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>> Councilmember Liccardo: Call the meeting to order. Madam clerk would you provide us with the roll please.

>> Councilmember Liccardo, here. Councilmember Herrera, here. Councilmember Rocha, here, Councilmember Campos, here.

>> Councilmember Liccardo: We have a quorum. Thank you very much. We'll move on to B review of work plan. There's one item that is recommended to be deferred to March. Is there a motion?

>> Councilmember Herrera: Motion to approve.

>> Second.

>> Councilmember Liccardo: That is passed unanimously. There are no items on consent calendar. Should we move to 1, Ashwini?

>> Yes.

>> Councilmember Liccardo: We'll hear the city tow contracts. Welcome Jamie.

>> Hello, committee members, my name is Jamie Matthews, I'm code enforcement division manager and the contract administrator for the last 20 years. When we were back here on November 7th we heard some testimony in and around the impacts of the policies to reduce the storage, the impounding and storage of vehicles and we also had an opportunity to hear from our tow operators who do a fine job for the city. About the financial impacts that they have just from the massive reduction in the amount of tows that are occurring. So those two things combined, the committee asked us to look based on the testimony, and also, from recommendation from some of the committee creative ways we could provide some kind of financial relief. These are all local San José businesses who are sited here and have made a tremendous investment. As a result, staff has made twice with our tow contract operators, we have a couple of actions and we also have some discussion we had with the

committee in and about the possibility of direction from the committee on the second item. The first one is fairly straightforward, annual rate increase. As you know the council policy 908 which was put in place by the council a number of years ago, to provide rate predictability, so whether you're driving on a highway, roadway expressway or freeway through our jurisdiction you know what to expect. It was also put into place so we could look at it from time to time to see if we were in line with what the rates were. And they allowed the tow contract administrator the ability to raise the rates to the maximum allowed by CHP for our area. The CHP does an extensive outreach and rate comparison. So they do that financial study for us so they set the top rate. So as a tow contract administrator I'm able to recommend that to the council and to the committee a rate increase. As you'll see on page 3 of the staff report there's rather substantial increases in all categories. You know it should be noted that not all these categories are frequently used. Some of the larger towing for vehicles, it looks like rather substantial increase happened from time to time but our tow truck operators have to have equipment that have to tow a bus, tow a semi, and they have to have that on hand for us. There is a correction I'd like to make. I made an arithmetic error, and so on the service call class A, it is $26.75 is the increase. It doesn't change the staff recommendation, but it just -- I was in my haste to do a comparison when I added the table. It is a minor thing that I'll correct if the committee passes a recommendation to the council, I'll make sure it's corrected. The second part of this which is something we have never done before, staff is recommending that you leave the tow contract compensation, which is the amount that's paid to us, the same for a year. And that will give a little bit more breathing space. So it's somewhat revenue-neutral for the city but it will help our tow operators to be able to weather the finance times that we're in. Another area that we were asked to look at was in and around the area of the security deposit. As you know in 2009, in fact all the contracts preceding 2009, there's been a requirement for a security deposit. And the reason that the RFP required a security deposit is fairly straightforward. It's to ensure our contract compensation is returned to the city, in the event of a failure to pay. Since the City of San José provides an exclusive opportunity for the tow zone operators, and they collect all the fees, then of course, they make payment and remittance to the city. So this was a mechanism that was put in place to be able to ensure that the contract compensation would come back to the city. Because of the dramatic reduction in the number of tows, and it is a very dramatic reduction in tows, we have looked at it, and about three months worth of the contract cost, right now we would have three months worth of security and finance has looked at it and has made a determination that two months would probably be sufficient, or whatever the committee recommends. But the purpose of it is to ensure

that the city receives its contract compensation since we're not in control of the front end. And that's been in place and has been ooh in place for a number of years. It should be noted that we've never drawn down on it. In the 20 years I've been the contract administrator we've never used it but part of the RFP process each time we go out to competitive bid including this last time. Looking at the last issue just very briefly is the issue in and around -- in and around the area of whether we could pass through City's contract compensation to the customer. So in other words, rather than have the contractor pay that amount to the city for the privilege of this exclusive right, whether we could just pass it through to the customer. And staff's not recommending it for a number of reasons. Not the least of it being it would be somewhat unfair because we would have the highest rates in the entire area that we would set the rates on and there would be no rate predictability for our customers and our residents and of course contract compensation was a major component in consideration of the RFP and competitive process we went in when the council awarded the contracts in 2009 and would very, very radically alter the terms in which somebody would have decided to bid. So that's staff recommending is to adopt our rates, leave the contract compensation at the same rate for a year, and to provide a little direction on the security deposit, and staff is more than available to be able to provide any kind of additional information in response if you wish it.

>> Councilmember Liccardo: Great, thanks Jamie. Let's take comments from the members of the public and then we'll come back to the committee. David Wall. Actually that's the only card I have from -- oh, we have more. Get them in now if you would like to speak.

>> Welcome back to the first transportation and environment committee meeting for the year. I'd like to thank all Your Honors for coming back safely. With reference to the tow contracts that is sitting before you, my main concern is, was there any type of compensation given to the tow companies for having first to put forth their contract with the city, with relying on holding cars for 30 days for whatever reason and then out of a political action by this council, taking away that proviso in which a lot of their economic outlay for materials, real estate to hold these vehicles, employees, and all assorted cost, was there any form of compensation package ever discussed and/or given to these operators? Where they relied on doing business with the city to their detriment in this regard? Thank you.

>> Councilmember Liccardo: Thank you. Kenny carvallo.

>> Good afternoon, members of the committee, thank you for the opportunity to speak before you today. We've gone through the recommendation from Jamie Matthews' office and we would like to concur with their findings and appreciate the tremendous amount of work that they put into this matter and appreciate this being heard by you today. I know you have a busy schedule and we've worked hard to hold up our end of the bargain on this contract. And to take something mid stream like this and to look at it and help us out we sincerely appreciate it. Thank you.

>> Councilmember Liccardo: Thank you, Ken. Nick, I'm guessing it's Nick Alongi, forgive me if I mispronounced it. After all these years.

>> I represent Alongi brothers. We would like the opportunity to continue discussions with the police department regarding policy and departmental operations for deciding how these are released early or not released early, just so we know what to expect because we have seen such a huge dropoff on call volume and that's about it. Thank you very much.

>> Councilmember Liccardo: Thanks Nick. Great. Let's come back to the committee here for discussion. Councilmember Campos.

>> Councilmember Campos: Just really quick. Staff, can you just for my education, could you describe what a service call class A would be? I mean that is more than -- the increase has more than doubled and then also an extraordinary service C and D, those are significant increases.

>> Thank you, Councilmember and committee members. Through the chair, the service call would be if someone were to come out and be called off. So they're entitled to their 15 minutes. So it really comes to our discretion, someone calls them out for the service call, but it doesn't result in a tow, but they still expended resources, so that's an example of that. An extraordinary service call, that's where they need to have another truck. So think

about it, somebody's down an embankment, or a vehicle's rolled over, and they need a couple of vehicles in order to be able to effect that tow. They need to be compensated for that.

>> Councilmember Campos: Okay. Thank you.

>> Councilmember Liccardo: Councilmember Rocha.

>> Councilmember Rocha: Thank you, Chair. I want to thank staff for doing this work and the stakeholders for also showing up and speaking on this and giving your support. It's helpful to hear that. I did have the opportunity to talk to the police chief, and he's open to a meeting and more than willing to sit down with you, so if you like, you can work through me or work through the chief's office and he's happy to talk to you about those hold issues. This is a great direction. If I may, I'd be happy to make a recommendation to accept the report, unless of course my colleagues would like to speak prior to that.

>> Councilmember Liccardo: No, I think the motion's appropriate.

>> Councilmember Herrera: I'll second. Yeah.

>> Councilmember Rocha: I'll move the recommendations as you directed with the fee increases. I would also like to recommend the reduction in the security deposit to the recommended level from staff. Was there another item that you were looking for direction on? I think those were the two.

>> Those were the two that we were seeking direction on.

>> Councilmember Rocha: As far as this being forwarded on, does this go to council for cross reference or is it just going to be as part of the committee report?

>> No, this will go to council as cross reference, because it is a council policy that we're adopting, so this would go forward with the full report to council for adoption of council.

>> Councilmember Rocha: Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I just wanted to thank Jamie and your staff for working with the companies to come up with a solution. I think that was the direction we sent you out to and you guys came up with a good solution here. Just recognizing that we need these tow companies to provide this service. You know, we don't want to unintentionally do things that creates an environment where we don't have towing companies performing it. So I'm happy to see this direction, happy to support the motion.

>> Councilmember Liccardo: Yeah, I also wanted to weigh in. Thank you for your work in coming to a collaborative solution. I wanted to follow up on Councilmember Campos's question. Was it the case that previously we were authorizing rates that were at the ceiling of the CHP rate schedule? Okay, so when we look at, for instance, the class A rate, which I know was low at the beginning, but you know it's roughly tripled. That is exactly how the CHP rate schedule has increased, it has tripled as well.

>> Absolutely. We look at it annually. We haven't increased the rate since 2009, when we did the first contract, we actually put the contract in place in late 2008, and 2009 we came back with the rate increase, so we could be in conformance with the council policy, and it's been stagnant since then. So this reflects a number of years of it being stagnant in the industry, and so these are the posted rates from the CHP as of October of this year, this last year.

>> Councilmember Liccardo: Okay and those somehow reflect cost out there in the industry, at least CHP does the calculation?

>> We do. In fact they go through a rather substantial rate study to determine what the market will bear. And all contractors come in and compete for the ability to tow, in the CHP areas, authorized areas. And so from that they create an averaging and then they create a maximum rate. So many of our contractors that we have actually provide tow services on the highway. They have one rate for the highway and one rate on the roadway. If you are on the roadway it is different from the highway. And so the intent when the council put this in place was it was twofold, to not to duplicate a financial study because we'd always have a long discussion about what was used and what was the basis of the financial study and what were the factors since someone is already doing it that is authoritative, number one, and number two, is to make sure that we didn't disenfranchise our tow contractors. So they didn't stay competitive in the market. So this represents what's competitive in the market.

>> Councilmember Liccardo: All right. Thank you, Jamie. Unless there are other comments, we have a motion on the floor. All in favor, opposed, that passes unanimously. Thank you very much, and we'll have that move on to council. Number 2, storm sewer and sanitary initiatives. Welcome, Dave. Kevin.

>> Dan Sykes: Members of the committee, Dan Sykes, director of Public Works. Joined by Kevin O'Connor, deputy director D.O.T. and Mike, deputy director in Public Works. We're here today to give you an update on various sewer initiatives if you will both in the storm and sanitary program. It's been about a year since we've been in front of the committee and wanted to provide an update of kind of where we're at on certain things. We're going to be focusing on how we're investing capital dollars on the systems. I'll let Mike catch up. As a way of introduction, it's important to note in San José we have separate systems for delivering storm water to the creeks and a separate system for delivering sewage to the plant. Different than other cities. Some cities have combined systems where they treat all water that gets into the pipes. So these are extensive systems. All underground, but virtually thousands and thousands of miles of pipe in our street for storm and sanitary. We pay for the capital improvements, primarily through rates, through the property tax. Developers also pay fees when they connect to the system. And that's primarily for capacity. To provide for those development projects. Next slide Mike. It's important to kind of understand the roles that the departments have. Public Works our primary role is the management of the capital improvement program that invests dollars in both systems. D.O.T.'s responsibility is to operate and maintain the systems, the pipes in the streets. And in ESD is primarily involved with policy

support. There's a lot of regulations that govern how we work on these systems, and ESD is the expert in that area. And that's how the three departments work together to support the program. We're not going to to spend a lot of time on the program but leave time for questions. But one is to kind of check in where we're at with each program. With regard to the storm program, we've never had a master plan in the City's history for the management of storm water. If you go back 15 years ago, the whole approach to managing storm water was to get that water to the creek, as fast as you possibly can. Our biggest concern 15 years ago was whether we had big enough pipes in the street to get the water to the creek fast. The world has changed in terms of storm water management. So really, the new philosophy is, how do we retain, detain water, and treat water, before delivering it to the creek. So a huge philosophical change. And so last year, the council approved funding to begin our first storm water master plan. And so we're beginning that process right now. So we'll be looking at things like how do we change the system over to address those new -- those new influences. And they're not all just driven by new regulatory requirements. It's driven by the City's commitment to be sustainable, and to make sure that the capitol program is investing dollars in the right place, if you will. So over the next two years we'll be doing the planning efforts in the storm. The capacity of the system and the condition of the system, those are really the two main elements. How do we manage the water in the new way that I already described, but also, what is the condition of the pipe and what is our plan for investing in being able to have those pipes be in good condition for as long as possible and prevent deterioration of the pipes that causes problems. On to sanitary. In the sanitary program, we're much first along than in the storm program. So in essence, we've completed our master planning effort although you will almost continuously update the plan. We know what to do in terms of addressing the capacity needs of the system. We estimate we need to spend about $170 million in the next 20 or 30 years. A great deal of that capacity enhancement has to do with addressing current capacity needs, and also, the needs of the future, as the city intensifies and grows, and particularly areas like North San José. And then of course there's -- there are new regulations, that the city needs to adhere to. So the master plan addresses all of those. The second big component of the master plan is the condition of the pipes. What do we need to invest on an annual basis to ensure that the pipes are maintained in a good level of condition and that we're not going to have pipes that are falling apart. So the plan that we have allows us to use the capital dollars or direct the capital dollars in such a way that we are preventing things like sanitary sewer overflows, preventing things like pipe chances and those sorts of things. What we've been able to do in this planning process is come up with an ideal annual investment of

$36 million that would allow us to address capacity needs and condition needs really for the foreseeable future. So overall our goals are to ensure that we can support the City's general plan goals. As I mentioned, the storm master planning process, we're just beginning that process. So we'll be obviously driven by the general plan. The sanitary master plan that's already been done has already factored in 2040 goals into the plan. We are -- want to make sure that we've got capital dollars that allow us to address the infrastructure needs of both systems. As I mentioned, the sanitary, we're in good shape, the storm we have more work to do. We want to make sure that we are prioritizing the use of our dollars in the right place. In terms of improving the system reliability in both storm and sanitary, preventing spills which is the primary focus of the sanitary program and then certainly as I mentioned the kind of change in philosophy to how we he treat storm water. So all three of us are available for any questions that you have.

>> Councilmember Liccardo: Great, thanks Dave. Let's turn first to questions and comments from the members of the public. I have one card, David Wall.

>> I'm very much pleased with Public Works and the Department of Transportation. Their efforts have well served this city over the years with reference to the storm and sewer. With reference to the storm drain master plan it is kind of important that this committee remember how many deferrals about this municipal regional storm drain permit was tendered by ESD personnel and then all of a sudden they quit and go to Sunnyvale, just remember that. This issue of the regional stormwater facility is somewhat bothersome. Because regional means where is the funding coming from? That's not discussed. Also what is not discussed is whether or not we should just start rebuilding the entire collection system to have everything go to the sewage treatment plant, to make compliance with the municipal regional storm drain permit a lot more easier. The city that was shown on page 5 about the sanitary sewer overflows is disturbing in the sense that it shows that the entire system should be examined. Whereas, they did mark you know a statistical portion of this system, that's not acceptable. I'm very much concerned in the area of an earthquake, what would happen to our lift stations, and also, most of the pipes are relatively very small. It also indicates a very good deciding point for stimulants of the economy, because this requires a lot of preventative maintenance with the root intrusion and grease. We've seen at ESD that they've been operating a fats, oils and grease program for about 15 years but we haven't seen any real you know

benchmarks like how have you improved. I also do not think that the figures produced for capital outlay is too conservative. I think you're going to need far more money to do the work that you've been doing very well. Lastly, I would like to see ESD be taken completely out of storm water policy, and regulatory compliance. In my opinion, the people that make these decisions at environmental services department are grotesquely incompetent. I think when it comes to regulations and laws, I think we should have our attorneys do that, to provide the revenue stream to provide the attorney's office with competent regulations. Thank you.

>> Councilmember Liccardo: Thank you, mr. Wall. Okay, returning to the committee. Comments or questions? Councilmember Campos.

>> Councilmember Campos: Just real quick, staff. Real quick. In several council districts over the last Kim of years we've had some new annexations. And so what's the plan to bring those recently annexed areas of the city to the standards of the rest of the city? And in District 5's case there's that whole Alum Rock area, if I could remember when I was on the Planning Commission there were a number of areas in District 6 and I think in District 9 that were annexed.

>> Councilmember, the information for sanitary sewers, in all the county pockets, has already been loaded into the database for the sanitary sewer master plan. That's because all that flow eventually comes through the city system anyway when it leaves the county system. So we are very confident that we have all the data for annexed parcels from the county. As far as the storm master plan we are going to look at the entire city including those recently annexed pockets and possibly the annexations that will occur in the future. Most of those systems are overland release where the storm water leaves the development, say at the end of the block, travels down the street to the nearest city inlet. So we are going to comprehensively study all the areas that are lacking in anything other than curb and gutter, and the traditional approach we see is that we bring a sewer main into that neighborhood, change the elevations of the curb and gutter so we capture that water in the neighborhood. And we believe we'll have those deficiencies identified in approximately two years.

>> Councilmember Campos: So is there any consideration to make those or possibly bringing them to the top of the list? Because you just said exactly what concerns me. A lot of these annexed pockets, they don't have any storm drain for in some cases a couple of blocks, you know, and then in the -- blocks and in a in cases of the Lindale area, combined that with the fact that a lot of them don't have sidewalks, you've got a really big mess there that we should be addressing.

>> Whenever we do a sanitary project in a neighborhood, we are looking simultaneously at the storm systems in the neighborhood so that we can leverage both of those budget amounts so that we can get the most infrastructure we can and leverage those systems off each other. So I do see that when we lay on the effects of a ten-year storm event, that's our city standard, we're really looking to contain that volume of water in the right-of-way and get it either to its detention spot or its pump station or its creek outfall. So we're really going to be prioritizing based on what property damage will we have from a ten-year event, how many parcels are going to be underwater or what's the proper solution. It's not necessarily that there will be a storm drain on every corner because in the city storm drain system it could be every other street that has a storm drain system. We're just really looking for public safety for driving, walking, riding a bike and property damage. So we're looking to convey a very large amount of water in a ten-year event. And we had a storm in 2008 that for some portions of the city was a 20-year rain event. Morgan hill recently had a 100 year rain event and it caused a lot of flooding in downtown Morgan hill. We are really watching those metrics.

>> Councilmember Campos: So this is going to be part of the master plan you anticipate to be completed within two years?

>> That's right.

>> Yes, storm would have that opportunity because we are going to be beginning the master planning process. It would be the assessment of the conditioning of the facilities that are in those annexed areas. We found many times there are no systems in those areas. So the master plan would direct our investment away we need to provide services to those areas.

>> Councilmember Campos: Again I'm bringing this up because you know, part of the argument to become annexed into the city, you're going to get better services, infrastructure can come and I just want to make sure we're delivering on everything we've said that we would to try bring these residents within the city.

>> Yes, we recognize those parcels, those single family homes are paying approximately $91 a year to the city in the storm rate, yes.

>> Councilmember Campos: Okay, thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: That up for the update. I just wanted to understand a little bit about the overflows that happen. And I understand we're getting on top of that. How big of an issue is that currently, and how are we addressing it? And Councilmember Campos was talking about areas that might be annexed. So if that area was in the county, if it's a city street we're still responsible I guess for what's going on in terms of the main line sewer line. And so those folks in the county, would they be calling -- do they know to contact city services to handle something like that if there would be a blockage out at the main sewer area?

>> Yes so if there is a blockage in a main sewer line or anywhere in the city the number to call is our D.O.T. number or the city call center or the fire communications services. We're working actively to get that number out there more publicly. We realize that responding to a sewer overflow is an urgent need. We want to get there as quickly as possible. A lot of times a resident observing something isn't quite sure where to call or get the information to us. We can respond to it fairly quickly when we know bit. I'm putting together an info memo for the council. The department of parks, PRNS has gone out with a smart phone application for reporting graffiti and other conditions in parks so we're going to tag onto that to provide information for anybody who has that application who to call. Then we're going to look for outreach mechanisms over the next couple of months to get the word out to folks that if there's an overflow, if you are having any type of sewer problem let us know, we'll

respond immediately, we'll get it taken care of it. And we think we can really affect greatly the impacts that might come from an overflow.

>> Councilmember Herrera: That are outcomes then. So are you concerned that it's not always getting reported to you in a quick time frame?

>> There are cases yes where a resident isn't aware of there's a problem that we can help them with. That's something we want to get there. When we do know we will be out there usually within 30 minutes.

>> Councilmember Herrera: I just want to say there was something in our neighborhood, and the city handled it brilliantly. They worked the problem and I think they did a very, very good job of responding to it. Thank you for that. I just had one more question. That was on your -- you have a pilot study that you're going to be working on. Just wanted you to maybe discuss that a little bit more and that's with regard to storm --

>> Councilmember Liccardo: The regional storm water facility?

>> Councilmember Herrera: The regional storm water facility.

>> Dan Sykes: I think start by the philosophical change we're going through by storm water, it's interesting looking back over my career looking at storm water, the rain falls from the sky and it lands. And throughout my whole career we tried to separate the water, okay? Property owner, you manage the water on your property and the city will manage the water that gets to the street. While we've got new conditions now, we're -- I think we're all interested in how we manage that water together. So what we're looking at is a facility that perhaps we could put into place, that would allow a more strategic way of dealing with storm water. Both the detention and the treatment of that water. And allow developers the opportunity to perhaps participate in that system. Right now, some projects struggle to meet the requirements. And they either don't have the land available to them, or other constraints. And so, if we're able to develop more of a regional approach to it, where people could kind of buy in,

and this is very conceptual and needs much more work. But we kind of see a path where you know through some collaboration a little bit easier way to get to where we need to be in terms of managing storm waiter.

>> Councilmember Herrera: And it might be more of a cost savings if we did a regional approach more than before potentially.

>> I think what we need to do work on is whether the regional type approach is the best way or is the best way kind of treatment on an individual basis parcel by parcel by parcel and so that's the work that we'll be doping.

>> Councilmember Herrera: Great, thank you.

>> Councilmember Liccardo: Thank you. I was actually interested in the same subject but for slightly different reason. I had visioned, the word recreational was used, I had visions like if you go down to Austin, Texas, I have this two mile long lake open to the public for everyone to swim, it's a great public amenity. Is that kind of recreation use possible in a facility like this?

>> I think so. I think for our arid climate the type of uses we might see are more like grass areas that could be used you know for park-type setting, when we're not retaining and detaining water.

>> Councilmember Liccardo: I see.

>> And you see some of the nearby cities where they'll have park like facilities in the area, and then when high storm events come, that facility in essence is converted over to storm water management facility.

>> Councilmember Liccardo: Right, okay. Well I'll hold off on my big dreams then for the moment. The other one of course was, I've had several folks from the Water District I know are interested in the idea of recreating in the Guadalupe an opportunity for recreational use of that. It can be great to see it happen. Anyway. The question that I had around the numbers, I'm a little confused around the numbers and I was hoping you could help. As I

understand, I know we are dealing with different pots of money, and we have got a storm operating fund that we use to help fund our capital on that side. Then when it comes to the sewer -- I'm sorry not the storm water sewer but the other sewer, the sanitary sewer I see that there's a sewer service and use charge fund that provides transfers the capital, I assume it works in a similar way. But I was trying to follow the numbers to see if we've got enough money annually that goes into the SSUC which address the capital concerns which looking like about $36 million a year, page 6 now and then there's another set of expenditures about $2 million a year. I'm just trying to understand, are we looking at trying to increase rates to deal with a delta there or is that fund currently sufficient to be able to take care of those kinds of needs?

>> We haven't come to the conclusion yet that we need to raise rates. The $36 million is a combination of a couple of things. It includes the investment we would need to address current capacity and condition issues, but also future capacity issues. So it's a combined number. As I mentioned for future capacity issues we would really rely on the connection fee that the developers would pay.

>> Councilmember Liccardo: It does.

>> Dan Sykes: The current needs of the system we rely on the rates that we receive.

>> Councilmember Liccardo: Right.

>> Dan Sykes: Those rates go to fund the work that we're doing at the plant and also in the collection system in terms of the capital and maintenance work that we're doing. We haven't yet come to the conclusion that we need a rate increase. We're still kind of working through that. Currently, the transfer that comes over for the sanitary collection system has been around 30, but I think --

>> 25 now.

>> -- is $25 million. We really need more work in planning out the projects to determine whether there would be a rate increase. Thad that's kind of good news though. About a year and a half ago we were thinking we needed a much larger rate increase, but now we're barking on off that as we're much smarter on the system.

>> Councilmember Liccardo: And finally the fact that we have three departments that have jurisdiction over all this, is that common in other cities? I just ask that because given the fact we're concerned about like cycle cost and the impact of our capital infrastructure on regulatory environment and all that. Is that common that you have three different departments?

>> I think it depends on the size of the city. In a smaller city you city council would have one department that does construction and maintenance, you know if I think of some of the cities around here, you know given our size and the complexity of the systems I think the way we're approaching it is probably the best strategic way of approaching it. It doesn't make sense for us all to become experts on the policy issues. Certainly, in this city we've chosen to centralize our capital project delivery. That's within Public Works. And then D.O.T. are the experts are maintenance of the roadway related infrastructure. Storm, sanitary, pavement, those are the ones in the street maintaining it.

>> Councilmember Liccardo: Okay, well thank you. Then unless there's additional comment or question I think this is just a report to be received.

>> Councilmember Herrera: Motion to accept the report.

>> Second.

>> Councilmember Liccardo: All in favor, that passes unanimously. Thank you, gentlemen. We'll move on to item number 3, the biosolids transition timing and CIP delivery approach. Welcome Kerrie.

>> Kerrie Romanow: Organic. Kerrie Romanow acting director, environmental services. I'm joined by Dan Sykes, director of Public Works. And Bavani Urputu. Bavani is our deputy director in charge of the capital improvement program out at the water pollution control plant. On our first slide you have a picture of what the future of our biosolids handling might be, something in greenhouse as opposed to the solar drying we presently do which we'll talk about in a minute. Recall back in April of 2011 council approved the plant master plan, preferred alternative, and that included biosolids transition and direction of shortening the time line to get away from open air drying into a more -- less odor generating process. So before we dive into biosolids we want to talk a little bit about the entire CIP program and some delivery options that the three of us and many other folks throughout the departments have been working on. Recall the plant master plan is a $2.2 billion CIP over 30 year period. There are six major drivers, Of the infrastructure, reducing operations and maintenance cost, improving reliability and performance and capacity for future demand as well as implementing council and stakeholder policies. So that would transition out to an annual CIP if we just did it across the time line of 66 to $133 million a year. As can you see from this slide, this was generated through the plant master plan process. It's a little unpredictable. There is a lot of variability in the rate of the dollar value that we would need to do the projects each year and that would translate into a rate impact for our residents and our businesses. And really we've spent a bit of time looking at how to increase the stability of that and the predictability. So that our businesses know what their rates will be and our residents aren't surprised. This is what the plant land area currently looks like. We have an operational area of 180 acres, buffer lands of 790 acres, and the biosolids area presently takes up 770 acres. And then we also own pond A-18. The buffer lands were really needed when we were using gaseous chlorine. We sent off our last rail car of gaseous chlorine and we don't need quite that much buffer land for chlorine exposure although we do want to maintain some buffer lands to mitigate any odors from traveling off our site. But if you go to the next slide, the biosolids area under a new program would shrink down to 160 acres. That freeze up quite a bit of land that we can now feel comfortable with the adopted preferred land use program to start to develop over time. No more chlorine, less odors and a smaller foot print needed for that. If so the key considerations as we looked at now that we have this plant master plan with a variety of projects that need to occur, some direction to pull forward the biosolids transition time line, and minimize rate impact to our ratepayers, we started to figure out what would a course of action need to look like to get us there? So we wanted to make sure we were considering reliable operations staffing impact and ratepayer impact. The plant as you know has been experiencing unprecedented

levels of attrition. So we've got lots of new people and we're losing some of that talent. So we need to be able to move towards new technologies that are maybe a little bit easier for us to maintain. But also, we needed to move away from some of the infrastructure that requires a lot of attention. Things that are breaking faster, consuming a lot of operations and maintenance time, and in effect is things are breaking faster than the plant master plan projected. So we did need to reshuffle things a little bit. So we came up with a three package plan. Package 1 is the repair and rehabilitation of projects inside the fence line. These are projects that affect process. So they're within our processing area. They include primary -- the primary tanks, secondary rehabilitation digesters and some electrical distribution. We would continue to do these through design bid build which is our current process, or design-build, we're exploring both of those. These package 1 projects are about 40-ish million dollars a year. And that dollar figure is already in our current rates. So we don't need to raise rates to address the package 1 requirements. Package 2 is new technology. When we talk about getting everything done all at the same time, continue to operate 24 hours a day, seven days a week without taking the facility off line, we need to be a little creative. So what we have done is we have extracted the legacy lagoon cleanup, the solids dewatering biosolids, the -- creating a new energy generation system, because as you'll hear in April, we are having energy generation challenges at the plant, and then reconstructing the filter building. Those are all the energy and filters are things that take a lot of our time fixing but they are also opportunistically things that we could build much like any other typical city CIP project, build it and then continue operating and when that facility's done we can connect into it and decommission the old site. So it allows us to get package 1 and package 2 done at the same time. So we're partnering with Public Works, and Public Works will deliver on package 2. And that will help us get more projects done much faster. And we would propose bond financing for package 2. It's about $500 million worth of work and that also spreads the cost of that over a generation of users and it avoids rate spikes. Package 3, is things that are 15 years out. And if you look at the plant master plan, there's a lot of uncertainty around them. There is money set aside for unknown regulatory changes, unknown technology improvement. We haven't yet invested a lot of time in that, it's 15 years out. We're focused on the near 15. So I shared a little bit already about what the dollar values are those particular packages are, and can you see package 1 will occur at the same time as package 3, because we're able to do them as stand-alone projects. And with that I'm going to turn it over to Dave to talk a little bit about what design-build or design-build-operate might look like.

>> Dan Sykes: Thanks, Kerrie. So as Kerrie mentioned with regard to package 2, we are looking at alternative ways of delivering the project versus the traditional design-bid-build. The city has experience with design-build with the airport and convention center so we'll be looking at how we can apply that alternative approach to the biosolids and dewatering and drying projects, the energy generation projects, and the future energy at the plant. Is that right? Yes. So what types of alternative delivery will we be looking at? We'll be looking at design-build, city's now familiar with that. We've used it on two large projects. We'll be looking at design-build-operate, we've not done that per se before. That would be where we'd have a single entity that would come on board to do design, construction and operation of that component. Not of the whole plant, but of that component. Another alternative that we'll be looking at or have looked at is design-build-own-operate, where that same entity would also own the facility and all the operations that go along with it. So why are we looking at alternative delivery for package 2? A couple of reasons. We are, package 2 was going to be utilizing new technology. And I think that's very suitable for an alternative delivery approach. There's the potential for innovation into these systems, and the market can kind of help drive the type of technology that we're going to use. The traditional approach to design-bid-build really doesn't allow that kind of market participation, if you will. And certainly, alternative delivery allows for compressed schedule from the traditional approach. So here we've -- the work we've done so far is preliminary schedule comparison. If you look at the light blue bar across, it in essence provides the schedule for the traditional design-bid-build approach and the three purple lines demonstrate a schedule for alternative approach. And in all cases, we believe the alternative approach will deliver a faster project, has the other virtues talked about already. In all three cases the alternative approach we believe we would have the system in operation by 2018. This work, sorry, Bavani, this work, this schedule analysis is crucial, because ultimately, we'll be needing to make a finding with the council that the alternative approach either saves money or saves time. That is one of the requirements of the ordinance. And so we're doing that work now to support that. The things that we're going to be looking at here in the evaluation are, the schedule, the financial impacts, the resource needs, and the operational risks. We've had quite a few workshops. We've gotten the help of Corillo engineers to study what other plants have done in terms of delivering capital projects. And we expect to have a report by the end of February that will kind of help us with our decision-making in terms of what approach to move forward with and recommend to the council. I think we're at the point, though, that we can safely say that all the options that we've looked at allow for the shortened schedule as I showed on this schedule comparison. We have

become very comfortable with design-build as a way of, as I said, introducing innovation into the process. But also, helping the city manage risk and to transfer some of that risk onto another entity. And certainly, the objective of having a single entity involved with the design and construction and perhaps the operation is something that we think is important for this particular project. And as I mentioned, the other things we will need to do is make a finding with the council on whether we are going to save money which we'd suspect we would and certainly save time, which we are fairly confident we will do. The other goals are in terms of lowering life cycle cost and certainly with the design-build approach we wouldn't have to necessarily bring on the same level of staffing that we would to support a traditional design-bid approach for a significant project and program like this. Some things that we need to factor in to the time line. Certainly the EIR that's under preparation right now, that needs to be completed before we move forward with the procurement process. Technology selection, we're going to have to do work with ESD staff up front to kind of provide a framework to the documents that we put out. We're going to need to have the land available to us. And certainly have a plan for how we deal with the land after we vacate the ponds. Kerrie.

>> Kerrie Romanow: So this is an example of some of the resource needs we might need to make all, the package 1 and package 2 projects go forward. Working with Public Works our approach is very similar to how the airport was built and how the convention center now is moving forward where you have some technical leadership in certain areas where maybe we're lacking, we don't need to hire that person, we just need access to them and we're hiring in some project management support to ensure all the projects are moving forward and there's good coordination and financing. So Bavani what's the total number we need to add?

>> Probably about 7 to 10 maybe over the next two, three years.

>> Kerrie Romanow: So 7 to ten new staff over the next few years and then leverage additional resources on an as-needed basis. So we'd like to move forward with an RFI for the biosolids option, that would be design build and/or design build operate and see what the market tells us, continue operation for biosolids, we are starting to plan through the budget cycle for needed program resources and then we're moving forward ton legacy biosolid, the mitigation of the legacy biosolids are the biosolids, that was the original intent, we would never use them, they

would say in the lagoons forever. And so we do need to do a little bit of cleanup. We had some testing done in determining whether or not they are hazardous materials, and then we also would like to move forward on financing, using bonds or another external vehicle for package 2.

>> Councilmember Liccardo: Okay, thank you very much, Kerrie, thank you Dave. Why don't we hear first from members of the public and come back to the committee. I have Jim, is it Folse?

>> Foley.

>> Councilmember Liccardo: Jim you should go into medicine.

>> Good afternoon, committee members and staff. I just wanted to personally echo the sentiment in our letter. I represent the McCarthy ranch. We're really pleased with the direction that the plant master plan has taken. We think the collaboration between Public Works and ESD makes a lot of sense, biosolids transition and how that's kind of mapping out. We want to say good job and keep up the good work and we're happy with the collaboration and the direction everything's taken. Thank you.

>> Councilmember Liccardo: Thanks Jim, could always use an atta boy. David Wall.

>> I want to start out by giving you a warning, so you won't forget that I've told you. Anything decision making coming out of the environmental services department with reference to a water pollution control plant should be held in high skepticism. These people are grossly incompetent in what they do. Let us first check on page 6. "an additional principal engineer will be needed to provide technical fees for the energy products and another to provide leadership and technical guidance for automation projects, period, close quote. In other words, they're going to ramp up principal engineers, which they used to have four of them. They have none now. So they can ramp up with all these experts and sit back and ride their coat-tails. Why? Don't know how to run a water pollution control plant. The mere fact of linking a design and build construct to a convention center and an airport to a very highly technical, very specific city operation that cannot fail, it cannot fail for any reason, just shows you that they

don't know what they're doing. This whole biosolids project is nothing more than developer-driven, instead of proper engineering-driven, with reference to developing land. And odors that may be coming from this. To page 7, staff is developing a proposal for council consideration. At a future date to join Bay Area biosolids to energy coalition, a joint effort by 16 Bay Area wastewater agencies to develop sustainable waste to energy facilities for biosolids, is pie in the sky and illusory. You have a lot of problems within this document and this procedure. I'm just going to conclude, you're warned. I wouldn't have anything to do with the three department concept that is before you today. Environmental services department and its engineering should be completely just reorganized by the City Manager. If anything, the City Manager herself should be fired for not paying attention for the water pollution control plant. Because at any point in history this plant could fail. Thank you.

>> Councilmember Liccardo: Okay, returning to the committee. Question or comments, Councilmember Herrera.

>> Councilmember Herrera: Kerrie thank you for the report, and Dave, and Bavani, thank you. So in understanding this, so in terms of package 1, that is not going to require -- that is funding we have.

>> Kerrie Romanow: Yes, for the CIP program.

>> Councilmember Herrera: And we're intending to move forward, how urgent is that we get moving on package 1?

>> Kerrie Romanow: Package 1, I'll let Bavani add in a second, package 1 is equipment that needs emergency repair.

>> About four or five years ago we came to the assessment if you just rebuilt the plan the way it is, it would cost $1 billion, without even going to new technologies. Essentially we are here now so after four years of planning for those projects, those are projects such as the digesters where five of them are right now out of service. If we lose a couple more, we literally will start piling biosolids, projects such as our primary tanks we start losing the flights

and chains and stuff, and you're getting into a situation where you don't have enough primary room. So these are literally things that are failing. Our staff is keeping up with them. So those are imperative projects that we need to move on. Energy generation will be coming back to this committee in March with a much more comprehensive report literally on how we are sort of band-aiding the generational equipment and on edge with how we are running the plant.

>> Councilmember Herrera: So it sounds like these are infrastructure projects, I mean I've been hearing about this since I was on council and I'm going on my fourth year. This is something we 92 they have a life cycle, we need to repair, it is not something that staff has done something to the equipment or created some problem. Sort of we know this is going to happen, we have to plan to fix it.

>> 40 years ago, we knew -- they are just old and we know the life cycle for any mechanical equipment is 30, 40 perhaps, they're all coming towards the end of life. Coupled that with staff that are sort of new, still not as adept at maneuvering between the existing redundancies, I think it's making it even more imperative that we act on them quickly.

>> Councilmember Herrera: I remember visiting out there, and you guys took me on a tour, and I went downstairs. I guess not everybody is willing to do that, I climbed down the stairs and looked at some things I guess we could have a museum out there and charge admission to see some things that have been around since World War II, that was fascinating. But I imagine it's authored find people with those skills that know how to work on equipment of such a variety and ages and types so that probably increased staffing cost. If we had to have experts in all these various types of equipment on board all the time, right?

>> So it's the experts, and the other part of it is the parts availability too, some of them, they don't manufacture --

>> Councilmember Herrera: I understand you had to machine some of them, you had to actually have certain parts machined.

>> Exactly.

>> Councilmember Herrera: So that makes it difficult. I used to run a manufacturing company myself, it's certainly not the plant, but we tried to keep up with equipment that was relatively easy to operate and that we could hire people that would do it, that we wouldn't have one person who had the expertise and then they leave and we lose all that knowledge. Which by the way is part of the issue at the plant, right?

>> That's correct, that's exactly right, that's why we want to move forward quickly on the energy generation and the few other projects that are getting to that area where the staff impacts are being felt much more severely.

>> Councilmember Herrera: I think -- I mean, I know I've talked to Kerrie about this, too, documenting procedures out there, getting plans in place so that new employees will be trained, and there will be less of this idea of people having knowledge that leaves with them. So that the knowledge is shared that and that we have the repository is bigger and more people are involved with knowing what goes on out there. I think that makes total sense in this environment. And the idea of looking at new technology makes a lot of sense, too. We've seen technology in this valley. For goodness sakes where are we located? Any technology that can improve this and give us better more productivity I think is definitely something we should be looking into. I was a little bit curious about design-build-operate or design-build-own. Have we ever done any -- is there any other example like that in the City of San José? Where have they done this successfully? Design-build I've got, the design-build operator to design-build-own was a little -- I was going on this next step.

>> Our experience has been mostly through the ordinance, design-build, two projects we're all very familiar with. We haven't used that process to go through the design-build-operate area, so enthuse will be new. There's things that we do around the city that are in that flavor if you will. The solar RFPs that go out, we are going to let another entity coming in, they are going to design it build it and operate the solar array. That's a little bit different. This will be the first time that we haven't come to the conclusion that the operational component is necessarily the right way, but it's certainly the work that we've done so far make it an intriguing option to continue to look at.

>> Councilmember Herrera: I think you know we should be open to looking at things and see what potential there might be for that. I think I would be concerned about them owing it? What risk would you see if you had a design bill operate or own. Seems loo there cock additional risk having a facility owned by somebody else.

>> The operation of that we're pretty leery of that to turn over ownership of something to another entity. I think we're more focusing on design build or design build operate is where our current interest is.

>> Councilmember Herrera: Tell me about bonding. We're talking about bonding on all these options or you just the package 2 --

>> Of package 2.

>> Councilmember Herrera: It would still be a bond even if somebody was going to own it, then they would -- then presumably they would pay? Or how would that --

>> We likely wouldn't go with design-build-own.

>> Councilmember Herrera: So that's something that's a theory?

>> It's something we're exploring. But we like at this point, we would like the opportunity if they're not working to put our own people in there and operate as well. So from a financing standpoint, really, it lets us get a lot of work done with the least impact to the community, what it also does is gets people working, which would be nice two years from now. Certainly not the reason we're doing it, put it is a way to smooth out rates, provide predictability and ensure the facility is running. Right now to get parts, it is 18 to 24 months. Bavani, if you would check back on the energy generation, some of those engines are World War II vintage. One of them is out of commission since 2007. We just can't operate these days anymore. This facility is not able to come off line so if we don't have energy we have a problem. So this work has to get done and rather than have you know 20, 30, 40% rate

increases and then slide them back a couple of years lag, that doesn't make sense either. 24 hour probation and you're trying to get the work done and get it in such a way as we can keep operating.

>> Our staff is tell us, they're performing their best magic every day, they are -- it's World War II, time to replace it.

>> Councilmember Herrera: Thanks for all the good work. Thanks for bringing it to us.

>> Councilmember Liccardo: Councilmember Campos.

>> Councilmember Campos: First of all, that's pretty impressive.

>> Kerrie Romanow: The team is fantastic.

>> Councilmember Campos: Page 8 of your handout, the biosolid processing, could you splay what procession would be? Because it sounds like it's the design-bid-build except but the time line is shorter. And the time line seems to be along far with design-build-own-operate.

>> Right. So the terminology progressive design-build, that's an industry term. But it more or less describes the design-build process that we have here in the city, the measure that was approved by the voters in our ordinance. So that's progressive design-build, that's the process that we're familiar with. And so there's a comparison here between that design-build-operate which shows a slightly shorter schedule, primarily because if you're going to have the operator on board, and the single entity that's going to design and build it, there's less work that the city needs to do in terms of dictating kind of the operational conditions that we're going to expect at the end of the project.

>> Councilmember Campos: But under this at the end of the day, we're responsible, correct?

>> Dan Sykes: On design-build-operate --

>> Councilmember Campos: No, progressive design-build.

>> Dan Sykes: Yes, in progressive design-build the entity would be responsible for designing it, building it and turn it over to the city to operate.

>> My concern is, I know on the last one you're just studying it. Yeah, there's no place where are the buck stops. You know, you look at the concept, let's use the banks, too big to fail. Well, guess what, we were ready to let them fail. And you know, Mr. Wall said it right. You know, these can't fail. And if you put them off to a private entity, you know, they could -- what's to stop them from throwing their hands up in the air and say you know, city, sue us. With the city, we can't walk away from it, it's ours. We have to make it work which we have been doing. So what I would be interested in seeing is, go off and do your analysis. But you know, we should not be looking to skirt our responsibility. We need to be responsible for this. And I think the taxpayers need that comfort, to know that the buck's going to stop with us. With the city. Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you. I'm going to share my opinion of the design-build, own or operate, echo Councilmember Campos, I think he said it quite well. This is an asset and also a service that we want to maintain authority over. And I think -- I'm sure there is some scenario there that would ensure that we still could, but I have a couple of questions. Page 2, second paragraphs, over the last five years, the plant has seen an unprecedented decline in staffing resources, engineering -- as far as what we're doing today, how is this going to help you, help fix this issue or address this issue so to speak?

>> Kerrie Romanow: By taking -- by replacing with new equipment the things that our staff are spending a lot of time of, it frees them up to work on the myriad of other things that also require attention. So it alleviates our biggest pain points. Where we're spending the most time. They're spending a lot of time with energy generation

and the filter-building just trying to keep it operational. So if they didn't have to spend that high a percentage of time in those areas, there's just more than enough work on the rest of the plant lands. So rather than staffing up with people we can't seem to find, to do this work, if we can replace the equipment we can continue, we're not looking to trim our staff any. We're just looking to keep the facility from ever being in this condition again.

>> Councilmember Rocha: Okay, thank you. That helps. That's more of a technical answer. I'm looking more of a management level answer of the conditions that folks are leaving. And why they're leaving and us maintaining, whether it's salaries, whether it's -- whatever issue it may be, what can the council do to help support you to maintain this brain trust you have, and the staff you have there? Because it's a serious concern. And you know you've made mention of this briefly, and the next item I believe there's another reference and it concerns me and I want to make sure that we're putting you in a position to be successful. And again I'm going to ask the same question: What can we do to help you with this issue?

>> Kerrie Romanow: Well, thank you for that. On I believe it was February 1st, the office of employee relations issued a new series of operator job classes, so they added a second tier to each of those. And that's being very well received by our staff and they're looking at the opportunity to move up to that class 2 level. I think we need to continue to look at options to retain the job classes and the individuals where we are seeing high levels of attrition. And continue to pinpoint those and bring them to your attention.

>> Councilmember Rocha: So do you see that as part of the budget process potentially or is that not the time of the year where you --

>> Kerrie Romanow: I -- I don't think it's part of the budget process. I don't know how you deal with compensation.

>> I don't believe so. It's adding -- they added a classification. So I don't know if you need additional funding, then it would be a part of a budget process.

>> Kerrie Romanow: We have the funding.

>> Councilmember Rocha: Yes, I guess at that point, I mean that's a small difference that's making a small change. But again, to me, I'm reading this and following this issue a little bit, I'm getting the sense that this is a little bit beyond just one additional classification that OER helped you with.

>> Kerrie Romanow: Right.

>> Councilmember Rocha: So I'll leave this issue here and move on and maybe raise it when it gets to council. Thank you. I should have started with thanking you for the work you've done here, and mainly the change in consideration council direction and input and stakeholder input. I've seen a change in terms of how these things are coming to council and coming to committee and hearing from stakeholders about their support, and optimism, about the process and how we're going forward. I want to thank you for that. It's been a welcome change for me. The other item I had a question on, I think that was it. We already talked about the design-build. Thank you.

>> Councilmember Liccardo: Thank you. Just to pick up on Don's last point. My understanding is, certainly the pay cuts didn't help, and there's a lot of compression of salaries. And I know that there were a lot of folks who were retiring anyway. But certainly may have prompted a few more to get out the door sooner. The changes in job classification. Just understand the impact. That's a broad range of classification you are opening up to 19 people to restore salaries, move up the ladder and essentially get back the lows is that right?

>> Kerrie Romanow: For the operator series.

>> Councilmember Liccardo: Yes, is it just one classification or are there many?

>> Kerrie Romanow: There are several job specifications within that operator series, but it wouldn't include maintenance or engineers or, you know, there's 150 --

>> Councilmember Liccardo: There may be more work to do in those areas in terms of more classifications? I think I'd like to join in Councilmember Rocha in extending an offer if there's a way council can help to move that along I think we'd all be happy to do that. Question I had about package number 2. I understand at a we're looking to bond, I guess it's about a $416 million set of projects. What's the revenue stream that we'll be bonding there, bonding against?

>> Kerrie Romanow: Sewer rates.

>> Councilmember Liccardo: Does that -- I know we expect the sewer rates to kind of pay for package 1, pay as you go, more or less, right?

>> Kerrie Romanow: Right.

>> Councilmember Liccardo: Do we expect there's significant additional revenue beyond the 41 million that we need for package 1?

>> No.

>> Councilmember Liccardo: Or are we going to have to increase rates or --

>> We don't for the CIP fraction of the budget. But there is uncertainty around where operations and maintenance cost may go. Chemicals, energy and transitioning to biosolids will have an operations -- out of biosolids will have an operations and maintenance budget impact.

>> Councilmember Liccardo: In other words it will increase our operating cost.

>> Kerrie Romanow: It's a little more expensive to operate.

>> Councilmember Liccardo: Okay so 2013 is when we would expect to probably go out to bond to begin all this stuff?

>> We've just started working with the finance department now, it will likely take that long, and it will probably match up with the EIR completion at the same time. The RFP for the biosolids, the DB will issue, and all three will likely merge in 2013.

>> Councilmember Liccardo: Okay, so I assume the markets will tell us whether we need to increase rates in order to pacify those bonds?

>> Kerrie Romanow: Yes, and our initial projections indicate it's lest than a total 10% increase. Could you meter it out 2 or 3% over a five-year period.

>> Councilmember Liccardo: That's encouraging.

>> Kerrie Romanow: And then that would provide as it looks today enough funding for package 3. So much more -- much less -- much more modest increases than I think we looked at a year ago.

>> Councilmember Liccardo: That's great, that's encouraging. And then on the EIR, on the plant master plan, do we anticipate any challenges at this point, without actually giving anyone ammunition to sue us.

>> We don't believe so. I think during the three-year process we believe we've conducted a very robust stakeholder engagement, we've done numerous public outreach meetings as well. We worked directly with several stakeholders and neighbors as -- I think we feel pretty good about the outreach we've done. It certainly hasn't gotten everybody what they wanted but it definitely got kudos for being a well balanced plan. At this point we believe it should go through.

>> Councilmember Liccardo: Thank you for that, thank you for your outreach. Last question relates to the -- this regional biosolids to energy coalition, I know they're looking to start procurement process as you construct a facility or more than one facility biosolids and energy, I know we've got our own program running. Are they likely to join with us and make the flagship enterprise our Project.

>> Join with their feasible study and going out with the technology exploration. We have not offered San José to be a site, initially when they approached us about couple of years ago they did ask us to do. We've not opened that out. As we go into that if there's a need for requiring obviously we'll bring it back for committee and council consideration. But we're still in the technology exploration stage where they're going out for that. There is a significant opportunity for grant funding for them too because it's such a huge coalition, and EPA and the regional board and everybody seems to be behind it and feel pretty good that we have a good chance of actually getting some grant funding for that project as well.

>> Councilmember Liccardo: I hope we do jump in and I hope we do offer San José as a location for this. I think it's important that we appear to be the leader regionally.

>> Kerrie Romanow: We're looking to learn a lot from that partnership as well, I think everyone is struggling with the same challenges we are and hopefully together we can find something faster and more cost-effective.

>> Councilmember Liccardo: Great, thanks for your great work. I just wanted to -- my last -- still weighing in. I very much appreciate the concern that Councilmember Campos and Councilmember Rocha expressed about giving over the ownership of what is undoubtedly a very critical asset. I think it's important that we ask the question anyway. And I say that because there are lots of cities around the world that are engaged in major infrastructure projects, P 3s with significant ownership stakes entirely owned by private sector. Heathrow airport if I'm not mistaken is privately owned at this point, and hundreds of thousands of people's lives depend on that airport operating effectively, and obviously we continue to be on the hook if anything goes wrong. That will always be the case. But I think we ought to at least ask the questions and see if it's viable. And I know that you're going to do that. So thank you.

>> Councilmember Herrera: Motion to approve the recommendation.

>> Second.

>> Councilmember Liccardo: Okay. All in favor? Any opposed? Passes unanimously. Okay. Item number 4. Santa Clara County -- I'm sorry, San José Santa Clara water pollution control plant pretreatment program implementation and sewer use ordinance.

>> Kerrie Romanow: Good afternoon, Kerrie Romanow, acting director of environmental services. I'm joined with Ned Fukuda, acting deputy director, watershed protection, and Renee Irely, program manager for the pretreatment program. Today we are going to provide an overview of the city's pretreatment program. We'll tell you a little bit about what pretreatment means, why we do it, and how the program operates. This program is implemented tributary area wide and it's funded through permanent connection fees all through fund 513. Pretreatment budget is about $2.5 million and that also includes some laboratory functions. We'll talk a little bit about the status of recent compliance evaluations, and regulatory oversight by EPA. And responding to those audits we've implemented a lot of improvements that we're proud to share with you and we think they've been well received by EPA so far and we have a recommended ordinance change that we would like to cover as well. With that I'll turn it over to Renee and Matt.

>> So what is pretreatment? It's pretty much exactly what it sounds like. As you know, we treat all our sanitary sewage at the wastewater pollution control plant. But we are required to regulate our industries who discharge directly into the sanitary system, and we require them to pretreat it prior to discharge. And it's essentially just to limit the loading if you will or the concentration of the contaminants that they use in their process water before it comes to the plant. So why do we do that? Because it's required by the clean water act. We do that, the clean water act established the national pollution discharge elimination system permit program, which regulates direct discharges or point discharges such as the plant who discharge their effluent into the bay or surface water of the state, excuse me. But what it also requires is for us to regulate indirect discharges, these industrial discharges

that come into the system and eventually hit the plant. The federal government establishes categorical industry which they believe are the most concerned about with you know like your metal finishers degreasers, facilities which you are probably well familiar with. It's mostly because of the contaminants that they discharge or use in their processes are often difficult to manage at the plant. It's doable but typically very expensive. Again, heavy metals of high pH or low pH, flammables et cetera. Basically for the plant's permit, MBS permit requires them to establish limits on what we can discharge and also back loads it to the industries on what they can discharge or load to the plants. Ultimately it's there to protect the plant, what passes through it. Protect the bay and the workers throughout the collection system and the plant. As Kerrie mentioned the pretreatment program covers the tributary agencies, not just San José but our partners, our neighboring cities. We have approximately 300 facilities we regent, about half of them are within San José and we cover about 300 square miles. The pretreatment program inspects twice a year. We renew permits every five years and are sampling these facilities four times a year. Again, these discharges can be very complex to very simple such as circuit board manufacturers, your normal laundromat if you will or dry cleaner.

>> Thanks Matt. So the program at a glance pretreatment, we are made up of two groups. We have an engineering group and then also the source control group which is our inspectors. The engineering group is comprised of seven staff. They're chemical and sanitary engineers and chemical is, this section is primarily concerned with reviewing and processing all of the permits, usually over 100 a year. They also conduct all the plan checks for any new businesses that are coming in. They get evaluated about -- to see whether they need a permit or not, make sure that their capacity is adequate. And then this group also does the special technical studies to reevaluate the pollutant loads that are out in the collection system coming into the plant and see if we need to make any adjustments to limits, things like that. The source control section, there are 12 staff. These are all scientists. And these are our program administrators out in the field and so they are responsible for all of the inspections, the education and the enforcement at these facilities. We have had significant turnover in staff in the last two years. 75% of the staff have been with the program in their current positions for less than a year. Having said that, we have had a good recruitment, we have smart, committed professionals who are handling this very technically demanding work. So you may be familiar, or more familiar with air emissions regulations and similar to that there are certain constituents that are used or created during manufacturing that are not permitted to be

released back into -- out into the environment. The same is true for water quality. So for both the permitting process and inspection, we need to understand the entire flow of both materials and water through a facility. So what comes in should basically equal what's coming out in one form or another. And this is a simple schematic showing what the inspectors and the permit processors are looking at when they are looking at a facility. And here is just a couple of live photos from the processing part of a facility. On the left are a series of baths that a product would be going through to adhere metal to the product. And on the right are some circuit boards. And then this slide is really showing the core of the work that our group does. They really ensure that a treatment system is operating properly and that there are no ways to circumvent the system and dump pollutants activity. The arrows you see follow the flow of wastewater through an onsite treatment system. And this is an example of what an inspector would be evaluating in the field. So at step 1, this is where the wastewater enters the treatment system. At tank 2 which is a little hard to see up in the far corner, is where the pH would then be adjusted back in a more neutral zone. In tank 3 the treatment chemicals are then added into the system and then in tank 4, the wastewater and there's treatment chemicals are then mixed together. And this helps to create solids which are then pulling out the heavy metals from the wastewater itself. And as it moves into area 5 the solids or the sludge actually comes down to the bottom and it's extracted out at the lower half of the picture. And the wastewater itself would then continue to move on, off screen to the right, eventually to final discharge point. Another piece of work that this group does is sampling. They take samples of the end product as it's leaving the facility. And this is an important part of the review to ensure that the system is operating properly. And so on the left photo, that's a photo of one of our staff actually setting up a sampler, at a facility. Our staff not only samples several times a year, but then we also require the facility to conduct their own independent sampling and submit that data to us as well. And then on the right before this is taken to our City's lab which is at the plant our sampling technicians preserve the samples, run some basic pH, that sort of thing. One last point, generally on inspections, we do schedule a fair number of them. But the vast majority of our inspections and samples events are actually done unannounced. And that's so that we can get a fair snapshot of the facility, and what's actually happening onsite and to make sure they're in compliance with their permit. This group also does surveillance monitoring for facilities concerned, ones that where we've had some chronic enforcement problems and things like that, we'll actually sample them further down, out in the trunk lines and the collection systems themselves. So regulatory review. All pretreatment programs in the country are reviewed by the EPA. In addition, our collection system and the plant

itself has regular inspections by EPA and the state board. This time line is a brief snapshot of the inspections or audits that the pretreatment program's had over the last decade. We're reviewed virtually every year. Inspections tend to last one to two days and audits are a little more extensive. Typically the inspectors will come in anywhere from two to four days. They are quite thorough either one. They consist of staff interviews. They conduct field evaluation of our inspection processes, they review our permit files, they make an assessment of our sampling protocols, they really look from soup to nuts everything that's happening with the program. From the last -- from the 2009 audit which was a four-day audit and the 2011 inspection we had four broad areas that were comments that we needed to address. We had comments around our permitting process, some of our inspection processes, enforcement follow-up, and then some recommendations for adjustments to our sewer use ordinance which we brought to you today. Additionally we just went through an audit on January 5th of this year. We don't have the official responses back yet from that inspection, but the exit interview was very favorable so we'll be looking forward to the final report from that probably some time in April. So around program improvements. Based on the feedback from 2009 and 2011, we've embarked on a major review of all of our business processes. We identified several areas of improvement including our procedures. We had initiated a major review of all of our standard operating procedures and an expansion of that library. We've completed new and improved SOPs for all of our core operations. And we're already seeing more consistency in how these inspections are conducted and documented. And in January we did get positive feedback from the EPA inspectors about the changes we had made in the program. Around quality control. We now actually have that written into all of our procedures themselves and in addition we've tied performance targets for all of our managers related to quality control as well. The program has also instituted benchmarking for all of the key elements of our program and business practices. So we are comparing them to similar programs not only within California but within EPA's region 9 more generally to make sure we're instituting the best business practices for the program. And then finally around training. We've had -- we did have some inconsistency in the expectation for our staff performance. And so we've initiated a complete overhaul of our formal training program with key targets and reviewed by supervisors. And this is centered on four key elements. We have a form of mentoring program now and both the mentor and supervisor review this formal training plan with key targets and deadlines with staff. We have one-on-one meetings to review case studies and special issues. Section meetings and tailgates that are specifically gearing for training on key issues. And then we also have monthly peer review of case studies, and that's where through

verification all staff bring forward interested complicated or challenging cases to be reviewed by the staff and to get -- actually have peer to peer education on this. So finally as I mentioned during the pretreatment audit in 2009, it was recommended that we make some minor updates to our sewer use ordinance. None of the recommendations were substantial. Really it was to add some clear references to the federal regulations for activities that we were already performing, but they wanted us to be very explicit in the ordinance as to where the ordinance came from. Improve and clarify a couple of definitions. And then also, make a link to the City's storm water permit which was passed in 2009, to make sure that our language allowed for the occasional discharge of contaminated storm water. So we wanted to make sure there was alignment between those two permits. We reviewed these revisions with our tributary area counterparts. And we'll be working with their staffs to have their legislative bodies also adopt these ordinance updates hopefully by July 2012. So in conclusion we'd like you to accept the update on the pretreatment program and recommend that the council approve this director-initiated ordinance, changes to chapter 1514 of the code. Thank you.

>> Councilmember Liccardo: Thank you very much. We have one member of the public who would like to speak. David Wall.

>> I'm concerned about the rates. Once you start discharging storm water to the sanitary sewer, who's paying for this treatment? We can talk about that at another time. Would you please identify yourself to the councilmembers? I don't know who you are.

>> Councilmember Liccardo: Sir, this is time for public comment.

>> All right, let me put it this way. Let me quote. Recently the pretreatment program underwent two evaluations by regulators from EPA and state water quality control board in October 2009, and January 2011. Period close quotes. This goes to the issue of how incompetent this program is managed. Quote: Results from the 2009 and 2011 evaluations, indicated opportunities to improve the performance of pretreatment program period close quote. It is not opportunities. These people were so incompetently managed they were hammered by the EPA. Forced to do this. Their training, the substandard management continues. It is itemized on the following

pages. Page 4. Look at it. As a matter of fact, I don't believe this person that's running this program has ever had any experience running a pretreatment program. The honorable Mr. Fukuda has just been thrown in as deputy position because the deputy manager, who was in charge of all this mess, and your storm drain mess, split to Sunday with the previous director. After multiple deferrals, mind you, that you were warned against. So let's look at, currently, 13 companies operate in the plant service area. This deals with septic collars. What do you do with the septic samples?

>> Councilmember Liccardo: Thank you, Mr. Wall. All right. We'll now continue with committee discussion. Questions?

>> Councilmember Rocha: Where I left off, question about the staffing issue. 75% of the staff are new to the program. How many total staff in that program?

>> There are 20 total.

>> Councilmember Rocha: 20, again, I'm going to restate the obvious and say, I don't know how we can minimize this or dismiss this or explain it away by anything else, except that as the management, whether it's the City Manager, or the city council or the director of the department making some changes or whatever it is we need to do to make sure that we retain staff and that we have qualified staff regardless whether it's this issue or any of them and you have my full support and I'll make the same offer if there's something that we can do, let us know and sorry I interrupted you, maybe you were going to speak to thank you, mayor can you already are working on it.

>> Kerrie Romanow: We are working on it. One of the program improvements Renee is working on is to be able to have new procedures so new staff can integrate more quickly and then she has and doing information sharing on a formal basis while we try and bridge the today.

>> Councilmember Rocha: Okay, that's good, but I think any business looking at their employees 75% of them have only been there under a year, it's not the right way to operate or manage a division, a company or a system. So I don't know what number is going to take for folks to pay attention, maybe 80, 90, 100%, to me it's pretty clear it's here. I'll stop there, thank you for the report and I'll be supporting any motion anybody makes to accept the update.

>> Councilmember Liccardo: Councilmember Herrera.

>> Councilmember Herrera: I just want to commend Kerrie on managing this plan even though you're dealing with folks leaving, increased retirements, all the conditions you're dealing with I just want to commend you and your staff for the excellent job you're doing. I also add my support in anything you might need in terms of maintaining that staff or adding staff. If there's anything the council can do to be supportive, I think you're doing a great job and the item that you are documenting these procedures, you and your staff are adding things, as small as -- you might have lost some folks but you are apparently doing things that weren't done in the past, documenting these procedures, enabling existing staff and future staff to run this plan in a more efficient way. I think you're doing a wonderful job and I want to say that. I make a motion to accept these recommendations and cross -- reference to the council ordinance change. I also reference to the chair, I don't know if this is appropriate or not --

>> Councilmember Liccardo: We're going to come back to that happen that. Is there a second? Councilmember Campos no. Okay freight. I want to join in the thank you for managing in very difficult times. I know this is very hard with a lot of folks coming on board. And I think we're doing a great job with -- under these circumstances. Okay, with that unless there's additional questions, all in favor? Any opposed? None? That passes unanimously.

>> Councilmember Herrera: Chair, can we go back --

>> Councilmember Liccardo: Before we move on to public comment, I think there was desire to cross reference -- part of D-3 so we're done. Open forum, let's see here, David Wall.

>> If it isn't obvious to you by now, I have a commanding knowledge of everything that was done here today. As a matter of fact, it bothers me such to hear people who make decisions who are elected to make decisions, have absolutely no clue or a partial sin you a of a clue of what they say, either through innuendo or leading questions about plant operations. You were shown blowers, and they were saying, oh, they engines are like World War II. Fish on. You didn't even see the engines. You didn't even know there was a time when we built the parts for those engines, and Dimitri ran the machine shop. The pretreatment operation that you just heard today, an embarrassment just beyond comprehension, yet I hear glowing platitudes from people that basically can't put their shoes on the correct feet. I think in future if you want to -- Dave will you please leave the room because we're going to tell these people we're thankful for them, they're doing a good job. When in all reality you should be losing sleep about what's going on at that water pollution control plant. At no point in time up to now, in the last year or so, is that plant on the verge of failing. It's failing because of the incompetent people that are put there by the office of the City Manager. And run amok because none of you know what's going on or would have cause to know. But as long as they brown-nose you, placate you, it's the rosy colored glasses. But you've been warned. All I can do is warn you. Okay? And of course, make these speeches, and hold you to account. When things fail. You performed very badly today, and the public record for some time is going to reflect that. Thank you.

>> Councilmember Liccardo: Thank you. On that bright note, this meeting's adjourned.