station and not being able to find it because the sign is so small. And so I think having the extension and the

increase in the signage is something that's very helpful. At this time I wanted to put a motion on the floor to approve the memorandum co-signed by Mayor Reed, myself and Councilmember Campos dated September 21st, 2012.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. And I appreciate the staff going back and looking at, you know, ways to figure this out and try to do it in -- especially in a very respectful way to the community and respecting the -- you know the design guidelines that we expect in our business districts. I think one of the things that, as we move forward, that we need to be conscious about, is that you know, several years ago when we really went out and wanted to encourage owners of gas stations or businesses like these to go invest the money into your facilities, and there are things that we can do to help you recoup that investment, you know I know the initial discussions were, you know mini marts and what can we do to so that you can all try to you know get your return on investment. One of the other things that I think that we finally got our arms around this is, you know, is to get folks the -- or give people the ability to let passing motorists know even if it's staring you in the face, hey, here is a business, we've invested to make it look not just make it look respectable but to make it a complement to the business districts that they exist. And I think we should be able to provide these rewards to people that are going to invest that kind of money in their properties. And if that means giving them the ability to put more signage on their properties but doing it in a respectful way, then you know, there's a win-win here. And I think it sends a message that for businesses who want to do this type of investment that you're going to be able to do that in our city. And so I want to thank the mayor and Vice Mayor for also working on this. And you know my staffs and your staffs for ping arms around this and finally getting this done.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thanks. Of course when there are signs I need to speak. I'm very happy to see that we continue to expand our sign ordinance to make things better for our business owners throughout our city. And I just wanted to say that it was how nice it's been for me to drive by out right on the border of district 6

and District 1 where we watched the new signs go up on the old Sherman building out there on Tish way which was a product of our last renovation of our sign code. And that really helped because there were tenants that didn't want to sign the lease until they were able to do that. And now those signs are up and people are seeing that we have three higher-education opportunities right there for people to take advantage of in San José. And this comes on the heel of changing our sign code for, I forget what we call them but churches and other gathering places. Assembly, yes, places of assembly that we have in our code. I hope that we can continue to look for ways that we can optimize our sign code for businesses, and find ways to be flexible with some of our larger employers, and retail centers and things of that nature. I know that there's work being done in my district now with one of the aging centers, and signs are a hot topic in that particular renovation. I just hope that we can continue working on ways to make it so that we can provide success for our business owners and our property owners throughout our city. So I'm very happy to be supporting this today. Mr. Calderon, great to see you here and great to see that we moved very quickly on this. It's one of the few things I can say we moved very quickly since I've been here so I'm happy to see that thanks.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I want to thank my colleagues for the work we did on this motion. Thank you for the recommendation. I do have some questions with respect to the freeway sign item. If you wouldn't mind refreshing my memory, in we are moving to a larger sign again. We went through a significant, Alameda plaza sign in my district 85 and Alameda expressway I've already received a couple of complaints and I'm not suggesting that receiving complaints means we're doing the wrong thing but I'd like to get a sense why we are moving to a larger signage.

>> Thank you. Councilmember Rocha this is being brought forward really as a cleanup, item and last phase when it was considered by the city council, the council gave direction to revise the increase the percentage the sign ordinance had both a size and per square footage cap and the ordinance was revised to raise the overall percentage the overall sign was actually raised and this is really just sort of closing the loop if you will and making all three numbers align with each other.

>> Did the numbers give exact numbers in terms of 375 and --

>> Yes, the ordinance gave -- yes it gave exact numbers in terms of the overall size of the sign and then the percentage of the sign that could be programmable electronic sign area. So this then brings that square footage for the programmable electronic sign into alignment with the percentage that was set.

>> Joe Horwedel: So maybe another way of describing it there was an overall total size of programmable and nonprogrammable which that other ordinance did it was based on the lower percentage of that total amount council approved the overall permitting but we didn't change the programmable sign this is getting all three numbers to reconcile together because our sense of the intent of the council was to allow the larger programmable signs which was to allow a larger percentage and we just missed that when we brought the code forward. That last ordinance change we did was really the result of staffing looking at some proposed signs that were coming through. That the proportions based on the heights that we're allowing, the size really seemed kind of disproportionately small and so that was our presentation to the council at that point, was we thought a little bit larger made sense. The memo kind of decision at the dais adjusted that and unfortunately we didn't catch this number in that.

>> Councilmember Rocha: Thank you very much, that helps. But in terms of the one we just recently did, is there anything that we learned from the Almaden one, that might help us with this, that has caused you to pause on any item add all or are we comfortable with where we're going as far as staff recommendation?

>> Joe Horwedel: Staff's recommendation we would not change based on what we have sooner with the Almaden fashion plaza. We did contact the sign company in the shopping center, there's a letter that went out yesterday I think it was, that was dated Friday that pointed out that the brightness of that sign did not conform to our ordinance, did not conform with the permit approvals of that sign. We have been assured by the sign company that it's a matter of burning it in when it first fires up it runs full brightness. We were not aware of that and that was a little bit of new information that we had not heard about before. We have very specific performance

standards in our permits and in the municipal code. We have invoked our rights under that to require a lighting professional to go assess the level of lighting with that sign to look at the ambient levels to ensure that in fact it is dimming at nighttime as it's required to do. And that was one of the really important discussions that council had as we talked about these signs. That they needed to not be blinding people and this one clearly was.

>> Councilmember Rocha: So you're comfortable you can deal with that issue in the permit stage?

>> Joe Horwedel: Yes.

>> Councilmember Rocha: Thank you very much. Would you be comfortable share that with my staff?

>> Joe Horwedel: I think we sent that to you yesterday.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you memo and whoever might have authored it. My intent, my understanding of the intent of staff's direction was that we're liberalizing signage add gas service stations, so I'm not sure I understand what is new or what is -- that is, my understanding is the staff recommendation would already allow the retention of previously approved signage. Am I misreading staff's memo?

>> The ordinance as staff brought forward would have required one of the existing small logo signs to be removed.

>> Councilmember Liccardo: Oh hypothesis.

>> And replaced with the larger.

>> Councilmember Liccardo: I see great thanks.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I also want to thank staff for moving so quickly on this. Supporting small businesses is very important, I've been supportive of the sign code changes as we moved along. I also want to thank Art Calderon for being here around maintaining a business in San José and being successful and going that business and moving along. I had one question for Joe. When do you anticipate the sign code changes for village signage coming back?

>> Joe Horwedel: At this point I don't have kind of an exact schedule we're working on. We've been waiting what comes out of the design process out aft Mirasou and coming out of something that would work around that proposal as it relates to the villages themselves, we are just starting our planning work ton Stevens Creek corridor trying to understand some of the land issues. So the sign piece would be really at the back end of that process and that's probably about six months away.

>> Councilmember Herrera: Okay so the one in District 8 we will be moving on and that could be a prototype for others but --

>> Joe Horwedel: Right, my expectation would be later this year assuming the work of the artist design team progresses.

>> Councilmember Herrera: Great, thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: I was trying to figure out what else did I want to say? I just wanted to disclose that my staff met with Mr. Calderon and his representatives, thank you.

>> Mayor Reed: My staff also met with Mr. Calderon in preparation for this item. One thing I forgot to mention also very important to the city is not only did we have job creation last year first in the nation our sales tax revenues are also going up. And up is so much better than down and these small retailers all add up and the work that we've done on signage has been a boost to retail both large and small. And you can see that in our sales tax revenues and we're grateful they are going up instead of down. We do have some requests from the public to speak. We'll take the testimony now. Art Calderon and Aaron Racindez and Alofa Talivaa.

>> I would like to thank everybody who has contributed to making this possible. The mayor, vice mayor, councilmembers, City Manager, and the whole staff. The communities, north, south, east, west of this project. Leaders concerned in the supporting of positive improvements in business. Thank you. As for the Planning Department, thank you for giving me the opportunity, for giving me reasons to express my frustration. I wishing the next time around you work with us. Planning Department you have mistreated me. You have harassed me. And I feel I've been discriminated. I have made efforts to meet with you. By both e-mail, by phone, for months I have been ignored. Planning Department you have given me hell. Planning Department you have held my plans hostage. You have lost my plans. Multiple times. And been forced to pay other fees and dues of foreign plans not affiliated to my improvement project. In the future I would like you to be business-friendly and to work together. As a result you will inspire business owners to make improvements and continue serving the Silicon Valley, the most powerful place in the world. I have nothing against you. But for business reasons I have to move on. I invite every department in the city to work together, making San José a better place to do business. Business suffers when it comes to dealing with City of San José. Dysfunctional departments are costing business thousands in revenue and hurting our community. Time is money.

>> Mayor Reed: Sorry, your time is up. Sorry, time is money and your time is up so you're going to save a little money finally.

>> Thank you.

>> Mayor Reed: Aron Racindes, Alofa Talivaa. David Wall. GIs thank you, mayor chuck read you have been supporting the Calderons all back to those days of eminent domain. Thank you very much. Knee heeding the historical business association, I have many issues, this is one to mention. The city has got to speed up on issues like this. There is no way to hold these plans from business to come all the way to you guys. There is you know, Planning Department should do a discretion on small things like this. We have got many other things to worry about in the City of San José, and is business friendly. So think of I know you are going to recommendation assign is a sign it doesn't matter the inches, two, three, four, whatever but make it useful for the business people. Just for your information there is more than 100 ordinances in the City of San José to be changed. On a waiting list. So I have one business on story Road that didn't even want to go into it, forget it so thank you very much.

>> Mayor Reed: Alofa Talivaa and David Wall.

>> Good afternoon mayor and councilmembers. Alofa Talivaa I represent the Sierra neighborhood association I'm here to speak for and support the sign ordinance amending sign code. And working here for the last three months, and finally we got into this day, and I'm here to urge and support and I'm pretty much hearing from all of you, that you're going to support especially the Calderon project. It's being dragged for so many years. This is the only part that is missing, you know, is that sign. You know, these are young men. This is their dreams. You know how when you're young you dreaming about something? This is part of their dreams. They wanted to complete, so is that what attract businesses, you know, to come and customers to their place. Why not? You know, allow them to have it. But I'm here to let you know that it's really good, you Mo, that the direct report in the memo in the first time that they are going to meet with the businesses in the community, but that never happened. That never happened. We've been calling, e-mail but we never get the chance to meet with them. When we finally met on the 20th, last week, it was already a done-deal. But this is, I emphasize this is very important. For the community, and businesses to give them their voices, make their voices heard on whatever project or whatever that is going on. We really need to make our voice heard. Thank you for your time.

>> Mayor Reed: David Wall. Dolores Marquez.

>> I think Planning, Building, and Code Enforcement should be thanked. It is not their fault for any of these other testimonies that berated them. I would like to see for example this sign here, I don't understand why that signage can't be programmable. And also, when you talk about programmable, you talk about being able to sell vast amounts of advertising dollars per unit time. And if you construct a revenue or a tax incentive type program like the telecommunications tax at a very low rate, then you could create an enterprise fund from this. Now, we look at the Valero sign and we ask why can't that be programmable and they could sell advertising for other businesses. Also the sign ordinance does not -- is exclusionary because it doesn't include existing billboards. Now billboards in the city should be in my opinion be able to be reconfigured to operate with the light emitted diodes, and rotational aspects on certainly billboards so they can face certain geographic aspects at certain periods of the day. Now mind you this is a lot of money and I don't understand why the council has not looked into this with a little bit more vigor because of the revenue stream that you could construct with reference to an enterprise fund to start taking city operations like PBCE off the General Fund, the attorney's office off the General Fund. Lastly, thank you, Mr. Mayor revenues are going up so you would not be adverse to refloating city employees salary and benefits, particularly in the police department, fire department, city attorney's office, and all other departments I don't have time to mention but they are grateful for their service.

>> Mayor Reed: Dolores Marquez. Good afternoon Mayor Reed, members of the board. I'm before you supporting the Calderon family. I have always supported the family. They live in my school district, have always been participated in my school district and my community. I'm here to support the 4.2 item on behalf of them as well. But more urgently I come to speak to you about the process that is been taking place. I know in my community and in my school district I would never allow for any of our departments to do what I have seen being done to this family. Time after time, cost after cost. The process always leading to a dead end, having to backtrack, start again, going then calling asking to meet never getting a response. Not only is that disrespectful but it's not a good way to do business. You have a small business that wants to create jobs wants to do business, bringing in revenues, in turn bringing revenue for the city and yet they're held back by dead ends after dead ends. And so I think that the department needs to be relooked at or the process needs to be reviewed. Because a simple sign like this should not hinder a business. Thank you.

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

>> Councilmember Kalra: Thank you, mayor and I agree with all the comments made about it's good that we've gotten to this point with the sign ordinance and the ordinance are being done. I've got a couple of my constituents also raised the issue of the same sign off of 85. I kind of like it but if you get the letter to us we can forward it, it can dim a little bit as time goes on because it's a little bit on the bright side. I'm also glad that we can go forward with not just gas stations but a lot of other areas in which signage including city building, Southside community center desperate need a Marquee there it has been a big transition period over the last few years not just in terms of our staff size being cut down in planning in particular but we've also made a concerted effort becoming more business friendly, remarkable job as far as special tearnt improvement and still a work in frog on how we can continue to improve with our small businesses that provide so much economic boost to our community. So I you know, we're not perfect, no one up here's perfect no one in our staff is perfect. So if we've over time caused discomfort that's something certainly that I'm willing to apologize on behalf of our city staff. But I also am very thankful for Mr. Calderon his business and all the other businesses that have waded through this process and hopefully now because of the vulnerabilities in the process that have been exposed through going through all this we can make sure that others benefit from some of the tough challenges that you may have had to have gone through. But I'm confident with our approach from our current approach with our current Planning Department that we can continue to heal to some extent and move forward and improve on some of -- on some of the relationships we have with our small businesses, something that we all agree on. I know the Planning Department agrees on it's a matter of certainly of resources but it's also a matter of will. I think the will is there and we welcome input from the small business owners that have gone through it. Whether they've had a pleasant experience or not so pleasant experience we need to hear that so we can continue to get feedback and we can improve but we are certainly all thankful for the small businesses that have contributed to the vitality of our city.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. As far as process, does this go to the Planning Commission at any point or has it already been there?

>> Joe Horwedel: The sign ordinance?

>> Councilmember Rocha: Well the modifications as it were.

>> Joe Horwedel: Sign code changes do not go to the Planning Commission.

>> Councilmember Rocha: Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor I just wanted to also respond to Mr. Calderon certainly our apologies on behalf of the city we've launched an effort to significantly improve our commitment to customers at the city and this is a measure a proposal that has come back several times to our Community and Economic Development committee and I hope we'll be servicing with our council very soon and welcome your involvement in this process to make sure we are making commitments to our customers and businesses and residents in the city and we're keeping those commitments.

>> Mayor Reed: City Manager.

>> City Manager Figone: Thank you, mayor. I do wanted to add my comments to those of councils and first of all, thank staff for working through very adverse circumstances to do what we can do to serve our customers. That said, we're always open to the feedback to enhance communication, improve customer service. So you know, I do apologize to Mr. Calderon and the family I think on behalf of all of us, but also, taking the comments seriously, and at the same time, I would like just the community to understand what we've been through the last few years. So we will just move forward. Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I also want to I think it's very important the feedback that we heard from Mr. Calderon and the experience he had. I think it's important, and I know that our staff appreciates getting that feedback and sometimes we don't hear the feedback. So it's good we have it and I want to thank you for going through the process because the results of this are going to benefit a lot of other businesses out there and I think you mentioned that when you spoke. I know that our staff is very much interested in trying to improve customer service as Councilmember Liccardo talked about. I chair the economic development committee and we're very committed I know our staff's very committed to improving that. We also have some new services coming up that I think when all this comes back to staff we'll be hearing about new web-based services to help services become streamlined and help applications get through the process. I want to you know it's a priority, we are not moving as businesses will give us that feedback because that's the only way we'll continue to improve things. Thank you.

>> Mayor Reed: That concludes the council discussion. I think. We have a motion to approve.

>> Joe Horwedel: Mr. Mayor if I can just bring kind of a close to things. It is something that staff does take to heart about how we deliver our services, and the council did approve in the budget this year adding some more staff back in our permit center, essentially doubled it. Those staff came on board here the last couple of weeks so we are getting better there. But it is -- those staff do have to live within the rules that are set by the city. And today is about changing those rules. That is what we try to do proactively. Put without those changes my staff cannot go through and approve those. I think the comments about flexibility are how we think about those rules and so we're trying to bring more of that into whether it's sign regulations or zoning regulations and even the building code. Because it's a very unique world we live in. We're a very large, diverse city and we are trying to make sure we can respect that. But it does kind of changing the ship and turning the ship at the same time so thank you.

>> Mayor Reed: All right, on the motion all in favor, opposed, none opposed, motion carries. That concludes our work on the sign code for today. I'm sure we'll have some more in our future. We'll move now to item 5.1

antigraffiti and litter program semi annual report. We'll have a staff presentation on that I believe. So minute for the staff to get down here. There's a previous presentation to neighborhood services and education committee on this that's available for anybody who wants the longer version. But we did want to have some staff presentation today because this has been of some interest to the councilmembers from time to time as we've discussed in the past.

>> Julie Edmonds-Mares: Thank you, mayor and council. I'm Julie Edmonds-Mares, acting director of we're here to provide the fourth update of the city council to the city council on our new service delivery model for abating graffiti in the City of San José. Since starting with our new contractor, graffiti protective coatings last July. This new service for graffiti abatement is an example of one of the many innovations that we've undertaken to lower cost and improve services in response to our budget challenges and to address specific direction of the mayor and council to explore new ways of doing business and to ensure quality service is available to our residents even in these tough fiscal times. In the fiscal year 2011-2012 operating budget we instituted a new estimated our cost savings with this shift would be \$613,000. While ensuring a quality service was provided to the residents. In April of this year due to a higher than forecast graffiti vandalism rate I reported to the mayor and council that the program might fall short on those fiscal goals and objectives. Innovation also brings with it a certain amount of risk. Risk of the unknown. Risk that we are overestimating savings or underestimating the difficulties of transition. But it's with the benefit of hindsight that we can look back and report after a full year of service that we were in fact able to achieve a \$600,000 year-over-year savings, with only a 1.5% budget variance on a \$1.2 million program which was a pretty significant achievement. I can also say that the transition did have some challenges. There were some transition issues early on. However, I believe the risk of the service delivery shift was worth it as we undertook them carefully. We researched, we sperlted, we refined our approaches as we learned about what it took to have our best outcomes. And we did so in close coordination with our community. Over the course of the past year we found that the new model has been both cost effective and has improved quality and responsiveness to our antigraffiti services in our neighborhoods. So while the General Fund savings was realized, it's just as important for us to report that we've had significantly increased community participation and resident engagement in this program, that graffiti itself, the abatement issue is trending down year over year, and customer satisfaction in the program is very high, as we detailed in attachment C with

individual customer comments. We've also created a stronger linkage to the mayor's gang prevention task force. We've really set a high standard for ourselves in the City of San José in terms of abating graffiti and I think we've done a good job of that. With that I'll turn it over to Mike will go over specifics and I would also note that the council referral is in attachment A.

>> Okay. Excuse me. Irrad case services are provided by a company by the name of graffiti protective coating and that's the company established through the request for proposal process GPC is also the company's name and it's a fee for service based on graffiti eradication . Maintenance model ensuring that all surfaces are painted through so they're one color and graffiti does not appear to be present. Blotches and other forms of graffiti to longer appear to be in surfaces that they abate abated quickly. GPC also provides graffiti eradication in the form of paints also soy based solvents water blasting or baking soda blasting and ensuring that the surfaces look to their pre once they have been abated. Attachment B to the report zones 1 and 2 are in a maintenance mode by GPC covered over so there's an appearance that there's no graffiti. But GPC continues to respond to zones 1 and 2 within a 24 hour period as required by the contract to abate graffiti. Under the maintenance mode once they've reached restoration, they require less effort to abate the graffiti on the walls. There are smaller tags at that point. This continues to be a collaborative effort and the community based effort. We still need our partner agencies to participate. We still need community to report and volunteer and we need advocacy for graffiti abatement from all levels. Continue to be significant components of the program we feel we have the eradication program on track. We are concerned about the enforcement reductions that may affect program efforts and the success is not possible without the informed engaged community that supports program collaborative. Under program performance, 98% of the GPC work orders were completed within 24 hours in this rating period. Gang related graffiti was abated 86% of the time within 24 hours and citywide 91% of the graffiti was removed within 48 hours. Satisfaction is high with the GPC from based on their survey results from their app. Their app itself allows citizens to give feedback. 95% of users score the quality of the work at a rate of 5 out of 5. 97% rate the response time of 5 out of 5. Again attachment C in the report shows all the customer feedback from the various app users and it is very telling, the statements that the folks make. We welcome support from council in addressing our partner agencies. Councilmembers that are on governing boards say with VTA or other transportation agencies, we encourage them to direct those staffs to address graffiti as San José's addressing graffiti. This slide shows the

volume of graffiti, volume versus cost. The yellow line shows budget costs and the blue line represents square feet of graffiti abated starting in fiscal year 2002 and going all the way up to this last fiscal year 2011-12. It shows definitely a trend where the program became more efficient over time. Graffiti continued to be abated and abatement grew over time as cost stayed stagnant. But cost and graffiti abatement were matched in this last fiscal year fairly closely as again this is a fee for service program. This graph shows trends, decreasing trend in graffiti. The top line represents square feet abated by month throughout the fiscal year and the bottom line the blue line represents cost per month. We show spikes and around November that represents the GPC changing zones. They went they started in zone 2 in November and they started in zone 3 roughly in May and they're working in zones 4 as well in May and June. Those spikes show that the GPC started their restoration model abating different walls and so forth so that they can bring those areas down to a manageable maintenance zone. This graph is part of the referral and in particular represents the app responses and telephone responses that we were asked to provide. We added a column for e-mail and the column for e-mail I'd like to point out is a stand-alone column. It isn't totaled because we wanted to ensure that the referral information stayed consistent. But this data indicates that we started the program off with a heavy reporting period of telephones as well as e-mail. But in December starting in December we introduced the app and slowly the method of reporting graffiti grow exponentially through the year. The app is a community participation model. It represents a model that people can contribute to the program. They can volunteer. The app also provides GPS pin points to allow the technicians better ability to get to the graffiti photos. It allows them to better recognize the graffiti, and what we really find the residents like are the follow-up. Once they report the graffiti via the app they get into e-mail or text saying that the graffiti's been abated or that we've referred it to another agency for follow-up. Again, app support creates greater community participation. Which of course leads to our antigraffiti volunteer program. We have over 3600 volunteers. We have 17 supervolunteers that have there -- many of them have their own equipment, a few of them have their own vans and pickup trucks with their own power pump equipment and they are out abating graffiti throughout the city. I'd like to highlight some of those general plan Rogers oops feedback on this program to the neighborhood services committee later this year. Dan Ursik who is a volunteer from council district 6 actually was our volunteer of the year award. We held our volunteer recognition event on September 22nd at Lake Cunningham park. Several hundred volunteers were recognized for their great work. That was attended by several councilmembers and the mayor. I'd also like to recognize Aurelia Sanchez and Alofa Talivaa some of our

supervolunteers who definitely contribute to our program. And then there's the antilitter update. I'd like to specifically highlight the great American litter pickup where, on March 19th, over 2,000 volunteers collected over 1200 bags of trash. And I'd like to recognize Councilmember Chu in council district 4 for providing the most number of volunteers that continues to be an accomplishment on your behalf. On September 15th, just a couple of weekends ago, San José health the coastal cleanup, 17 sites throughout San José were cleaned up. The anti-litter program supervised the downtown Guadalupe river site where there was a one mile stretch of 100 volunteers collected 188 bags of trash totaling over 5600 pounds of trash. I'd like to recognize Larry and Karen proud who as the recognition event were awarded the litter volunteer of the year.

>> Julie Edmonds-Mares: And with that I would just like to state that it was definitely an innovation and a change with the graffiti program. We did have some challenges along the way but our staff was dedicated to ensure that this service delivery model was an effective one for the committee we really couldn't do this without the effort of volunteers as Mike mentioned who really helped make this program successful. So with that we're available for questions.

>> Mayor Reed: Thank you, I'm sure there will be a few questions. I just wanted to comment that this staff report is probably the most data analysis of any program that we have. We really have an idea what's happening, what's going on, and I know that we paid a lot of attention to this because it's really important. But I think the staff work on this is excellent. We know more about what's happening here than I think we do in most areas of the programs that we run and I know it's been a lot of work but I think it's been worth it because we've generated a lot of excellent information and we can track the success. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I just want to commend Julie Edmonds for really pushing for making this happen. She was one of the big reasons why we got this program into place in the first place. She doesn't put herself in the foreground much but I want to bring that up because I think it's great. I happened to go to the recognition day at lake Cunningham, spoke to the crowd and we had over 400 there, 400 volunteers would do graffiti cleanup and all kind of volunteering for the city. These volunteers are important and I'm glad we were able to recognize them. My colleague has a memo and I'll be talking about the idea of there's

graffiti we're not able to reach and I'll let him speak but I have an idea on that too that I want to be support him on. I really think that our residents we can tell them that the city doesn't really have the responsibility for cleaning up the Union Pacific overcrossings or areas on the freeway. But when you see the graffiti and it's in our city it's just a concern. And residents want to have a way to deal with that. And I think we need to as we move forward figure out a way to come together and have one unified way of reporting graffiti. I actually had a chance to speak to CalTrans at one of our ground breakings of introducing a way to have one portal, having a way we can report graffiti with one application to work with the state and other agencies to allow them to report graffiti in the same fashion. I can tell that you CalTrans is very interested. Whether we can do that in a business to business kind of relationship with the city and CalTrans or whether we need to form some kind of policy making body for graffiti I'm not sure which direction that would go in. But I think -- I'm very hopeful that we can put together something that would give us a uniform way for residents to report graffiti and hopefully then on the back end of it have -- eventually have an integrated way of cleaning it up. I think we've all discovered that having these easy way to report and no not everybody has an android phone, my husband has one. I'm going to convert with my old brick blackberry eventually, it still does e-mail better. But it's easier with an android. People are adopting this technology and using it. We can get things cleaned up, we've had dump sites cleaned up. I've received letters from residents very happy about it and we just now need to move forward and figure out how we can attack some of these other areas of graffiti and have one way to do that. So I will -- I will certainly defer to Councilmember Liccardo to talk about the but I'd be happy to make the motion or second one that will be made on this, thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. And again thank you staff for the report. I do again have some questions and some comments. One being you know, again, I appreciate the effort that's being made. I certainly know that there's a number of folks in our neighborhoods that are participating, you know, as volunteers. But I don't think that's changed. There were a number of folks in our communities that were participating as volunteers as well before. As well as a number of private property owners where their properties were getting tagged on a recurrence, and you know, it was very easy for us to just go in and you know remove the tag. One of the things that concerns me is, is the ease that we have to take down graffiti on public property. You know, I think that the

time line we gave ourselves was 24 to 48 hours. But I can't emphasize more more the impis that when gang graffiti goes on property regardless whether it's public or private that 156 hours or several days, to let gang graffiti stay up, it's just not acceptable. You know, we need to do much more than sending out a notice to a property owner trying to work out with them to get them to take it down themselves if during a turf war we can use as a perfect example this past August, during that time if gang graffiti went up on someone's private property someone's fence and that didn't come down during the hot spots and angel you know what I'm talking about if that did not come down then we could expect much more you know in terms of violence than possibly we could have had. We need ways of figuring that out figure out how to streamline, agreements with private property owners that you know what if you don't take it down, we're not going to send you a notice, we're not going to play it nice, and we're going to take it down. I guess if we have to bill them we have to bill them, that's the process now I don't know. We can't let gang graffiti stay up longer than 24 to 48 hours, we just can't, it's dangerous.

>> Julie Edmonds-Mares: Agreed councilmember. The 156 hours you asked for that specific data so we gave it to you. It's a unique situation where it's behind a barrier and we can't get to it. We'll have to abate graffiti as quickly as possible.

>> Councilmember Campos: On zones 1 and 2 I know we're focusing on 3 and 4 now. If you can do it, I did hear about your explanation of moving to 3 and 4. So for 1 and 2 those are no longer on -- you know I call it the route, you know, where we've got trucks doing the circuit. Those are no longer on the circuit. Is that correct?

>> Julie Edmonds-Mares: The way I would contemplate or the way I would explain the zones is when we first go into a zone there are a lot of walls that have old blotches and things like that. I would call that a backlog. So we have the concentrated effort we remove the backlog. Then when we come back to the wall all we have to do is paint over that individual graffiti spot. So zones 1 and 2 are now a maintenance level of effort and all the tags in zones 1 and 2 will get abated within 24 hours because we've done that first initial effort.

>> Councilmember Campos: If they are called in.

>> Julie Edmonds-Mares: Yes, if they are called in. Only about 20% of our abatements are from calls the rest are as you mentioned from proactive driving around and that still does happen.

>> Councilmember Campos: So zones 1, 2, 3 and 4 there is -- those trucks are driving around those zones every day. We are focusing on 3 and 4 where trucks are going around every day?

>> Yes they are driving through the four zones.

>> Councilmember Campos: And there are -- I think I saw it on the map -- there are more, oh no there's just the three, just the four zones then, okay.

>> Julie Edmonds-Mares: Those four, yes.

>> Councilmember Campos: So then the circuit just has -- the daily circuit has expanded.

>> Julie Edmonds-Mares: That's correct.

>> Councilmember Campos: Okay so I wanted to make sure of that. And then I guess the other comment that I have, actually I have two questions. One, going to page 3 of the staff report, the antigraffiti and litter program eradication cost versus square foot eradicated, that slide that you had. So for 2011 and 2012, it shows that we've abated I guess it was 2 million square feet?

>> Julie Edmonds-Mares: Approximately 2 million yes.

>> Councilmember Campos: How much of that was actual graffiti tags and how much of it was covering a whole wall that maybe had a tag on it but you're trying to get the wall into conformance?

>> Julie Edmonds-Mares: Councilmember we don't track it that way, we tag it by the abatement that's actually occurred.

>> Councilmember Campos: That's tags we've taken down ?

>> Julie Edmonds-Mares: We wouldn't abate the wall unless there was green on top of brown in a previous abatement and then we're going over the paint to see Monterey highway is a really good example of that. You see down one side where we're abating and perfectly matched and the other side where we have the railroad and getting the access it's patch work.

>> Preference to serve the public to be more accurate that as we do this report and I don't know maybe it is more staffing intensive that as we're reporting square footage of graffiti being taken down, that that really be more reflective of square footage of graffiti being taken down. And that if you've got a 70-foot wall that has a tag and you're covering the -- we initially cover the tag but we wanted to cover the whole thing so everything's one color, I think it's misleading saying we took down 70 feet worth of graffiti when possibly it was a smaller tag but we're just making the whole wall look pretty. And that's fine because you know we should make the whole wall look pretty. But you know I think we're giving the impression that wow, we abated 2 million square feet worth of tags. And I just think that's misleading. So I just needed to comment that, make the comment on that in the staff report.

>> Julie Edmonds-Mares: Okay.

>> Go ahead.

>> Julie Edmonds-Mares: We'll take that information and see what we can do to enhance future reports.

>> Councilmember Campos: Okay. And just in the staff report, it also states that we've started seeing cost savings achieved. And again, I think it's misleading that you know, when we had to come to council, or when you

had to come to council back in May, to increase the amount that were -- this year that we're compensating the contractor, that doesn't -- to me it doesn't constitute a cost savings. We're just shifting expenses from the budget earlier, maybe a year earlier than we might have liked to. So I don't think we would really be able to tell whether or not there's actual cost savings until we get to the end of the contract. That's just my -- that's how I see it.

>> Julie Edmonds-Mares: I'd like to comment on that because I want to make sure we put the record straight in that regard. In the MBA last year that the city council and mayor approved that we could save a total of \$614,000. We did that forecast prior to having an RFP so there was a lot of uncertainty and the actual number that we came up with was \$600,000 savings. We had variance of 1.5% a year on a savings yes we gave more to the veshed and spent less on other things like materials but the program budget year-over-year saved the General Fund over \$600,000.

>> Councilmember Campos: But we ended up paying the vendor \$166,000 more than we had projected. To me and I know to folks in my community groups they look at as that really wasn't a savings. But when you are looking at it from the whole department perspective yeah. We created a budget, got to do graffiti abatement with the \$1.2 million annual budget. Yeah, we -- we've cut down our expenses year by year. But when we're paying out or increasing what we're paying the vendor, an extra \$166,000 more than we thought we were, you know, to me that doesn't constitute a savings. To the -- you know for hiring the vendor. And so I -- you know I just had to say it because that's what it reads like to me. Regardless of department-wise maybe we are seeing a savings. I don't know if that was due layoffs or reassigning people so that we would have more funding to provide to the contractor. But still, that \$166,000, we still increased it last year. And so I don't think we would really be able to tell are we really seeing savings with the vendor? Perhaps maybe after this year we'll -- you know maybe we don't pay them, maybe we stay within the 600 and whatever thousand that we're projecting to pay him or pay them this year or maybe we pay them more I don't know, or maybe we pay them less. If we pay them less maybe we are seeing a savings to the vendor. Those are my comments, thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I just wanted to first thank Julie and Mike. I know that you were forced to innovate in a time of scarcity and invokes has clearly worked based on the data that we can see here. I'm hearing very good things out in the community about it and I know you've been pressed to prove that this model works. And you know so far so good. I know it was a very bumpy start but I think it's really improved considerably. So thanks for your work and your leadership. I had a couple of questions, I know Joe just stepped out and you may want to have a shot at one of these. Yep, I knew it. Joe, thanks for making it back. I know that we've had ongoing challenges with our partners out there. And this is something I remember raising two years ago when we were talking about contracting out is how could we get VTA, CalTrans, Union Pacific and all these other folks to agree to maybe use the same contractor or maybe we could all agree to use the same phone number or something, so that way, we're not all playing the game of opinioning the finger at some other agencies. Let's face it, our residents don't care. They just want the problem resolved. I know I'm guessing from where we are today and I look at that trestle over 101 near Oakland road which has looked like it does today more or less for a year. We've had repeated calls. I'm having a hard time understanding who we're talking to over at CalTrans because I sit next to Bijon Sirtivi all who it was at CalTrans isn't being responsive but clearly they are not being responsive. I appreciate Councilmember Herrera's suggestion. I'd be happy to incorporate a motion but I want to get some feedback about what options do we have left. What I have here is let's put signage, to put up on the off ramp what number to call, so who is responsible and CalTrans hears it directly from our residents. There are other options out there that we should be exploring?

>> Julie Edmonds-Mares: Thank you, councilmember. It is a big undertaking and approached those organizations more with a carrot approach. We did not have data in the past and so in the last year we've gathered data as to when we've notified them of abatement that needed to occur on their property. They have been more cooperative lately, specifically in terms of the overpasses our philosophy is, it's a big challenge to abate those overpasses. It causes a lot of coordination between agencies needing to close the roadway and all that. And so what we need to do is put those barriers up at the end of the freeway, of course it's not our property it's the state's property, so it's incumbent to agencies over the last year. Because we have not been successful in every area as we have with the bird overpass on 280 which was very successful what city staff has done is we've gone out and tried to determine what will the cost be, the capital cost to create these barriers ourselves and in the

future report we'll we're going to bring that back to the mayor and council and let you know what the investment would be. So maybe we could talk to the other organizations and let them know if they would be willing to partner with us on those. It would back out there the next day.

>> Councilmember Liccardo: Yes, I agree and I think we all want the fences to be erected as we did successfully at bird. But I also know there are challenges because we're not authorized to build anything there. So I'm happy to incorporate that as part of the motion too but in the meantime I'd just like them to paint over the graffiti. Because the longer it sits up there, the prouder somebody is for having painted it and the more we're going to give.

>> Julie Edmonds-Mares: I think Joe could talk to the code enforcement portion of this which is very important.

>> Joe Horwedel: Councilmember Liccardo, on private property we do have enforcement rights, I would love to have the ability to write a citation to CalTrans. I don't have that. It is one of those things, as Julie said of looking at are there some different ways to come at it? And I think your original suggestion of just having essentially having what we do total agreements for parking lots. Is the city, the police department works with shopping center owners and commercial properties to have those prearranged just the ability to pass and take care of things, certainly working with the Water District's going to be a lot easier than the railroad. But I think it's going to take as you say sitting next to Vijal at meetings and saying here is these pictures, I need this resolved, the opportunities one on one I think legislatively it's too hard to come down you know through the CPUC or the Interstate commissioner commission or dealing with the railroad and if it's dealing with it personally and finding leverage points.

>> Councilmember Liccardo: Joe, I roamed previous because of time or whatever we can't cite Union Pacific but someone on my staff said we previously cited Union Pacific in that am I wrong?

>> Joe Horwedel: I don't know that we don't have the ability to cite Union Pacific because they are a property owner as opposed to a governmental agency. It's worth exploring our ability to do that. I was just on

Communications Hill the other day, it is on the railroad side of the world so I was wondering how we go what are tools to deal with that.

>> City Attorney Doyle: Councilmember again I want to chime in on this one. I don't know if we do have but we certainly will look at federal law to see if there are preemptions, because we are preempted in a number of areas. I am aware that there was an agreement in the past, that the prior mayor worked real hard to try to get an agreement with UP to clean up on a timely basis. It took a long time to get that agreement but there was one in place. Angel, maybe you know because you were around, what happened to that? Not to put you on the spot but -  
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>> Julie Edmonds-Mares: No we're not aware of a current agreement.

>> City Attorney Doyle: I'll try to find it approximately the struggle was I think UP is back in Omaha and the struggle wail was getting them to respond but they finally did.

>> Councilmember Liccardo: Right, we all wrestle with the same challenge. I guess the last question was, why weren't we able to, when we were negotiating this contract did the contractor reach out at all to any of these others, did they say let's do this together?

>> Julie Edmonds-Mares: The challenge is if you recall go back in time a little bit, when we were outsourcing this, we signed the vendor contract three days before the fiscal year started and so we were very focused on getting city services abated within the contract. Since that time we've let CalTrans and others know about this vendor and they've been interested and we've provided information. They just haven't taken that step to contract with them although they do recognize it is cost-effective.

>> Councilmember Liccardo: Okay, well I guess then what I'd like to do is to make a motion that incorporates the direction contemplated in my September 25th memorandum, adding Councilmember Herrera's suggestion about how we could consolidate other services or reporting with other public agencies. However that may be through

the contractor or through simply a common phone number. An app. And then and secondly, to continue our efforts to find ways to feasibly build fences or barriers to help prevent future tagging. And that, along with paragraph 2, actually both paragraphs in the memorandum would be my motion.

>> Councilmember Herrera: Second.

>> Mayor Reed: All right, we have a motion.

>> Julie Edmonds-Mares: Could I make a suggestion?

>> Mayor Reed: Yes, certainly. Jms in regard to count number 2 I would suggest we refer that to the interagency subcommittee of the mayor's gang prevention task force who has a number of these key members of the on the.

>> Councilmember Liccardo: I just said mayor's gang prevention task force, wherever you think it should be, those are the folks who know what's going on.

>> Julie Edmonds-Mares: Perfect, thank you.

>> Mayor Reed: Comblg.

>> Councilmember Kalra: On the last point, that's a good suggestion particularly, they can bring in other groups and some of the nonprofits, some of the nonprofit arts groups that work with a lot of youth and oftentimes juvenile offenders to try to you know, had their energies go to something positive and there certainly have been a number of examples of, yes, most -- almost all in a time of young men that find a life in art after they get busted by the law, they lead another life. Any thing we do to push them in a positive direction is a good thing. I also agree with the other sentiment in the memorandum we need to find ways to work with other agencies. Talking with Laurie about the challenges of the Union Pacific tracks along Monterey, where one side the city is taking care of and the other side is just a mess. There are short term challenges to get there and paifnt it but long term options whether it be

using some kind of trees or something to shield it. And so whether its an overpass or whether it's along the streetscape it offers challenges in terms of the street scale it's almost impossible to get rid of access. You have to find other ways to try to shield it. And so I think there's always going to be some challenges because at the end of the day, following San José I think it's little comfort to our residents to say well that's not San José jurisdiction. So as painful as it is to try to work with some other agencies we have to continue our best to try to get on the same page as much as we can. And the app has been very good, I've gotten very positive feedback on it. And so I think that use of technology has been really good. I had a question about the overall numbers because -- so in looking at it, the looking for the graph here. I have one shows that 4100 from the app almost 2300 from the telephone, there was an updated hard copy can of the graph but a slide that showed the e-mail complaints as well. The app is close to 10,000 I think from intake and how much of that, how many of the tags eradicated in total does that equal, what percentage of the total tags? I'm sure there are some they see or some that may be internally reported that are cleaned up. So what percentage is being reported from the community?

>> Julie Edmonds-Mares: Rough tempt is 20%. We've abated over 33,000 incidents if you will in total.

>> Councilmember Kalra: Okay, and so you know I think that the app, there is always going to be limitation of how much you're going to get from the app. There is no doubt the app is getting good reviews. But whatever we can do to help market it more obviously we certainly do -- I do it on my Website, I do it on my newsletter constantly. And so it makes it easier for us to track as well as to respond have quickly. And the app you know if -- the realities of our city staff if they were doing it if they had the app as a tool it would have been that much easier for them to respond quickly too. It's just using technology every opportunity we can in order to be more efficient. And to save money. And I just want to follow up on Councilmember Campos. I understand what he was saying about the record-keeping and making sure it's as accurate as possible. Because my understanding is previously if we had a tag and we ended up covering the whole wall, span of wall that fell under beautification and eradication. And the efforts of creating erat cage and beautification, we calculated the eradication and beautification was another program. And I think I understand where that's where Councilmember Campos is coming from, being somewhat misleading for the public to talk about, we are 2 million tags have been cleaned up, not tags but 2 million square feet of simply tags have been cleaned up when it's not you can't really compare it

because it isn't apples to apples if you are more efficient than it is. Doesn't mean it's a bad program like Councilmember Campos wanted to make sure we had real data so we can adjust accordingly and we can truly compare it to where we have been in the past and I think more significantly where we are going forward. And so that's where -- right now it's just hard it's really impossible to compare given the data we have. In terms of both the cost efficiency as well as the amount eradicated since it's not eradication and beautification not simply eradication. And so yes, so going forward I think it will be really important for us to know that. Because you know from last -- to go from, looks like based on this bar graph here, over 2.5 million square feet eradicated the previous year and about 2 million this year and I think that if it's just a couple hundred thousand extra square feet then you know you can still say that the program has been very efficient. But if it's a half million or more that results from beautification then it calls into question the efficiency of the program. And so we can't do anything about that today, not expecting you but as going forward I think it will be very helpful in ensuring the best program possible fanned there's gaps to fill those gaps the best we can. Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor, thank you staff for the report. I had the opportunity to hear it in the committee meeting and I did have a, I think, just two questions I guess as follow-up. In terms of attachment C and the comments, is that every comment we received?

>> Julie Edmonds-Mares: Councilmember that is every comment we received from the application which is an automated response.

>> Councilmember Rocha: There was no other we received all 5s and 4s in terms of the rankings? That's a quick read through.

>> Attachment C announces the survey results. We have received more feedback primary e-mail, that represent positive and negative comments but not scores per say.

>> Councilmember Rocha: I rased this correlation between overall decreases in the City's graffiti volume and the promptness with which GPC is responding. I think the point I made that to me at the time felt like a pretty bold statement, even when we deal with our public safety officers and we talk about crime, there's homicides and significant assaults. We're preal pretty carefully about trying to tie any decreases or increases to enforcement or eradication efforts so to speak. So reading that statement to me I thought was again a bold statement. I'm putting it politely honestly that we thoops decrease or increase is based on our efforts. I know going backwards and looking at these numbers we tended to avoid those kinds of statements even when we were doing the work ourselves. Even at the time we're not at the committee meeting to respond to my concern and I think some of the committee members shared the same concern but if you like to today, you can -- again that's just an editorial comment and you don't have to respond if you.

>> Julie Edmonds-Mares: Graph that we showed earlier and when we worked in a definite zone we saw a definite trees in that zone. We believe over time not only based on our data here in San José oops but in other municipalities that that will continue to occur. You're certainly accurate in saying that graffiti is a crime, it's vandalism, it will cycle and it will cycle outside of what our abatement efforts are. You're right there are multiple efforts in action here but in terms of the graffiti abatement and the restoration model we believe we will continue to see positive results.

>> Councilmember Rocha: You mentioned other cities, is that in the report? Did I miss that?

>> Julie Edmonds-Mares: Provided us.

>> Councilmember Rocha: But that would have been provided to the committee members or myself prior to today, that is something I would not have been aware of.

>> Julie Edmonds-Mares: No we did not.

>> Councilmember Rocha: Okay. As far as the memo from my colleague the item number 2 if I could ask, pose it to my colleagues or my staff, it sounds familiar that we've had some work with before or experience with before.

>> Councilmember actually thanks for that question because this recommendation made by Councilmember Liccardo really aligns with current actions that we're taking currently through the mayor's gang prevention taskt. We have an interagency subcommittee and in fact presiding judge Tondro sits on it DA Rosen sits on it all the key players that Councilmember Liccardo referentialed. This is a standing item now on that agenda. That subcommittee has agreed to take that on as an issue to identify coordination points with one another. We framed this issue in the context of this is not just about saving money to the General Fund although that was a key driver given the fiscal situation that we're in. At this point we are looking at how do we make this an efficient and effective program that makes San José beautiful. That is biannually to the mayors gang prevention task force policy team.

>> Councilmember Liccardo: Posly jump in because I think there's some context additionally here. Couple of months ago I reached out to probation about this very issue. And what I had been hearing from other sources had been that we're not consistently getting orders, cps in the orders of probation that's requiring them to be into this program. So as you know with probation it always requires coordination with the judge who is doing sentencing. The D.A.'s office making sure they're requesting these orders and getting folks out there. My concern was that hey we're not doing consistently where actually we will have a large number of juveniles who are being arrested out there doing the cleaning. And secondly looking at the work order requests from the last year it's obvious you know we've had some involvement from the juvenile probation department but less than 1% of work order requests are being satisfied that way. 6/10 of 1%. It seems to me anecdotally, if we're making those arrests and it seems hard the way our department is so thinly stretched that we should see higher numbers if we're able to get the juveniles apaid being the graffiti. So that's why I raised it.

>> You are on the right track Councilmember Liccardo, this is resources and how do you implement you know the judge can make this a condition of probation. It also takes probation officers to actually then enforce those conditions. But I tell you just after one meeting, you know, just after the first meeting where we discussed this

riess, out of that meeting came a partnership between the sheriffs department and probation a small pilot that gave us probationers literally within a two week period. We're starting small, heading towards that track.

>> Councilmember Liccardo: That's great and I'm sorry, I know Councilmember Rocha this is your time. So I appreciate your patience.

>> Councilmember Rocha: I'm going to go in the back.

>> Councilmember Liccardo: Sure, come on back in about an hour. I know everybody's stretched including the county. What I did incorporate in the memo was, there may be other community programs you may assist in terms of supervising kids out there working. I know a couple of them stepped forward to me saying we're willing to help so I hope we can reach out to them.

>> Councilmember Rocha: Forgive my ignorance on the issue. In the past we have done this some form of this already.

>> Julie Edmonds-Mares: We do this on a smaller scale already. It is a matter of scaling it moving forward. We have a tag class where they can be referred to do where they are learning about the challenges they are causing to the property owner and to the community when they're doing this so.

>> Councilmember Rocha: Has a problem with the late memos I'm generally one to partake in that as well and I've gotten the criticisms of some of my colleagues and the mayor from time to time but when it comes from staff resources and policy direction not having the analysis or at least an opinion from staff and all those involved, I at least want to ask the question. Have you had a chance to look at this? You're comfortable with the direction whether it's number 2 or whether it's number 1 in terms of installing signage on city property? All these items that have an impact here. Because I have some of my personal opinions on things I'd like to see city staff doing but I always try and defer and recognize the staff resource issue here. But when I see something like this which I'm

completely wholly supportive of, again I go back to what's staff opinion on this and maybe the City Manager might have an opinion on some of the other items.

>> City Manager Figone: Well, generally the -- often we'll hear from council offices asking us if we can, you know, give them any sort of feedback on their early thinking. And so I think if staff is not comfortable with this, we should speak up now. Or refer it into another forum. So I would encourage staff to be on this. We might need to take some of this under advisement. That's often a way some of these memo referrals work and sometimes at the moment we can respond that there's no big issues.

>> Councilmember Rocha: Thank you. I'm sorry did you have something you were going to say?

>> Julie Edmonds-Mares: Yes and to provide that feedback item number 2 referring it to the mayor's gang prevention task force, easy to i'll need to work with planning building and code. Sipe an is something that D.O.T. works on, there are multiple departments that need to weigh in on the resource needs to achieve that.

>> Councilmember Rocha: So when you have the discussion about weighing in on the current resource needs to you plan to come back and talk to city council about this or is that going to be an administrative decision you take?

>> Julie Edmonds-Mares: We'll come back -- see this item thank you for clarifying that for me. I appreciate the work on this again from staff and I thank my colleague for his direction.

>> Vice Mayor Nguyen: Councilmember Herrera. Then I think I'm next. Thank you, staff. I share my colleagues' sentiment regarding the great work and the great, very analysis here in the report. Couple of years ago I put out a memo asking staff to look at potentially imposing a fine on the minors would 23rd committed vandalism throughout ourity and staff did a really good job in terms of coming back to answer questions and letting us know that -- how difficult it is to do that. But at the same time, I've been at this issue for a number of years and realized that there are some cities including the study of Merced, Los Angeles and some of the other cities around this

nation that are able to do that and really hone in the issue and really make it effective in preventing miles an hour from committing vandalism. So I was wondering as part of this motion, and in directing either staff or the interagency collaborative or subcommittee you know to look into working with the juvenile offenders in terms of making them remove graffiti or some things I was wondering if I could ask for a friendly amendment to again look at the possibility of the feasibility of imposing a fine ranging from either \$500 or a couple of thousand dollars resulting address this issue at the root of the problem and when money is being involved when penalty when monetary penalties is involved people may take it more seriously. And you know we can dance around this issue. But if parents are not responsible for the things that the children are doing out in the streets I think we need to hold them accountable. So I'd like staff to revisit this and I was wondering if the maker of the motion would include this as part of the ongoing negotiations so when we come back with our annual report that we can hear from staff that if this is something that could be done.

>> Councilmember Liccardo: Just clarification, that would be a fine assessed against the parents?

>> Vice Mayor Nguyen: If it's a minor, it would be the parent, yes.

>> Councilmember Liccardo: Rick, is that lawful?

>> City Attorney Doyle: I'm not sure but I'd certainly go back and revisit the issue.

>> Councilmember Liccardo: I'm happy to incorporate it in the motion so we can find out.

>> Vice Mayor Nguyen: Okay, thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I just wanted to say I continue to be very impressed with the antigraffiti services. I'm still seeing whenever I call in the tags and I have a blackberry, as well, I don't have the all

opposed, I am old school, they are cleaned within hours continuously constantly. I get feedback from those who DOS do use the all opposed that they better quality and better service to the resident. I think the report you put together is great. I think there are some groups, individuals that felt that they were skeptical on the program so they wanted more information and you've provided the information and the information continues to justify the value. And I'm satisfied with this level. I don't think we need to have any more level of data, we need to do other things. It's -- you've proven yourself that can you manage a good program. And then the question would I have to City Manager, City Attorney, do we ever as a body write a letter, for example, to our legislative representatives saying hey we're having problems with CalTrans or this state agency, access being their property, doing this and saying you know, this is the -- because these are the folks that are getting elected by San José residents and they certainly have a connection to do the job so I'm just curious do we ever do that?

>> City Manager Figone: I think with council request sometimes that sort of thing would go through rules. If that's part of the direction here you wanted the mayor to sign on the council's behalf I would think that that direction could be provided here.

>> City Attorney Doyle: Whether you're seeking enforcement of state laws or just administrative process --

>> Councilmember Oliverio: Assist state agencies on the process, we're trying to paint out these state properties and we're having a difficult time can you help us, as a representative?

>> City Attorney Doyle: And Roxann Miller is very effective so that is another avenue.

>> Councilmember Oliverio: We're adding a lot of ran Don dome thing to this motion so I think the idea of advisement to the appropriate person that we as a council decide this is important that we paint out these certain state properties and let our state san José this is important to us please help us get through the backlog or whoever's being a hindrance to getting there I think that would be important. Secondly do we as a council ever take stand on issues in the state, you know, I hear the Vice Mayor's frustration which I carry very much that you know there's a level of irresponsibility deaf yeabs, vandalism whatever. Maybe we do want the state legislature to

pass legislation that is more tough or whatever words you want to use. Do we ever take those stands? I know we take stands on assembly bill this or snabl that, do we take them in general?

>> City Attorney Doyle: We have generated legislation and push our bill with.

>> Councilmember Oliverio: I'm not talking about initiating a bill, but that we as council are supportive of higher penalties for this type of crime?

>> City Attorney Doyle: Yeah, that's the same type of thing. You get the legislature to have to take an action.

>> Councilmember Oliverio: We are more powerful when we speak as one voice. We dorse coherent manner that this is important to us so I just would throw that out as a topic. Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. On one of the points Councilmember Oliverio mentioned I agree in terms of whatever we can do to connect with our state legislators that can only help when we're dealing with state agencies. I do, and one thing I didn't mention earlier. I am seeing some boxes when you live in Monterey box cover-ups. Is that something we can use the app as well even though it's a covered up tag? Jms yes, absolutely, that's usually a volunteer who has one color.

>> Councilmember Kalra: When we see a box we can report that as well first of all graffiti penalties are pretty high. A couple of years ago they made it \$400 as a penalty and discretion already exists for what Councilmember Liccardo suggested it's just a matter of the court or probation or whatever making the recommendation for that. That being said and I understand the angle that we have of making our community more beautiful or using people that may have been convicted to clean it up. But when they're juveniles they're wards of the court and it happens to be in the best interest of the minor, the best interest of the child. Not in the best interest of the city or free labor or whatever it may be. Now there may be instances where it is in the best interest of the child but I want

to make sure we're very clear that that's the angle that the core is going to take. And if we feel that as Councilmember Liccardo indicates and somewhat in the memo in comments that the court is not doing as much as they could then that's fine. But I just you know, I mean the other thing is, if the maker of the motion would mind including the public defenders office only because they are certainly going to have to be represent these individuals and advising them as to what the penalties would be and why and so on.

>> Councilmember Liccardo: I'd happily include the office of the public defender. What I policy coordination is not apparent if the data or.

>> Councilmember Kalra: I understand that Sam and I fines what have you and I guess we have to be very cautious about that when it comes to juveniles and especially when we talk about -- because there's already the court has the ability to put fines they certainly have the ability to put restitution for the damage caused whether it's a juvenile or not. And we all know that obviously we would prefer that all the parents are parents that have the time, opportunity and energy to look after their child 24 hours a day. Unfortunately that is not reality, it's not real word. We have a lot of single parents or don't always keep an eye on what their kids are doing and they're poor families and to say we're going to put a thousand \$2,000, I'm happy to have that, to come back and see what the staff says about it but I just think that we should just take a step back and just think about the office we have, if our goal is to beautify the neighborhoods and if our opportunity is to use juveniles that have been convicted of perpetrating it that's fine. Especially if we can get them as part of a program that will give them a whole type of program, not just clean up graffiti but offer other services to kind of get them back on track. Thanks.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Not to prolong this but I'm thinking in terms of the suggestion of fines maybe there could be a suggestion that there be a program I think you talked about a class. For graffiti. And I kind of think about you know those kinds of alternatives where someone might be told to go to a classroom maybe the whole family goes to the class and so you do that as sort of an escalation before you slap a fine. So I'd like to suggest as

part of that, that we look at those kinds of remedial measures, as sort of fines, as an escalation process, ask you if could add that --

>> Councilmember Liccardo: I think it's part of what the court is already doing.

>> Julie Edmonds-Mares: Part of what we provide in the city as well.

>> Councilmember Herrera: Great to know that. I will add one last thing. I was concerned about what Councilmember Campos was talking about with private property. Is there -- I know that in the report we're seeing that most of the property owners clean it up. I think it was over 90% they're cleaning up on their own. But are we able to for those that are not and I guess the ones that are most concerning are one that may have gang tags because they are going to have real consequences as he was pointing out. Is there some way for the property owners to participate proactively, maybe they could participate in having a fee and having the program be able to clean that up if they don't have the wherewithal to -- if they don't have the equipment or they just don't have the time or something? Because we know there's certain areas that just get tagged, certain businesses and other issues, vehicles that are getting tagged. Is there some way that we could maybe have them participate and pay some spaller fee and then -- smaller fee and then if they don't do it there's a much larger fee if they don't clean it up, I just want your thoughts open that.

>> Julie Edmonds-Mares: The constituent or the business owner who just might want the service provided to them that is something we have in progress and we'll be able to report in the future.

>> Councilmember Herrera: You could have the business that on going it gets cleaned up if they don't avail themselves of the service and don't clean it up we.

>> Joe Horwedel: We have the ability to cite them also through code enforcement where we've had those problems.

>> Mayor Reed: Have two requests to speak we'll take the public testimony now. Aurelia Sanchez and David Wall. Hello. I just want to say, the graffiti program under the contractor does work. The personnel are nice. And I'm assuming it does save the city money. But I want to add that the graffiti program does not work the same as when the city handled it. I think when the city was in charge of the graffiti program, the citizens got better service. And I think one of the reasons is because businesses know the way the city policy is, if a business is tagged, the graffiti program sends them a letter and it could take up to 60 days. And so we have a lot more graffiti now. And it does -- it is affecting our city. I was once very proud of our city. But I'm just going to say that all departments whether it be planning, police, D.O.T, the lights department, all of our services are going down and I think some members of the city council are okay with that and that bothers me. I also want to say that department heads I think are being put under a lot of pressure not to tell the truth for fear of their jobs. A good example what is when chief Moore was here and Councilmember Constant really berated him which I think was really unnecessary. It's like when another councilmember asks one a question and they answer truthfully there is no reason for that. Not only that, I believe Rose Herrera did the the same with police chief Moore. It was a committee for you were the only one that was speaking you must have quizzed him for 30 hours when you could have done that not publicly and you could have called him up and picked up the phone. So I really feel that the city needs a lot of work. I wish a lot of the councilmembers would not go along with what the mayor wants. We need independent thinking. If we want to be a good city. Yes, I understand retirement cost is the problem. You about I think the other thing is --

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

>> First I'd like to thank Councilmember Campos and Councilmember Kalra for demystifying these self-serving statistical gibberish that is referenced and contained within the 42-page report that is the topic of discussion for today. I reference basically council's incredibly incompetence in not setting the bar of deterrence in the community with the resources that you expand today. And I'm talking about deterrence that makes it letter the graffiti criminal. What does it take to make it hurt to punish to deter to make somebody not even think about doing it because the punishment is so extreme they won't do it? But in today's society politicians become complacent and say let's create a program and siphon off taxpayers dollars to abate this type of crime and tolerate it and give love

and kisses to gang members. I'm not sympathetic to the mayor's gang prevention task force. I think the money should be allocated to extermination but that's my personal opinion. With reference to holding these graffiti criminals punishable in tort, keep the items alive until they are resolved. This is a way to deter and to hurt. Another aspect in your tool book is the use of immigration customs enforcement and you find these graffiti taggers if they're adults or miles an hour, if they're illegal aliens, deport them. And if their family members are illegal, deport them. The issue is to hurt punish and deter. Right now today you have done nothing but create more carbon monoxide and violate your Green Vision policy with reference to solving any of the problems with graffiti. Thank you.

>> Mayor Reed: That completes the public comment. Any additional discussion? We have a motion made by Councilmember Liccardo. Further discussion on that motion? All in favor? Opposed? None opposed, that is approved. Next item is 4.3, draft Santa Clara Valley I, draft conservation plan. I want to raise the question what staff wants to do with this. Staff presentation is 36 pages of slides. I have probably 40, 45 minutes of public testimony. And of course whatever council discussion adds to the total count. For how long it might take us to get through this. And it's ten minutes after 5. Raise the question of whether you want to proceed or do something else.

>> Councilmember Oliverio: Mr. Mayor.

>> Mayor Reed: I hear a voice but don't know where it is coming from.

>> Councilmember Oliverio: Here, I think the alternative is about 12 inches of paper which when you stack up the HCP how big it is, it would be very valuable for staff for us to hear this.

>> Mayor Reed: The alternative is probably to hear next week.

>> Councilmember Rocha: I know reulings made the decision to cancel the infinite wisdom of the rules committee. We waived sunshine for this meeting and I believe we had to in order to get it on the agenda, is that correct?

>> Mayor Reed: I wasn't at the Rules Committee meeting. The rules committee backed it up to Tuesday we got a light agenda when we tarted but got a little heavier when it went along the way, picked up weight along the way kind of like Thanksgiving.

>> Councilmember Rocha: Enforces study session so we can have time to devote to it and not rush something that's as important as this is. I'd like to hear from staff in terms of timing.

>> Joe Horwedel: Councilmember Rocha, couple of issues. One is that we do think it is important for the council to spend some time on this, earlier rather than waiting until the end of October. I think some of the issues, the letters we've seen from the chamber of commerce, couple of developers related to the plan are important issues. And so probably want to work through those with the council and get a sense of where your concerns are. So that we can be responsive either at the end of October, we've tentatively scheduled October 23rd or end of November to be able to reach a conclusion whether it's to approve it delay it or not proceed. From a selfish standpoint I was scheduling it this week, I will be out of town the next two Tuesdays, trying to make sure I'm able to provide staff support to you the best I can around that.

>> Councilmember Rocha: Were you available for the 25th for when it was scheduled?

>> Joe Horwedel: For thus, yes.

>> Councilmember Rocha: You were. The decision to move it had nothing to do with your --

>> Joe Horwedel: No.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I just ask at the very minimum we make sure we hear the public who have been suffering for the last several hours who will want to speak.

>> Mayor Reed: I don't think they were suffering, they were being enlightened pretty sure.

>> Councilmember Liccardo: I was suffering when they were being enlightened.

>> Mayor Reed: Okay, Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I agree with Councilmember Liccardo and I think that the public is going to speak, my suggestion is having staff and the presentation public speak and then continue it for further -- I know that myself included we can take time up here discussing some of these issues. And so at least have the public have an opportunity to speak to their opinion. I think there's a number of people here from the public that want to speak, stakeholders and I think it will be valuable for the public to have the presentation prior to having an opportunity to speak. It doesn't preclude the public for coming next time for public comment, I will have no problem at that time continuing the rest of the matter to allow council discussion at a later date .

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Covered that? Councilmember Oliverio.

>> Councilmember Oliverio: I'd just like to move forward and hear the presentation. Thank you.

>> Mayor Reed: Okay, if we hear the presentation it's probably half hour, 45 minutes and the public testimony is half hour 45 minutes so we'll be done by 7:00 and that doesn't get into any council discussion. We can continue the council discussion on Tuesday, October 2nd because we did have a -- that last plush moderately light agenda

on the 2nd. Actually very light agenda on the 2nd. So if we do that we'll just charge ahead and get through the staff presentation, and the public hearings we still want to keep going we can keep going but I would rather doubt we would want to do that.

>> Councilmember Rocha: Let me ask a question another jump in. What was the decision in the interest in moving the study session to the council agenda? I understand why we are in this, I'm going to use the word mess personally.

>> Mayor Reed: Vice Mayor.

>> Vice Mayor Nguyen: Yes I was chairing the committee meeting. It was my suggestion, we had such a light agenda we had a light agenda and we asked staff how long the presentation was going to take and we estimated it was going to take they needed an hour and a half. And we thought if we finished today's meeting around maybe 2:30 or 3:00 it was such a light agenda that we could finish everything by 6:00. Obviously that didn't pan out but that was the reason why we had the meeting, I mean we were having the meeting today rather than on Thursday.

>> Councilmember Rocha: Okay, thank you, I appreciate the intent and I appreciate the personal opinions on what they want to do but not want to do but we've got a full council of 11 folks and a lot of stakeholders involved in this issue I really question that decision. Again I consider this not a good policy outcome and how we handle public policy.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: I point out Rose Herrera was going to be celebrating Yom Kippur, and I have a neighborhood meeting and I have to be here and there's two less people to hear this.

>> Councilmember Rocha: Thursday when the study session was originally scheduled for.

>> Mayor Reed: Let's get the staff presentation done.

>> Joe Horwedel: In the interest of speed I've already jumped to slide 8. Skipped past three pictures. I think it's an important part to remind everyone what's covered by the plan. This is a general plan essentially for endangered species. This has been created to be consistent with the general plans of all the community plans of San José, Santa Clara County, Milpitas and Morgan Hill. Private development projects are what's subject to the habitat conservation plan but there are a number of projects and activities that are not covered by the plan meaning they are not subject to any fees or requirements of the plan. As can you see those projects that don't require building permits, projects on less than two acres unless they choose to opt in structural additions to existing buildings so we tried to go and take things out of the plan as we have gone through building this plan. Skipping ahead, couple of more slides. I want to really focus on what we're calling avoidance of deferred liability. There's been some questions about what all we bring into the habitat conservation plan itself. And one of the real issues is around the cumulative impacts of smaller projects that they just keep building. And it's one of the things that over time it does have a consequence. You look at the bay checker spot butterfly, you look at some of the impacts of burrowing owls. They do have an incremental growing impact. And so the longer we don't deal with those issues it does make it harder at the end. Clearly if we dealt with these issues 30 years ago it would have been easier than today this is a monument decision does have consequence. It does have an insurance policy feature built into it that I will talk about here on this next slide. We've been trying to figure out how to communicate kind of the value proposition and is there one with doing a plan? And so what you see on the red line is recognizing regulatory requirements of agencies go up over time. We do it every other agency does that. What the habitat conservation plan is it does freeze that item to the future. The challenge is what that line of freezing is in some cases higher than what the regulatory requirements are today without the plan. While we're trying to show is while there is some hit today, the question is is this the time to do this it does avoid requirements that are foreseeable in the future. Asking for more acres per every acre of wet land, that number goes up every year so it is that concept. There are a series of fees in discussion with what general fees and put all the impacts open areas that create the worst potential impacts so that's why you see wet land and riparian fees of you know six figures. The burrowing owl add \$50,000 an acre as opposed to sites that are in the built urban area we really tried to zero those out and for the most part we have there are still some there and we'll talk about those as some case

studies we've done. HCP there are benefits. Is it worth the cost for obligate or joining into this? that is the relevant question. It does give consistency over a period of time, developer that's dealing with wetlands dealing with burrowing owls on your property, dealing with other regulatory agency issues, that have a long time to monitor, there are costs that we think the plan is in fact much cheaper. Post of San José is in zone what we call zoneC which we're only going to look at larger vacant properties so it is essentially green fields. These are undeveloped properties in the city as opposed to developed cities in the city. San José is predominantly built out so it is for those properties less of an impact but clearly if you are a property owner that never had development on your property then that is something that this plan does put more obligations on you. It adds questions of competitiveness with other cities and that is how that compares to what's going on in Mountain View or Milpitas Santa Clara, cities that are predominantly built out. They're tearing buildings out to build their new development in the city. We're doing a lot of that but we do have parcels in the city that that is not the case I wanted to walk through I think it's five case studies. Properties that have serpentine soil, valley Christian site, this is a property that has been dealing with serpentine soil mitigation for probably 15 years. They are having problems with operating the mitigations they committed to. They are having the issue of buying land somewhere else create more serpentine soil and create more plants on it and maintained the land over time and the city maintains control over tracking that. With the plan being adopted they would have a cost of about \$10,000, \$11,000 an acre, a significant cost without the plan. Today they don't pay that fee. But they have to go through and deal with replacement so it is one that is negotiated with the resource agencies on a one-off basis. So this is one you really, that developer decide is there benefit or not. The most contentious or one of the contentious fees is this nitrogen fee and this is where the competitiveness with other cities really kicks in. Because Sunnyvale, Mountain View aren't charging a fee like this. This is about \$3.60 for every trip. And it would apply to all development in the city. Morgan hill Gilroy and the county. And this is to deal with the impacts that happened to the bay checker spot butterfly in Coyote valley. It's a very complicated fee structure. It is one that has the potential of unleashing fees that we have never had to deal before, because they are connected very loosely to impacts in the hillside areas. The science is there to make the connection here but there is concern from the home building industry around that. With the development fee being in place it is that \$3.60 per trip, without the plan though there would not be a fee for individual development. But it is we've talked before the council, this is the reason why we're in the habitat conservation plan is the impacts to the bay checker spot butterfly and specifically from the 101

widening from requests that we've asked for recycled water funding from the federal government. So federal sources of money projects that require a federal determination, are the kinds of things that trip us up with this issue. And so that has been one of the reasons we've been in the habitat conservation plan effort these past ten years is to deal with that risk to the city to our treatment plant or to other improvements. What that really means to a project so a 400,000 food office building, we're processing that right now is about 15, 16,000 is what that price would be. The office building we're doing at Santana Row about a 200,000 foot office building is about competitive piece we're looking at compared to Santa Clara or Sunday. They do not charge that fee so that is a net new. Burrowing owls is one plan area we do have in San José, burrowing owls. We also have them in Santa Clara Sunnyvale, Mountain View Fremont and so what you see here the yellow circles are essentially flying radius, nesting habitat of where owls live today or where they've lived in our last monitoring period our goal is to create habitat for the burrowing owl in the bay lands not around the airport which is what we see here. Today we have nesting owls in the heart of North San José. This is the area proposed for office development. It does have previous entitlement and a previous owner had an agreement with fish and game and we are looking to see if that agreement is still in place to see our it addresses the mitigation of the owls that are out on this property what is new with this plan and this is really the cost difference is for properties across the street that do not have owls on the property have had no obligation to do anything. They you know basically are able to move through the development process. We have worked to come up with a really complicated process to work through how we can allow development to happen in North San José. With owls, when it's possible when it's not, I'm not going to go into the details around that. We're working with developers on that. But the case studies are important. The first case study is a property, what kinds of fees would apply to it. This is a green field development means it's never been developed in the pass pes you'll see there's a burrowing owl but still gets assessed at \$50,000 an acre. It also has an impact fee of \$10,600 an acre because it's never been developed. It essentially has habitat value at some level so there is within the plan a requirement to help mitigate that cumulative impact and also then the nitrogen fee. That adds up to \$1.5 million for this project. If this was across the street on a developed property, the impact fee would have been the \$15,000. So it is a pretty big difference, of having a developed or undeveloped site in the same exact neighborhood with the plan. Without the plan, really, there is no fee. There is a loss of habitat that is becoming a greater issue under CEQA. Our general plan as we adopted it that's one of the issues we dealt with. We've built some policies around protecting habitat but clearly our goal is not to protect

habitat in these areas but it is something we'd have to deal with on a CEQA basis. The next option is when you actually have owls living on your property and in this case the fees are actually the same. With the habitat plan we did not want to penalize someone who had owls on the property versus the neighbor who have maybe chased them away but in the same circumstance. But again this this case, without the plan it does requires permits from fish and game. What we have been hearing is they do not allow passively relocation, which they are not lug ops for every pair of owls in this case there's two nests on the property so they would have been looking at 14 acres of land they would have had to acquire themselves enter into an agreement with fish and game and then have perpetual maintenance and monitoring of that habitat. So this is the place where the plan may start coming back around. While \$1.5 million looks big when you price out 14 acres of land plus op going maintenance on that, that does start to close the gap. Riparian setbacks one of the comments we've heard is that the plan adds cost related to development near creeks? If you're development project conforms to the City's riparian corridor policies I think in most cases you will not have a fee for riparian impacts. The complaint we hear about the City's riparian corridor policy while it requires 100 feet we don't always insist on that there is really no consequence to the project for that what the plan does is it values loss of wetlands and riparian areas as 100 to \$300,000 an acre depending on what's going on but for that area less than the 100 foot setback there would be a fee that is attributable to a project for that. But for projects that conform to the riparian corridor policy we think in most cases there's going to be no fee and in fact you see category 2 nonfish bearing streams 100 foot setback for those streams the plan is less than our city standard. And so we look at the case study a project in the Berryessa area, that plan meets the riparian setback if that project doesn't meet the riparian setback it would pay that riparian fee for the acreage of the land outside that they don't provide at 140 to \$370,000 an acre and still the question whether it's consistent with the policy. Without the plan there is no fee and it's really we look at as business as usual. we do need to appoint councilmembers to the board I can go into this more if there's questions about it the yeferl schedule the real goal with this is trying to bring a conclusion to this process to see is there consensus between all the agencies here in the next 60 days. And assuming that happens, the wildlife agencies in early 2013 would be issuing their permits for approval. And then in the pipeline process built into the plan it allows one year from that date for a project that to move get their building permits their greating permits and avoid the plan altogether so if they would would I fees which is certainly in our interest, question is, is one year is that too aggressive or not? We've put that in the plan, trying to go and put some data out there. From the City's review schedule, this is

what we were just talking about, the goal is to come before October 23rd for the council to have deliberations around the plan. We do have the ability to actually have a liberal of room to add a meeting or two in the back to add to the conversation. The last piece is, there really are three options. There's been some questions about could we go through and defer the plan. Clearly you know there is some a liberal of room even what we've built in the schedule today. Almost a month here to go and work through some issues. I think really if the question is are we going to defer the plan to do some things is understanding what it is we're trying to do. Number of things that are outside the plan of each of the implementing entity is the fee amount and how we allocate fees. But if the goal or the decision is to not adopt the plan and kind of terminate that is a decision we can make. We can choose to move forward with the plan. We can choose to defer it and do some more work. The only piece with that one is that we have run the budget out in getting the plan done to this date. So we would have to come back to each of the local partners about asking for more money to do additional work depending on that scope of that work.

>> Mayor Reed: City Manager.

>> City Manager Figone: Joe, I might have missed this. Could you clarify as you looked at the alternatives and knowing that the council may need to continue this discussion, is there a drop-dead date that you are concerned about and if you've already stated that, I apologize.

>> Joe Horwedel: Actually, I'm going to defer that to the wildlife agency staff that are here today. In some ways, there are certain regulatory standards of whether they would have to go back and recirculate the document we're on. We have 30, 60, 90 days that can help with some of that but part of it is to the extent if we're doing 60 to 90 days out there's all those dates that I showed here, wops, here. Really they are really overlaid with a lot of stove that has got to happen, getting orpses done, getting the implementing entity up the agencies doing their permits that do have lead times on them. So it keeps sliding those backwards. And at some point it kind of -- we can't stretch. So I'll defer to them when they come down and talk.

>> Mayor Reed: I think they will come down to talk. I've got accords in from a couple of them. So what I'd like to do is to start off with Scott Wilson and Kay good or goode if they're still here. Could answer those questions and whatever comments they may have before we get into the rest of the public testimony.

>> Hi, good evening, Scott Wilson with Department of Fish and game. I believe the question asked was about if there was a decision by the city to defer making a decision for a period of time. And so in terms of Department of Fish and game and the process, there's no time limit on our side.

>> I think what we might have to do is go back through our, right now everything is in Washington, D.C. We're basically getting ready for the final documents and decision making, and we might have to, if it's too long redo the process again. It would depend on how things would change or if you made changes.

>> Mayor Reed: Okay, that answers those questions. Did either Scott or Kay want to add any other comments to the staff presentation on other topics?

>> I would like to say that as it relates to you know, competitiveness, a lot of different -- and I've spoke to this before. You know Contra Costa has had an HCP and CCP and they have been very competitive 1 in getting a lot of federal and state grants and up-front loading a lot of their conservation activities. And in addition, there's a lot, it sped up a lot of their frawbl infrastructure and normal projects that they would have. In addition, San Joaquin county who is very, did an HCP a number of years ago for their entire county. And they're very adamant about how important that plan is for their development and speeding through the section 7 and CEQA process. And have been very happy with how it has been implemented. And as it relates to other cities, I guess, that there's concern that it's annal unfair area within the Santa Clara County, the service of fish and game have been willing and said that we would send letters to all those other cities in the area. At the point that you have certified the EIR and adopted the HCP saying that what's fair for one is fair for all of them. But we can't very well send those letters, when you haven't actually adopted your CEQA documents or your ordinances. It would be a little premature to say that you have been doing it. The third thing, the other important thing that I'd like to say is, the Santa Clara Valley Water District, approved going forward finalizing the plan today from their board

unanimously. And part of the reason they're participating is that they have a huge amount of infrastructure and federal issues that have been dealing with fish and wildlife service for years. We have been commenting for years that the Santa Clara Water District and the water that they have per void to individuals haven't been dealing with the indirect effects of their water activities for development. So it's not just nitrogen deposition, it actually has to do with the cumulative effects. And by doing what they have done in fact that alleviates their issues of their water contracts and their water contracts deliver to the entire San Joaquin county.

>> Mayor Reed: Scott do you have anything to add to the presentation?

>> Yes, thank you. I think when you look at the plan there are certain large benefits for the city and I'd like to briefly outline what those are. I think one it provides certainty for a great period of time regarding a number of environmental issues. I think it also addresses through CEQA various cumulative impacts that can be addressed for all city projects related to biological issues. And also, it provides partnership opportunities and quality of life for the people in the City of San José, and can bring in state, federal and private donations of millions of dollars to help implement it, as well. Thanks.

>> Mayor Reed: Okay, thank you. We'll take the rest of the public testimony. Pat Saucedo, Dennis Martin, Dow Corning. And Eileen McLaughlin.

>> Mayor and council, Pat Saucedo for the San José Silicon Valley chamber of commerce. I know you have all been in receipt of the letter that was drafted by the chamber and sent to you. This plan has been in process for a little over a decade now and it is a very big complicated plan. As our letter outlined, our major concern is focused for the City of San José, recognizing there are other cities in the county lands involved in this. Our big concern is economic parity and leveling the playing field for the City of San José for future investment and developers in our city. We want to provide revenue we just want to be sure that you're confident that whatever is adopted as an HCP is not going to put the City of San José at a disadvantage to attract new jobs and new investment within our city. Clearly, the other is, our envision 2040 ensure for yourselves that this does not contradict what the goals and objectives are in 2040. Infill development along our major transportation corridors. There is talk in the plan

regarding linkage fees and I know there's great concern among a number of developers that what we would be looking at is that future development, future investment, future job opportunities, will be required to pay for past development activities that have been performed regionally and looking at a very small group of people going forward to have to pay for those past activities through linkage fees. Another area that may put San José at a disadvantage to attract jobs and investment. We have recommended at the chamber, and with all due respect, that there be some additional time given to look as to how this is ultimately financed. It is a huge plan, with a huge price tag. Once San José is approving this, and is part of this, they're on the hook. In order to sustain the financial viability of this plan, you need to be sure that in fact, the City of San José can maintain the fiscal demands of this plan, A, without unintended negative consequences to attract and see new economic activity come to the city, to be able to restore the services that you unfortunately have had to cut for the last several years. We're still struggling and that's the concern about this plan for San José. Thank you.

>> Mayor Reed: Dennis Martin, Dow Corning, Eileen McLaughlin.

>> Good evening, mayor and council I'm featuring some of the largest and most important real estate developers in the region, is in opposition to the plan, as it's currently drafted. You recall that ewere here about a year and a half ago and we had quite a bit of study on the plan then, a lot of questions were raised. Many of those questions really still remain. Including, and questions I think that you should be asking as you move forward with this plan. Cost, are the costs that are now being borne by roughly 50% in private sector funding, are they worth the plan? And are they being distributed properly? What about pipeline and grandfathered projects? How are they going to be handled in the plan as it gets implemented? Fees, particularly the vehicle miles traveled fee. That fee, in particularly is a thorn in the side of a lot of business and development personnel and we feel like there should be other ways to fund this plan if it moves forward. Equity in funding. Is San José being unfairly or inequitably taxed in this plan and should it be spread out bureaucratic level of regulation in the area, in the region to an already complex development scenario, and implementing that is a very challenging scenario for our developers. Certainty. We need more guarantee that there will be cooperation between agencies such as the army corps and the water resources boards. And of course, as Pat spoke about, competition and competitiveness for jobs and economic growth. We have 20% vacancy in North San José how, with zero -- approaching zero

percent vacancy in series in the north. We need to make sure that snort San José is still going to remain competitive. Thank you.

>> Mayor Reed: Sorry, your time is up. Dow Corning, Linda McLaughlin, Linda Ruffruth, Greg Carracus, Joshua warnland, Brian Rosa.

>> Eileen Block had to go to another meeting.

>> Mayor Reed: I think a lot of people had to go to other meetings. That's what happens this time of night. Go ahead.

>> Good evening. My name is Linda Ruth Ruff native plant associate. I'm also representing a coalition of environmental organizations, habitat conservation now, our coalition includes the California native plant societies, committee for green foothills, Green Belt Alliance, the nature conservancy, flare valley Audubon society, 35 Morgan Hill and the loma Prieta chapter. I'm here to ask you to approve the habitat conservation plan. There are many reasons why the plan would be piecemeal basis. A little bit of mitigation here, a little bit of mitigation there won't work. Plants and animals live embedded in a particular ecosystem. They are inter-dependent. For example, a plant provides poll in eater with nectar. The pollinator, this plan will -- this plan will preserve and enhance habitat in large blocks of land. On an ecosystem basis which will help many plants and animals survive for future generations to enjoy. Second, this plan is a thoughtful approach to development. It preserves the most critical habitat, while expediting development in other areas. It is a win-win situation. A win for the environment and a win for development. Finally, this plan preserves and enhances our amazing quality of life. People come here for our weather and for the recreational opportunities our open space and waled of natural provides. The continued economic vitality of this region depends on our continued ability to attract bright and talented workers to this area. This plan will project and improve habitat --

>> Mayor Reed: Sorry, your time is up. Dow Corning, Greg Carekas, Joshua warland Aaron Rodriguez, Renee Hobbs. You must be one of those.

>> I'm Greg Carekas, a resident of Downtown San José. Before you you see a guadalupe river might see. Last year we had five fish swim up the river and we used to have fall and spring rubs of salmon in the pond turtle being out exceeded red eared sliders and I see rarely more than one a year. We have the bay checker spot butterfly once prevalent in our valley now restricted to a small ridge. And we have the western burrowing owl whose his tophic breeding grounds in San José once a symbol of the orchard days now has three pieces of ex tier pated or locally my wife laismed and I spent this summer alexandria and I desperately hard to raise six chicks on her own after her mate wail was killed. Dozens of people come out on their lunch breaks before and after work to see the owls, enjoy them, get out of the office, and see a historic legacy of San José right in Silicon Valley. So it's a little reminder of the heart's delight and Silicon Valley and we haven't lost it all. But with the HCP, I think gives these creatures a chance. And I urge anyone that's in opposition to this plan to read it, thoroughly. And go out and find these creatures. Go to Coyote ridge. And see the Dudlia and bay checker spot, go to first street and see those owls. And that's all I have. Thank you. [applause]

>> Mayor Reed: Brian Rosa, Aaron Rodriguez, Ada Marquez. Kelly Morris, Ricky, azakof.

>> Hello city council my name is Brian Rosa and I have lived in San José all my life with the exception of my eight years of service in the army. I have served my country, it is now time to serve my environment. I am currently a student at San José State pursuing a degree in environmental science and I strongly support the burrowing owl conservation plan. In 2008 I attended miring's college. In my biology class we took a field trip. We didn't go too far. The field was West of the science building on the campus. On the field we saw owls in a protected habitat. Last year construction started on the protected site and we lost all the owls at mission college. This is a shame. Shame on us. If we don't implement the conservation plan it will be a bigger slam because burrowing owl extirpation will soon follow.

>> Mayor Reed: Anybody else whose name I've called that didn't come down .

>> Hi, my name is Aaron Rodriguez and I'm from San José State and I just wanted to come up here and maybe in some way persuade city council, and the City of San José to ensure that the HCP passes. Regarding especially in regards to all the things that were spoken about here today. So thank you.

>> Mayor Reed: .

>> Mayor Reed: Ada Marquez, (saying names).

>> Hello Mayor Reed and members of the city council. My name is Renee hobs a citizen of San José working full time and attending a local university. I've attended today's meeting from 2:00 p.m. until now in hopes to speak. I'm going to speak in order to show my support for the habitat conservation plan. Please consider my support and thank you for your time.

>> Mayor Reed: Calvin Krutz. Twonn dak, Jay Aruda. Alexandria Perez. .

>> Industrialization humans have had an impact on this world and we're causing many animals to go to extinction. By the time we fill this planet up with cement and business buildings, there will only be us. So I support this plan. And I went to the site, there's nothing else around, everything around this site, of burrowing owls, of the habitat, it was already developed. And this was all that's left. And I think it should stay. Thank you.

>> Mayor Reed: .

>> Thanks for the opportunity to speak Mayor Reed and San José councilmembers. I just would like to say on behalf of the development plans and on the habitat conservation plan, that you know, throughout this whole even on the other issues that our city is facing right now, I'm seeing a lot about money and, you know, issues regarding preservation of the environment about mitigation fees. I've been a docent on Coyote ridge for about four years, I teach environmental education to children as well as Guadalupe river park conservancy teaching about the preservation of our river. I understand that progress and jobs are very important. I have two construction trades

under my belt which I've worked in from a very young age and so I understand the importance for jobs as well as real estate development. However I just think that in general we need a new way of thinking, instead of you know every time something happens there's a consequence of paying a fee. You know at what point do you pay all these fees and use up everything? There are many other species besides just the butterflies and the owls. On Coyote ridge and Coyote valley. And I think that we need to hang on to what small amounts of our natural heritage that we actually have in the San José and surrounding areas so that people will understand and so that when there's 13 and 14-year-old kids out tagging you know that maybe there could be some kind of a consequence instilled where they have to do a forced mandatory art class for one year instead of paying \$2,000 because they might learn about their skills that they have instead of just scribbling on walls or maybe more about their heritage. And also, on a positive note I would like to comment that I had a conversation with my dad about what it would be like to go back to the 1960s and he said Jay you wouldn't like it because people would dump --

>> Mayor Reed: Sorry, your time is up. Alexandria Perez is our next speaker, then David Wall Ken true.

>> Hello my name is Alexandria Perez, I'm a resident of Downtown San José. I currently work for San José State university, I'm a graduate I'm an educator and I'm here to support the habitat conservation plan on behalf of the future generations who have so much to gain from exposure to open space and also for the animals who aren't able to speak for themselves. I'd like to remind everyone that we are all animals and some animals need a little bit of help. Thank you so much.

>> Mayor Reed: David Wall Ken true Jim pxiazzo.

>> I for one advocate the protection of all God's little creatures. Even the folks that sit before me. But this plan is flawed. It's legally flawed. I don't speak as a trained attorney. I speak as one who has been on so many meetings on this issue I've lost track. Attorney after attorney has come before you and other places the Santa Clara Valley Water District as well, and has threatened all these fees, no one's talking about who's going to pay the litigation cost and let's focus on the nitrogen deposition. And the trips. How do you regulate trips? Okay how are you going to make this equitable like a previous gentleman said? What about jet aircraft from San Francisco emitting

nitrogen in the air and it deposits in San José? Is that fair? Or other places where the wind currents know no boundaries? I for one have no time for this plan, because it is basically a development scam. You don't talk about restricting residential growth or eliminating it for a generation. You don't talk about things about that nature. One thing I did see, in humor and light, earlier this week Monday as a matter of fact down on Curtner and Monterey highway a bunch of backhoes were going into Monterey cemetery. I was accused and asked about if what was this for? They said it was for the habitat plan. Mr. Mayor the these geetion are digging up dead attorneys to sue you pps the money you don't know is going to cost you suing attorneys, because it's flawed, there's too many errors in it. Thank you.

>> Mayor Reed: Kevin true.

>> Hello my name is Tuan dang. I'm a stunt in San José State. I live all my life on the Eastside of San José. I'm here to support the HCP plan. I think it's important to protect our nature and our animals. It's because of nature that I'm not in gangs doing graffiti and all of that. I believe that without the HCP plan our quality of life will greatly decrease. And I hope you guys support the HCP plan, too. Thanks. [applause]

>> Good evening, Mayor Reed and other councilmembers. My name is Kelly Morris, I'm also a student at San José State university and I am here to show my support of the habitat conservation plan. I am here on behalf of myself and several other students and faculty members who were really here's many of us missed class to come to this meeting to show our support so we want to urge you to support this plan. Thank you.

>> Mayor Reed: (saying names).

>> Let's call a spade a spade, all right, nitty-gritty. This all sounds good but it's not. The last eight weeks to ten weeks I've been sending you guys all the paperwork about lead discharge about your company that you gave to a big city contract yet you guys are all just basically saying come biyah and let's go for the habitat and the last five to six years discharging lead are we kidding each other in the bay. How environmentally sound is this city? I debate that.

>> Mayor Reed: Ken try Amy Neilson Joshua and Craig any person who put in a card who whose name I didn't call, come down everybody we're almost done here.

>> Good evening, my name is Craig bissette, I'm a reentry student at San José State university. And due to economic hard times I had to go back to school or decided to go back to school and decided I was going to study environmental studies because I wanted to leave something for my children after I was gone. While doing a little bit of research, I found out that between the 1980s and the 1990s the burrowing owl population in the Bay Area was reduced by approximately 50%. The owls are already extirpated in the counties of Napa, Marin, San José, Santa Cruz and San Franciscan and Ventura released and in the 14 years since the last survey in 1993, the breeding pair population in the northern Central Valley was reduced by 95%. From 231 to only 12 breeding pairs. The southern Central Valley in California breeding population was also reduced by over 20%. Habitat loss is the single biggest driver of species extinction today. Direct loss and fragmentation of habitat from development habitat conversion and increased exposure to traffic are some of the top reasons for the decline of the burrowing owl population. I'm here to support the habitat conservation plan and I hope you do, too. Thank you. [applause]

>> Good evening, my name' Joshua McClues Kentucky. I'm a I know you didn't have to appreciate that. I for one support the HCP. I don't think it's 100% conservation, I don't think conservationists are getting away they want, I don't think developers are getting what they want. I think it's a fairly good compromise. As far as competitiveness in jobs go, I'm not a jobs expert but I know San José, most 20% of residents leave to go to jobs outside San José. While I would like to see that change, it's what's the cost of that bringing those back? Is that the cost of losing species? When you have to drive our children to Gilroy to see wildlife or go to parks? Is that what we really want as San José residents? I don't think so. As it is now, I have to go ten miles to get out into nature. Where there isn't a freeway, where there isn't an airport. You know especially in downtown. Is that what's best for all of us? Is that what we want to see? And we all want parks and we want jobs. Do we have to choose between the two? I don't necessarily think so. You know we have the infrastructure in place. We can always choose something else, we can always go into infill. But once the species are gone they're gone. You're not bringing them back. We can bring back jobs. Can't bring back species. So I would all like you to consider going forward with the HCP and

seeing its benefits not only in the short term for jobs but in the long term for 40 years for our children to be able to experience wildlife, to be able to not chase wildlife off to other cities and other counties. Thank you. [applause]

>> My name is Jerald Woodard and I'm here to support the HCF. I didn't know about it until I came here today. And I also want to thank Mr. Wall for showing me that you can come here and speak early and speak often. And what I would like to say is that before I came to San José the navy took me all around the U.S., and I got a chance to be in San Diego over at some air base. And I got a chance to see the burrowing owl there that coexisted with the airstrip that I worked on. And then I got a chance to work over in Cecil field Florida, better known as southern Georgia, one of the things I saw there I was part of the factors creating a superfund site dumping Uranium and and so when I got a chance to get out and I got a chance to come out here to join my parents in 1994, and I was going San José, what's that and they say you know the song, do you know the way to San José? And I looked it up and I heard about all these neat orchards and the clean air and the cool place called Santa Cruz over the hill. And I'm hoping that there will be some way to find a medium ground here that people are going to be able to keep jobs here but also be able to keep what San José is known for before it became Silicon Valley and keep it green and keep things growing and keep the oxygen flowing. Thank you. [applause]

>> Hello. My name is Amy Nilsen and I'm a student from San José I'm an environmental studies major and I am also familiar with the EIR process at San José. And I understand, the fight against deposition fee. However, what I did notice is that when you want to take soil and you want to add nitrogen, plants grow. So how are you supposed to say that a tail pipe is going to produce as much nitrogen as, let's say, waste? Because we do have -- this area is around a waste facility for the San José and the City of Santa Clara which is a joint union with different cities in the area. So I'm here to support the habitat study. I would also like to see more done on helping preserve the environment. I also like to see the money for special purposes also be put into low income housing. Thank you.

>> Mayor Reed: Thank you. Is there anybody else who wanted to speak? Put in a card that didn't get a chance to speak? Okay. Before we continue this discussion to next week, October eighth, to take up the council session I did have a couple of things I wanted to say. I had a lot of questions at the last hearing which is a year ago or 18 months ago I have kind of lost track of it. I would say the answers were not forthcoming or weren't very good. I will

be going into the same area many there is a fundamental problem with this plan, that puts us at a huge competitive advantage. It is only part of the county and it's reminiscent of the golden triangle task force where we agreed to restrictions and the rest of the county did not. And we suffered from those restrictions for decades while jobs went elsewhere. I would just invite the councilmembers to take a look at the letter that came in today that got circulated, it is an e-mail of Dean Rubison, of Ellis partners, a major developer and land owner in North San José oops I think that e-mail is fairly representative of what people who own property and develop property think about the impacts of this plan. And I think the short answer is: There's a lot we will require of people in San José that won't be required in Sunnyvale or Santa Clara, Milpitas, Fremont and those are just issues that we need to deal with. So happy to take those up a week from today and so I just recommend that we continue this study session for a week. So we don't have to take all the same testimony again, and then get into the council discussion on the 2nd. Joe.

>> Joe Horwedel: Mr. Mayor if I might impose, I would really like to be as a part of that discussion. And so I would ask if we could continue this to the 16th of October.

>> Mayor Reed: Thought you were going to be gone.

>> Joe Horwedel: I'll be gone the next two Tuesdays I'll be out of town.

>> Mayor Reed: One of those Tuesdays is a holiday week.

>> Joe Horwedel: The first and second I'll be out of town unfortunately.

>> Mayor Reed: I heard from the agency there is flexibility in terms of time we have to deal with this. What I don't know is what the agenda looks like on the 16th. I did see the agenda for the sec, it's pretty type. Typically the week after we have a day off, the Tuesday off is a heavy agenda. So we would have to work around that to make sure we have enough time because I don't want to just keep week after week having an hour or so. Because I

think it will probably take us a couple of hours to get through this with the council discussion plus any additional staff presentation. So councilmembers? 16th okay? Councilmember Oliverio.

>> Councilmember Oliverio: I don't want to keep us any longer and others may not be able to attend based on other commitments. I'd like to ask the questions and have them bring back your answers? What's your preference?

>> Councilmember Oliverio: Mentioned if we were to pass CEQA get some of the stuff done then you would be able to send letters to encourage other cities in the county that are not part of the HCP to join that's kind of what I thought I heard you to say, is that accurate and have you been successful in other areas by doing that I presume it's by persuasion, hey please do it?

>> I think the question if I understand your question it's about providing comments on CEQA or any permitting related to issues, that the habitat plan is looking at?

>> Councilmember Oliverio: I think it was the comments the lady made can pardon me man.

>> I'm the fish and wildlife service the federal agency. Would we have talked about writing a joint letter to the various other cities in the county, and back to what the mayor was saying. I think that they will be actually at a competitive disadvantage. Because we are, endangered species issues and the issues of what is going on that hasn't been easy for the City of Fremont. We have been dealing with their issues and major comments on section 7 through the endangered species act. Same with the Water District. What we had said is we would write a letter at the point you certified the CEQA document.

>> Councilmember Oliverio: So follow up have you been successful in getting other cities to join when they are not legally belied to join?

>> I think we were fairly successful. I think what happened in the East Contra Costa, the city of Antioch had opted out at the very end and they actually are now requesting to be added back into the HCP and the other cities are saying, fine, but you need to pay for it. In a fair and equitable way. You don't just get to join the train and not pay.

>> Councilmember Oliverio: Okay and that's one. So number 2 is you gave examples that if you adopted such a plan federal money would come to help you implement it. Do you have specific examples of money and dollar amounts given to cities?

>> Scott probably remembers how much Contra Costa has got to date?

>> Federal money?

>> Yes it is our money but you will remember.

>> I guess East Contra Costa has received probably 20 to \$30 million so far from federal funds as well as probably a couple million from state funds, local park funds and private foundation funds, probably totaling another \$5 million.

>> Councilmember Oliverio: And if asked you could give proper detail how it was spent or what it was intended for, if asked further could you come back and say yes it was spent for this?

>> Yes, we could p.m. San Diego adopted an HCP where the voters decided to adopt it and then did their own tax to pay for it, are you familiar with that?

>> I'm only -- it's not in our -- my jurisdiction fish and wildlife service but there's a lot of different ways that you can deal with it. And the important point about the plan is we recognize this is a 50-year plan. And when in the time that they have had their plan I think have amended it five times to deal with different issues that have come up. And there is mechanisms to look at how you approach the fees or how you deal with different acquisitions or

donations or redistribute the information. There is a major portion of the plan talks about an amendment process that's built into the plan. Because we recognize, everybody recognizes that you have to change as information comes available. But the important part is for fish and wildlife service, you have a no surprises. That means a deal is a deal in essence. And that has been a big issue for environmental groups in the past. Because we're making a deal right now for 50 years.

>> Councilmember Oliverio: And understand the question is more specifically on San Diego's but did you sir know more about San Diego's plan that went before the voters that was adopted?

>> Not specifically.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Can I add a list of questions for Joe and his group when they come back on the 16th, one is, the -- I'm a little concerned about why the army corps of engineers is kind of still lingering out there and its developers are looking for streamline process they want to be able to get one permit and not go to multiple agencies. That's the whole point of this and what would it take for us to get them incorporated into this plan so we really do have one permit? And would a delay be necessary to make that happen, what would it take? Secondly following up on the mayor's point. I know I've asked this in various ways before but I just don't get where we've got a commute shed that's entirely driven by people who live here and drive to places West and North to work. Why in the world those locations are not on the hook for nitrogen deposition fee that's generated by traffic that is the primary commute corridor, the primary route of commuting for most of this valley, which is from the East and South, north and West, why aren't those cities in? And then finally, in terms of amending the plan that was just referred to, I think we all know there's going to be lots of changes with global warming, new species we hope not many but new species potentially being listed as endangered or threatened. I'm really concerned about the process for that. Because I think we're going to end up in a multiple permit world pretty quickly again with all of the

changed circumstances. And so we need some kind of streamlined amendment process to make sure this plan continues to be comprehensive and I just see huge potential for this thing unraveling over time so I'm hoping you can address that concern as well.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you. I just wanted to see if the representatives from fish and wildlife could be here on the 16th? Or if you're aware if you can or not? No?

>> Mayor Reed: It's a maybe.

>> Councilmember Kalra: It's a maybe okay well in that case if --

>> Actually I can, the 2nd I can't.

>> Councilmember Kalra: Got it, the 16th you can. Well then, I really don't want to -- I think we all prefer to have this sooner than later but I think it will be important because of questions will arise maybe in response to some of the questions from today or that come up over the next couple of weeks. And then a second question just to look into, and I'm sure there may be more I think it's good actually that we're putting it over for a couple more weeks rather than just next week so it gives time for staff and others to respond. But one question is, where we were and where we are now in terms of what the obligations were going to be for the developers and those that wanted to develop on these lands but obligations that were in terms of protection of species whether it be fish or wildlife at the beginning and time where we are now to see how much movement there's been because there certainly is a balance that we all have to be cognizant of and that balance does include relaxing some of the fees and relaxg some of the environmental as this plan has gone forward. Thank you.

>> Mayor Reed: I have a couple of items on my list that I want to discuss today just put them out as questions so that you have a chance to look at them. I think it would be important to know exactly what the burrowing owl land

dedication and fee in the rest of the county. Currently, not what they were two years ago but what they are now, so we can look at this requirement compared to the rest of the county and Fremont. I mean that's our competition if people don't want to come to San José they can usually go to Fremont and then same thing is riparian corridor setback and fee requirements in other parts of the county and Fremont. Just so we know exactly what others are doing. Or not doing. Any other questions, councilmembers wanted to pose to the staff so we got a heads up on --

>> Mayor Reed, I'm sorry I didn't want to interrupt but I could answer one question a number of people raised from the audience a number of speakers did and that was a question I think concerned you as well and had to do with what San José's future contribution monetarily towards this plan is required to be under the plan. And I wanted to point you to, there is a draft memorandum of understanding that would be signed by all of the local partners to the plan. Sections 7A and section 7D do not require any contribution from any local partner. All of the fees that are collected by the agency will be what keeps this plan running as well as grants and other types of contributions of land and things from others. So there is no money contribution in the future required from San José, unless it is going through an approval process for a project of its own for which it will pay fees. And so that is the only money contribution. I wanted to clarify that.

>> Mayor Reed: Any other questions for staff? So I suggest we continue this hearing to the 16th of October, so we don't have a complete repeat of the hearing and we will have a council discussion then. Is there a motion to that effect? Motion to do so, on the motion awful, opposed, none opposed, motion is approved. Last thing on our agenda is the open forum. Mr. All, Mr. Witters Mr. Serano. Come on down.

>> Mr. Mayor were you given a copy of a public record document?

>> Mayor Reed: I have dozens of copies of public record documents Mr. Wall.

>> Then I'll make it specific, September 24th time stamp of 1:16 p.m. Title of it is called expose rows should be a model to hold councilmembers accountable to public safety. Councilmembers should donate to the San José Police Officers Association, and San José firefighters for public safety sake. Upcoming community events should

be attended by all councilmembers. As a taxpayer it seems that the public's investment to the police department and firefighters plummet to new lows, there is an event September inexcusable decline of our public safety personnel and rebuild safe San José neighborhoods. The event to rebuild safe San José neighborhoods is called expose rows, it's held by the committee for safe San José neighborhoods. The event will be at the San José Police Officers Association building, at 1151 North First Street San José, California. From 5:00 to 6:00 it will be hosted bar appetizers, 6:00 dinner starts, 7:00 p.m, update on the election. All checks may be cents to committee for safe San José neighborhoods, in care of the San José police association, at 1151 north 4th street, San José, California. I had an error. It's 1151 north 4th street, not 1st street. I'm not an agency or principal of San José Police Officers Association and or the San José firefighters. I'm a very grateful citizen to the San José police and San José firefighters for their dedication and service and I urge everybody to contribute to their cause to expose councilmember. Thank you.

>> Mayor Reed: Jarrod witters, Mr. Serrano. D.J. Polarum.

>> Your Honor mayor and the councilmembers that are still here, I appreciate you taking the time. What I'm going to address here is a matter called fireworks in the gas station around the corner. And I live over on 11th street, and right around the corner on 10th street at the corner of Taylor there is a gas station. And about three houses down, there is constantly a group of people who consistently set off fireworks. And I understand 4th of July. I understand New Year's, I understand Cinco de Mayo. But this is becoming a weekly habit. Since I moved to San José as I told you before several years ago, I lived in various areas, Campbell Southside and now I live in Japantown and I have never seen anything like that. An alcohol launching fireworks and as you can see from the last page, you see the house I'm always walking up to, to see these people and ask them to stop launching these fireworks. What I'm watching happen is, some explode on the street. They never launch. Some of them are doing it in the middle of traffic. Siems they're launching it and it's hitting the pole off to your left. That's a power pole, a utility pole. I've talked to the people about not doing it when they're using, they say that's okay I've got a marijuana card. I'm watching people under the influence of narcotics gas station that does not have an awning. I learned about those here today, thank you. So -- I don't know, you know, I'm very emotional about this for another reason too. When I moved to Japantown I moved into a room where I get to share two dogs with this owner. And one of

them has a heart condition and the owner always freaked out as the fireworks would start and now I know why he has a heart condition.

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

>> Thank you.

>> Mayor Reed: D Serrano, (saying names).

>> My name is David Serrano, I came to address you and Vice Mayor Nguyen. I live off of Lovegonia, homeless that constantly go in and set up homes in that area. They tap into the light sources, I've witnessed a clandestine laboratories of mixed chemicals, I've gone down on my own to photograph. And set up meetings with the water company and the water company explained to me that they are in the business of water and it is the police department's job to correct the problems down on the river. I submitted the paperwork for your viewing for that area so you can see firsthand what I am seeing. I'm a veteran United States marine corps. I understand what law enforcement is at a global scale. And I also understand what it's like when you're without the manpower. And you still have an objective to complete. And sir, I wanted to share an idea with you. That the military uses, when we are outnumbered and we still have something to do. They use, to increase the enlistment population the military will use what is called more waiver. The moral waiver is a contract that where or a writ of mandate that will forgive or not even consider certain passes when screening for their position. And I thought why can't the city itself do something like that? You have -- I have personally as a graduate student I spent eight years at San José State studying in criminologist and sociology and I've seen students that have gone out in town partied it up get in a little trouble tarnish their background --

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

>> Moral waiver, please.

>> Mayor Reed: I don't see anybody here, I believe that's all the people that wanted to speak, that concludes our open forum that concludes our meeting we're adjourned.