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

>> Mayor Reed: I'd like to call the meeting to order. This is Rules and Open Government Committee meeting to September 14, 2011. Changes to our agenda order to consider, none. Then let's take up the September 20th council meeting agenda. Anything on page 1? Page 2 or 3?

>> City Attorney Doyle: Mayor I just want to remind the council we're going back to 9:00 for closed session.

>> Mayor Reed: Yes. Page 2 or 3, anything on page 4 or 5? I have a note here about the habitat conservation plan, item 4.3, that we should hear after item 4.4, on a special election on a community facilities district number 14, or is that just that we ought to hear it last?

>> No, after -- we're sequencing staff for that item and we would like to hear it after, just after that item.

>> Mayor Reed: Okay, well it probably makes it last. Anything else on 4 or 5? Page 6 or 7?

>> Mr. Mayor, back on page 4, item 3.4. We have a request to hear that last.

>> Mayor Reed: What else do we have?

>> Councilmember Constant: Habitat conservation plan will probably be the longest one. I would imagine.

>> Mayor Reed: I don't want to hear it last. I want to make sure it gets done. I've got to get on a red eye to go to Washington. I want to make sure it gets done in time to do that. It's the most important thing on the agenda. So I think doing it at 2:00 makes the most sense.

>> Councilmember Constant: I agree.

>> Mayor Reed: Anything else in terms of the schedule? 6 and 7? Page 8 and 9 are joint financing authority items. I got a note here that we need to defer item 2 to September 27th, and those are actions related to power

purchase agreement for solar energy installation on city facilities and lands, which appears to be the entire agenda, right, to September 27th. Okay. I have some requests for additions. Anti-graffiti antilitter program status update. Report on key legislative items. Presentation of proclamation regarding September as world Alzheimer's month. Youth job fair recommendation to add as a special event, and Santa Clara County cities association medicinal marijuana resolution which we discussed yesterday as the council meeting.

>> Councilmember Constant: Mr. Mayor, on item 1.X, that should be Councilmember Herrera and me.

>> Mayor Reed: Any other changes, additions?

>> Councilmember Constant: Motion to approve as amended, just to be clear though, on the items to be placed on the amended agenda page, we won't be making the change on 3.4, everything else.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion is to approve as amended. All in favor, opposed, none opposed, that's approved. September 27th, agenda. Anything on page 1? Page 2 or 3? Anything on page 4 or 5? Got a note we need a waiver of some kind on the three creeks trail acquisition of property from Union Pacific railroad.

>> Yes Mr. Mayor, that memo went out today, it was supposed to go out yesterday.

>> Mayor Reed: Okay so it's out?

>> Yes.

>> Mayor Reed: Anything else on 4 or 5? Page 6 or 7? I have a note we need another waiver on citywide insurance renewals item 9.1.

>> That memo should be out by the end of today.

>> Mayor Reed: By the end of today. Still be more than ten days, right? Anything else on 6 or 7? Page 9 or land use hearings general plan consent calendar, and others. Anything on page 9, 10? We have land use. We just talked about moving the financing authority to the 27th. So we have the one set of actions regarding solar installations. Anything changed on that? Page 12 or 13? I have a request to add a presentation and commendation to housing industry foundation. Any other requests for additions or changes?

>> Councilmember Constant: Motion to approve with additions and I don't think there are many changes.

>> Councilmember Herrera: Second.

>> Mayor Reed: Positions is to approve with the additions, does that include the sunshine waivers on those items?

>> Councilmember Constant: Yes, sir.

>> Mayor Reed: Yes it does. Okay, all in favor, opposed, none opposed, that's approved. Redevelopment Agency September 20th, September 27th?

>> Yes mayor, 27th, we have an item that we'll have to call the agency board for, to adopt resolutions to approve the revised FY 11-12 capital and operating budget.

>> Mayor Reed: Nothing on the 20th? Fog on the closed session matters we might have?

>> City Attorney Doyle: And we also note on the joint items we have the enforceable items obligation coming on the 27th.

>> Already listed as 9.2.

>> Mayor Reed: What about the budget, where is that?

>> It is not. I haven't gotten it yet to the City Clerk. It's not the clerk's fault.

>> Mayor Reed: When will that be out?

>> We're going to have the final draft today and I have the final recommendation language approved by the attorney's office.

>> Mayor Reed: It will be out by Friday?

>> That's correct.

>> Mayor Reed: At least ten days out.

>> Councilmember Constant: So I'll make a motion that we cancel the RDA meeting on the 20th except for any joint items or closed session items.

>> Mayor Reed: Motion on the 20th, all in favor? Opposed? None opposed, the 27th, we have is the one couple items mentioned. We don't have the agenda in front of us.

>> Councilmember Constant: Just defer it to next week.

>> City Attorney Doyle: We'll have the language. It's a budget adjustment item and the enforceable items is already on there, we'll work with the clerk to get the language and you'll see it next week.

>> Mayor Reed: Okay, won't take any action today. Legislative update. This would be next Sacramento.

>> Betsy Shotwell: Thank you mayor members of the committee, Betsy Shotwell, Director of Intergovernmental Relations. As you know, session ended Friday, or Saturday morning at 12:01. But I did just get from the Sacramento bee some quotes from the governor this morning. He warns of veto blues as he mulls about 600 bills that are sitting on his desk, or going to his desk. "You've given me 600 bills and there is not 600 problems that we need these solutions for," and one more quote which is interesting. "Not every human problem needs a law," he said. "That's kind of my principle that I'll be applying." And he's being asked, his staff about a lot of bills just all over the map kind of bills and the staff are saying they don't know that they're uncertain what he did 30 years ago isn't really relevant in today's world because of the issues and the change. And experiences. So it remains to be seen what actions will take place before October 9th which is the deadline for regular session bills and special session bills are in another category special period of time that he has to review. That's what we have in Sacramento by don't have anything new to report, the position the city has taken to the bill adding layers of requirements and new methods of contracting out libraries as an example if you're in a county system, that has passed the legislature, did not -- is not yet on the governor's desk as example. I know you asked me almost weekly on the status of that bill. So again, they're in limbo at this point. But we'll know more in a few weeks.

>> Mayor Reed: Any questions? All right, thank you for that report. Federal, we have a report from Patton Boggs to review and accept.

>> Betsy Shotwell: Thank you mayor a lot of items I won't go into but do I have a bit of good news, I think we could use it. Yesterday Patton Boggs informed me that the House passed HR 2887 providing for clean extensions of surface transportation programs, that's six months, and the aviation programs, and that would be for four and a half months. The 21st extension of the FAA authorization expires midnight Friday so the governor has to sign -- governor, excuse me -- president has to receive and sign that by Friday. The safetylu, the transportation piece, expires at the end of the month, and of course if that doesn't get extended, then 18 cents isn't going to get collected for transportation dollars. So that's very good news, we didn't see a lot of repeats of July on that issue. So I'm hopeful. And that's it. I'd be happy to answer any questions.

>> Mayor Reed: Okay, have a request to speak on this item. Mr. Wall.

>> David Wall: Good afternoon. Since you're going to Washington soon Mr. Mayor, you might want to ask Patton Boggs for their money back. I mean this is just the priciest little newsletter in town. It is of interest to note, though, you might check out page 20, Zoe Lofgren, our little San José congresswoman, giving tax breaks to the wireless folks. A lot of mayors don't seem to like that. On page 16, storm water regulations, we'll be speak going that soon another big ticket item. Mr. Mayor, also you know the clean -- the chemical security is something I want to you talk about when you're back in Washington because certain funding if you could snag that for the water pollution control plant, might be pretty helpful. The clean water act, page 15, has really interesting applications when it comes to admiralty haw because now it goes from navigable waters to all waters. That should be fairly interesting. Mr. Mayor if you want to keep getting this newsletter, tell Zoe Lofgren to get off her seat and give it to you. That's her job to give it to you. The City of San José shouldn't be paying for this matter. We're paying enough for Congressmen and senators and whatever doing what they do we don't seem to get much benefit for it so once again when you are back there if you just put on your checklist, Patton Boggs ought to be for free, and take that $600,000 savings and give it to the police or fire department or some of the attorneys or PBCE but not to Patton Boggs. Thank you.

>> Mayor Reed: That concludes the public testimony. Any questions or staff on this? Chief are you going to talk about the jobs bill?

>> Be happy to.

>> Mayor Reed: I think that would be good.

>> A bright note if in fact the jobs bill passes. In the president's jobs bill he has put in $4 billion for the COPS office to basically rehire all the laid-off officers across the country, which includes certainly San José and others, and then another $1 billion for fire departments. One of the key characteristics of what he's proposed that doesn't

necessarily have the match that we would normally have for those COPS grants. So that's good news if it gets passed. Also included in that legislation is all of the guts of S-911, which is senator Rockefeller's, Senator Kay Bailey Hutchinson's bill on the national public safety broadband, which basically is a $10 billion system to provide national Public Safety broadband across the country, of which we've had very much of an interest here in San José and will help us significantly. That's being tracked on several fronts. It's in the jobs bill, it's also a stand alone bill. So hopefully one of those passed will ultimately lead to having us get that network.

>> Mayor Reed: Okay, I will be going to Washington next week for the Silicon Valley leadership trip. I got several meetings set up on our matters of specific interest to San José, as well as the general matters, and the broadband issues with the FCC is at the top of the list, along with other things that we have a specific interest in. So hopefully, the Congress will listen to the president and decide to fully fund the broadband so that we can get moving on that and it wouldn't hurt to have some extra federal funding for some police officers as well. But I suppose Roxann -- not Roxann, Betsy it's way too early to figure out where the Congress is going to go with the president's request.

>> Betsy Shotwell: It is.

>> Mayor Reed: Well, we'll just have to keep watching.

>> Betsy Shotwell: Absolutely.

>> Mayor Reed: Anything else on the federal? Councilmember Oliverio.

>> Councilmember Oliverio: Thanks mayor. Chief obviously as Betsy said too soon exactly what will pass and how they amend it but in the past some of these COPS grants from the federal hasn't been necessarily kind to San José, high enough crime rate or something like that and again as far as the circumstance it's too early to tell if there's any measurements that will be -- what to be qualified.

>> The regulations on this particular grant program have not been written yet but my understanding in talking to the COPS director himself was it was specifically designed to get cops that have been laid off in jurisdictions. Regardless what status again San José, you're right because of our relatively low crime rate, have been disadvantaged in certain areas, again, the fact that we had not yet laid off officers also worked against us. Well, now we have laid off officers in large numbers, and even though our crime rate is still low, we will be eligible for that money.

>> Councilmember Constant: Motion to accept the report.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion is to accept the report, all in favor, opposed, none opposed, that's approved. Public record anything from the public record the committee wants to pull for discussion?

>> Councilmember Constant: Mr. Mayor I'd just make a note on item A that the Public Safety finance and strategic support committee does have agendized a follow-up review, an 18 month or so review of the changes in the gaming ordinance and implementation. And we're aware of this, just want to make that note on the record and note and file the rest.

>> Mayor Reed: Okay we have a motion to note and file. We have one request to speak, David Wall.

>> David Wall: This is in reference to item F. Now this is a first. As a citizen, I'm calling for the rotation of the chair of the transportation and environment committee because the chair I'm dissatisfied with his performance. And this is in reference to the watershed protection division of environmental services. With special reference to the water pollution control plant. But since watershed protection is so vast I'm also including the main impetus of my complaint is the nonchalant conduct with reference to the storm drains. Now this municipal regional storm drain permit very nasty business Mr. Mayor. It's almost scandalous how an organization can increase staff, and yet, have no plan to protect 29,000 storm drains from garbage. And this has been happening for years. One

thing you might want to do is to ask the administration for organizational charts over certain period of time. And the amount of employees hired to this program during this same time period. And then ask, how many storm drains out of 29,000 are protected. I think zero is about the correct number. But I could be wrong. So I think it's time to start holding these chairs of these committees, these council committees accountable Mr. Mayor and that I think is your job and the only other committee that is worse than T&E, transportation and environment, is the Community and Economic Development. We'll talk about that on another day. Thank you.

>> Mayor Reed: That concludes the public comments on the public record. We have a motion to note and file. All in favor, opposed, none opposed, that's approved. Next item, is category H, we have the first item is a staff report on clarification responsibilities to residents of parcel and requirements to enable change of address related to 1270 Campbell avenue, at Santa Clara university. We had this before, had some conversation about it. I think we're going to get enlightened here. Chief.

>> Thank you, Mayor Reed, members of the committee. Chris Moore Chief of Police. This is a request that was made I believe by Councilmember Liccardo. And concerns a property at 1270 Campbell avenue. It is a campus housing piece of property that is actually in-d partially in the City of San José and partially in the City of Santa Clara. It's an interesting development. I drove over there the other day to look at it, beautiful campus housing. The City limit line between Santa Clara and San José literally goes through a number of these apartments or condos, if you will. Kind of an interesting scenario. There has been a request that I think the Sobrato family that actually built that was going to donate it to Santa Clara University, and the request is that Santa Clara, if they were willing to, take over the public safety responsibilities of Police and Fire for that particular parcel. And while I think staff has no real objection to it, as we started to dig, what are the requirements and what might be the impacts on us. Because it does reside within the City of San José, and I'll speak from the police department's perspective, any part 1 crimes that occur there, although there probably won't be very many honestly and the calls for service will be small, we'll stilling have a responsibility to respond. We met with the police chief as well as the fire chief, Willie's staff, Chief McDonald, and the agreement that we have now is that when it actually is occupied, the 911 calls will still come to the jurisdiction where the particular apartment is, that we will notify the other jurisdiction, and we'll both go. We'll make sure there is a response, first and foremost, in the short term to make sure that people

get the service that they need. And then whatever jurisdiction is appropriate to take the report, that they take it. We as a police department have no objection to Santa Clara taking all of it, honestly, if it reduces our workload at this particular juncture. But we would still have the responsibility to report that. So our staff suggestion at least from the police and fire department is that council look into having some sort of formal agreement, probably an annexation, unless there's a better methodology to do it, to legally transfer that responsibility and that reporting requirement over to the city of Santa Clara. And I just say, half-jokingly, that perhaps maybe rather than doing it just for free, is look for a nice equal piece of property that might be perhaps let's say in valley fair, portion of valley fair that we might be able to take in exchange.

>> Councilmember Constant: That's exactly what I said.

>> Yes, but regardless again the objection is not from our standpoint that we don't want them to have it. It's just the reporting requirements and making sure that we receive a 911 call, that we are going to get there as fast as we can because they are residents of San José presently, until such time as they are not, when they would be either by agreement or by annexation. And I'm not the planning expert, so I don't know which is the better path. But I would ultimately suspect that it's probably annexation of that particular set of -- that property into the City of Santa Clara.

>> Mayor Reed: Comments, councilmember.

>> Councilmember Constant: Thanks chief, I appreciate the insight. Because when this came through I was the one that questioned how we were going to deal with the logistics. And my concern was not only the immediate response, but also, if you were to have a major incident, like the whole complex burned down, what ends up with the billing later? Who gets stuck with the bill, and things of that nature. And I just want to reiterate that I'm not opposed to the city taking action, as long as we take the formal action and make sure that we know ahead of time what we're getting into. And this really has two parts to it. And one is the post office. I don't care what zip code they have. Anything we can do as an organization we can do to support that post office to get them a unified zip code that would be great. Because like I mentioned before, we have in my district zip codes in Santa Clara,

Cupertino, Saratoga, and Campbell that are all within the city limits of San José, and I don't think that's a problem at all. And I'm not even opposed to an actual deannexation and annexation to them in the future as long as we go through the proper procedures. So I'm not sure where we go from here but I think the ball's kind of in Santa Clara's court to initiate whatever they'd like to do formally, but I think we should stay out of the way of the things that don't really matter, like the zip code, and be as cooperative as we could.

>> Mayor Reed: I have one request to speaker, I'll take that now, Mr. Wall.

>> David Wall: I'm surprised that this issue had to come back to Rules and it hasn't already been adjudicated. The words annexing or whatever, just gift them the property. Whenever the Jesuits want something, give it to them. You are making points with the almighty when you do stuff like this, and you really need a lot of points, Mr. Mayor. What are you laughing for, Pete? You are orthodox. You even need more. Really, just any time that a city can take over a chunk of our city that benefits the entire region just give it to them as easy as possible. And be done with it. This right here, it is good right and salutary that Councilmember Liccardo did this and I'm really sad that it has to come back here again. You've got way too many things to do than to have to worry about this thank you.

>> Mayor Reed: That concludes the public testimony. My question is what do we do next? Do we send this to the council, with a recommendation, staff have a recommendation on the next Councilmember Oliverio has a question as well.

>> Councilmember Oliverio: Rick, this is a pretty dense piece of property where it's at. My question is, is that property taxable? I don't know if that's proper terminology, but does that parcel generate property tax even though it's on a private university?

>> City Attorney Doyle: If it is owned by the university, it's exempt. If it's student housing, and I think that's what it is.

>> It is not yet. I think the Sobrato family is looking to deed it, the builder is looking to deed it, so when the time comes, that it would not be generating tax for us. That's why it wouldn't help us necessarily, but in the meantime it's not, and we have to provide service to it.

>> Councilmember Oliverio: Well, I just think that's important to note, I would have a different point of view if it's generating property tax or not.

>> Councilmember Constant: And as far as where we go, I really think we don't have the authority to do much right now, because all of this has to go through the formal Lafco application process and all of that which I really think should be the responsibility of the City of Santa Clara to initiate that. And I think we just sit ready, willing and able to assist when it comes. And anything that we can do to help the postal zip code we just give staff that generic direction. I don't know if Norberto has any comments on what he would like to get from us.

>> Norberto Duen„s: Mr. Mayor, members of the committee I do have a cheat sheet since I don't normally come to these meetings. We are in conversations with Sobrato, Tim Steele from Sobrato, and our understanding is they will be filing an application as an intermediate step towards donation of the property to Santa Clara university. So what we are suggesting is that we don't feel that it needs council action at this time but that for staff to continue to work on this, and we understand the direction the committee would like to go in. And we could -- we can follow up with that.

>> Mayor Reed: I'm just looking at the request from Councilmember Liccardo. Which was to decline to oppose the efforts of the city of Santa Clara. So I guess by doing nothing, we're declining to oppose --

>> City Attorney Doyle: Silence is consent. So yeah.

>> Mayor Reed: Okay, so the way I take it is, there is nothing that this committee needs to do on this. It is moving in the direction everybody seems to think is the only realistic direction to go. So nothing further to do, committee discussion? When something happens, then we'll decide if we need to take formal action or what

level. All right enough on that one. Let's go to item H-3 which is to review recommendations on city positions for six resolutions to be considered at the league of California cities annual conference September 21st-23rd. Need to get this on the council agenda next week for formal action.

>> Betsy Shotwell: Thank you, mayor. This is an annual review the City Manager's office does with the relevant departments. And this year we had two incarceration sentencing measures PD looked at and the city attorney's office assists, as well. This is to help our voting delegate at the conference when these items come forward as well as I hope serve as a resource for councilmembers who serve on policy committees. In fact Councilmember Constant serves on the public safety committee which will be meeting next Wednesday. I have some very brief analysis for these items in most cases, and I'm here for any questions that you might have.

>> Mayor Reed: Questions? I have one request to speak, I'll take that now, Mr. Wall.

>> David Wall: Item number 1 and I'll quote alternative methods of meeting public notice requirements and to advocate for revisions to the government code recognizing alternative methods as a means to meet noticing requirements. There are pitfalls here. I know that the CED folks from the Office of Economic Development want to use social networking or social media to advertise city businesses. Fine. I don't believe that you should take out the San José Mercury News out of your noticing. I think the San José Mercury News is important as a -- you know get out the notice type group. I don't always agree with their management decisions but the way this is worded this is almost going to exclude any business for the San José Mercury News or gives the ability to exclude. And I think that is bad. So I would really look at this, the other thing about the death penalty, I think you should send a message to Sacramento to expedite it, and to clean out death row. Because there's plenty of other people ready to take their spots. Thank you.

>> Mayor Reed: That concludes the public testimony. Any comments or questions for staff on this? Need a motion.

>> Councilmember Nguyen: Motion to approve.

>> Second.

>> Mayor Reed: Motion is to approve and get them on the next council agenda.

>> Betsy Shotwell: Thank you very much. The whole packet.

>> Mayor Reed: Six items under item number 3. All in favor? Opposed? None opposed, that's approved. Next item H-4 request from Councilmember Rocha to direct staff to provide information memo regarding memo published by myself, Vice Mayor Nguyen, Councilmember Rocha Councilmember Herrera, Councilmember Constant, Councilmember Liccardo on June 24th, 2011. Request for information, Councilmember Rocha is here. If he wants to speak to it.

>> Councilmember Rocha: No, mayor, committee members, I was only attending for questions. I don't have anything to add beyond what was in the memo.

>> Mayor Reed: Okay, it seems to me that the costing analysis that was done of that memorandum on the version of opt in is something I don't believe has been published yet and it's information that the staff may or may not have in final, final, final form, or anything. I'm not sure exactly where they might be but the information could certainly be made available to the public. What I don't want to do is get into what was discussed in closed session or advice that was given in closed session or anybody's negotiating comments or anything. But I think the information itself is something could be made available. I don't think staff has any problem with figuring out a way to do that in an info memo.

>> Councilmember Rocha: That was my intent. I did speak to the City Attorney briefly about it I did my best to be as general as I could in the request.

>> Mayor Reed: Staff have any questions? Alex Gurza is here. Anything further from the committee, I would direct the staff to provide an info memo, detailing the cost analysis of that opt-in program.

>> Councilmember Rocha: Thank you.

>> Mayor Reed: Motion? Oh we have a motion, I've got two people want to speak. Mr. Wall. And Kay Denise McKenzie.

>> David Wall: I think what should be made public is, is a very good definition of the work product rule associated with the deliberative process. Most citizens will not understand this. Especially if it's not communicated to them up front. Councilmember Rocha and Councilmember Oliverio are correct, as well as you are, you're the most transparent folks around. But education as far as what is not part of the transparency, the deliberative process and the work product around it has to be communicated otherwise people will come to the wrong conclusion because they just don't understand and have not been educated on those terms. Thank you.

>> Mayor Reed: Kay Denise McKenzie.

>> Can you hear me?

>> Mayor Reed: Yeah, that works but if you squeeze the handle it will slide down so it's not in your eye.

>> That's okay. Good afternoon, Mayor Reed and rules committee members. My name is Kay Denise McKenzie, president of CAMP IFPTE and local 21. Thank you very much for providing and discussing an information memo that costs out the opt in plan that has been discussed at the council level. Thank you.

>> Mayor Reed: Thank you, that concludes the public testimony. Is there a motion?

>> Councilmember Nguyen: So moved.

>> Councilmember Constant: Second.

>> Mayor Reed: We have a motion. All in favor, opposed, none opposed, that's approved. Item 8.5, response to referral from the Rules and Open Government committee about voluntary expense limits. City Attorney.

>> City Attorney Doyle: Mayor and members of the committee, there is a memo that is in your packet, it is a response to a sort of long overdue request to look at the limits. The concern is that given where the particularly the United States Supreme Court under case law seems to be going, the voluntary expenditure limits are in question. Other than -- and so other than people who agree getting the ability to publicly state that they've agreed to voluntary expenditure limits, the limitations on contributions for those that don't we're recommending be abolished. We're also recommending that we come forward with an increase in contribution limits and I'm going to let Lisa Herrick give more specifics. That's sort of the general tone to this. It is somewhat time sensitive given the elections, the campaign really against in earnest in December and the goal is to get an ordinance in effect by then.

>> Lisa Herrick: Yes, thank you Mr. Mayor and members of the committee, as the attorney mentioned this is a referral to our office to do some further research on voluntary expenditure limits and the amount of those limits generally. We did do that research and really there were two components to that. One was looking at a comparison of other large cities in California and the other component was to do some outreach which unfortunately was largely unsuccessful in terms of the amount of information that we got. It was really inconclusive. In looking at a comparison with other cities as well, that is -- has its problems, because you can't really do an apples to apples comparison. Many large cities in California have a public financing component whether it's pure public financing or a matching funds provision. So the city that looks the most like us right now is Oakland. And Oakland does have voluntary expenditure limits for councilmembers. It's $1.50 per resident. For mayor, it's 70 cents. And this compares here in San José to $1 for councilmembers and 75 cents for mayor. We recommended you could increase slightly the amount the limit for councilmember elections. And be comparable to Oakland. The number, $1.25, seems reasonable in light of some of the other expenditure limits for the other

cities. And then keep that limit for the mayor at 75 cents per resident the same. We also recommend doing some sort of an adjustment. We had talked about it being a consumer price indexing, which we do for contribution limits. That was passed in October of 2009. But I actually, in doing a little additional research, since this memo was published, I came across we don't look at Santa Clara, the City of Santa Clara often but I happen to look what they do and they have three components when they look at adjustments to the voluntary expenditure limits. In addition to the consumer price index, they also look at what one-half of the cost of the candidate statement is, in the ballot pamphlet that the registrar of voters imposes. That number is always going up because the county has its own issues in terms of its budget. And so that seems like a real cost that you could look at, and I thought that was a good idea. They also looked, the third component is the bulk mailing rate cost change if any and that's something that the committee brought up a year ago as a concern, really looking at the purchasing power that you get with your voluntary expenditure limits. Or with that, with that formula that gets to you your limits. So that might be something that we could bring back, adding in as well, and then it might be something that gives you some realistic indexing, for the future. And then I'm happy to discuss any of the other two recommendations about the contribution limits or the tripling of expenditure limits repealing that provision.

>> City Attorney Doyle: I don't know if Lisa mentioned we did not put a dollar amount recommendation here. We would just throw out for discussion $1.25. Which seemed reasonable. But it is a policy call as to you know San Francisco is much higher, Los Angeles is a little bit less than that, Oakland's higher. I think we can, you know, but the $1.25 would seem to be with a cola, would seem to be reasonable.

>> Mayor Reed: I have a question about going back to the purpose and what we're trying to do and thinking about what's changed since we did this. And I think that besides the changes in the law from the Supreme Court which are kind of important, we've -- those changes in the law and changes in the facts on the ground 20 years ago I would say 90% of the money in the campaign went threw candidates committee. But today just on recent elections I'd say the amount of money that went through the candidates committees is down around a third. So you've had enormous change in the amount of money which goes through other committees which we have no control over except reporting requirements is kind of sort of the state of the law.

>> City Attorney Doyle: The independent expenditure committees or pretty much the sky's the limit.

>> Mayor Reed: While I support the contribution limits that we have, I think that's important, that seems to be the one area where the Supreme Court isn't having any trouble with us imposing limits. But I have some concerns about the expenditure limit on candidates, when all of the independent committees have no limits of any kind. And so candidates are at a disadvantage not as to each other necessarily, because holds level playing field between candidates, but that's only one-third of the game. And two-thirds of the game there are no rules, by and large. So I'm starting to wonder whether or not we should have not -- I'm not concerned about contribution limits, but this whole expenditure limit issue. And then how does that play into the Supreme Court's cases about trying to put expenditure limits on anybody?

>> City Attorney Doyle: Well, these are voluntary and that's a very important word because as you know mayor, going back to the Buckley versus Vallejo, 1970 cases, you cannot regulate and control expenditures. And that's why they've been structured as voluntary expenditure limits because the courts have said that you can control contributions and so that's why it's been structured this way. The recent trend though in the law raises questions about the -- and they're a little bit different context because as Lisa mentioned they're publicly financed cases. But allowing for different levels, the courts have struck down.

>> Mayor Reed: Pete.

>> Councilmember Constant: Thanks. I appreciate the work because I think I'm the one who was urging most of these questions. And I'm really not as concerned with the dollar amount we pick if we stick with that as much as we have built in inflationary adjustors like we did with the contribution limits. And while I'll agree that we do have you know very heavy set of quotes of voluntary expenditure, it is not really voluntary when the penalty's two and a half times the contribution limit difference. So it really does hamper a person can't be competitive in a race if they don't agree. It's a coerced voluntary election in my opinion. And I think it really does -- the way we're structured because of the independent expenditures and the special interests, the average person who isn't backed by those groups is at a significant disadvantage because of our voluntary expenditure limit policy that really gets them that

higher end limit where they can't make the contact with all the voters. So I could go either way. I like the idea of the contribution limits where we have them. I think they're reasonable. I really don't necessarily agree with the voluntary expenditure limit being there but if it's going to be there we should set a number and have April inflater. I like to have that mixture it's almost like a CPI basket of your own making for the elections, and I think that's a good way. But I'm open to hear what my colleagues have to say.

>> Mayor Reed: Vice Mayor.

>> Councilmember Nguyen: Just some clarification here, Lisa. Thank you for the work, by the way. So if a candidate decides to accept the voluntary expenditure limit, that's -- they can accept $500 per person, correct? And if they decide not to then it's $200 with no limit.

>> Lisa Herrick: That's correct.

>> Councilmember Nguyen: I'm actually fine either way. You know we just had this new ordinance in place January 1st of this year. With the increase in the contribution from individuals from 250 to 500. I kind of want to see how that worked out for the next couple of years and maybe up to the next election which is 2014. So I appreciate -- while I appreciate the work I think that I'm more comfortable with just you know keeping what we have in place now and seize what happens in a couple of years.

>> Lisa Herrick: And I should clarify. That is the current, the way the current ordinance works, the campaign finance ordinance. What we're recommending is to change that differing contribution rate and it is you know whether you call it a carrot or a stick or what have you, it certainly is -- there is some significant consequence for not signing on to the voluntary expenditure limits because then can you not raise the higher amount of contributions. If the council were to adopt a single rate so that it would be 500 for councilmembers and a thousand for the mayor per election then you could see where that goes with the current voluntary expenditure limits whether you keep them as-is or increase them a little bit, could you certainly evaluate what happened in this next

election in 2014. That's something that you could do. But did I want to clarify that we are recommending that that carrot and stick approach be changed.

>> Councilmember Nguyen: Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Lisa so if you were assuming a council district has 100,000 residents and the city has a million, just for the guesstimating, the current amount the councilmember would be able to raise with no changes is $100,000.

>> Lisa Herrick: Yes.

>> Councilmember Oliverio: You're saying one of the suggestions was move it to $125,000.

>> Lisa Herrick: Correct.

>> Councilmember Oliverio: And with a possible index and that's what the council could decide. The mayor currently would be a million moving to a million 250 without an index. Oh, no, no, no, that's 75%.

>> Lisa Herrick: $750,000.

>> Councilmember Oliverio: And so what is -- mean, so is that typical? Is that what a mayor's race costs?

>> Mayor Reed: Depends on what city. In this city, we're pretty cheap compared to mayor's races in other cities. I think Bloomberg spent close to $100 million or something like that in New York City. We didn't do that well here on a per capita basis. So in the last mayor's race I raised 400,000 in the primary and 600,000 in the general,

basically, so that's quite a bit under the limits. I think there were one or more candidates who did reach that limit in the last race, in terms of what they were able to fund-raise.

>> Councilmember Oliverio: So suffice it to say, it is a pretty high limit as it is.

>> Mayor Reed: The $750,000 is pretty high.

>> Councilmember Oliverio: That's per primary, primary then general.

>> Mayor Reed: $750,000, is adequate to run a campaign. But the problem is in comparison to the independent committees, who spent multiple times that, it's not competitive with the amount of money that other people can spend. Now of course a candidate's always constrained by how much you can raise. I've never seen a candidate who couldn't spend everything that they raised. It's really how much you can raise. So the real limiter is the contribution limit because that does ultimately affect how much you can raise in the aggregate.

>> Councilmember Oliverio: Okay. And then --

>> Mayor Reed: So the staff recommendation is we have a carrot that if you agree to the voluntary expenditure limit we give you the star, does that go in the ballot, so that if you're identified in the ballot as having agreed to a voluntary expenditure limit?

>> Lisa Herrick: That's right, yes. That's what our ordinance provides for. Notification in the ballot, ballot pamphlet and the sample ballot prominently designates those candidates who participate in the program. It is a gold star.

>> Mayor Reed: So a candidate who decided they wanted to agree to that and get their gold star if they realized that the independent expenditure committees are spending a lot more than a candidate has spent, if they change

their mind, then as long as they do it before the ballot is printed, they can change their mind? Or what's the penalty if you change your mind and blow past the limit because you're trying to compete with the committees?

>> Lisa Herrick: That would be a violation of the ordinance and I believe it would be subject to a complaint before the elections commission.

>> Mayor Reed: Pete.

>> Councilmember Constant: Well, I think the important thing is I just wanted to make sure we didn't end up like we have in so many other places where we don't address the inflater and we get 20 years down the line and it's out of line. I think it's important that not knowing the attorney was going to find the other issues that were found and now that we have them and we're aware ever them we should take care of them at the same time and just clean it all up.

>> Mayor Reed: Dennis you had a couple of comments?

>> Dennis Hawkins: No I was just going to point out that one of the attractions of the multiple measure indices is the city now requires the candidates to pay the ballot statement cost. In the past up until two years ago the city paid for those costs now we ask for each candidate to do that so that is an additional expenditure that each candidate who chooses to publish a ballot statement must bear. So that's one factor that's nice about that, including that in the index.

>> Councilmember Constant: And that happened to be about 3% I believe of the contribution limit, at least the race I was in. So it's a significant portion.

>> Dennis Hawkins: The range in the last couple of elections has been in the 2500 to $3,000 range, roughly per council candidates, and I believe it was roughly $15,000 in the case of the mayor's race.

>> Mayor Reed: Any comments or questions? So from here, this isn't the ordinance. S this the recommendation, if we send you off to draft the ordinance. This will come off in final ordinance form before it comes to council.

>> City Attorney Doyle: Your choice. We could bring it back here or take it directly to council.

>> Lisa Herrick: There are other provisions that I want to speak to you about as well, that we have spoken about generally.

>> Mayor Reed: There are cleanup things. In the interest of time we want to get this on the agenda as soon as possible because the campaigning starts early December I think.

>> Lisa Herrick: I think the city clerk and I talked about the first week of October.

>> Dennis Hawkins: We need to have council action on this as well as setting the expenditure limits for probably late October at the latest because the campaign fundraising period starts in December, roughly December 5th so we need to have this all done and prior to that.

>> Councilmember Constant: I'll make a stab at a motion then. We'll direct the City Attorney and the City Clerk to move forward in drafting the recommended changes look with the other 1st that Lisa Herrick was just referring to and bring them to the council in a timely manner so they can be in effect before the next election cycle.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Do you have an opinion on the dollar amount for the X dollars per person part of this?

>> Councilmember Constant: I think between the clerk and the city attorney's office they've come up with what they believe is a good estimate based on what they've seen and I'm supportive of what we have in our packet.

>> Mayor Reed: Okay, on the motion, all in favor, opposed, none opposed, that's approved. Last item on the agenda District 3 St. James park movie night to be a city sponsored event to allow donation of materials and services.

>> Councilmember Constant: Motion to approve with a specific request for no rain.

>> Mayor Reed: Motion is to approve and get it to the council on the 20th agenda for approval. All in favor? Opposed? None opposed, this is I think we have a couple of items under the committee agendas. Public Safety, Finance and Strategic Support, a modification of August-September work plan to broaden the verbal monthly report on Bay Area regional interoperable communications system, BayRICS, to include overall Public Safety communications initiatives, in other words, there's more things going on than one.

>> Councilmember Constant: Yes, Mr. Mayor, I made that request. I think it's important, given all the different moving parts in interoperability, we just have a standing item so that we can have as broad of a conversation as needs to be to keep up with those moving parts. So I make a motion for approval.

>> Councilmember Nguyen: Second.

>> Mayor Reed: Motion is to approve. I agree. We just heard from the chief today about the president's strong interest in putting another $10 billion to broadband, and that's going to change the whole approach I think to this interoperability thing, if that passes. So it could be an area with a lot of interesting activity. On the motion, all in favor, opposed, none opposed, that's approved. Open forum Mr. Wall.

>> David Wall: I would like to give thanks to Ralph Rodriguez of the nonpoint source group at environmental services. He responded to some hazardous waste or potential hazardous waste I found on north 10th street. I would like to thank him. I would like to thank Todd Waltrip of PBCE and Director Horwedel, for many resolutions of problems in a neighborhood, my neighborhood, and I want that passed on to them promptly. Thank you very much. The other issue I want to read to you. This is from the San José police chaplaincy program, and I believe

hardly anybody in the city knows about this. I'm going to quote. The San José police chaplaincy program was founded to assist any member, family member, or retired member of the San José police department regardless of religious beliefs. The program operates with the approval and support of the San José police department, administration and the San José Police Officers Association. On the front and this is what's more important, "the chaplains are not on the city payroll. This is where you can help. The chaplaincy program is funded only by gifts and contributions. Your donations to the San José police chaplaincy are greatly appreciated and tax deductible. This was given to me by a neighbor. This is their official card. Basically it's POA members, through dues, department members through the credit union, police officers, department members, or the citizens can give directly and I think however you use your web pages, specifically your web pages, because this should figure prominently. Because it covers all religious beliefs not just one and that's also stated on this card. I would first entreat you to get a card so you can look at it yourself, ask the chief about it and then post it on your web page, and above all give. Thank you.

>> Councilmember Constant: Thank you David. It comes out of my retirement check every month, just so you know.

>> Mayor Reed: That concludes our meeting, we're adjourned.