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>> Mayor Reed: Good afternoon, I'd like to call the meeting to order. This is Rules and Open Government Committee meeting for February 8th, 2012. First question is, whether or not there are any changes to the order of the agenda. No changes? Then let's start with the city council meeting for February 14th. Agenda, anything on page 1?

>> City Attorney Doyle: Mr. Mayor, next week's closed session we have City Manager's evaluation, we have labor which could take some time and a few litigation items. The committee may want to consider starting at 8:30. We could start with litigation items to make sure we have people time to make sure we have a full council for the evaluation and the labor items.

>> Mayor Reed: Well, the choice is starting at 8:30 or going later than 12, going to 12:30, I don't know which is better for councilmembers. But you think starting at 8:30 is better? What about you, Councilmember Oliverio?

>> Councilmember Oliverio: Whatever works.

>> Mayor Reed: Okay, let's set it for 8:30 start, we'll probably get done by 12:00. And if it goes longer, then we will at least have a little extra cushion of time.

>> Dennis Hawkins: Should we just plan on bringing in lunch for the council, in case you go long?

>> Councilmember Oliverio: At quarter to 12? Play it by ear.

>> Mayor Reed: Yes, by 11:00 I should be able to know if we're going to be done by 12:00 or not. Usually once we get done with a few items we have a pretty good idea of how long the rest of it is going to take. If we just check at 11, if we need to we can bring in lunch. Anything on page 1? Page 2 or 3? Page 4 or 5? Page 6 or 7? Item 3.4, the marijuana business tax. If we want to defer, drop, or continue, this item, do we need to do anything with the agenda language?

>> City Attorney Doyle: If you want to make the recommendation, we would just suggest continue, have it identified as continued and then as part of orders of the day it would be continued.

>> Mayor Reed: Well, we don't have a date to continue it to necessarily. It's just that we wouldn't take it up at this time. If we just had the recommendation language changed to defer, instead of consider increasing, defer consideration of increasing.

>> City Attorney Doyle: Yeah, you don't want to hear the items, is what you're saying. And I just think whether we call it a deferral or continue, I think it would be set by the Rules Committee as I understand it, to come back at a later date but not a specific date.

>> Mayor Reed: Because we have under 3.5 the language is to, 3.5D, consider consideration of a marijuana business tax increase at a meeting, a public hearing to be set at a later date. And then the language of 3.4, we need to be consistent there I think.

>> Dennis Hawkins: Since the matter's been continued several times, we didn't feel that we could just drop it from the agenda, that we needed a decision on whether to continue it, or drop it. The preferred language is continued, otherwise we create a new noticing situation.

>> Mayor Reed: Okay, let's use continue then. If we can. Anything else on page 6 or 7? We have the fiscal year 11-12 priority policies, and ordinances, which we'll be voting on at this meeting, having discussed them the day before at the study session. We got a request to have this heard last on the agenda, that should be the best place to have it and then we can take up the business, question, Councilmember Oliverio.

>> Councilmember Oliverio: Question mayor, are we allowing then people to submit memos at the last minute and proposing other ordinances, or do we have a set list, and that's what it is?

>> Mayor Reed: Well, we have the list. We have a couple of items on today's agenda that could be candidates of adding to the list. But I think in terms of giving the public notice of what we're thinking about, I think it's too late just to submit more memos for consideration at that meeting. We'd need a sunshine waiver I suppose to add something to the list, as late as the meeting.

>> Councilmember Oliverio: I'm not looking to add, I just want to have a shorter list is better.

>> City Attorney Doyle: I think item is broad. But I suspect, with the original memos going forward, that that would sort of set the parameters. And any late items would have to probably come back for -- I mean theoretically people could show that up day with a new item. But it would probably be best practice to come back at a later date to add it.

>> Mayor Reed: But we have a couple of things on today's agenda that could be added I think would be okay. Any else on page 6 or 7? Page 8 or 9? Or page 10? I have one request to -- for an add, from the fire chief to add a resolution authorizing the manager to apply for another SAFR grant. That one I think will need a sunshine waiver. City Manager.

>> City Manager Figone: Yes, Mr. Mayor, couple of points. We do need a sunshine waiver. The chief has just brought this to my attention. I think it's important that we get this on the agenda, although he is still talking to our budget director about the requirements of the grant. But so as not to have the window of opportunity close to at least apply, I would recommend that we at least put this on the agenda, to allow me to proceed.

>> Mayor Reed: And when would the memo come out with the cost analysis part of it, probably by Friday?

>> City Manager Figone: Yes, the memo would be out. I don't know how deep the cost analysis would be but certainly that would be a consideration in the acceptance of the grant. This is for the application.

>> Mayor Reed: Okay. Any other requests to add? That's all the written requests I have. I have one request to speak, I'll take that now, David Wall.

>> Good afternoon. This is in reference to two environmental and utilities services items. 7.2, biosolids transition, timeline and CIP delivery approach. This entire approach, Mr. Mayor, is flawed. In addition it gives special impetus to the developers McCarthy Ranch, et al., in pushing forward a \$500 million bond initiative that the taxpayers of San José would have to pay to mitigate odors. I think this should be deferred for some time so the Mercury News would have time to investigate this and put it out for the public to see the unwarranted impetus that this developer group has over this City of San José council. 7.3, where it says, accept the updated San José Santa Clara water pollution control plant's pretreatment program, this was presented Monday at T&E. The presentation was so grossly incompetent that even the councilmembers who voted for this, their competency level is severely questioned and put out for condemnation. Also the auditor should be looking into these charter changes because this deals with rates by putting storm water into the sanitary sewer for treatment. This affects everybody's sewer service and use charge and this was not discussed. So this too should be taken off its entirety and it should be noted, that the management of the environmental services department is a grotesque collection of incompetent decision makers.

>> Mayor Reed: That concludes the public comment on this agenda. I'd like to before we finish that look at item H-2 which is a memo from me regarding a 2012 community budget survey that we need to add to the 14th agenda. That's been out since February 2nd but we need an agenda so that can be presented to the council. Any other changes?

>> Councilmember Herrera: Motion to approve with sunshine waivers and adds to community budget.

>> Councilmember Oliverio: Second.

>> Mayor Reed: Motion to approve the agenda as recommended with the sunshine waiver. All in favor, opposed, none opposed, that's approved. We have nothing to talk about for February 21st. Nothing to talk about for

Redevelopment Agency. Or successor agency to the Redevelopment Agency. So upcoming study session agendas. We have an item on here about cancelling the study session on February -- Tuesday, February 21st, we have no agenda, or no items for that.

>> Dennis Hawkins: Correct.

>> Mayor Reed: That study session. So we can release that, that's two weeks away. It's okay to release it now, since we have no study agenda items. Okay, so I need a motion to release that so councilmembers can do other things with their time and everybody else can too.

>> Councilmember Herrera: Motion to release that date.

>> Mayor Reed: Motion is to cancel the study session scheduled on the 21st. All in favor, opposed, none opposed, that's approved. Legislative update, state legislation, Betsy Shotwell.

>> Betsy Shotwell: Thank you, Mayor, Betsy Shotwell, Director of Intergovernmental Relations. Just one update. The deadline for bill introduction in Sacramento is coming up. It will be the 24th of February. We will see obviously a number of bills coming forward that we will bring to the rules committee and the council for positions. And of note, of course, will be legislation related to redevelopment cleanup, including legislation that just introduced last week by the speaker and, that is AB 1585. Now they have to be in print for 30 days before they can be heard and we will -- we are internally analyzing these bills as they come forward for positions. That's it.

>> Councilmember Oliverio: Question there.

>> Mayor Reed: Yes councilmember.

>> Councilmember Oliverio: Does SB 654, is that going to assembly?

>> Betsy Shotwell: Yes.

>> Councilmember Oliverio: And when is that set to be voted on?

>> Betsy Shotwell: I don't know the date. It's not an urgency measure anymore.

>> Councilmember Oliverio: And then AB1585 for cleanup, does that manage Interfund loans done by cities for the CRAF payments?

>> Betsy Shotwell: I can't answer that off the top of my head. I don't know if Richard has --

>> Councilmember Oliverio: You will let us know, of course?

>> Betsy Shotwell: Oh, absolutely. The details of this are being gone over as I speak.

>> Councilmember Oliverio: and then finally, was there any introduction on legislation for regulating medical cannabis statewide versus locally?

>> Betsy Shotwell: I'll have to check, and certainly we'll know by the 24th.

>> Councilmember Oliverio: Thank you.

>> Mayor Reed: That's it for the state we have nothing to report on the federal government side, so nothing on meeting schedules. The public record, anything the committee would like to pull for discussion? I have one request to speak. Mr. Wall.

>> First item H, I would like to give thanks to Mr. Tony Deapp, San José police officer 3781. The letter speaks for itself. Very grateful, that he's assigned to city council meetings but he's very good wherever he's at. I would like to you take the time to thank him for his outstanding service. Item A -- I rather. The title, week 5, City Manager has yet to publicly thank City Attorney for the bailout on the environmental innovation center. This has to deal with the \$440,000 racked up in liquidated damages for the substandard building of fire station number 19. Mr. Mayor, since we have the fire department in here, wouldn't it be good right and salutary that the City Manager should thank the fire department, and apologize, because this \$440,000, that was wasted, could have gone to the fire department? Could have gone to the police department? But it was wasted. For this environmental innovation center. In addition, we have yet to see the City Manager apologize to the public. Apologize to the City Attorney or even thank the City Attorney. And it's a very easy things for the City Manager to do. I've made mistakes in public and I've apologized and I thank people. We have the fire department right behind me. You should all actually get up and salute them and say thank you for putting up with a variety of your crap. But nonetheless let's take on point to item I. \$440,000 wasted. That's unacceptable, that's inexcusable. Thank you.

>> Mayor Reed: That concludes the public testimony on the public record. Anything the committee would like to pull for discussion?

>> Councilmember Oliverio: Motion to note and file.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion is to note and file the public record, all in favor, opposed, none. That's approved. Boards commissions and committees, we have nothing to take up. We've already done item H-2. Item H-3, regarding the IBM operations efficiency diagnostic report, that was a memo from me for the Rules Committee to take that up today. I have withdrawn that request and I have a replacement memo recommending that we agendize it for selection on February 28th, which would be more appropriately discussed when that council agenda is considered, which would be next week, right?

>> Dennis Hawkins: Next week, right.

>> Mayor Reed: We'll look at the council agenda for the 28th. We also had a memo from Councilmember Rocha to agendaize it for council discussion. I think we would take that up next week, as we talk about that agenda. Councilmember.

>> Councilmember Herrera: Did you want to hear public first?

>> Mayor Reed: Maybe get my places in the agenda here. So I have some people who want to speak on item H-3. I'll take that now. Marie Hader.

>> Yes, I'm Marie Hader speaking at the request of the chair of the Sr. citizen commission. The chair is regrettably at a county commission meeting and cannot be here today. The senior commission has as one of its work plan objectives to attend senior nutrition task force meetings, stay informed of proposed recommendations. The senior citizen commission has been visible and forthright in its support of the senior nutrition program. On page 97 of the IBM report is a proposal to eliminate programs that are not aligned with the mission of PRNS and lunch for senior citizens is cited as a program that could be cut. Does the committee or the council as a whole intend to refer this proposal to cut the senior nutrition program to the senior citizens commission for a recommendation? This is pursuant to our charge to act as an advisory capacity to the council. And the second question is: Is the senior nutrition task force going to be reconstituted?

>> Mayor Reed: Robert Sapien is our next speaker.

>> Thank you, mayor, committee members. Mr. Mayor, as you can imagine the report provided by IBM was of great concern to all my members certainly should be of grave concern to the citizens of San José. When you described your memo just now unfortunately you may not be aware there is a copy of Councilmember Rocha's memo in the back but not one of yours. I would ask that perhaps you read your memo so that we can all understand it. Because the memo I read from you also gave some direction regarding this report to the City

Auditor so that this item can be taken up in council subcommittees. I strongly disagree with that approach. I think this, if there was ever a call for open government, this is it. Certainly, the full council should hear this report before any action is taken. Thank you.

>> Mayor Reed: Bob Brownstein.

>> This report contains a variety of bizarre and reckless recommendations that would clearly threaten the health and safety and security of the people of San José. I do not think it should be referred to the whole city council. The I think it should be referred to the recycling bin. It makes no sense, it's based on false data.

>> Mayor Reed: We seem to be losing our lights but not our amplification. I can still see your -- okay. Back, sorry.

>> And it is not wore think of further consideration. IBM begins its analysis by saying, it has to propose drastic cuts in public safety, because projected city revenues are expected to be flat. Particularly property taxes. I would suggest to IBM that in another solution, is that corporations like IBM start paying their fair share of property taxes. IBM currently pays -- [applause]

>> -- about a half cent per square foot for property taxes. Compare that to Adobe which is about a dollar or Apple which is about \$2 and those companies don't seem to have any problem being highly successful, and paying their fair share. So first, let's ask IBM to do the right thing, pay its fair share, ask its corporate brethren who share the advantages of prop 13 to do so also and then let's see if we have enough money to keep the citizens of San José safe and secure in their homes. [applause]

>> Councilmember Oliverio: Mayor.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Just want to clarify for the City Attorney the last speaker was making a reference to proposition 13 I believe and that properties zoned before a certain date have a certain assessment versus later, not something the city control in the property tax rate.

>> City Attorney Doyle: No, we don't control the rate but I don't know the circumstances around IBM's you know whether what's their basis of their rate if any change of ownership, it's all based on prop 13.

>> Councilmember Oliverio: Proposition 13 statewide thank you.

>> Mayor Reed: Jason Hanel.

>> Good afternoon, again my name is Jason Hanel. I'm a representative for AFSCME. Like the previous speaker, this report this IBM report should be heard now and killed now. You know there's really a clear choice here. It's either siding with multinational corporations like IBM, whose real purpose is to maximize profits for the shareholders or with San José residents who deserve and expect basic services. Now, seems like the mayor has made his choice clear. Backing the corporate giants. In fact in his memo on February 2nd which I don't blame him for pulling, bragged with his close relationship with these giants. In fact he said the report provided significant opportunities for the city like closing down a third of the firehouses in the city and privatizing the rest, reducing cops on the street by a third, cutting 911 operators, eliminating services for seniors and mentally ill. You know, this is all in the report. And who benefits from this? Certainly not the city residents. It's a slash and burn approach with hard earned taxpayer dollars going to big businesses to perform the work the city should be performing. You know, it's -- and when you privatize, essentially their taxpayer money goes to paying workers poverty level wages, providing healthy profit margins for CEOs and their shareholders, and you get bargain basement quality. I mean, after all, corporations are there no maximize the profit so why would they provide anything other than the bare minimum of services. This thing is so outlandish and outrageous it doesn't deserve the staff time, the city council time or anyone else's time. It should be heard now and killed now and so we can move on to real solutions for the issues that we face. Thank you. [applause]

>> Mayor Reed: David Wall.

>> Mr. Mayor, your conduct in this matter is a continuation of a contrived attack on public safety and its cost and its values to this society. We have seen you use the machinery of your office to put forth a variety of misrepresentations to the public who, by their own nonparticipatory acts of learning their government, don't know any better. And rely on you and your office for putting forth truthful things. This work plan is not truthful. This report is not truthful. It is not sworn. The decisions in here are opinions. They are opinions of unregistered lobbyists. Who are trying to utilize city organization mechanics as if they were a virus coming in and start tying up a variety of work plans, in different committees, including the office of City Manager, the office of City Attorney and Auditor, for their own corporate, personal, pecuniary gains. This should actually be so shamefully not in a recycle bin but tossed into the nearest trash can. But obviously, Mr. Mayor you will continue with this but this in my opinion is a misuse of taxpayer moneys to let it go forward to any study by any entity within the City of San José taxpayer-funded structure. Because this is a furtherance of a corporate entity that is not in keeping with Public Safety.

>> Mayor Reed: Steve Kline. Steve. Sorry, Steve Kline.

>> Good afternoon. Mayor and -- Reed and councilmembers. I am grateful that the IBM did not charge the city for this study and report. The reason for that gratitude is that the -- it is worth exactly what we paid for, nothing. With respect to its analysis of the police department's staffing, there is a major and significant flaw in that 2011 statistics are not included. As we all know last year San José had the highest homicide rate in 15 years. The report has the audacity to state that San José police are overresourced every day of the week. Ask an elderly man, a young mother, or a child waiting for hours, for the police to arrive after a burglary. Mail theft. Car break-in or other nonpriority crime. Whether San José is overresourced. And heaven forbid that San José has two or more major incidents. The response time is even worse. With respect to the fire department the report is even more difficult to accept. IBM asserts that it has used reliable data. Where is that data? San José's data is far from reliable. How many fire units were on the scene at the catastrophic Santana Row fire? According to city statistics, the first unit responding was counted, and no others were counted in the statistics. If accurate performance

standards were used maybe a different conclusion would be reached. In tech language, garbage in, garbage out. The dynamic staffing model they recommend is a disaster waiting to happen. Ask the young San Diego family who lost their toddler choking on a marble, about how well that model worked for them in their minutes of need. Finally, the PRNS analysis is short-sighted and is a clear example of why corporations are not people.

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

>> Thank you.

>> Mayor Reed: Dee Uristan, and then Ricky Alexander.

>> Thank you, Mr. Mayor.

>> Mayor Reed: Let's get that down a little bit.

>> I got a copy of that report. And it's like, Duhhh. I mean, I have lived all over San José. And the first time in my life that I've been worried because I don't see enough policemen out there. And I have made some emergency calls. And they said they were not important enough. The other thing, the fire department. If you cut that and the response time is 10 to 12 minutes, if a house burns down by the time the fire department be there in ten, 12 minutes, coming from another part of town, your house is gone. It's going to be burned. [applause]

>> Another thing: I don't want the fire department taking longer than it should to reach me, ten, 12 minutes. In a serious an emergency, if you go ten minutes without oxygen you have brain damage. You can't do that to us, Mr. Mayor. And we are not dumb. And this is ridiculous. We pay and we vote for you people to represent us and make some good decisions. And this is not one, believe me. And some like you said, some are running for reelection, some are looking to run for mayor. We're going to remember this. Because you -- and there's the next thing. How dare you want to take food away from senior citizens. Some of these senior citizens, that is the only food they get during the day. And they want to take it from there? You want to see your grandmother die or your

grandfather? So as I said, think about it. I can't believe this information. It's not even real. And you got a lot of high-paying people up there that we pay for them to do the thing. Why are we hiring or I mean taking IBM? Thank you.

>> Mayor Reed: Ricky Alexander. [applause]

>> Hi mayor and council. My name is Ricky Alexander with sacred heart community service local nonprofit here in San José and I want to add to the sentiment that this IBM report should not go to council for consideration. There are a number of problems with it but I want to focus on the recommendation put forth in the report regarding the elimination of senior nutrition programs as was just mentioned and the privatization of all remaining community centers. First off the topic of efficiency should not be applied to hungry seniors, as we just heard. Who is IBM to weigh in on the value of senior nutrition? The idea that because senior nutrition is not core to parks and rec is justifiable and intelligent to eliminate it is offensive and reprehensible. I would ask you to hear from seniors on what the program signifies for them and on whether or not the reuse thus far has even been successful. You are weighing in on critical services for low income families who do not have a voice in this political system oftentimes. Please put them first, remember their needs, efficiency is not the right lens for assessing basic services such as lunch, socialization in public spaces such as community centers where low-income families create community. Last remember the saying. If it looks too good to be true it probably is. Put people first not statistics from a multinational with nothing to lose. Thank you.

>> Mayor Reed: Jim unland. [applause]

>> I find myself at a loss for words. I'm in a little bit of disbelief that we're even talking about this report. When they brought it to you mayor you should just thrown it in the garbage. I used to be so proud to work for this city. And now all do I is think about leaving it. Anyone that supports cutting police, lower than the 1095 we're at now, we'll fight all the way. Thank you. [applause]

>> Mayor Reed: Jeff Welch.

>> Jeff Welch, Local 230 vice president. I rise to speak again to this report and Mr. Mayor's memo recommending that it be put forth for further consideration. Any acceptance of this report or that memo would be the -- the essence of accepting that report and its legitimacy. It's fraught with flaws, it doesn't take into consideration any national standard by any regard, to firefighters safety, police officer safety, crew size or capabilities. It needs to be disregarded and like everybody else before me, talked about, needs to be tossed away and revisited in a different form in a different fashion. Thank you. [applause] That concludes the public testimony on this item. There's actually no action for us to take today. Because the recommendation was to put it on the agenda for next week when we consider the agenda for the council meeting on the 28th. So that's when we'll talk about the agenda. Councilmember Rocha. I know you requested we pit this on the council agenda but that's not what we're talking about at the moment.

>> Councilmember Rocha: Okay, thank you mayor, I appreciate the memo you submitted and the new direction, I think it's an improvement. I did have a question though in terms of the level of analysis that the direction included for the City Manager and the City Auditor.

>> Mayor Reed: Well, my recommendation, if -- when we get round to talking about the council meeting, is to have the council make that decision on the 28th to refer it and then have the City Attorney, City Manager's, the usual professional staff tell us what the work plan might be and then we figure out how much, when, and where and what we do with it.

>> Councilmember Rocha: So prior to that we wouldn't have staff spending significant amount of time on the item doing an analysis, that decision would be made at the council meeting?

>> Mayor Reed: That is what I intended that the staff analysis would come after it's referred.

>> Councilmember Rocha: Okay, thank you.

>> Mayor Reed: Okay? Then we're not -- there's nothing else to take action on here today. But there will be an agenda item and the memo will get circulated with next week's packet along with Councilmember Rocha's memo for consideration as we talk about the agenda for February 28th. There is no meeting on the 21st, which is why we're talking about the 1 28th. Okay we'll move on then to item H-4. We have a response from the City Attorney on some legal issues related to vacation sick leave, holiday benefits, started with a memorandum from Councilmember Rocha that we considered a couple of meetings back. And so we had referred it to the attorney for a response. And the City Manager was going to decide what to do after we had it framed up by the City Attorney. So we have that to consider at this time. City Attorney.

>> City Attorney Doyle: Yeah, just briefly. There is a memo in your packet. The threshold question from our standpoint was what could we legally require. There were some issues with respect to the national labor relations act and ERISA. The long and the short of it is that other cities do have similar requirements. There are -- it's permissible in our opinion to craft something that would set forth the requirements, there's minimum standards or consideration as part of an RFP process. And then the rest is left up then thought council and the administration to develop whatever policy you want to develop in terms of moving forward.

>> Mayor Reed: Okay. City Manager, did you want to talk about the policy options?

>> City Manager Figone: Actually mayor I'm going to let Ed tee this up and then I'll comment. Thank you.

>> Ed Shikada: Thank you, City Manager, mayor, members of the committee. Effectively what the staff memorandum communicates is a few options, everything from the status quo to incorporating the benefit levels as far as the evaluation levels in RFPs to effectively setting a minimum standard which would relate to the City's living wage policy and set minimum time off as a prerequisite to issuing contracts. So we wanted to lay out a few options that based upon Rules Committee and council direction, staff could scope accordingly and provide information back in terms of both -- any analysis that might be necessary based on the option as well as ultimately costs associated with enforcement.

>> Mayor Reed: Okay, Councilmember Rocha you had a memo on this a follow-up memo on this.

>> Councilmember Rocha: City Manager said she wanted to go speak after Ed was that the case? I'm sorry.

>> City Manager Figone: I think Ed laid out what I think is pretty clear in the memo. And when this first came forward from Councilmember Rocha, what my vision was that we would at least lay out the book ends in terms of the options. I think that's what this memo does. And then based on kind of the depth that the council might be interest in, there could be more work or less. And so through that direction, and intent, staff may then need to spend more time either on the scoping might have other ideas come to us.

>> Mayor Reed: Okay, one question I had. Is there anything moving through the process on the contracting out that would be affected by this, that we need to take up sooner or later? Do we have a timing issue in terms of making a decision so it would affect things that we're trying to do?

>> I'm not sure where they're ought. I'm Brian Doyle from the city attorney's office. So I don't have the firsthand information. The only thing I'm aware of that may be coming up is there's a -- is there further outsourcing of park maintenance that might come forward.

>> Ed Shikada: And so in that particular example the application of whether it be living wage or prevailing wage is one of those issues that staff would want to look at. I'm actually unaware of any major new contracting out a proposal that would be affected by this. Certainly as we go through renewals depending on what the council policy is that we would want to factor that into the scopes of work.

>> Mayor Reed: Right so we have a little bit of time in terms of making council decision. So Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. That's a great question, going to get to that but much later so thank you for setting that up and I appreciate staff's work on these very good memos. I did have some questions

though in terms of understanding the process, and maybe my memory is a bit biased of course in remembering what I wanted to remember at the council meeting. But I was pretty clear that we weren't going to discuss the merits of moving forward on this again. I felt that the council had made it pretty clear that there was at least a majority of folks who had an interest in seeing this be implemented prior to any new contracting-out. So given that point I see that it's on the council agenda for the 14th. Where we're going to include it as part of the priority-setting. So I'm not sure how we can reconcile the two because if it doesn't make the top 10 then we're not working on it and I'm not sure also how it got to that based on that council meeting, unless, again, if maybe someone could clarify how we got to where we got to, the two traction I tracks I guess so to speak. .

>> Mayor Reed: A lot of times in a council meeting the council would want to do something and it's an easy thing to refer to staff to say it's important as of today, without thinking of the 20 things we already sent to them. That's why we had the priority-setting, all those things were important at one time or another, not necessarily in rank order. That's how it gets connected to the priority-setting process.

>> Councilmember Rocha: You're absolutely correct. The direction we're going with the contracting out and the significant amount we might see in the next round of the budget, that is what my impression that the rest of my colleagues had an interest in seeing this move for faster rather than slower.

>> Mayor Reed: Right. That was my question about the timing of this.

>> Councilmember Rocha: Exactly.

>> Mayor Reed: If we were making decisions in the budget process about let's say we had a contracting out decision to be made in the budget process as we have in past years when would we need to know the terms of an RFP? Do we need to know that now, or after March when we do the March message or in May or -- I'm just trying to figure out if we have time constraints on this because it's a question on when it gets on a council agenda. So if we were going to launch an RFP we need to know the answer before we do that.

>> Councilmember Rocha: Yes.

>> Mayor Reed: But there aren't any that are pending. Although in the budget process the council might decide to send staff out, to work on an RFP for something.

>> Ed Shikada: Exactly. And so certainly we would be more than happy to come back with specific information on schedule, whether it be renewals as well as the new RFPs.

>> Councilmember Rocha: But then if this doesn't make the top 10 then what we're talking about really, I'm not following how we can incorporate that into the budget process if it doesn't make it into the top 10.

>> Mayor Reed: I think whether or not it needs to be made, decision needs to be made in the next civil months should affect the councilmembers view on whether it should be in the top ten. If it needs to be done in the next six months it's a higher priority of those that could be done later. I'm not sure how councilmembers choose their top 10, that could be a park but you're right, if we say we want to do this but it's not important enough to make the top 10 we never get around to doing it then we're into the RFP process and we didn't really have a chance to make a change.

>> Councilmember Rocha: Then I'm concerned we're going to have the same debate at the next contracting out potentially, and again I thought there was a pretty clear majority of councilmembers who had an interest in seeing something potentially based on what the analysis we could get from staff. We could probably go round and round and I get that and understand your point completely and I don't have an interest in bearing staff in something that's not necessary. The other question I have is based on the options that were presented, there was reference to a workload assessment and if we don't know which option we're pursuing, then you know, normally we know what -- what the direction is and you have three different options here. If council hasn't made the analysis of which ones we want you to prioritize or which ones we want to adopt that decision hasn't been made yet.

>> City Manager Figone: Correct. And so --

>> Councilmember Rocha: And that's my interest in seeing this in front of council, now that we have the options laid out for us very well, council direction on what we could do with those. Again, that was just my biased impression of what I saw the outcome being.

>> Ed Shikada: If I might add, at the risk of muddying the water even further, would be should the council take this up on the 14th as part of the prioritization, away would be very helpful to staff would be an indication of whether it's the -- what was described as the high workload option which is to factor it in as an evaluation criteria in RFP which again raises the question of how you define and how deeply you want to get into the question of benefit levels among contractors so that's one option. The other would be the moderate workload element or option which would be to pick a minimum required compensated days off among contractors. In which case, relatively speaking, the workload boils down to writing a specific proposal, conducting appropriate outreach and feeding back with the council any cost associated with that from an administrative standpoint. So relatively speaking it's a more discrete scope so it makes it more manageable from a staff standpoint to understand which path the council would like staff to take.

>> Councilmember Rocha: Didn't muddy it but thank you. That's helpful. This item isn't usually set up for us to pick within that item what we want to do, right? That's a whole 'nother discussion we're going to open up. If that's the interest of staff and council, that's fine. But my impression was that's not generally what what we wanted to do with these, we want to just pick an item and not dissect that item and say what component of that item we want to move forward.

>> Ed Shikada: Councilmember, in terms of the priority-setting session, I believe staff would more than welcome any clarity that comes as a result of that discussion, including scoping down or more tightly defining the scope of the proposals being considered by council.

>> Councilmember Rocha: Can I ask a question about the analysis section of the memo from Mr. Sykes? It says if the council is interested in a particular option a full workload assessment per council policy would need to be

performed. So if the council is interested again we don't have the full council debate on this. And is need your suggestion or is that a requirement? I mean, if memory serves me correct, City Attorney, we can -- council can make direction regardless of this workload assessment if it so chooses.

>> City Attorney Doyle: It is the policy of the council to have the protocol follows that you do a workload assessment. And then come back. Typically through the rules committee because things usually are referred here. But you're right, the council could abandon its policy and just say go do it. I think --

>> Councilmember Rocha: Abandon is a strong word but thanks. I'm teasing.

>> City Attorney Doyle: No, in fairness, I think as part of the priority-setting session it's probably best covered there. Because even if it's not in the top 10, it's still on the list, it's just a question of how far it moves up and really, that gives staff with its resources the ability to say okay, these are the council priorities, this is what we'll get to, and then in time, everything will -- we'll get to everything but TTYs council telling us what they want first.

>> Mayor Reed: Here's the way I would sort of anticipate dealing with it. Monday the 13th we talk about it as part of that list. I think it could be part of the discussion. Whether or not it makes the top 10 I would certainly support direction that it needs to be resolved before we start down the road of doing more contracting-out. So that we -- the council has it, one way or the other, to consider when we -- when we do that. And I don't really have a good feel for when that might be. So kind of a different track than just being on the top 10 and the staff works on it even if it's not in the top 10 it's something we need to get done and occasionally we have other items that are driven by factors generosity of our control that have to get done whether or not they're on the top 10 and this I would put in that category is the council needs to have the chance to make the decision before we are already into the process and we have the same debate all over again and aren't in a position to make a decision.

>> Councilmember Rocha: Okay, that sounds, I'm very comfortable with that.

>> Mayor Reed: Okay.

>> City Manager Figone: And if that makes sense at the risk of over-committing I think what we could also be better prepared to articulate on the 13th is given the service delivery evaluation, info memo that just went out, which basically parses out the different evaluations underway, and taking a look at what's in the pipeline, in terms of the potential for RFPs we can give you a better sense for the timing where that, you know, track might need to be accelerated.

>> Councilmember Rocha: Okay, and can I also make a request at the meeting on the 14th when this item is, maybe you could frame it a little so the rest of the council has the opportunity to hear your analysis on what you think might be a best approach or the pros and the cons. Because looking at the memo again from Mr. Sykes, the item for consideration tend to be more on the can't-do tone as opposed to we could do in or we could do that. Well actually, that's not correct. Just the tone seems to be, all of the cons as opposed to the pros. But I would appreciate if maybe you could frame it a little bit and talk so the rest of the council has this debate as well.

>> City Manager Figone: Sure, understood. And I think not speaking for Dave, but one reason for mentioning the workload assessment, probably leans more towards the high workload element the option 1. Because this is more than you know about criteria in an RFP and points and all of that. This really gets to then enforcement and the follow-up. And so I think that that's really where the idea of scoping, so that whatever direction the council is interested in going in, everyone's clear about the -- kind of the full scope of that. So I think on the 13th, we can talk you through that. You're not voting on the 13th. You're voting on the 14th. So it's a study session type framing, and I think then that will be helpful to the conversation.

>> Councilmember Rocha: Thank you. Thank you mayor.

>> Mayor Reed: Okay, thank you. I have one request to speak on this item, David Wall.

>> Councilmember, you have a lot of good ideas. This was not one of them. I don't believe in any benefits whatsoever to contractors and this is the reason why. First of all, the benefits that city employees enjoy are union

negotiated benefits. Contractors, if they're not in a union, or if they are union members, already had those benefits. Plus, with benefit structure to contractors, you have increased liability with a loss of control over them. But even more importantly what nobody really talks about is the dramatic assault to the civil service system that the use of contractors are going to place upon our way of doing government here. There is a move just to contract out all city employees, it is a thought going around. But the civil service system even though it's been bastardized and corrupted, still gives the ability for equal opportunity. It limits to a degree corruption or corrupt acts. Now, with contractors, you're going to see cronyism crop up. You're going to see managers having their friends. We already see that going on in different city departments, where you don't have testing anymore, and people get hired because of their friends. I don't even know if the IBM report said you should be paying benefits to people you don't even have to be paying benefits to and you have a deficit. Where is this money going to come from? Where is the level of study that has to go on to even justify this to begin with? This whole concept is asinine on its face because it can easily be remedied by RFPs to anybody that does a contract with the city. Part of your insurance and bonding requirements that we've learned from the Applegate Johnson business, just write it in that you will provide the necessary benefit level for your employees. Thank you.

>> Mayor Reed: That concludes the public testimony on this item. So I think we just need a referral to the council 13th and 14th agendas on this.

>> Councilmember Herrera: Motion to refer to council.

>> Councilmember Oliverio: Sounds like the City Manager has already made a proposal though.

>> Mayor Reed: Not a proposal.

>> Councilmember Herrera: Motion.

>> Mayor Reed: We just need to send it put it on the agenda. It's not on the list, I think. Yes, it is. We did put it on as a place holder just so it didn't slip through cracks, quite frankly.

>> Councilmember Oliverio: I don't think you need a motion.

>> Mayor Reed: As long as we can consider it on the 13th and the 14th, we'll be fine. Okay thank you. And the next item is request from Councilmember Oliverio to direct the administration to bring back some data in the budget cycle at the beginning on large and mid size cities funding their police departments, Councilmember Oliverio. Want to speak to your memo.

>> Councilmember Oliverio: Sure, thank you Mayor Reed. I could talk at length about the value of the police department but suffice it to say I'm just here to have -- be part of our budget process some data gathered so the council can consider, you know, much like we do at the state level with education, clearly making a single priority the most important thing. Therefore, not leaving a police budget that sits in limbo when the residents, time and time after again, say this is the most important service we can provide. So at the end it's really gathering of the data bringing it to the budget process so council can take a peek at some of the options that may choose or may choose not to go down that road. Just simply make a motion to let it be part of the budget process.

>> Councilmember Herrera: Second.

>> Mayor Reed: Okay, refer that to the budget process, that's the motion. Mr. Wall.

>> I'm personally fundamentally opposed to locking in a percentage of the budget for police operations because police operations have to be very flexible in their funding. Because things happen that aren't -- crime happens. And other anomalies associated with police operations occur that this type of model would not -- would not be able to support. So where the basic concept is good to try to say how much are we going to spend, well, it really doesn't matter because you will spend the money anyway. So going down this path, is ill advised. A good path to go down is to find out what type of seed capital would be required to create an endowment for basically police operations to be then augmented by the General Fund. And then you Mr. Mayor talk it over with the president to get the necessary money, it would probably be in the billions as a loan to the City of San José to

create a financial instrument to start moving Police and Fire off the General Fund per se justing to augmented to their special operation needs. Thank you.

>> Mayor Reed: That concludes the public testimony. We have a -- City Manager.

>> City Manager Figone: Mayor, as I mentioned to Councilmember Oliverio before the meeting, I think we could do a cursory review and bring you some of the considerations and looking at the data from other agencies, you know, every city is different. And so I just want to kind of manage expectations. What we'll do is we'll probably check with ICMA and see if there's any survey data already out there and certainly we have listserves, but probably really wouldn't be clear on what it's telling us unless you did an in-depth review. We'll take a first pass at it but just wanted to put that out there to manage expectations.

>> Mayor Reed: Thank you. I would be interested in more information about a smaller set of cities, ones that we think okay, these are our peers, in some way, I don't know how that would be defined. But there are some cities that are so different than we are, that I would say well, that's interesting but they are so different you can't compare them to us. And I don't know what that set of cities might be. But because I know that if you just go at the surface level, and look at the budgets, the budgets are all differing. So it would take, I think the quality of the information would be more important than the sheer quantity. Because you could look at 100 largest cities in the country and probably not be very helpful but if you had ten that we thought were peer cities, that would probably be more interesting. I don't know what Councilmember Oliverio had in mind.

>> Councilmember Oliverio: No, I think that's appropriate mayor. I don't want to spend an inordinate time but I think there are city relative to San José both in population and education level and things of that matter. I think that is important, I think staff has done enough comparisons to get that. My point here is police the is in the charter. It is the single most important thing you can do to enforce first law and safety of the public. If it's so important we should have some consideration of what true priority should it be in the budget and ultimately that would be something the voters would decide on. And as I may or may not have said, any time this council is going to look at raising taxes that are general taxes the public is sometimes skeptical of how it's going to be spent but if

a certain percentage is always allocated to what they view is the most important thing I think those taxes would bode a better chance.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I just wanted to ask the city manager how much of this would we already be getting as a normal course of preparing for the budget?

>> City Manager Figone: We probably wouldn't do this sort of benchmarking quite frankly. But again, to the points that were just raised about a narrower scope a more relative set of comparisons. You know I just returned from the meeting of the large cities in the country, and we meet twice a year. So there is a, I think a reasonable group of cities that we could compare to. It just -- every city's different in terms of what it demands from its police department. That's where the drilling down would have to be a follow-up to the degree it was important.

>> Councilmember Herrera: Well I'm going to support the motion. I think more information is better and public safety certainly is the biggest part of our budget. It has been, it continues to be, it will be in the future. So I think it's good to get more information as we're moving forward and making these decisions.

>> Mayor Reed: Okay, we have a motion to refer this and get it back at the beginning of the budget process. All in favor? Opposed? None opposed, that's approved. The next item is a request for update for regulations on mobile and outdoor vending ordinances. Councilmember Campos started the memo on this and is going to speak to that. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. As you know, I think this is an issue that's happening throughout all of the council directs. You see it more on main business strips, and one of the -- one of the problems that has occurred is, one, the City's losing out on potential revenue streams that it could receive through sales tax and business tax, to the potential Public Health issues that arise from unregulated operations. And two, it's a way to make this whole process much more streamlined and communicating with another major entity, which

is the county health department. Which as I was doing research on this, it seems like the process of regulating these businesses through our planning process and the peddlers permit process through the police department, never seems to communicate with the needs of the health department or the requirements of the health department. So I put forward a memo co-authored by several of our colleagues for consideration so that we can further discuss this and place this on the priority list for this year's budget cycle.

>> Mayor Reed: Thank you. Is this one already on as a place holder in that list?

>> Ed Shikada: It is not.

>> Mayor Reed: Okay, so we need to make sure if the committee wants to we get onto the list for Monday. This coming Monday. Councilmember Oliverio.

>> Councilmember Oliverio: Councilmember Campos, appreciate it. Could you tell me what problems specific so I can picture this a bit better?

>> Councilmember Campos: So one of the things that you'll find, and you know I know that we've had discussions of -- you know you drive to neighborhoods quite often so you could stop at vendors that are you know on strip malls. And one of the things you'll notice is that most of them are in violation of setback requirements from residential properties of -- even being regulated, by the health department. Some of them are operating without even going through that process. And I understand, you know, the economy has forced individuals, you know, trying to make ends meet. And one of the things that they're trying to do is to sell a product that you know people are going to consume. So, one, health issues, is another -- is a problem. And just blatant violation of our own zoning, our zoning codes. And one of the things that you're starting to see is if you go down any business district and you start seeing restaurants go out of business which you know District 5 has seen a number of restaurants go out of business, is that you know, it's hard to compete with the business that really has no overhead. Especially, in a business like the restaurant industry where profit margins are pennies on the dollar. So I think what this does is, it helps level the playing field by making sure that everyone is going through a process to

get a business license, conform to the zoning codes, make sure that our Public Health is being -- is being watched over, and I think that's something that we should be putting forward for our community. Because you know people are going to stop at the -- at the food carts. And it doesn't just stop with -- it's not just with the food carts. It's also you know the I don't know what to call them the roach coaches.

>> Councilmember Oliverio: Selling balloons.

>> Councilmember Campos: Roach coaches, people selling balloons. Vending outside of what we traditionally look at getting goods at a regular store front. You're seeing it happen more and more. I think one of the other things that you're seeing happen and I know it's -- you can go into a part of district my district, I'm sure part of district 2 and your district, people are even going into their own garages, clearing them out and you know setting up tables and chairs and vending in R-1-8 residential which is you can't do that, you know? And I think it's sending a message where vendors are on these -- are on major thoroughfares you know making a living and you know people are just -- I don't think there's an intent that they know that well you can't sell out of your home. You can't open a restaurant out of your home. They're just doing it because they see others doing it and it just seems like you know, they're growing. And I think that we need to nip this in the bud now, even the playing field, require and enforce everyone to go through the same process of regulating their business.

>> Councilmember Oliverio: Question for planning staff, Laurel Prevetti, so for example, people that sell produce in parking -- the park strip, are already illegal, that they're not allowed, supposed to do that and the police department has already chosen to not enforce that. So it would seem that, this is -- is it duplicative, because even if the city council were to pass some tightening of the ordinance we don't have the actual bandwidth to implement it.

>> Laurel Prevetti: Well, I think that's one of the reasons why putting this on the priority-setting will give the city council an opportunity to decide, is this the right time to proceed with an ordinance, and have that discussion about enforcement. As we do move forward with ordinances right now our code enforcement staff are really down to the absolute emergency types of things. But we also know that through education, we have a lot of community

members who will follow the rules. So doing outreach and education can also be a benefit. If council chooses this route, as an ordinance to proceed.

>> Councilmember Oliverio: Okay I'm aware of situations where first of all it's in our current staffing model for code enforcement, it's really difficult to issue a letter to a nonexistence address. Second, even if code enforcement goes there there's not much to do. If the health department goes out there they still come out. Which brings me back to the last level, the only level of enforcement is police. And if I don't have police to manage these quality of life issues, then what's the point of tightening an ordinance? And no offense to the councilmember. I just wanted to point out the reality of implementation.

>> Laurel Prevetti: I think there's a distinction of the mobile vending which is the subject of the councilmember's memo, and the street corners with bags of oranges or strawberries or et cetera. So that's a slightly different phenomenon that would require a different type of enforcement response. So I think to the extent the council chooses to align our zoning code with the new regulations from the county, and put things better in sync, that's a different issue. We do have a grant from the health trust that we are going to be looking at, fresh food, a whole variety of fresh food ordinances to make sure that we do have streamline processes to get healthy choices out there for our community. But this is, you know, this getting to the point of the ordinance that we already have, that's the mobile vending, already took significant staff work back in the late '90s. So to reopen that we would just need to be cautious about what the actual scope is.

>> Councilmember Oliverio: So a mobile food truck already has regulations on where it can park and how long?

>> Laurel Prevetti: Right, and again we have some work to do in terms of clarifying our different ordinances and different codes. Depending whether it's a private street or private property there are different rules. There is work that could occur but through the priority-setting again if the mobile vending, particularly the issues that the councilmember is raising is one of the top 10s then you know we will be happy to do the necessary work and talk through some enforcement options at the appropriate time.

>> Councilmember Oliverio: And rather than a food truck, let's say it's a food cart and they are doing flavored ice or maybe cooking tacos, do we have ordinances against that right now?

>> Laurel Prevetti: Not against it. We have an ordinance that specifies what the parameters are in order for them to be permitted legally and then to be operating within our city.

>> Councilmember Oliverio: So there is a system in place to decide you know do they have the ability to sell and where?

>> Laurel Prevetti: Exactly.

>> Councilmember Oliverio: And then going to nonfood items selling whatever toys, balloons, et cetera do we already have an ordinance on that?

>> Laurel Prevetti: Yes, there is a vendor ordinance. Again the city council considered that a number of years ago. So depending on the scope and the issues that the council would want, again, assuming it gets into the top 10 we'd want to make sure we understood specifically what are the issues. Is it all vending, food vending, et cetera, and you know staff will respond accordingly.

>> Councilmember Oliverio: And then if it's going to the residential can I pop open my garage today and open up a store front and sell a variety of goods today and not suffer consequences through current ordinances?

>> Laurel Prevetti: That would be -- that's not a permitted activity. So you would not be able to do that, and we would send a letter, we would send out code enforcement and again we've --

>> Councilmember Oliverio: You would send a letter?

>> Laurel Prevetti: We would send a letter and we've also followed up with actual site visits and we know that phenomenon is more prevalent in some of our neighborhoods than others because we've been observing it also.

>> Councilmember Campos: It's not wasted resources, because once code enforcement goes out to a home and tells you you can't have a restaurant in your garage, then it's done. I have seen that happen in my district. I know in Vice Mayor Nguyen's district, actually it was covered by NBC 3 where residents were very concerned about a neighborhood, and well, a restaurant that was in a neighborhood home. And that home was visited and the business was closed. I think on the question about the trucks, there are some things that are not tight in the ordinance. And, you know, in the memo, one of the things that we want to see is, you know, you're seeing -- you're seeing these trucks set up right next to brick and mortar businesses. And again, I mean, in the interest of doing, you know, of evening the playing field, I mean is that really fair to someone that's you know putting down five to \$10,000 a month in rent, not to mention employees and everything that goes into operating a business. Is that fair, is that evening the playing field, if, you know, you can basically set up wherever you want? And we're seeing that. What we're trying to do is to tighten up an existing ordinance. That's what we're trying to do.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you. And I appreciate the clarification that there is an ordinance that exists and I appreciate Councilmember Campos for bringing this forward. So I just wanted to say that it's -- there's certainly I've heard concerns expressed from my community from people who are concerned about the trucks. On the other hand, I don't think we're here to try to discourage or try to prohibit those people who are running the mobile trucks from, from doing their business. Because I just -- I need to say on the other side of it, we saw for example a tremendously successful event that occurred in Downtown San José, with an event called movable feast, where we had a lot of food trucks that are sort of entrepreneurs, mobile entrepreneurs, and they actually brought 10,000 people to Downtown San José. They quickly sold out of their items and then folks proceeded to go and frequent all of the restaurants in the area. So it actually benefited the brick and mortar restaurants as well as the food trucks. So I believe that these two types of businesses can coexist in the community and that we should not discourage people from having the trucks. I think there may be a need to update, update some of the

existing you know requirements in terms of the ordinance but I just wanted to state that I think these can coexist and I don't think we should all sends a message to people who are -- one of the folks who actually started the mobile food trucks is actually in my district and being quite successful and doing these things as fund raisers. Some of them are good owners and get licenses and trying to cooperate. They are not all doing the things that we're talking about in trying to revise this ordinance. I just wanted to say that. Also when I was at the state league of cities there's some statewide legislation being considered too that would give cities the ability to regulate. So this issue's been brought up throughout the state. It's not just an issue in San José. So the thing I like about the proposed memo here is that you guys are talking about make our ordinance more consistent with the county. And so we have some things that we're trying to do, our cart size apparently is not the same so you're suggesting suspending that cart size. I know that's the only thing you're talking about suspending in our ordinance. So I think definitely there's some things worth considering. I think we are going to have to look at it in terms of other priorities. We just heard from our other colleague just before this about how important it is to work on that particular ordinance so we are going to have to figure out how we work on this. But I think there's some positive things in the memo and I'd support moving it forward to that discussion.

>> Councilmember Campos: And if I can give you an example about the cart site. So the health department requires you to have refrigeration, the ability for drainage and so forth and that creates, you know, needing to have a large cart. Well, based on what the health department requires, our requirement forces the business owner to have a smaller cart. So you're never going to -- you're never going to be in compliance with both regulating bodies. And so we want to clean that up.

>> Councilmember Herrera: So I think that's a good thought. I think we just need to put it through the process. I believe in the process here so I think we need to run it through the process.

>> Mayor Reed: Okay, I have some people who want to speak on this. Let's take the testimony now. Janet tenario.

>> Good afternoon, Mr. Mayor and committee members. I'm Janet tenario, community relations manager of the San José Downtown Association. We commend Councilmember Campos for taking the initiative on offering the recommendations to update the mobile and outdoor vending ordinances. The downtown association, we really do appreciate the character that food trucks bring to the downtown. It engages the community, and brings a unique element to our City's core. However, we also recognize the need for consistency between city and county regulations. I think this would allow proper management of mobile vendors and level and bring a fairness to competition between the brick and mortar businesses who we also like to support, because they choose to invest and open their doors in business here and Downtown San José. You know we like to encourage elements that add vibrancy downtown, something that food trucks obviously successfully provide especially with our community and residents that favor them very much. We support these recommendations as they will help address specific downtown concerns with mobile vendors. And while San José's mobile food and vending, I don't think there as severe as other local cities you know San Francisco Oakland, I know they are definitely of a higher urgency there, I think if we take is this forward it will be a more proactive step.

>> Councilmember Herrera: I have something more to say.

>> Mayor Reed: Let me finish I have two more. Patty fisher and David Wall and we'll come back to committee discussion.

>> Good afternoon, Mayor Reed and councilmembers. I'm Patty fisher director of policy and communications for the health trust. I'm here to ask the committee to adopt the three recommendations in Councilmember Campos, Kalra, Liccardo, and Rocha's memo. The health trust has a commitment to ensuring that all communities in San José access to affordable quality fresh fruits and vegetables. We were delighted when the city included in its general plan update the goal of ensuring that all residents have sufficient access to healthy food, including specifically the development of a strategy to attract healthful food retailers to low-income and nutrition-deficient neighborhoods. Funded by a federal communities putting prevention to work grant, the health trust is working with several partners including Santa Clara County and two City of San José departments to help you achieve these goals. One exciting strategy we are pursuing is a mobile food vendor program modeled after the successful green

carts program in New York City, that is being replicated in Chicago and other cities across the country. Mobile food vending is a low-cost way to bring affordable produce to our neediest neighborhoods while encouraging entrepreneurship. Unfortunately current city and county zoning regulations create barriers to this program. That's why we encourage you as you update the mobile and outdoor vending ordinance to incorporate specific policy changes that will encourage and streamline the process for mobile produce vendors. I want to thank you for your efforts to make San José a healthier city for all its residents. We look forward to working with you on this project and are happy to answer any questions that you might have. Thank you.

>> Mayor Reed: David Wall.

>> Would I like to thank Councilmember Campos sincerely. This is outstanding. What most of you who do not do neighborhood watches would -- but if you did do them would you see why Councilmember Campos is very on point with this memo. For example in the course and scope of my neighborhood watches I routinely see adults selling the flavored ice drinks, these Chicerone type fried devices at schools, on school property, during school hours. Now personally, if I was a school administrator I wouldn't permit this intrusion on school property or to have this person who you do not know from a background, police background presence, what this person is, that's enticing children to come buy a product. You then have the safety issue, that Councilmember Campos raises, although the term E. coli did not get into the conversation too well, but this needs to be regulated. Also, I've been given instructions by fire station number 1, when I see a certain resident fire up this jet engine to fry this matter to go then door to door to sell these fried I say the word Chicereones for lack of a proper -- that's just the name I know them by. But also a variation of this mobile food vending. Routinely, every weekend, somebody comes in with a van or truck, downloads to another employee, either strawberries or oranges who then pushes a push cart through the neighborhood and you don't know who these people are or the quality of the produce that they're putting forth. So I'd like to thank you once again. This is very timely and it should be regulated and how it should be regulated would be the stuff tough decisions are made of. Thank you.

>> Mayor Reed: Thank you that concludes the public testimony. I had a question for staff on this. There's three things here. And the third item is to request the suspension of the existing regulations of the mobile food cart size

requirements. And it seems to me that that is maybe a minor adjustment. If it is, even if we don't put this in the top 10 list for big part of the work, that could move independently. But I don't know if making that modest a change is something that would require a lot of outreach or not. So have you thought about that?

>> City Attorney Doyle: No, I think we can bring that back. Obviously the council would have to make that change. But it sounds on its face fairly minor, and it's something we can come back with.

>> Mayor Reed: Sometimes little things take a lot more work than --

>> City Attorney Doyle: I should note just for the record I'm told there are vehicle code limitations as to how much we can regulate as well, with respect to the trucks. And that's something the league of California cities is working to get some legislative changes as well. So we'll be able to discuss this in detail either at the policy setting session or subsequent.

>> Mayor Reed: Did you have anything to add Laurel?

>> Laurel Prevetti: No, I agree with the City Attorney, thank you.

>> Mayor Reed: Okay, so the request is to refer this to the 13th, 14th, we'll need to have a supplemental addition to the list, et cetera because it's not already on the list. Anything else on it? We need a motion.

>> Councilmember Herrera: I'll make that motion to make that referral. And I don't know if I'm getting a second.

>> Mayor Reed: Okay, we have a second on that.

>> Councilmember Herrera: I just want to make one other comment in terms of the trucks. There is a progression path for these folks, some of them go to open up brick and mortar restaurants. Some of these guys that's where they get started that's the amount of money they have to work with these entrepreneurs. Some of

them will become successful. I know there's one at least that's going into the San Pedro square market. Starting off with the trucks and opening up a brick and mortar space. This is a pathway for them to grow a business.

>> Mayor Reed: All right, we have a motion to put there on the 13th-14th discussion agenda. All in favor, opposed, none opposed, that's approved. That is done. Taking us to council committee agenda work plan item, the Public Safety, finance and strategic support committee requested to agendize potential application for federal grant funding for an on-person camera for police department patrol officers. Councilmember Liccardo had that memo. Yes, Councilmember Oliverio.

>> Councilmember Oliverio: Motion to defer this item until Councilmember Constant's back here at the Rules Committee.

>> Councilmember Herrera: Second.

>> Mayor Reed: Motion to defer it a week, I think he'll be back. Today's his Lafco meeting. So that's why he's not here. Take this up next week because Councilmember Liccardo is not here either. On that motion, all in favor, opposed, none opposed, we will take this up next week. Open government we have no appeals. And we will take the open forum. That's what we have. Mr. Wall.

>> Two items. First, Mr. Mayor, I've put forth my complaint to you about -- and to the treatment plant advisory committee I don't know how many times. And the minutes of this committee are so atrocious. They're an atrocity. Now what you do, in your preparation for tomorrow's meeting, Mr. Mayor, look at how my testimony is treated, with reference to the other people who spoke. And that speaks clearly for itself. My case in chief on this issue. Some form of change has to occur. I have long supported putting the TPAC meetings down here under the auspices of the City Clerk for a variety of good ideas and reasons. Why the environmental services department, one of your most horribly managed departments in the city, which is the second prong of my discussion, just on the pretreatment report that's coming to TPAC tomorrow, Mr. Mayor, none of it would have occurred under my watch. None of it, no environmental protection agency order, none of it. And all of it was done through

incompetent management, hiring of friends with no expertise, nobody paying attention to that program whatsoever. And now, we had councilmembers thank them for their efforts. No. Level of incompetence in this city, Mr. Mayor, within the city organization, specifically the environmental services department, and unfortunately as represented on the transportation and environment committee, there lies such an incompetent level we're dealing with millions, hundreds of millions of taxpayer dollars. And it can't continue. And I'm fed up with it. Now, as far as what I can do to change it: I guess maybe I have to go see judge Ware and ask for some injunctive relief. I've been in the Robert F. peckman United States courthouse and federal building for some time.

>> Mayor Reed: Your time is up. That concludes the open forum, that concludes our meeting, we're adjourned.