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>> Good afternoon. I would like to get my council members into open session here so we can begin this meeting. I think we have a few in different places.

>> I would like to get started with this special redevelopment agency meeting. To begin this hearing on Tuesday and continued a half of dozen items or so to today. This meeting is a special meeting and require some special steps in order to deal with the items on the agenda. So we convene in open session and we need a motion to waive the four day meeting requirements for rule 6.5 of our resolution. Okay. So this is a motion to waive the meeting requirements. All in favor? Opposed? None opposed. That's approved. We needed eight votes to do that under our rules, and before we consider going into closed session in the interest of Sunshine and the interest of lots and lots of people that want to know what is happening and what is going on I think we can have the staff presentation in open session. Although we ordinarily do this in closed session. There is a tremendous amount of public interest. A lot of things have happened in the last 48 hours. I think it's important for the council to get that information and the employees and the public to get it in we're not required to do it in closed session and in the interest of Sunshine and everybody knows what is going on and do this in open session, so I'm going to ask the city manager to bring us up-to-date and everything that happened in the last 48 hours basically.

>> Good afternoon. I am director of employee relations and I would like to make a couple brief opening comments and this goes without saying this is a difficult time for the mayor and labor and certainly last but not least our residents. This are complex issues and I can tell you in the labor relations area this is the most difficult in situations that we deal with and I want to thank you the mayor and the council and support you have given me and my staff and comments from colleagues and employees in an elevator and you can imagine asking employees to give up 10% of their pay doesn't make us popular and I would to introduce my staff and I would be remise and mentioning the staff and carrying the load while we're are negotiating and all of these people and I appreciate the time and mention that. So as the mayor mentioned we are presenting in open session otherwise what we would have presented in closed session. We know it's difficult for the people watching and the audience and we are going to recap what is happened in the last 48 hours. So on June 15th -- actually less than 48 hours ago we were before you presenting the city's last, best and final offer for the bargaining listed there and these listed. This is just a belief summary of the brief summary and achieve the 10% and it achieve its

through pay reduction and insurance changes and I'm not going through all of them but the second 5% is the employees pay more into the retirement system. Going back actually a couple hours before that at 11:51 a.m. right before that council meeting I received an Email from a bargaining representative that included a proposal for 10% compensation reduction and we're going to show actually the full text of that proposal as I received and does include the proposal and ABI is the company and they are not on the city agenda and not on it today but they're making the proposal and we had the last and best offer and the 5% reduction. So when I received that again at approximately noon I did have a couple of questions to make sure I understood the proposal. For example, whether or not it was a one year term, a two year term? Whether the savings were one time or ongoing? I was able to reach him and get answers to those questions before we began the open session and the closed session presentation. On June 15 we started by going into closed session and discussing the proposal we just received. Following that the council recessed open session and allows to meet with representatives of the bargaining team and we did in my conference room and appreciate the proposal on behalf of the city council and manager and achieved that proposal with the 10% and we let them know that the city could not accept the proposal. We reconvened into open session at the approximately 4:00 p.m. and as you know the bargaining units requested a deferral which brings us to today and I want to mention one public comment that was made by Nancy OSTROSKY the and she was drawing attention to the city's language and the best and best offer and said if in the event that these contributions could not be implemented or seized for any reason the pay would be reduced by the equivalent amount of 5% total compensation and in response to the legal issues and our language, meaning the city's language was an out for that. That was language the city drafted in the last, best and final offers. Because of the concerns and not just legal but issues that could arise in additional contributions for retirement and we are trying to achieve the savings for jobs and services and because there could have been issues in the implementation of this our language provided ability to guarantee the city council that the money would be there in case some happened here. The reference of 5% in the language is because our proposal only achieved half of it through the retirement contributions. So the city council did give a -- approve the deferral for 48 hours. One is to ask questions of the bargaining unit and seek better understanding of the proposals and if the city declined the proposal. During the meeting itself as you know it was mentioned that their legal council had drafted the language and by the time the meeting was over they obtained signatures and able to be signed by all of the bargaining units that submitted a proposal except for the building inspectors. I was able to talk to Chris in

the meeting yesterday and seek clarification to make sure I understand the language and the words there and as it is written what it essentially says is that the city council ended up accepted the union's proposal and still at impasse and the city could move forward and decide whether or not to implement the terms of the last, best, and final offer. So I suggested a meeting yesterday with representatives of the bargaining units at 1:30 p.m. and the meeting lasted until 4:00 p.m. and I offered to come back later in the evening and we did what was needed in that time. We did get a new proposal at the time and it's more flushed out with more detail in terms than the day before so there was 18 people in attendance and not including the four of us here who represented the city. We had representatives for all the units and Christopher and others were in attendance. We initially started the meeting by asking if we had all of the proposals and one of the things is it do you have all the elements, all the language and terms? Initially it was indicated we had "the framework" for the proposal and I had questions and whether certain things were included and not included, so we ended up taking out of the last, final and best offer and the last one was only for the second five so what he was doing was going through and telling me where to strike out, cross out certain terms in the wording and replace with different wording, and then he had a good idea during the break and whether we could simply Email him the electronic copy of the offer and edit and provide us with the language. That worked out very well so we were able to have the full language and the terms of the city's proposal. So we're going to put up the actual proposal here. Now, I apologize for people in the audience or watching it is going to be very small but it's available in a couple of areas and on the website and on the desk here and downtown and it's small and so that you know this is the full proposal that was provided to us yesterday, and what is our understanding where the employees were voting on this morning. Now, the thing to note about it is that the proposal is that all 10% of total compensation come from the retirement contributions and the second total contribution lasting just one year. Now what gets confusing to get the 10% of total compensation it requires different amounts and whether it's in base pay or additional contributions. So I'm going to show you and go back to the presentation. Each bargaining unit can have differences when we do the calculations so we did the best we could to do the calculations quickly. We had to go back and redo them this morning and these are percentage of what we call base pay of employee's money that would be going into the retirement system in order to equal 10% of total compensation. An important thing is this is on top of the 10.3% pay employees would put in starting in July and they range here. So what does that really mean for an employee after these additional contributions are shifted from a city payment to employee payment? If you see on the right the 38.9 the

current contribution of the current split and after the additional employee's contributions is still that amount. It's the other employees now picking up what otherwise the city would contribute but look at the employee line and current and fiscal year 2011 and start in July and the 10.3 which I mentioned before and additional 15% and employees contribute 25% or a quarter of their pay into the retirement system and that applies to the employee of one year or close to retirement. You know there are potential legal issues with the proposal. So let me give you a little background on that. The city charter actually has provisions about the retirement systems and there is reference in the city charter to the cost splitting and bear with me a minute I'm going to briefly explain the primary categories of contributions. There is what is called normal cost. Normal cost is the money that has to put in by the city and the employees for every year of service as it is worked or as it is earned so if you hire an employee today the board's actuaries look at it and the forward looking cost of the charter specifies what ratio has to be paid by the employee and the city for that normal cost and we refer to the eight to three split and for every \$8 the city puts in the employees put in three. The other main category of contributions into the system is any unfunded pensions liability. Unfunded liabilities can be caused by many things. It can be caused by granting enhanced benefits. It could be caused when the actuary determines that assumptions were not met and did it earn as much as they thought it was going to earn? Did the life expectancies turn out to be correct? All things go into creating this unfunded liability. That split is not in the charter. The charter doesn't specify how much has to be paid by employees and the city. That is in the municipal code and currently 100% by the city and little of the fire and police plan and other than that 100% is on the city to pay. The reason I'm spending time on that is when the unions had initially proposed I think it would have been a couple of months ago and this concept of additional money going into the system that was 7.5 of pay and we'd like to see if we could do that and one of the key considerations is we didn't want to affect the normal cost, and if employees were going to pick up more -- in our view, part of the unfunded pension liability and otherwise get into the eight to three split specified by the charter and we determined that the seven and a half was not a problem for that reason because it did not get into the normal costs, so we did not think that would create an issue with the normal costs versus the unfunded liability. But the issue now that we had to look at is the bargains were now proposing double of the amount, so the entire 10% of total compensation coming from the additional retirement contributions, so as you saw on the earlier slide that means now instead of 7 1/2 % almost 15% of pay and this was one of the original concerns and with the proposal and now into the issue of the city charter and the issue of eight to three split in normal costs so let

me show you the city charter provision. For the federated system and of all the bargaining units before you this afternoon and section 1505 and as you see a lot of words but says the contribution is required to be made by employees and talks about current service or current service benefits and again terms change and but they're really talking about normal costs. It says shall not exceed the ratio of eight to three and I bolded that section at the bottom. There are also provisions anytime city charter related to the city manager and section 701 and I think they will comment on that.

>> Thank you Alex. This section of the charter and I will read it "the city manager is responsible for the execution of the charter and acts by the council and by city managers or under the direction of the city manager, so my duty to uphold the charter is going to weigh very heavily as a key consideration and the recommendation I will make to you at the end of this and this is a important section that provided guidance to me and what you will hear at the end.

>> So when we were meeting with the bargaining units yesterday and looking at the language and again starting from the language of the city's proposal where it references that the contributions made by employees were going to go into the unfunded liability. We wrote that very specifically because we were not wanting to get into that charter issue of the normal cost, so when we first started talking yesterday that is what the language was going to say and it was indicated he didn't think it was getting into the normal cost issue so they didn't think about that and not an issue they looked at, and what I indicated to them is that it does. It absolutely did in my view get into the normal cost based on actuary reports and information that I had reviewed and so what that lead to is a change in the language yesterday afternoon. So now the unfunded liability reference in the union's proposal was deleted. And now it simply says that it goes for retirement contributions, so if you could put back the actual proposal? I know it's very small but it is an important distinction between the city's last, best and final offer and the unions. At the top it indicates effective June 27, 2010 and to 2011 and all employees will make additional contributions. There is no distinction now whether it's for unfunded liability or for normal costs and again that was changed based on when I expressed concern and the city's last offer and this one. So if you could go back to the presentation please. It's in a different place I think. Let's see. Back. Oh okay. So what are the key issues? The potential legal issues are clearly important. The union's proposal we believe includes a provision

contrary to the city's charter. It was indicated when I continued talking about it and believed that the requirements can be waived. Again that is obviously a legal issue but I can tell you in my 16 years my understanding has been at least in the area that I work in it's impossible. We have looked at issues regarding the retirement and minimum benefits and the eight to three split and my understanding in my career that has to be changed by a vote of the people. The other significant change in the language is unlike what our language that we talked about earlier about having a contingency provision and the union's have not accepted the language on that and have modified it, so instead of saying if something goes wrong and whatever that issue is and implementation issues and we find a reason it can't be implemented and instead of reverting to a base pay reduction the union says we have to renegotiate in bargaining and bargain again how else to get to that 10% since that didn't work, so the concern that we have there depending on when that happens or how long the bargaining takes, you might not realize the savings and the city council savings jobs effective at the beginning of the fiscal year counting on those savings and that is a source of concern and not having language with certainty that the city council can achieve the savings. So again a summary of the issues. We put them into two issues. What we believe the major issues. Number one is the city charter and number two there is no contingency that guarantees the savings. There are a variety of ways to get to 10% and you approved an offer the other day, but here in this proposal base pay remains unchanged. For example, a employee that gets \$80,000 and get the 10% the base pay is still \$80,000. For example, when somebody has sick leave pay out and leave or vacation and all calculated on the full pay because base pay is not reduced. There is no sick pay leave or changes and neither one are in the proposal. There are also no health care cost containment issues and things like copays and plan design changes and cost sharing. You might remember a week ago Tuesday these same unions actually made a proposal that had copays in it. The increase of \$25 that you see in our last, best, final offer but dropped off of the offer we received the other day. I did ask them about it and understand the thinking and why dropping them off and they indicated their proposal was just a simple approach to get there. I did read in the paper, and again this morning that one of the major issues that -- at least one of the bargaining with the city's proposal was the health care changes, but they made that proposal just one week earlier that would have the same copays and lastly there isn't any retirement cost mitigation or offer. One thing I wanted just to cover very quickly is when the city was evaluating all of the options to trying to achieve the 10% these are just the considerations that we did when we evaluated either proposals that we received or proposals that we made.

Number one is the ability to achieve the anticipated savings. Because again if the city council were to use the money to save jobs we wanted to ensure anything that we propose or agreed to ultimately was able to capture those savings. Can you count on the dollars? So that was important consideration. And two was there service proposals with the disagreements? And three, are the potential legal risks and I think everything has a risk but how much risk is it? And four and does it affect it in a negative way the retirement system or a positive way and lastly can we implement the agreement? Any issues with getting this implemented? So I'm going to back and summary the offer. It does achieve the 10% in a combination of ways. And if you do it in base pay and affect it and not just how much they make but different situations and what you have heard here and nothing all one way and base pay and health insurance and cost containment ways and I would want to highlight this and the city didn't reject the proposal and the very reason we added it in and make it work and something that was proposed and when we initially proposed it however it was only half of what we needed but we did incorporate into the package of ten and try to make it work and it's all in the one category of retirement contributions. So I have summarized these a little bit. And ours achieves it in a variety of ways but in the city's last offer does not impact normal cost sharing in the start charter and limits the risk or reduces the risk and not 100% of the reduction is dependent on this one item and it's only one time. Again we only propose it one time and make sure everything is okay with doing that and it's all going to work as we hope it will and it could in the one time area. So lastly I'm going to turn it back to the city manager for our recommendation.

>> Thank you Alex and I don't present this recommendation lightly. I know everyone was enthused by the proposal the other day and I can say we worked in earnest to evaluate whether it could work, and as I mentioned on Tuesday I would have preferred nothing more to bring you a negotiated agreement. I do wish the union's proposal had worked. Unfortunately it doesn't and it doesn't for two key reasons. Per the city charter I have the responsibility to make sure the terms are executed and as Alex identified the proposal moves into the normal costs. I cannot recommend something that is contrary to the charter, and the second reason is that there are no contingency guaranteed savings languages or paragraphs and I cannot recommend balancing a budget on savings that could not be guaranteed so my recommendation is to approve the terms of the city's offer for these groups. Direct the staff to continue to research legal charter and labor relations issues related to the city's flexibility to change cost sharing of the normal cost of benefits on an ongoing basis. If circumstances change

direct staff to resume negotiations that could result in a change to the terms that have been implemented and direct staff to accept and evaluate any proposals and request to resume negotiations received by the bargaining units. Again I understand that this is very difficult, but the entire city budget is hinging on moving forward today. As we mentioned before this is not an end. If there are changed circumstances we can resume negotiations as early as tomorrow, but moving forward provides us a budget and that is needed in order to preserve services and jobs. I also think it's a very good idea to continue looking into the idea of cost sharing and retirement benefits and doing research in ways that allow this to occur and further exploration and legal analysis is needed and I am recommending this is part of the direction and that concludes staff's presentation Mr. Mayor and members of the council.

>> City attorney.

>> I want to confirm the presentation about the normal costs concern in the charter. To the extent you're dealing with unfunded liability we believe that we can -- that's an item of compensation and something such to bargaining and get into normal costs and the eight-three split and that is a problem but what is important in full disclosure what is the scope of the problem? Based on numbers that have been either provided us by our actuaries or the board actuaries and OER and you may remember the slide that showed that the offer is somewhere between 14 and 15 essentially and the scope of the problem and 12.75% and would be something that we can bargain. You're talking about roughly two and 2 1/4% that would fall into the normal cost issue and that is where the problem lies and I want to get that for the council. I don't know if Mr. Mayor move into closed session and have a fuller discussion but we are available to talk about the issues.

>> I think we can continue to have the discussion here, and that's where I would like to start. First let me just stay I am disappointed we don't have an offer in front of us that we can accept, but I too have an obligation to follow the charter, so I am disappointed with the fact that we, the city council, have directed staff to seek 10% reduction in compensation back in March. That we're unable to do it in the way proposed because it does get the 10% and that I think that is important thing and acknowledge it's difficult for our bargaining units to do but nevertheless the charter is the charter and I am disappointed about the language and decrease the risk with legal issues but once

you consider the proposal in front of us we have two choices. We have the offer from the city and from the bargaining units. I don't believe we can accept the proposal from the bargaining units. I think we need to move ahead and follow the manager's recommendation and allow us to get the budget under way and explore the possibility of doing this of doing this and there are other issues, actuary issues and other issues and I think the recommendation is a good one and what we should follow. When we last had this item we had a motion on the floor for all five bargaining units and that's the way we handled the hearing, and so I think that's the way we try to ought to proceed and see where we can go with that. Council member constant.

>> Thank you mayor. I guess what I would be doing is making a substitute motion and I don't remember if that died and I will make a motion and whichever way you need to do it and that motion is approve the recommendation of the city manager which is to approve and implement the terms of the city's last, best and final offer for these units with the direction staff to continue to look at the charter and city's flexibility and cost sharing and of the benefits and on going basis and if circumstances change direct staff to renegotiate and could result in a change and staff accept and any proposals to continue these by the bargaining units.

>> All right. We have a motion on the floor.

>> I will make brief comments. I just wanted to say why I support this or almost everything the mayor said, but with the biggest emphasis on the legality issues of meeting the charter of language. I am really uncomfortable about waiving any requirements of the charter or putting our budget thereby the services to our residents at risk if something falls through in the time ahead of us. Thank you.

>> Council member Herrera.

>> Thank you Mayor. First of all I want to thank the bargaining units for the tremendous work they did to come up with the last minute to come up with the proposal and thank Nancy on this and came out of a sick bed to work hard on this and also to our staff and putting the hours they did in working on it. On Tuesday I was really glad to see that a proposal came forward that looked like it like it could achieve the 10% and I wanted that and give the

parties a chance to bring forward an alternative proposal we could vote it and avoid the decision in front of us today. I am disappointed and I am sad and I don't feel I can support the alternative proposal today, and so the decision today from me is whether to impose the last, best and final offer presented by the city. Let me first say what this decision is not about for me. This decision is not about achieving a win or loss for the mayor or other council members. Or a win or less for labor. Although some of you would believe this. In the end we should be on the same team. The city of San Jose. I am saddened by the rhetoric coming from different sides in the debate and about service cuts and the proposals. This city is facing a financial crisis. We must close \$118 million budget short fall. We cannot print money or issue IOU's. There are many reasons for this that have been detailed and including the recession and increased the property tax revenues and the state added to it and takes our money to solve their crisis and we have looked at how we can trim the expenses and close and cut the gap. All over the city people have lost things and residents have had to tighten their belts and so should we and we look at employee compensation because it's most of the budget. We asked you to reduce it and one time savings and on going and absent and proposals from the bargaining groups and put forward something to achieve this. And they brought a proposal with the 10% and I thought we would be able to take a similar action today. Throughout this process I am a strong proponent to compromise and open to the bargaining units and get to the 10% goal and I commend you for working on the proposal and I hope that work continues to see what can be done with that proposal, and I think there are interesting concepts in it. The decision today now is about what is the right thing to do for our city, our residents, and our employees? We must do the right thing for the city and solve the deficit and for community centers and libraries and safety and for the employees and prevent layoffs. Although this will not solve everything it's a major step and we should have a smaller deficit to close next year. This does not close the possibility for on going negotiations. We are not imposing a contract today. This allows our city representatives to continue to negotiate with the bargaining units without the risk of running out of time. It is my hope -- it is my sincere hope that representatives from the units will resume negotiations immediately with the city and the legal issues standing in the way of this proposal can be solved and a negotiated settlement can be reached but the decision today to accept a city's last and final offer and vote that way is the right decision and I will be supporting the motion.

>> Council member Pyle.

>> Thank you Mayor. I have some questions that I would like to get answers to. First of all these are absolutely extraordinary circumstances as we all know, but I wanted to ask in reference to the city charter and some of the provisions that are causing us not to be able to accept the offers. I want to know about the lines of communication. I want to know if the unions are fully aware these are a problem. Alex?

>> I don't think they were. I think they made the proposal in good faith.

>> I think they did too.

>> Absolutely. There is no question of that. When I first pointed out the liability question it was indicated he didn't think we were getting into the normal cost so they didn't think they were doing that with the proposal and doing that intentionally, and again a lot of people don't keep track of the complex issues in retirement.

>> How can they? How easy do we make it?

>> Council member Pyle I started by career.

>> Not to say it's you and there are a lot of provisions to make shorter and easier to understand and et cetera. This is one example of that where we have I think -- I can't remember what movie it came out of "a failure to communicate" . I think it's a big component today. I don't know about anybody else and my spirits went from very high to very low and we're talking about -- and I know they're important but they're technicalities, are they not?

>> It's not a technicality. It's a charter and some may view the law as a technicality and this cannot be collected away in the agreement and look at the scope of the problem and 12.5% of the offer is something that we can do with and the two and a quarter difference and causes the problem and the scope of the problem and nonetheless and exists in front of you it is a problem.

>> What I don't understand is this. It's okay for ALP to bring in the 10% but not here because of the charter provisions? Is that accurate assessment?

>> It is because of the way the offer is presented. It gets into a charter question as to whether or not you can -- it gets into the vested rights benefit. The 2% and gets into that area and the normal cost and that's the problem. Now communication back and forth with the unions I don't know. I had a conversation with Mr. Platon about case law but didn't engage in the conversation.

>> And it can be clarified and council member Pyle and legal proposed and not shifting the 10% compensation from the city's responsibility to the employee's responsibility. It's a completely different proposal from what you had from these units presented today.

>> It doesn't include any extra and the proposal you approved yesterday didn't have additional contributions. The second 5% is with the 12 furlough days and reduction in pay and first 5% is what you approved.

>> With all due respect at least four months ago I presented the idea of allowing our unions into -- and I am sure you remember Alex and no conclusive answer to that question was ever given to me. Now, why are we talking forever and nine days? And I am angry and not at you but we are making it harder and harder to deal with us and I want to know what we can do to simplify it? So I would expect that. [Applause] I'm not doing this to get praise. I am just trying to get understanding, true understanding. I don't get this.

>> Council member let me start to try and explain it and Alex can add on. A shift in retirement contributions works. What doesn't work is to establish an amount which goes over the charter limitations for the normal costs of the 811 and 311 that Alex identified so the 7 1/2% and in the city's offer is within the threshold, but it is now this proposal which doubles that amount which moves from funding the unfunded liability portion, which is really what is okay, but it is so much money and moves into the normal on costs and that is the problem.

>> I get that but should be aware of this before that.

>> Quite frankly the proposal came to us 48 hours ago. There was no bargaining going on and everything but bargaining going around the process so the city had no way of knowing or engaging and sorting out the issues and that is the fundamental problem we are confronted with 48 hours ago and at this moment and I understand your frustration and not because the city withheld the information. We were not talked to because of the tactics taken and that is the consequence of dealing with the labor in this manner and because proposals don't work and so complex they cannot be fully vetted and evaluated and fully analyzed. That is where the disappointment lies and the fault lies. I understand your frustration. We didn't hide anything and the staff did a great effort and up all night and looking at reports and make sure we're within the guidelines of the charter and that is what happened.

>> I want to mention that everything the city manager said is correct but despite that we have made it work and we work very hard to make it work. With the initial proposal submitted by the units and we made that work. And we made it work through the conversations we subsequently had and questions in my negotiations and ask why did you award prior service? They had that in the language and in the conversations we had it because of the city charter and this code language so we worked with the city attorney's office and word it as unfunded liability and we thought that would work and as was indicated and double the contributions and just 48 hours ago and double it and that is the issue. Not that we can't make it work. The offer before you make them work in a way we think they can work and lastly the city attorney mentioned the issue of 12.75% and I got that number and totaling it up and I didn't have a chance to talk to the retirement department and have them confirm those numbers and it's pretty clear but to get to the exact number and have an actuary look at it and the normal costs.

>> I didn't mean dispersions to anybody and it's a shock. You knew about it and we didn't and the compensations and et cetera and I am hoping that the unions and the city will continue to negotiate and try to get these rocks out of the road so that we can complete success negotiations. Thank you.

>> Council member Pyle. I do want to know and let me suggest that the council may want to go into closed session to explore any other options. I want to put it out there and it's your call.

>> I think it's a great idea.

>> Council member Liccardo.

>> Thank you mayor. Just to explore this issue whether or not what the technicality or something more real. If there was a deal that was struck on the language that is before us, and unhappy employee decided to sue claiming that their rights under the charter were violated and even if part of the bargaining unit that approved the deal, they would have a claim against the city, is that right?

>> That's correct.

>> Yes. And they could claim that we violated the charter and they would probably win.

>> Well, it would unravel at least with the portion that deals with the normal costs.

>> Right and the city could be enjoined from executing the terms of the deal which would leave us short of money somehow and mean cut services to be able to find the savings.

>> As to that portion, yes.

>> Okay. What I understand that we're in the circumstance because of 11th hour bargaining. I understand often that's the way it works but in this case I think there was uniquely amount of the bargaining work was very much done at the 11th hour and maybe the 11 and a half hour and my understanding this issue was discussed at least between some representatives of the bargaining units and your team in another context. Is that right?

>> That's correct. Related to the initial proposal for the seven and a half.

>> Right.

>> Again we were wording it carefully and asking the reasons and this is not one of the unions here but Randy and Chris wasn't at the table and I noticed you use the "prior service" and get back to me and why you used that and we used unfunded liability and that works and we again had conversations and Gina did and that's why we worded it that way worded it that without and out of the normal cost issue.

>> Was Chris himself aware of the charter issue based on the Conversations?

>> I have worked with him and I think he knows what it says and versus the eight to three split and versus that.

>> Okay.

>> And to be fair as I mentioned earlier Chris told me yesterday that he believes the city charter requirements can be waived.

>> Yeah. And I understand that fundamental disagreement that we have and the problem is even if we agree with their point of view and if we're proven to be wrong then we're stuck.

>> Particularly without the contingency language that we had drafted.

>> Right.

>> And if we can't implement this and earnings -- just out of base pay.

>> Right. Okay. It certainly is my hope I would like to hear from my colleagues so I will stop talking and if we in fact impose we will continue this conversation and it's my hope and pushing that remainder that goes into the normal costs and I guess it's about a million dollars in savings and use existing earmark reserves and pushing the

savings into the following year and make it work and but we're not at that and I understand that time has passed and we can continue to work and make this happen after.

>> Council member.

>> Yes, I would like to ask Christopher Patton if he would come down. This is probably a question and just rhetorical and we're at the point we're at.

>> Thank you Mr. Mayor, council members. Christopher Platon.

>> I think the council member has a question.

>> Just identifying myself for the record.

>> Thank you.

>> Are you aware this be be a problem with the city charter.

>> I am aware of the charter and I don't believe there is a problem and I will address the questions from today and the comments from the council.

>> Because the mayor has said it's not a debate and just a question and answer so you were aware and you felt it created the ability for the city to waive --

>> Let me say three things.

>> Pertaining to my question?

>> Yes. There is no language and look at the charter there is no language in the charter that prohibits any agreement between collective bargaining parties to permit employees to subsidize any portion of the employee's consideration. No prohibition, no language that says you can't do that anywhere in the charter. The case law and unfortunately have to go back to the great depression and the case law and I refer to Scott versus the city of Los Angeles and I discussed briefly last night with Mr. Doyle as he indicated and was the case close to this and the city of Los Angeles told the employees and despite the ordinance and pay the salary they didn't have the fiscal resource it to do so and request that the employees waive it and the employee sued and the court of appeal and found it effective and with the act and created bargaining public employees and employers and our judgment through the agreement you may waive a particular provision or right under a charter and finally number three as I tried to explain this yesterday this is an issue of not of legal technicality but of political will and if we set aside and agree for a moment and the portion of the costs and subsidized by the employees and clearly the large majority is prior service costs. We have also agreed that for any reason the contributions would cease we would give it to the penny and protection is there and legally we were wrong about this and that is the answer.

>> Thank you. That's all the questions I have.

>> Thank you very much.

>> I would like to go to the city attorney and hear your responses to Mr. Patton.

>> At the issue of waiver and looked at that case and he is correct in terms of the factual circumstances are remarkably similar. A depression case. You have police officers taking a 10% pay of cut but ordinance that was being waived and not a charter provision and the difference is key. In terms of vested rights this eight-three split and vis-a-vis the normal costs and creates a vested right and the general rule it can not be bargained away through the agreement and issue to that effect in the past. To the extent though I will just leave it at that.

>> And then he had the other two responses or two points I'm sorry.

>> The other two points it's the point and a point I am in agreement with and the unfunded liability and the proposal covers that so talking about a smaller amount, but as written the proposal gets into the normal costs and that presents a problem. The second issue is that the language about we will come back and try to agree or seek agreement to cover any deficiencies. That's in the language. It's not the language that Alex indicated to you had anticipated given the comments made the other day and the city would automatically take it out of pay. You have to go back to the table and try and work it out and essentially that confirms what he is saying.

>> My goal and wish has been find a path that lead to resolution. I believe the employees wish to find that path also for resolution. Unfortunately the 11th hour proposal has created questions that we need time to research and get answers to. My hope as with council member Herrera is that these questions would continue to be asked starting this afternoon or starting tomorrow. I will be supporting the imposition but that does not mean the dialogue ends here. It means the dialogue can continue, and while I see heads shaking out there it's not about shaking the head and walking away. It's about coming back to the table and being just as hard headed as we all can be and I am assured on many occasions I have an extremely hard head and continue the conversation and the dialogue and the resolution and make it possible to be the great city and offer great services by fabulous employees that made this such a marvelous place to be and each city employee is the reason this has occurred. We all have the capacity. Our community, our citizens employees and staff and participate in the resolution. I might not get everything that I want but something that respects the employees and acknowledges the community and the reality of today. I don't believe the employees are aware of this and they have more than indicated they are cognizant of the financial arrangements and not just of themselves but that of the city. I am truly sorry for the feeling that the city is balancing the budget on the backs of our employees. Our employees like all of our community members benefited in the 2000 with the economy that we all got to so enjoy. That is why the benefits got to where they were. We were all benefits from the 2000's. But we all now must tighten our belt, acknowledge the financial arrangements we're dealing with, and move forward. I would be pleased and proud to partner with each and every one of the employees. I would not be proud to call a friend. I will be supporting that motion. That does not mean I don't believe there is not a solution. Thank you for all the wonderful care you give the community and continue to give the community. It is a true partnership. Thank you.

>> Council member Liccardo.

>> Thanks mayor. I know I am not entitled to play appellant attorney and I will try to play one on TV for a minute. I have a couple of questions and try to understand this better and you know a lot more and we are hearing different opinions from you and Rick. When you say there is no prohibition from employees and subsidizing the contribution and we know and everybody agrees that is true with the unfunded liability but with normal costs and the bolded section says "shall not exceed the ratio for three for employees and eight for the city" and why shouldn't I read that as a prohibition?

>> We're not suggesting that the actuary doesn't set the rates. We're not suggesting that. That is really what that means but there is nothing in there that prohibits a waiver or collective bargaining parties and reaching it and nothing for them to change how medical health premiums were divided and costs, so you will see no prohibitory language on that and the right that is vested is the right to the pension and not to the particular costing. In fact as of this moment with respect to police and firefighters there are a certain portion of normal costs in 1996 that is being paid by the police officers and firefighters in this city and now denominated service and an arbitrator did that and normal service costs and today police officers and firefighters employed by the city are paying. Before those provisions and from prior charter language came into place there was no collective bargaining. Today there is and reach whatever they want on the agreements and distribution of economic costs so even reading the language with that we're not saying that and that will continue to happen but an agreement essentially outside the system and allows the employees to subsidize the costs is before you and there is no prohibition to that.

>> So your suggestion is that under collective bargaining it can be waived at the table.

>> Correct and there is case law for that.

>> And police and fire could waive their right to arbitration?

>> They could.

>> I am guessing Rick you may not agree with that.

>> I'm not going to get into the binding arbitration and the legal debate and I guess it is what it is and let me preface and I would like a solution too and not only the benefits but contribution obligations and defined under the agreement or the charter and case of Allen versus the city of Long Beach and changes and increase from two to 10% and the court said no that is a vested benefit and you couldn't do. Again I would love to find a solution here and I think there is one, but that's why I keep suggesting closed session.

>> I recognize what you're saying Rick and obviously the contribution rates themselves were not vested and we could retroactively change them for current employees and again nobody one believes and you run the risk of a vested benefit cannot be bargained away and instead of hours and wages and working conditions.

>> Vested benefits can be bargained away as long as it's for benefit and that's the case law. The Long Beach case is not like that.

>> But there is no suggestion here that it's of equal benefit.

>> We could have a conversation about that and but vested benefits that not like that.

>> And that maybe true and asking for concessions and folks are not getting it.

>> And I understand your point and you're absolutely correct and not just at the 11th hour and at the midnight hour and time stops. Seems to me that the council may want to have a substitute motion and solve this question or implement those parts that we can implement and until further bargaining.

>> I appreciate the suggestion and I am worried we get deeply mired from a legal mess and I think we will solve this problem. I am hopeful. I think we have a lot of bright people around the table including yourself. I think we have time. We don't have the time before we pass the budget and after that I am hopeful we get to the table and make this happen.

>> We will do so.

>> Great.

>> Council member Nguyen.

>> Thank you mayor. So Alex let's just say in fact that we move forward with the imposition. When can the bargaining units come to the table and start negotiations?

>> Council member Nguyen as I mentioned the other day implementing the terms is what they call a suspension of bargaining so what ends this? It refers to the change in circumstance. What is a change in circumstances? Well, that could be on the bargaining side or the city side so they can call tomorrow and let's resume bargaining. We think we have a different idea or way to do that and that is a change. Circumstances and get us back to the table tomorrow or we think of something and go back. It's really a simple -- any change in circumstance can trigger it and can happen at any time, today, tomorrow, the next day.

>> Thank you. I don't think there is anybody that is going to doubt that is probably the hardest decision we will make, probably the hardest vote of the year. At least for me. I have always been open to look the proposals and jump on the band wagon right away and I feel there might be solutions out there that would create a win win situation for everybody, but we have gone through this so many times and I felt I always did the right thing and given everybody the opportunity to come to the table but just listening to this discussion today and the legal rationale behind the questions being asked I'm not going to ask those questions and we're going round and round in a circle and getting the same answers and maybe to some it means a slap in the face or the worse thing

you can do it an employee but I think in this unique situation it simplifies a way for us to find a better solution, so it is with a heavy heart that I am going to support the motion, and go forward with the imposition so we can come back to the table and find a better solution. Thank you.

>> Council member Chu.

>> Thank you Mayor. A question to Alex and the bargaining unit away of the limitation to the contribution -- to the normal cost at 12.75% and talked through that yesterday.

>> Not what when we started.

>> But now.

>> And I don't think Mr. Platon thought it went into the normal cost but I did provide a page from the report and I can't represent what everyone's understanding was and the main spokesperson was Mr. Platon and that's why he modified the language and moving away from unfunded liability to contributions.

>> I will reserve my other questions for later. Thank you.

>> Council member Oliverio.

>> And this is to the closed session and the am estatic we are having the conversation today and that the attorney is here and answering questions and you're worth every dollar so congratulations. I would say without the legal help step forward and present a 10% that worked and we're appreciative of that and they stepped forward on the medical changes and it's only fair that we have harmony with the medical plans for all employees. I know we have some unions and fair and equal. Everyone should have equal copayment and cost sharing and makes sense and regardless of the title in the city. If you feel there is a failure to communicate you're right, 100% and because of the current status of having the meetings as private. All the unions could learn from each

other and open negotiations so a question of this that is this complex and every other labor union is clicked into what is going on. Every employee would be clicked into what is going on. Every resident would be clicked into what is going on and you see we have a hard time with this and emotions and what we have in the bank and we have to get there. If you're angry it's okay because the system is all screwed up. So I really hope this council will make some efforts and the union bargaining trades will come forward as well and let's try it with one. Let's pick one and step up and have these as public meetings and I guarantee it will be simpler and congeniality and respect and the other way is destroying us and the morale of the employees and us in the middle of everything that is crazy, and I would love to be a fly on the wall as the public or employee and see what happens there instead of being in the dark so I am supportive. We will see what can be worked out later but the case is to impose and we need to secure the savings now we so can keep the services like libraries and community centers open. If we fail to do that and with council member Liccardo's question and do something to balance that. That's it. Thank you.

>> Council member.

>> Thank you. I had questions with the legal issues that were raised and first go to the page with the charter please. I think that Mr. Platon raised some interesting issues and looking at section 701 and the city manager and addition to the execution of all laws and provisions and the charter and it indicates a responsibility for the faithful execution of the actings of the council and ultimately it's our action that determines how we proceed, and before going into the legal issues I want to make it very clear, and I got a lot of Emails and comments were made and somehow imply that the employees have come forward at the 11th hour and have not provided what we were seeking and I just wanted and Alex be clear about that part and to the penny the employees did provide an option and achieve the cost savings we directed you to seek back in march.

>> Notwithstanding the legal issues it did do that.

>> And the one time -- if the legal issues are resolved.

>> Correct and that was a very significant step.

>> I wanted to make that clear and not a question of whether we are bargaining from 10% to something lower with the bargaining units and I hope the public recognizes that and a lot of the people that Emailed me and indicated somehow we're giving in or doing something short of what we asked for. It's quite the contrary. The bargaining units have come to the line we asked them to come to and certainly there are other issues and we asked five and 10% and on going and one time and of course there are other ways to do it and we saw it was done in a variety of ways but I want to start off with that and I hope that the community recognizes this is not the case that the sacrifice is not willing to be made. It is very clear that the employees have come clear and willing to make that sacrifice and the only argument that is being made that gets in the way is a legal one, and so I think that's really important and I hope that the media reflects that as well that this is not a battle of -- kind of tug of war battle and find ourselves on that line and how to get that from the bargaining units. They came to the line we asked them to and with that preface I would like to talk about the legal issue. Now, I am -- first of all, Rick you indicated 12.75% and legal and not a problem and 2.25% approximately and more of an issue which it comes to the eight to three as indicated in the charter. Is that accurate?

>> Yes. And that's just based on the GRS evaluation numbers and was indicated he ran those and that is the the estimate, yes.

>> The risk of going forward with the employees proposal -- the city proposal and again both of them achieving exact same amount of money and the manner we asked. The risk is to the 2.25% that -- at least your opinion and Mr. Platon have a different opinion but yours is it subjects us to legal action?

>> Yes. That's the vested rights portion, yes.

>> So Alex the amount from the bargaining units and general fund is approximately \$6.8 million and seven of million dollars and that range?

>> Correct and a little over \$7 million

>> Is it much over or is \$7 million a fair estimate?

>> We can confirm the number but about 7.7 and we will confirm during the meeting.

>> So that is what we achieve if we get the full 10% which is the 15% additional payment into the retirement fund and and what we're talking about here and the only portion and subject to legal action is the 2.25% and not the 12.75% so if you take that similar ratio of approximately three to two ratio and 15% and wage reduction or 15% sorry into the pension fund and equal 10% total compensation and three to two ratio. With that same ratio and 2.25 and with this and one point 5% so out of that 10% and out of the 10% we're trying to achieve is subject to legal action and out of \$7.7 million and about 385 -- so talking about 1.15 million or so so it's about that and roughly about 1.15 million is really what we're talking about here, and this is not in the difference of what is being offered by the city versus the bargaining. They're offering the full amount and the 1.15 million is in question and legal action by current employee that is in the bargaining unit even if they waive any issues to the charter. So Rick what is the legal liability if we go forward with imposition on the terms that are set forth? Is there a legal liability by doing that? By imposition by a cause of action and the bargaining units and opposed to having an offer of equivalent nature and not accepting it? Both in terms -- looking along the lines of good faith. Looking along the lines of cause of actions and similar to those that could be brought and if we accepted the employee's proposals.

>> Council member I am always leery of trying in public talking about the city's potential liability and exposure for obvious reasons. Let me say with that in mind there is a risk. There is always a risk, but we think the risk is lessened with respect to the fact that we're funding the unfunded liability. There is a risk.

>> There is a risk, and isn't additional risk and it's imposition of terms opposed to agreement at the table?

>> With respect to the unfunded, yes. I think I can note that it's always better to get an agreement and have the parties agree than oppose.

>> So on the contrary side and the flip side of that isn't it a reduction or mitigation of risk and the fact that if the bargaining units proposal is accepted at the table and isn't there a reduction or mitigation of risk and with the terms or implementations and doesn't it reduce the risk legally?

>> With respect to it yes but with respect to the normal costs, no. I think there is still that issue.

>> Okay. The point being that there is a differentiation in terms of risk mitigation when you're talking about accepting at the table opposed to implementation?

>> Yeah. That's correct.

>> Now, is the risk greater -- do you find the risk to be greater in terms of implementation versus agreed upon agreement?

>> If you're talking about the unfunded -- I mean the concern is, well talking about the unfunded liability and let me just say that it is always my view that it is better to get an agreement and you're less likely to get a successful challenge than when you implement to legal issues out there and I am not alone in that view.

>> So and that's what I am getting at we're opening ourselves up to liability by implementation and not just one route and both do.

>> Yes. But in my view again the greater risk is to effect somebody's vested rights under the charter and assignments like a small -- seems like a small amount but could trigger a challenge.

>> And according to the agreement that Alex put forth the portion that will be subject, and again in reading -- could you put the agreement up again, the terms. Yeah, the small worded one. Thanks. And so it indicates if some reason in the event that the additional are not implemented by September 1st or ceased for a reason no additional contracts required and the parties shall open up and equivalent amount and total compensation is achieved, so in other words, and you have indicated that 12.75% and confident and no legal challenge but the 2.2% is challenged and again a way to fund it and the way it's written and not -- we're not going to brush aside the million dollars. We will find another way to fund that million dollars. And as was indicated Mr. Platon is confident but with stand legal challenge but for some reason it doesn't they're still on the hook of coming up with agreement that makes up the \$1.17 million difference.

>> It's the agreement to agree. The default provision and the that the city manager has mentioned that he would want is a fall back that says you can immediately take it out of compensation so there is no question. That is the issue.

>> I understand that and we will find a way to make up the difference.

>> It requires to go back to the bargaining table.

>> Yeah and doesn't take away the responsibility of meeting the 10% and the equivalent amount will be achieved.

>> That's the intent but in essence you may have to go again and with the balance. And again I bring that up as well. It seems like the two options and fix the budget and the services and have to implement and get the 7.75 million. The employee's offer also gives the same amount of money to fund those services, and the only cause of action would be by individual employees and even then that risk is mitigated and the bargaining unit waves that charter and agreed to at the table. Now if implementation occurs the legal risk is not just an individual employee may file a cause of action but the bargaining units can do that. Now isn't that inherently more costly endeavor. We're going against bargain unit attorneys and have them suing as a group with accusations

and basically under collectively bargaining and accusations of unfair labor practices, what have you. That can be literally be in the hundreds of thousands of dollars in our cast costs and trying defend implementation on the bargaining units. Is that that fair to say?

>> I don't want to go into that and it's hypothetical and I can't really --

>> Well, not aren't lawsuits hypothetical and talk about it on one end and not the next.

>> Council, I don't want to get into the litigation part of this. We are giving the legal opinion and the vested right. That's the issue.

>> And again I think my point with this and I hope somewhat clear in that it's not simply a question of avoiding legal liability. If that was the case then certainly I would understand the reasoning behind implementing but we are opening ourselves up and implementing as well and very likely and quite likely and just as much liability or more and challenged by themselves and not just individual employees and that is speculative and the individual employees are the ones voting and ratifying this agreement. It's likely -- far less likely to get a lawsuit from individual employee and then it's one employee or two or handful and less likely to endure risks and costs compared to the bargaining units against us and second there is the legal one I referred to earlier and agreed upon settled contract in terms of the bargaining table and certainly as you have indicated mitigate or limit potential risks and that would include a waiver of the charter. There is disagreement and we're not here as a appellate court and I will not make choices to who is right and require more research, but the reality is it does offer it some mitigation of risks, and also the fact that we do -- we have all stated this. We have a lot more work to do, and it's going to be much easier to get that done at the bargaining table and reduce further risk and create the atmosphere that was referred to that we want a harmonious or open dialogue and we can get there much more easily if we agreed to terms together, and mitigate the legal risk together as well as a team with Mr. Platon at the table and with you Rick and others and mitigate the risks to make sure we don't open ourselves up to liability. I don't think this is as clear cut of a legal case as being made, and I don't think you made it -- you're not saying that either and I don't want to imply that and I do think there is great legal risk and the cost benefit --

the cost if there is a legal challenge if that legal challenge is upheld and 1.15 million and still get and implement. The risk of implementation is again credible litigation and extreme costs and I think to continue the fraction of city hall and dividing the employees from the community. Dividing the employees from management and from city council and I think that's a hugely valuable asset that we're ignoring so -- [Applause] I really hope that -- I will not vote for the motion on the table. Again as I made clear in the beginning it's not because of a lack of will to have the employees sacrifice and either option and same money from the employees and not siding with one side or the other and looking at the litigation risk and liability on both options and seeing what we have to do to continue move forward and take care of the structural problems and other economic issues that we're facing in this across.

>> Council member Campos.

>> Thank you. I want to go back to the 2.25 and that seems to be the legal problem we're talking about right now and I want to ask you a question about that. I know that the unions sent a letter which was waiving their option so that you could go back to the table and negotiate yesterday. Was there a time on that?

>> Not --

>> End today or is that still play in exist and maybe if the attorney can answer that.

>> Council member Campos, the actual waiver itself that was provided does not have a time limit. The time limit in essence was established by the city council and have us come back here today and reach an agreement in the 48 hours but the waiver language itself does not have a time limit on it. I clarified that yesterday and what the language meant and if we didn't reach an agreement and his view vote to implement and he answered in the affirmative, yes but it's not time limited.

>> So the city council could also -- I guess this is for you Rick. Could the city council also ask Alex and his team to go back to the bargaining units and or maybe ask the bargaining units to put the 2.25 portion of their offer that exceeds the retirement unfunded liability into the base pay concessions?

>> Yes your time limit your budget.

>> So we could adjourn the meeting or take a break for another time, half an hour, hour if we wanted to ask Alex to go back to talk to them.

>> Yeah. Council member as I mentioned previously the 2.25 is based on a report from march 2010. What would really have to happen is we have to get confirmation from the actuary of that amount and for a few reasons and they confirm that you could put -- that's that the exact right number whether it's 2.25, 2%. In addition there is a slight complication because the actuary report that was adapted that I am looking at is not the rates from July and complicated phase in that the board made and I do think a confirmation from them and trying to determine if you're trying to get to the exact amount and not in normal costs I think it's very important --

>> And how long would that take?

>> I really don't know. I have to ask Mr. Cosby and how fast he can get it.

>> Do you think we could have an answer before 12 days are over?

>> I really wouldn't be able to -- to be honest styles they can be resolved quickly and others longer and I wouldn't want to venture how long that would take.

>> And the staff could direct them to talk to for however long and yes.

>> They do have the ability and I wanted to confirm with Chris and Alex had said that the waiver has no time limit.

>> That's correct. We agreed to meet within 24 hours. I have been informed by my clients they're agreeable if you want to take a break and any amount by the actuary and normal costs opposed to normal service and guaranteed by reduction in base pay if necessary and turns out we're wrong on the legal interpretation we will in writing guarantee that that payment will be pedestrian and made and we are willing to do that.

>> Let me stop you right there. We have a charter and we have policies and procedures. We have resolutions. The bargaining is done by the city manager and her unit, not by the council. This is a direct offer, direct dealing bypassing and I don't think we should do it.

>> So mac I want to mac I I am not prepared to do that and I am prepared to sit here in chambers and allow them to go back to the bargaining unit and it is very clear to me that the city attorney as stated we have that option to direct staff to do. They are the ones that do bargain with our bargaining units and I am prepared to do that and maybe my visit to Sacramento yesterday and sitting with the speaker and hearing the fact they were able to come up with an agreement with the governor and willing to sit in their chambers through the night and I am and until that I an option I will not do it.

>> Council members. [Applause]

>> Council member constant.

>> I first of all I agree with the mayor and not direct dealing with them and I will say what council member Campos said is the essence of my motion. My motion is we take this action today and direct staff to continue negotiating to come to a conclusion and meet the requirements and swap it out so there is no difference other than theatrics to what was just stated by council member Campos and the clear motion that is on the table today. I urge my colleagues to follow the process and the procedure that we have. Let our negotiating team and the union

leadership do what they do best, and to continue to work on this. We have been very clear on Tuesday and again today that imposing the contract in no way closing the door on negotiations. In fact it opens a wider door for people to go out and explore new ideas if that's what they choose to do. Any change of circumstances but to send our staff out to go use a napkin or something in the hallway and create a deal and come back in here without having the full legal analysis by our city attorney which is the direction and the motion that we have right now to look into not only the legal issues that we've pulled out but maybe any other potential issues with the language because it really has only been 26 and a half hours since we received this deal, and that was actually just in a short Email. The details of the deal are much less than that. Two days -- 48 hours. It's been a very short time. We really need to make sure that we have the legal analysis. Whether it's by our own city attorney or outside counsel if that is what that takes but we need to be darn sure and it was pointed out maybe it's only the 2.25% of the package that is at risk I think the risk could be much further because a court could strike down the entire provision and say go back and start over and we could be negotiating for another six, eight months before we get to this position again, and the risk is not just that one point whatever million. I don't think the court has anywhere that conflicts and look at it and I think there is a good possibility it all could be struck down if we're whereon and we owed to the residents and no service and we have to start over. We owe it to them to do it in a responsible way. We owe it to the residents that we honor our charter and look at the charter and doing things legally because that's what they expect when they vote on charter language, and if we can do it by all means I would love to accept this, but I'm not willing to do it with the amount of risks that's being brought to us. We need to make sure that we get this right and if we take this vote in the next five minutes or five hours where ever it happens to be and nothing to say you can't go into another room and negotiate for the 2.25% or whatever you would like to do and get back to us and all we miss is a couple of days but we can approve the mayor's budget message and the budget and we are able to move forward as a city. That's what we need to do. The clock is ticking. June 30th is right around the corner and we have an obligation to complete this. I say we do this. We follow the recommendations of staff. They're very well thought out and it leaves a wider door open for us to make changes.

>> I just want to talk a little bit about the risk analysis that is done here and it's kind of interesting that we're now contemplating taking a risk having heard from lawyer for the bargaining units and our city attorney here and I

would like to compare that level of risks to the level of analysis and discussions that have done on the first 7 1/2% and in the last, best and final offer and I in the discussions and eight page memo and from the city attorney and confidential and just on the issue of the seven and a half percent. There is another memo on the issue of sick leave and a lengthy memo on vested rights and what we can bargain and what we cannot bargain and right now I am sitting here and contemplating risk on a 1938 case that the lawyers for the bargaining unit thinks is good and we have outside opinions from outside counsel and I am not prepared to take the risk without a full understanding of the risk and the quantity of the risk and I disagree with council member that it's only that amount and once you are in the court house everything is at risk of the greater risk is putting 15% into retirement and opposed to 7 1/2% in half percent and retirement and having three lawyers is a challenge and we have six different opinions on and I am not paired to do that prepared to do that and not fair to Rick and based on the complexity of the issue.

>> Council member Chirco.

>> Yes. I usually only like to speak once but this is an issue that just demands it that I try to communicate again. The city is in the position as council member Herrera pointed out we don't have an option of just postponing the budget. By law we have to have a budget by June 30 and while it seems like a ways away and check with Jennifer and how challenging it is to finalize everything and so we have a budget that can become an ordinance by June 30, so we need to honor the employees in our budget office that have been working 23 hours a day for several weeks now and without losing their very wonderful personalities and I mean that from the bottom of my heart. I have seen them coming and going in the elevator. I do hope that all members of the coalition and I have a list here and AEA John and MBI Tom and camp and I believe K Dennis and AMSP Darrell and Sal and I honor your offer. I hope in my heart and I pray that you will authorize your agents and Chris Patton to bring that offer to the table. This is your offer. You brought it to the council. This is not changing my vote. This is just a plea to come back. It is your offer. Make it your own. Put it at the table so that we can honor what you ask of us. We've already pushed the time limit and our ability to pass a budgeted budget. It is important to all of our employees, all of our community you, and our city that we follow rigidly our own policies and ordinances. That's the trust we have with you and it's the trust we have with our communities and it's our legal and moral responsibility. If it's appropriate now I would like to call for the vote.

>> I have a call for the question. I think we have to vote whether or not on the call for the question.

>> I would move that we call for the vote.

>> All right. We have a call for the question. Is that right city attorney and procedurally and call for the question. Yeah. We do have public testimony.

>> I think that's a fair ask. Can I call for the council to let the public speak?

>> We can let the public speak and there is still opportunity for the council to speak after the public speaks. That would work I think. If we take the public testimony. We're not done here as a council. Why don't we do that and take public testimony and people have been wailing. Waiting. Even though it was on the agenda Tuesday and we usually don't have multiple public testimony but I will take it today and things have changed. Please come on down when I call your name so you're close to the microphone. (calling speakers).

>> I would like to give our two minutes to our attorney.

>> He has a hard in. You have two minutes if you want to use it.

>> For council member Oliverio we wanted yesterday to have this tape recorded. We wanted you to see what was really said to us. How this meeting went. We wanted it just so you know. We think you need to be there to see some things. We encourage it. To our friendly council members that have stood by us -- for those that were really there for us we thank you. [Applause]

>> And we do say to you everything is usually done at the last minute when it comes to negotiations. You still have until June 22 and this coalition was asking for more time, another 24 hours. You knew in a heartbeat we brought you the waiver. We handed to you before the council closed that night. We were here yesterday. We

had it done and you know we're committed to doing it and imposition is really sending a wrong message. You as elected officials of the tenth largest city of the United States will go on record and not only here in San Jose but to all of our internationals and your tactics what you have done today and if you impose this today so council member Nguyen -- all of you we ask you not to impose on us today and as our attorney stated give us that 24 hours. You know what we're able and capable of doing and my God for those that surprised me and I have pneumonia and I am here. We R capable.

>> -- are cable.

>> You're time is up.

>> Good afternoon I am a city employee and worked for the city for 19 years and very proud employee and done my part. I have compared for the community and came to the country in 1997 and living here since then. I am here today because I would like to ask you to consider the option that the unions have presented to you. It's impacting a lot of people and if you impose all of it be demoralized and I would like to thank the council members that were helping us yesterday. Council member Nguyen I thank you. Council member Pyle I thank you. Council member Chirco I thank you and give us an opportunity to work with you. Thank you.

>> (calling speakers).

>> Good afternoon. First for the record I do recall council member Pyle's retirement idea. It was an outstanding idea and why it wasn't addressed by staff is left for the ages. Obviously there has been one citizen for a long time asking for structural changes to the city charter. This event today should emphasize the need to pursue that in a variety of ways. The emposition tactics imposition tactics I understand Mr. Mayor where you're coming from and can't understand how it can be done without rebeats and I don't understand too from a legal situation if you impose it and issue like breech of contract or negligence on the part of the administration for not paying attention to these city charter definitions that you now assert rightfully so is being important. You have an entire staff to my left here who's paid very handsomely to deal with these manners and they have dropped the ball repeatedly

and causing this an misand angst. I think you have grievous decisions to make and concerning the changes and such actions by the administration. Thank you.

>> Thank you Mr. Mayor and members of the council. You now know through public session there is a win -win alternative availability. You available. You know that. And following up on the council member comments and that is the path and you have all said that. Give us the time to make the deal and acceptable to both parties. Give us through at least through Monday or Saturday if you have to but in 24 hours we turned this entire situation around on its head. 24 hours affecting thousands of employees and millions of dollars. Gliff us give us that opportunity now and that is the solution to collective bargaining issues and can provide the way. If you analyze the percentage of moner we're talking money we're talking about and let's say my legal analysis is wrong and I will accept that possibility is high, just for purposes of argument, but seem it's wrong for the moment and analyze the costs here and accept the union's offer and I am not suggesting that we do that today, that doesn't come in for 23 pay periods and not effective until next march and plenty of time to resolve any legal issues. I'm not saying that we have to do that but an alternative and bargaining party wants to resolve the issue and you know it can be done and avoid the damage and scar and impose terms today.

>> I am Theresa Hayes and employee for 13 years and I have been in the private sector for 20. I serious issue under lies the budget cuts. Your employees, the ones that make things happen, are completely demoralized and left with little trust in our key decision makers. I also want to thank those that have supported us in the last couple of days, but shame on all who have contributed to the media and the public's misconception of who we are and what we contribute. You imply that we need to tighten our belts. We have done more with less through the years with cut backs and downsizing. We provide great level was service with the leanest amount of employees in the nation. We ask you to acknowledge our contributions out loud in and public but not saying anything to stick up for the people that want to bring quality of life to the citizens of this community is just as bad. It leaves everyone up to having misperceptions. Because while budget cuts cause serious personal setbacks they will not break us. Fear, accusations and blame from our leaders will. Stand up for those that employ city values and giving their best to the city. Don't impose and close session by the way and sunshine transtranstransparency and seems like a oxymoron to my. Didn't me. Doesn't it to you?

>> Mr. Cleveland and the employees of the city of San Jose have stepped up at great permanent success to solve the budget problem. Now, we have told through a technicality 2.25% that it can't be done. It has to be the city's way. I ask you for the sake of employee morale and good will if nothing else and give us 24 hours. That's all we ask. Thank you.

>> Okay. (calling speakers). [Applause]

>> Honorable mayor and city council. I am president of camp IFPE21. I was one of the representatives and employee representation staff meeting yesterday and I am concerned and I heard some things I didn't hear in that meeting yesterday. That's exactly why we ask at the beginning of that meeting if the meeting could be tape recorded and he said no. On behalf of my membership we have worked hard to come forward with a proposal that meets the city's target and I still ask that you do not impose on us. In closing my comments I would like to echo the sentiments of council member Pyle and clearly there is a failure to communicate. [Applause]

>> (calling speakers).

>> John MCKAW and from the local 21 and I am the president. Imposing a contract today would drive the wedge deep leer. The tuft -- the trust would be gone. This is the best offer that the city has and preserve services and prefer employees themselves. Next% of our members this -- 96 members voted for this and to reach that like Chris side and 46 weeks to reach the 12.75%. That's a very long time to work out the details of how we -- and we made the guarantee and we're saying 24 hours we will get this resolved now if that's what it's going to take. In our proposal we have a guarantee that give you the exact money we committed to. The 10% of total compensation package. 10%. That's what you asked us. 5% on going and 5% one time and that's what came back it and again I will personally lose my house in San Jose and comes out to 14% of my check every month thank you.

>> (calling speakers).

>> Good afternoon mayor and city council. I never expected to be addressing you three times in a week so here we are. This all boils down to trust, this negotiation process. I participate in negotiations. This is the first year I ever did something like that and came in with a certain expectation of the process would be and after six negotiation sessions and I am sure Alex can tell me exactly how many there were and we reached impasse. I think council member Oliverio is right. This process is messed up and I could use other words but I don't want to offend anybody. How do we fix this? This is a mess and I would be happy to put it all in front of the cameras and show up everyone what say messed a mess said up messed up process. We do things all the time to make things happen. We are engineers and make things happen. We got a huge portion of the membership to turn out and vote. We make things happen. We build libraries and fire stations for you and make development projects happen. We can do this. This doesn't have to be this way. It all boils down to trust. Do you think we're going to put you in a situation we're going to take the money and run? We're the employees and here for the long-term. We will be longer after you are all termed out, so please trust us and trust us and help us fix the problem. Impotent imposition sends the right message and mashes pushes us over the edge.

>> Sorry. Your time is up. (calling speakers).

>> Good afternoon mayor and council members and I am the president of ASSP and it was appreciated for the proposal and I think everyone has said what I wanted to and get the word out to the members and do it quickly enough so thank you all.

>> (calling speakers).

>> Mr. Mayor, members of the council I wish to commend you for your action on Tuesday which was to go back to the table and see if you could resolve this situation. You showed compassion. You showed intelligence and you showed insight and I want to commend you for that. I do think that you have one choice today and that is to impose and open up the discussions and restore and the trust of all the employees in the city. My congratulations to you. I think your choice is clear and I commend you for what you're doing. Thank you.

>> (calling speakers).

>> Good afternoon. I am John max rigger. I have been with the city for 18 years and environmental inspector and a negotiator. This is my second time at negotiations with the city or I should say attempted negotiations with the city. I find the process extremely frustrating. I find the materials in the Mercury news troubling as well as the propensity of falsehoods and things and when these issues are brought forth they're continued forth they're continued. We met with members of the city and in the afternoon and the evening and I met with council member Oliverio at the Oliverio and the meeting and the next meetings we had to ask what is the cost savings to the city for each task, each issue on the 30 pages that you provided us? Two, how did you calculate this? Three, what is the benefit to the membership? On the fourth meeting we provided you and again this was the beginning of the negotiation process a savings of 3 percent and I go to the meeting and he says we're not coming to the table. I refuse to believe that your representatives did not pass that information to the city manager and the mayor and both of who were there that evening. There is a serious communication problem and best to get it out on the table and going to be controversial and unpleasant but better ton honest and get it out on the table and forthright and breath and honest.

>> District and honest.

>> Your time is up. (calling speakers).

>> These contracts can be done without opposition. That's a fact and without hypothesis. The argument that you have to do it right now and the budget can't be approved is not true. We're talking about a small fraction of the proposed deal that is in dispute and if we took a month to work on it we're talking about one 12th of a million dollars and to keep pace with hundreds of city employees and the bargaining units would make up the difference in order to have the time to reach an agreement. Vice mayor Chirco you have talked about continuing to negotiate after imposition. What is wrong with that strategy? It demeans and degrades good people. You should not never that. No one should do that unless it's absolutely necessary and that is not the case today. The fact is if

imposition takes place and negotiations continue you maybe disdesirous of keeping faith and keeping the agreement for 10% concession. I assure you that is not the case for all of your colleagues and who will be using the case of imposition to get additional concessions through the on going negotiations, and one thing I would hope that you say loud and clear is if emposition goes impotion goes forward you will repudiate your colleagues and get further concessions and from the bargaining units who gave 10% in good faith. [Applause]

>> (calling speakers).

>> The deceit starts with the message that you want 10% from the employees. You wanted 15 so why don't you just be up front and honest with the public when talking to them and you wanted 15. When we started we thought it was ten and then it became 15 and I came to every one of you and expressed by concern and sending from from the city's side and come with ideas to solve the problem. I talked to every one of you and you sent some one who would not negotiate so why would we come back to the table tomorrow and sit in a room tomorrow when you don't negotiate now ? it's ludicrous. To Mr. Oliverio you talk about openness and I sent this to you and talk with this in the open publish. We're not public. Where were you? Start treating us with respect. It goes both ways. You want respect from us and respect us and you have been nothing but disrespectful to your employees for the last three years. [Applause]

>> (calling speakers).

>> Mr. Mayor point of order. I need clarification if I speak on this can I still speak on item nine later.

>> Which item is nine? That's a different item? Yes.

>> Thank you. I assume my time will start now. First I want to put this in perspective and one hour per week per employee you're affecting here but more than that I heard from several council members they're all about they're going to be open, flexible, fair and allow for creativity and the lot and even under imposition and you have heard about that. I hope that is what you're really about folks and I think people will try and whether you're

open, honest, consistent, flexible and I want to echo the statement by several people already and about treating the employees fair and not just here but in the public eye. The other day firefighters fought a fire in 90-degree weather and got a report from a council member and input from the community they were concerned and firefighters were standing in the shade and drinking water and 95-degrees after saving the building and they were laughing. Here is the point. We didn't hear anything from the council members office and it's 95-degrees and they're good firefighters and saved a historical knowledge and only building and no concern and not any of us. I am telling you have a problem here folks. [Applause]

>> (calling speakers).

>> Good afternoon. I am a member of camp. I am on the board of directors and on the negotiating team. I am distushed by the disturbed by the statements today. We wanted to bargain. You did not. You stopped the process with the clear intention of imposition. Impotion does not imposition does not open a door. It dives a wedge. That is sad. I got hired when I was 18 and worked for parks and recreation and redevelopment and for the city manager's office and currently work for the fire department. I used to be proud working for the city and now I am embarrassed and that is unfortunate and sad. Thank you.

>> [Applause]

>> Good afternoon mayor, city council members, staff. First of all I suggest you take the recommendation of your lawyer and go into close session and discuss this. I want to thank OER and allow our members to meet today and vote on this and thanks to Alex and staying out up and working with me and will April 8 we offered the city a proposal and what we're talking about right now. Same situation. Taking money from our base pay, putting it into the retirement and it would affect the 311 portion for the employees and 811 portions for the city and reducing the portion for the city, so to say that in the last 24 hours and we didn't have time to think about it is disingenuous at the very least. This has been proposed and discuss side before and I don't appreciate that comment. Thank you. [Applause]

>> Okay. (calling speakers (.

>> To the mayor and council and all the union leaders and city manager as well. Regardless of what actions and how you vote today in the meeting I urge you to look for a new paradigm and labor relations and direct your staff to under take it. This year's negotiations have resulted in a win -lose, play my my rules or I am taking my ball home mentality. 2010 lays the foundation for all sets of future talks and we all know what happens when you erect a building on a flawed foundation and especially when we're in the air of two earth area of earthquake fault it ises.S. How does one get a win -win solution? Elected officials made headway and the threshold of five and five. The mayor exempt plies thes this and five wants five and let one cut the pie and the other decide which piece they get. You have determined the size of the pie. Let the unions determine how the pieces are delivered. The unions then could provide their offering up to you and you can verify and independent group can verify the calculations. Labor relations, economic stability and future civil servants for decades to come is the legacy of your leadership and union leadership. Memories are long and especially for those that stay with the city for two terms. Search your heart and ask the tough questions and consider the future of San Jose and as we work through this and Lyndon Johnson said "don't spit in the soup that we all have to eat".

>> Good afternoon I am miss butcher and vice president president and EMA and we did what you ask and the 10% cut and can still go forward. It states that the parties shall immediately reopen for the purpose of determining how the equivalent amount of total compensation will be achieved. We have 23 period says to do that. We are asking for 24 hours. We were not informed until this session that the city said our proposal is not doable. Before and if you do proceed to imposition and before that of any terms those terms that don't V any have any thing with savings need to be reed. The removed. (paused).

>> (calling speakers).

>> Mr. Mayor and I am Ben field and work for the labor council. Litigations legal issues don't litigate themselves. This depends on whether there is someone who wants to litigate. There are legal issues that would be raised if you accepted the union concessions as your attorney has told you. There are legal issues that are raised if you

impose. The important question is whether there are parties that want to sue and what potential costs would be? Can any of you seriously doubt that the risk to our city will be greater if you tell the employees to give 10% and impose on them anyway. This seems nonsensical and whether it has to do with legal issues in the first place. The real reasons probably vary from member to member but they really have very little to do with legalities. You have choices here. You have other options. I urge you not to take a disingenuous one and allow the unions to make the concessions. Thank you. [Applause]

>> Good afternoon. We work hard every day as city residents. We are passionate to help here in the city of San Jose and do it without any questions. Please allow our bargaining units another 24 hours to go over our offer. We have presented a plan. We gave what you wanted and ask that you take this and analyze it. I am here and supporting the residents and I am also a community member. Please do not impose. Thank you.

>> (calling speakers).

>> Thank you Mr. Mayor for letting me speak. I am used to speaking when told and I am honored to speak here. I just need to say that I am honored that you should listen to me but I would be more honored that you heed to my words. To the mayor and council and including direct two. Why must you always have closed meetings? Is it not to combine secret combinations for power and gain? Evil judges and lawyers and lay the foundation of the destruction of the people. As a single mom I too have a job like the mayor. I have to prioritize my spending. I meet the needs of my son and I, not my wants. Mr. Mayor will you meet the needs of our city? We are like a family in the city of San Jose. We need the police and the fire department. Not the pot clubs. That's my opinion as a mother. Your choices will benefit or hinder my city, our city as a whole. My son and I are counting on you and everyone else here that has power to carry forth what is just and right for our city. My your God help you Mr. Mayor. Thank you.

>> (calling speakers).

>> Honorable mayor, members of the city council. I am proud of the city of San Jose and its employees and this city council. In a very difficult debate over the last days this city council has not made it personal. You made it clear it's a balance sheet issue. This is a structural balance sheet deficit. You have not made it personal. And like it was said by council member Chirco and not on the back of the employees. There are macro economic forces here at work and the public sector is before us. It's going to start at the municipal level and that is what is before you today and I have to remind you this happened three years ago in the third sector and many of the nonprofits have taken much deeper and significant cuts and in the private sector and the businesses we represent there is business closures and there have been lay offs and 40% reduction in sales and the pain indeed is across all sectors and we want to be your partner and growing out of it. If that means additional taxes, assessment districts we're certainly paying higher fees in the city of San Jose to help do our part but we're all in this together, and the way that you have handled this has been with respect and dignity and I thank you for that.

>> (calling speakers).

>> Thank you Mr. mayor and council members and we talk about risk reward and what Silicon Valley is about and the city is the capital of Silicon Valley and some risks you take and some are not substantial and I said you could meet on Thursday or Friday. It happens to be Thursday. Two days ago you met on Friday. I think there is a small risk. You should take a risk and without the risk of San Jose the arena, Silicon Valley, convention center, happy hollow -- everything that you do has a risk and measure that against reward and heard the speakers today and have things to address and respected and I think you should take a 24 hour risk and the reward is much greater than that. Thank you. [Applause]

>> (calling speakers).

>> The first speaker that got up here, a lady, I think associated with the union. She said we are the tenth largest city in the United States and the whole country is going to watch what you're doing to them. Isn't that amazing? All this time that they have been working for the city and not being able to see the generosity that has been bestowed on them and good labor and they did well, but nonetheless and one example of generosity when

there was this fire man who retired and he got a check close to half million dollars because he didn't take his sick leave. He felt at that time he didn't need it and being honest about it and at the same time got a huge check and shock to everyone when we saw this in the newspaper of the Mercury and you are now at the unique opportunity and take advantage of it right now and that is to say you know past history and what we have gone through in good and bad economic times. We have to arrange in such a way and come up against these structures the way we are right now to be able to have a system in line where we can do the balancing act when it's necessary. Not come all at once and take 10%, 12 percent, two and a half -- whatever it is and the unique opportunity is think in that regard and not just this moment but the future and for other council people and make it easier for them and you are good people. I am not going to take that away from you and finally in closing the name of that movie council member was "Cool Hand Luke" with Paul Newman. Thank you.

>> Good afternoon. I am attended many of these meetings and heard repeatedly from all of you all valuable the employees of the city are and I agree. It amazing me in a very good way how much care and time has been taken toin sure that the employees are taken care of. This is a incredibly long process and I have personally attended meetings since January and a long time and unfortunately time is up and now the budget needs to be passed and I support you imposing the contract and continuing the discussions. I also support you in spending time to creative ways and save and for remove. Revenue.

>> Good afternoon. I am from the art's commission and speaking today and support council member constant's motion. I want to compliment you as some of the others have done on the work you have done on this particular part of the budget. Your far more you're far more patient and understanding than I could be and I admire you for it and takes encourage to say we have to take a pay cut and you're doing the same thing and I want to recognize that as well. I also want to point out we have noticed that every member of the council has complemented the work force here in the city and we appreciate that. As a businessman we rely on the employees here and many departments. As a commissioner I rely the employees in the department that supports our commission, and your encouragement, your support, your belief of them is absolutely. Vital and I want to commend you for that, but we're at a cross roads now. We need to move forward as a city. We need you to make a tough decision today and then be able to turn around tomorrow and work together hand in hand to

resolve these issues, so I encourage you today to take those steps, to do the tough work, the work that we elected you to do.

>> Pat from the Chamber of Commerce. It's a difficult day. It's been a difficult process. I have heard a lot of comments coming to the meetings and expression of anger against the employees. I don't think there is any anger with the employees. The community, the business people, the neighborhood groups, the business organizations I have been to there is anger, but the anger is the world's economy has exchanged and we are all -- has changed and we're all coming to grips with that and what it means. What you're going through now is what the private sector, the businesses have gone through the last years and every board medium and small has had the same kind of afternoon you are having now. It is not easy. It is not going to feel good you but I believe do that the city manager and the mayor need direction this afternoon to finalize a budget. We need to be able to tell the greater community this is what the budget is going to look like. These are the numbers that are going to be contained. It doesn't shut the door to sit down and continue dialogue with anyone from any bargaining unit going forward but the community does deserve in a reasonable time frame which is out there. This is the budget. Come and comment on the final budget. We need to see that document. It needs to be out there. You have put a tremendous amount of time in community meetings and outreach to tell people about the budget and educate them. I have been on the council. I can't believe how many hours you have spent in trying to bring the budget to the community. You need to take action today. It's not the end. It's really just the beginning. Thank you.

>> (calling speakers).

>> Mayor and council I am mark DAMEY and representing area 21 and a resident of San Jose for 30 plus years and taxpayer and homeowner -- at least for now. First of all I would like to say you have a lot of time say we just need time. A lot has changed in the last 48 hours and moving to impotion is not the imposition is object the way to not the way to go and it comes down to trust. Prove it. Don't impose and give us a way to work out the deal. If you don't it means you don't trust us and listening to all of the rhetoric and how you want to work with us and don't impose that and give us 24 hours. [Applause]

>> Hi I am Phyllis Schultz and I am a member but not just speaking on that and all of the unions and I want wanted to rewanted to riity rat reiterate what mark said and we have been working hard and come up with a plan so we just ask for another 24 hours and see how far we have come in the last 48 hours and asking for 24 hours. Thank you.

>> That concludes the public testimony. Vice mayor Chirco had the floor. She's asked that we go into close session to have a further discussion that we shouldn't be having here in public and I think we will do that. So we're going to reconvene in the back room. Closed session. (closed session).

>> All right. we are back and finished with the closed session for now and some council members are coming back after a brief break of the closed session. Let me suggest how we will handle the rest of this meeting in front of us. We have quite a few items left. It was suggested that we continue items one, two, three, four and five until Tuesday. That we proceed with item six, the compensation and benefits and item nine and appointee compensation. Item eight, the budget message and item nine the operating capital budget and fees and charges so basically we will complete the agenda, all the work that we need to do in order to we hope to appropriations on Tuesday, the 22nd, and I would just like to note that the budget message will be in front of us and take it up later and contemplates and use of funds from concessions and from the bargaining units and whether through imposition of terms or by agreement we will determine on Tuesday, and that's why I am suggesting those items be continued until then, but we can proceed with the budget message that assumes the 10% one way or the other as long as we know the number and allows to prepare the appropriations documents and get staff get that done by Tuesday is a big challenge but that's the way I think we can have T I will just note that the council has given our negotiating team some additional authorize which they authorization and do soon and we will continue these items until Tuesday unless council obligated otherwise. So those items are continued to Tuesday. We will now take up -- [Applause]

>> -- item six and compensation for benefits and management and unrepresented employees and original 3.8 on the Tuesday's agenda if everybody is trying to keep track of it.

>> Thank you mayor and council member council member and the approval of changes for unit 99 and other represented employees. There was a supplemental memo today and you did this and on it and pay reduction and changes to health insurance and cost sharing and plan design, changes to sick leave pay out and changes to disability relief supplemental. This memo brings recommendation for the second one and as a reduction and a slight modification to the first five. I am recommending that the changes to unit 99 be similar to the agreement and legal of pistols. I professionals. I originally thought it should be taken out but based on feedback I am recommending it to be a four-point 5% base pay reduction and employees will also receive 12 days of paid time off. This is the way -- different ways under the fair labor standards act to deal with what employees would call a furlough, and for salaried employees needs to be treated sensitively and differently and what is that is reflected in this recommendation. It was my goal to listen to the feedback received from unit 99 and forming my recommendations and as you know they're not a bargaining unit and don't have those rights and I think what you have in front of you represents the things from unit 99 and from the first five is what you did for the legal professionals. I have removed the sick leave upon retirement and left in the disability relief supplemental and similar to the grace period and work with the five bargaining units who also don't have the sick leave payment in sick leave and I recommend your approval.

>> We have a motion to approve the motions on unit 99? Any cards from the public? I don't have any. All in favor.

>> Aye.

>> Opposed? None opposed. That is approved. Next is mayor and employee compensation and most difficult thing we have ever tried to do. Well maybe not quite. The way we've tried to role this out was to adopt some things in common for council members and the mayor because those salary is set by ordinance and they all have to be the same for council members, and then we have the ability for the second five to do other things on a one time basis and the way we do one times is filing irrevocable waivers for the fiscal year and many of us have done that in past years much the difficult in knowing exactly what we're doing all of us are slightly different in different ways and the same thing with the council appointees and what I recommend that we do is we

approve the ordinance and implement and mayor and on going and 5% reductions and compensation and into the ordinance and on going and then we approve each council member's proposal and implementing the second 5% to get to a total compensation reduction of 10%. Subject to verification of the calculation which should be done in coordination with my office so that we can make sure all the math works, and any variances from the 10% would come out of base pay and irreccable waivers and one time in nature and similarly for the council appointees we have a resolution for them, not an ordinance and approve 10% reduction in total compensation as proposed by the council appointees and subject to confirmation and done in coordination with my office and make sure the math works and any shortages is taken out of base pay to get the 10% reduction and finally exclude the auditor from the actions for different reasons. Council member constant.

>> I understood almost everything you said but I want to ask for clarification. It sounds like it was kind of a one way adjustment and if you're off you take out more but if you're off and take out too much there is no method to reinstate, and the reason I bring that up is mine seems to be pretty screwed up. Because I know you know I'm different from you and my pay is too and I still have some answers -- first I did my memo and I got correction to the numbers that was completely different from what I had, and then I asked questions that I still don't have answers to, so I don't know what the old total compensation is accurately or what the new compensation would be, and just based on the estimates I was able to figure out today and gone with my memo we had and additional like 6% on top of the 10%. I am hoping that is wrong so I don't know how much flexibility and so I know it's tough because we all have different things but I kind of go back to the originals and like we do with the bargaining unit and come up with one thing for the entire class and just do it.

>> Well, the one thing for the entire class is what goes in the ordinance so that is the first 5% and everybody is treated the same. It's the second 5% which everybody is different and whether you're memo is above or below the 10% line the adjustments would be made in any event with the irreccable waiver process and gives everyone a chance to fix that.

>> But if we adopt each memo and they're already that way because the way they're written and the language is in there and I don't know how you do that when it's signed by the council. That's the part I want to get through so at least we get it straightened out.

>> I don't think it's irrevocable until the fiscal year starts.

>> And you have the ability to reconcile and at this point the adjustments are made and reissue the waiver much the whole intent here is to get the 10% so I think we have to find a way -- I'm in a similar position and my first number was apparently above and I'm not an accountant so adjustments have to be made and reconciled.

>> So as long as we're saying that's what it means.

>> Let's say irrevocable and the beginning of the fiscal year.

>> And that is June 21.

>> But the budget is adopted as of July 1st.

>> And as long as we have the specificity and correction memo by July 1st and get it straightened out and I want to make sure to get it right and if that is the case I will do that with what you added.

>> Second.

>> Motion with a second.

>> Council member Liccardo.

>> I know several of us would be in favor of getting rid of the public car allowance and make it simple and what the public perceived and our own taxes and getting rid of the car allowance and exceed the 10% and add the 5% on going, so the question was how set in stone is that original 5% on going? In other words, giving up the car allowance can we adjust and just get to 10% and that's the goal and get rid of the car allowance and then the pay.

>> And what we did with the first 5% and the units and the reduction and modification in health care and track like the way unit 99 was doing it and the appointees was doing it and everybody else was doing it but the ordinance has the salary and the car allowance in it. You can get to it either way but if you do the car allowance doesn't track with the bargaining units.

>> Okay.

>> So that's the reason. Okay. We will take this. We are done with this and take this and the health care changes like 99 and make it more complicated -- well, it's hard to make it more complicated.

>> And when we did the health care and came out to whatever it is and seems to be where the variation is so I'm not sure how that -- it kinds of seems like sometimes it could be a double hit on health care and take the 2.5 and health care and change in lieu on top of it all and that is the big swing so we will work it out.

>> That is possible. If we're doing it the same way that unit 99 is doing it, it works. It may not be the same for exactly every person but not the same in unit 99 and I am trying to treat the city council as a unit and the first five as the same for everybody . That's the attempt. Council member pi. Okay. We have a motion on the floor to approve it and recommendations as modified. Further discussion? All in favor?

>> Aye.

>> Opposed? None opposed. We have to work to make sure we get the memos done. That ache takes us to takes us to item eight and the mayor's message and trying to get to for a few days. Let me talk a little bit about the budget message and modifications that we need to make. To my recommendations in order to accommodate some of the changes that have happened in the last few days. The so you have my budget recommendations in the message, and in order to make some changes requested by the city attorney and some other things I would ask you to start by looking at attachment two, and in the first section there at the very top and this spreadsheet there's a category at the bottom called "funds to minimize police layoffs" and 526,000 and 646 -- \$8 and I am not sure. It's kind of small print. What I am recommending is that we fund an additional deputy city attorney position out of that, and do that with \$133,000 and add that to additional deputy city attorney position to the list and deduct that amount from the bottom line number. In addition the city attorney wants to make some modifications in position descriptions which would consist of eliminating a senior deputy attorney. Adding a legal services manager. Adding a legalat administrative legal assistant and the savings and applied to services in the city attorney's office, and then I want to go back to attachment one on the page where we have employee concessions as the course. Source. I think it's the second page of attachment one in which I am proposing to restore library hours, community centers, Dr. King library and anti-graffiti program and staffing and technology business management and legal representation for transactions deputy city attorneys and two of those, and I believe we can vote on this budget message with this set of concessions. It's 10% from these bargaining units, and whether or not those 10% comes from imposing a contract or an agreed upon 10% this still works, and even though we continued some items from earlier this afternoon we can move ahead with the budget message using this attachment. We know how much money is involved and on that basis we can move ahead. Also just I would like to note that we have additional -- also an attachment one and proposed budget and employee services and restoration and towards that list. If we were able to get any concessions from them from now and Tuesday and we have the list and work down the list and even though they're not in front of us we assuming we don't get any. If we do we have the list to work from and the same thing is true with the first part of the attachment, the sworn services restoration use list. If we get any concessionses from firefighters or police officers between now and Tuesday that we can use those concessions to take items off this list. We're assuming none because that's where we are for purposes of the budget, but if we do get some we can use the concessions from police officers and bay back from police officers and from firefighters to firefighters and I believe the budget

message works and even though there are still some uncertainties and where we end up with the bargaining unit and with that I think I would open it up for discussion before we hopefully get to a decision on this. Council member Nguyen.

>> May Mr. Mayor before we start discussion I submitted a conflict of interest forms for the budget items because I live 500 feet away from the location of a fire station and also I recuse myself from any discussion and health pension fund and I am on the committee for that.

>> Do we have motion to approve as amended? Council member constant.

>> I had my light on to make the motion and it's already been made and I urge everyone to support the mayor's budget message and really encourage all the bargaining units to do as much as they can and buy back as much as we can from the list and police and fire.

>> Council member Chirco.

>> Yes. I must recuse myself from any discussion on the Santa Clara health plan because I'm on the board.

>> All right. Council member Campos.

>> Mayor just for clarification since we are asking the five unions to come back next Tuesday for that discussion to determine where we're at with that, the motion if this were to pass does not reflect -- it doesn't reflect -- you can have a different vote on the motion on Tuesday?

>> Yes.

>> Okay. Thank you.

>> But this budget message does assume 10% concessions. It does not assume how we get those concessions.

>> Understand.

>> All right. We have requests for public to speak. Council member Pyle.

>> Mayor I am not of the process is. Any suggestions from others?

>> Certainly. This is the time.

>> This is the time. Unless you want to hear from the public first. Your choice.

>> Maybe they can comment on both.

>> Okay.

>> Okay. I am hoping and concerned about employees covered by unit 99 and they are unrepresented and some of the most talented employees. I think as it says leadership is essential in growing the economy. I am worried there might be a huge rush to retirement and amend the possibility of that and employees accrued 12 hours or more of sick leave pay out and maintain the dollar amount of the pay out until they choose to retire. This won't change the city liability for these accounts and it will not force the most senior employees waiting to retire and current sick leave pay outs.

>> I think the city manager has already dealt with that.

>> Oh sorry. I didn't realize that.

>> If I could clarify council member. Thank you for your concern and what you voted on and the revised unit 99 proposal and took the sick leave proposal out of the package.

>> I am sorry. I should have kept up on that.

>> It's okay. It's a recent turn of events.

>> And filling the fire and police vacancies is a possibility and save money. There were 76 that would have been defunded but if we can cut that in half and get to 38 so that will allow us to continue with some of the essential services and positions. It's on page two. And then under that if the agreement with the IAFF are approved -- this is all ofy iffy of course and if we could restore that it would balance out somewhat. That's a million one. I don't know how you want to do this. The any suggestions?

>> Well, my recommendations is that we use the list on attachment one as the buy back list of any concessions coming from police and fire and have the list and if we get concessions that's how it would work and basically --

>> So we're agreed on that. Okay. And in the low priority position vacancy that occur during the year and people leaving the city and given the numbers saved and likely some vacancies can be applied and has that been considered.

>> And Jennifer assumes a certain level of vacancies in every department and for them to meet their own targets in the year.

>> And we are in touch with Jennifer and we have her approval or disapproval as we went along.

>> Good afternoon. Jennifer McGuire and budget director and your memo contemplates restoring --

>> Eliminating.

>> Well, reversing the city manager's permanent service and other personal services and the recommended as I understand it and with the ten vacancies there are in the manager's budget so I assume -- I haven't had a chance to discuss this particular proposal with your staff but I assume it would say that the vacancy that the manager put forward to cut those would all be restored but we have to find ten different vacancies throughout the next fiscal year and I'm not sure what those would be and cost them, but with the vacancies we have in hand we felt that -- we are comfortable with cutting the ones and although they have serviceses attached and spread throughout the document.

>> Is it a possibility at least some of these can be restored during the year?

>> These are contemplating ten low priority vacancies so we have cut more than ten in this fiscal year so I'm not sure if we would restore those and find different ones to cut. I think we're comfortable with the recommended ones in the proposed budget.

>> Okay. And then if we reduce the economic uncertainty reserve by 5 million and restore essential wases it is my understanding and I thought you agreed we would save 5 million -- I mean -- yeah save 5 million.

>> The economic uncertainly reserve there is 9 million currently in there. It would not be the administration's recommendation to deep into the reserve but that is real money. That is a policy choice for the council to make but it's not the administration's recommendation.

>> But if need and some services would not be available any other way we could use some of that but we have to vote it at the time this comes forward.

>> You would need to vote on that today and remind you it's one time dollars so if you were to use any part of the economic uncertainly reserve and if you were to keep the balance in the budget and not make next year worse and only buy back services on a one time basis but we do have plenty of economic uncertainly. We also

continue despite the fact of the sales tax and don't want to hold money back from the budget and the recent quarter with the sales tax came in higher than projected and we don't have the reasons why it's higher and don't want to count that and quarter payments and it was a good news situation for the city but the state as a whole was only up .5% and have understanding of why that quarter is higher and we still have economic uncertainty. We have uncertainty and even the card room tax that just passed and assuming everything will go into place with the 18 tables and that may not happen as soon as we would like to, so we might lose revenue there and different reasons in the budget for this and certainly it's a policy choice and there is real money in that reserve.

>> So Jennifer are you saying that the additional sales tax revenue could be used to restore some services.

>> And it was recommended by the MBA not to reduce the fifth engine company, company seven and we did recommend that and incorporated into the mayor's budget message before you and we also recommend to use 1.1 million of the additional sales tax and for next year and my belief it's underfunded.

>> Thank you and there is a 2.75 million in excess fund balances. Do you agree with that?

>> I do not agree with that and I did discuss that with your staff. We -- there's lots of discussion about fund balance. We have estimated our balance to be what is carried in the proposed budget and prudent and adequate with the information we have today -- I am trying to dial it to 0 and having no excess balance and the stakes are high this year but we are within a million dollars of the margin right now and predicting the revenue and expenditures and that's how close we are. It could be negative or positive. I hope it's positive. I am trying to position it to be positive and not have extra and about what we estimated so I cannot say with the data before me there is extra and like we did with the city tax and I can't recommend that and it's very speculative.

>> So do you see any way of incorporating any of the police department requests or the fire department?

>> I think the way to do it, and I think what you're contemplating in your memo is very similar to what the mayor's message.

>> Yes.

>> And I compared the list since we got it and I imagine the lists are fairly similar but patrol being at the highest priority.

>> Great thanks and move down and all of that is continued and whether or not that worked and in reference to the libraries we're at 2 million and 98,000.

>> Yes that would take additional concession dollars which I believe is in the mayor's message and get the concessions.

>> Okay. So most of these are similar.

>> Similar so if we get additional concessions I believe that most of these items are in the marrow's mac's message as mayor's message as well.

>> Appreciate the time.

>> Council member.

>> Thank you mayor. I have some questions as to how we proceed in terms, and my particular concern is the fire and police buy backs and sworn service restoration and attachment one, and it shows that we can restore the engines as well as the truck at the recruit economy if we got academy and got 5% concessions from the firefighters. I take that back and 10% and it shows 86 patrol positions and some deferred for a year and sexual adults and metroand crime and seven positions and crime prevention and community education and three positions. Robbery investigations unit, three. Police activities, three. Police leace son, three and juvenile assaults, two and advise two, and this would require also a 10% concession fund from the police officer's association. My

concern is this. We obviously spent a lot of time this week and continue to spend time with regard to the 10% that the mayor called for and subject to implementation and looks like implementation or what have you but at least the 10% or as close as you can have it and money in the bank. Police and fire we can't do the same thing, and so my major concern is that these are major cut backs on police and fire that are absolutely going to put our residents at risk. Are absolutely going to cost lives and banking on a 10% concession and just not realistic and negotiate and what we can, but the reality is that we're putting a lot on that. Additionally as fire chief made the presentation, discussion of deployment is made we already lag severely behind the national standard in response time, and by use of the deployment and cutting out five engines and a truck engines and a truck and lag more on response time and less personnel and use the personnel and knowing that the majority of calls and lives are going to be lot of. We lost and we know they're are good at this and we see the danger and increase in graffiti and I am concerned with this and patrol officers and detectives in a number of areas and I am concerned about that and I think that's where I differ from the suggestion that we don't look at some of the other creative solutions or other solutions we wouldn't be comfortable doing and using the economic uncertainly fund which I we're in uncertainly now and the as I said the one certainly we will lose a bunch of positions if we don't find a way to fund them and I agree with the sentiment from council member Pyle and use that fund to get back positions in the fire department and police department. Additionally another attachment in the proposed budget by the mayor shows the non sworn services and some of which we know the 10% can certainly go a long way in providing, but even if we get that 10% we're still talking about 136 plus positions that are going to be lost; that are going to be laid off and MMF and CEO and unless an agreement is made and again unless an agreement is made we're talking about branch library hours, library services, king library services. We're talking about parks and rec and event coordination and in the finance department and HR and you can go through the whole list and I don't think they are nice to have. I think these are positions that are critical to the city and there is a whole list and I don't want you bore you with the whole list and in attachment one, and so the problem I'm seeing here is that yes absolutely we just need to be cautious and even though we saw very good numbers in our retail numbers improve and I am glad to see the numbers are going to at least restore for the time being a fire engine company which is great, but I think we have to be cautious about being so conservative that we face these drastic cuts that are going to put our communities in peril and that is where I am extremely worried. I think the budget message does fairly and adequately put forth the number of positions that we should and services we should provide. I don't

think it goes far enough and I am very very worried about and most worried about the safety positions and police and fire we're going to be losing unless we come to an agreement and we're putting a lot on the agreement in the next day or two and police or fire and if we get a percentage of what we're hoping to get from police and fire we could still use the reserve and fund balance and other strategies and certainly in normal times and this isn't normal times and was mentioned and I'm not willing to put the community at lost if we don't restore the positions that we are now subjecting to hopefully getting some concessions in the next day or two or three.

>> Council member Oliverio.

>> Thank you mayor Reid reed. I don't believe your sediments are not shared by the council. You bring up things we have been wrenching about for six months and we knew this day would come and only have so much money and everything you listed off the attachment is important and this council has that option. We have \$9 million of discretionary income in the fund. If that is clearly more important this counsel could allocate council could allocate that and matter of choices. I can not be everything to everybody and I think in the tough times we have to look at those items and it's tough because we have talked about the great things these organizations have done but the lives -- as you said, lives will be lost. Well, then you have to ask yourself what is more important? Those core services or that? I understand the notion of mac draining the maybe draining the reserve and the memo from the office and we have the lowest reserves in California and San Diego has ten and Long Beach and seven and I guess Jennifer McGuire if we drain the reserves what happens? Come another month we find ourselves short and lay off and give two week notice and be done with the positions to fill the gap?

>> That's exactly what we would have to do. We would have to lay off employees and again most of the budget is made up of personal services and if we have short falls as we go into the fiscal year because the dollars have been spent on the positions we have to cut deeper to make up the dollars potentially.

>> Yeah. It's problematic and I will actually say I'm open to spending the reserves. I don't want to and I don't think it's good fiscal practice but maybe we need that H HA moment and spend everything we have and then make more cuts. It was reported today that unemployment went up and housing it down and there is data we're

not coming out of this anytime soon. The stock market is different and how it reflects the city revenue is another and I want to be candid and council member Kalra is important and we don't have the funds and we as the 11 bodies have to make the decision and put it on the line and I would take it and employ all that we can and for the services and I think we should look at it.

>> Council member.

>> Thank you and I appreciate the comments. Obviously we all know that public safety is the top priority and some of the amenities that we as a city are responsible for providing to the residents but I look at the budget this year and not just about the numbers. It's definitely not asking the workers to share in the pain and sacrifice and it's definitely not trying to balance the budget for this year alone. Instead what I am looking at is there are certain things in here and the pension reform and some of the other elements and crucial in helping us not only to sustain but become a brighter city for future generations, so some of the elements here and I thank Mayor Reed for putting that in here and discussing some of the options and elements in the future, so for me we have to be a little more responsible in terms of how we move forward. We can't keep doing the things and asking future councils, and residents and employees to bear the pain year after year, and so one thing I like about this budget message is it gives us options to look at things we can do so that our city can be more sustainable in the future so I wanted to support this budget message in its entirety. Thank you.

>> Council member Chu.

>> Thank you Mayor. I think with the concession that we just received from the bargaining unit I'm hoping that the amount that we need for the employment reserve fund could be reduced -- I don't know about the certain amount and we definitely will reduce a number of layoffs in the city, so I would like to see that whatever money that we can save from this reserve fund be used on restoring the library hours to their current standard of 47 hours per week.

>> Council member Chu we've already spend that money spent that money and for the unemployment insurance and \$825,000 and buy back and community centers on attachment two. There maybe more depending what happens with the other bargaining units, but the concessions that are built in here whether they're by imposition or agreement and undecided and already accounting for I think all of that money. Jennifer might have a different number.

>> That is correct. If the council approves the temperament one. Attachment one and with the buy back and the community centers and I did the calculation and that should put relief on the unemployment reserve by \$1.3 million and your message would call for that to minimize lay offs in the police department and although that is in the mix of the recosting of the proposals. If that money is not needed that is the direction how we would apply the money if the council approved the message.

>> Your attachment one because the library is the first item there is this a prioritized list in attachment one?

>> Yes. I am requesting that is the prioritized list and branch library hours and restore to five days of service and 30 hours and elsewhere on the message and attachment two namely and to get it back to 39 hours with the concessions council member constant.

>> Thank you mayor. I think one area to put our money where your mouth is in office rebudget and page 26 of the message it's noted that I gave up my \$50,000 and role over towards public safety and there is \$1.1 million that is going to be rolled over in the account and we have rolled that money over year after year. I did a BD on that and the last two years we have rolled over a consistent amount and unfortunately reduced it in this budget message but by giving that up we could preserve six -- or defer six layoffs in the police department which would give seven officers the ability to keep their job and be on patrol and wait for seven others to retire and most likely they would stay and not hire them back and provide an additional savings in the future of \$903,000 and buy back and do that and given the year after year budget of our office they have remained fairly steady and we have continued to role over money and I would make a motion for the amendment and take a second to take that amount roll over and itemized on page 26 section eight and buy back the seven police officer lay off deferral.

>> That a friendly request or a separate motion.

>> Separate motion.

>> Motion for a second. Council member Campos.

>> Thank you mayor. It's been a long day so bear with me. In all the discussions and I wanted to go back to my colleague and was talked about and I'm not going to repeat everything that you said and you did a very good job of talking about the importance of public safety as well as the other services and I have been contemplating how I was going to take the vote today and there are a lot of things in this budget that concern me, and there are a lot of things in the budget that I was happy to see. The fact that were restoring community centers and library hours which are very crucial and the aquatics program is very crucial in the livelihood of a lot of our youth and our seniors in the city of San Jose, but I'm still concerned about elements in the budget and how we got there. I fundamentally disagree with how the message was crafted from the beginning when we were at the state of the city until today, and I don't take this action very lightly, but I am not in a position today to vote in support of mayor's reed reed's budget and I am hopeful things will look different next week and we are able to restore everything and I know if I vote today I am sending a message I'm not in favor of public safety and I heard the comment from my colleagues and about prioritizing and for me to be able to send a message that public safety and the safety of the neighborhoods that I represent is the wrong message that I want to send if I support this budget, so with that mayor I will not be supporting the motion supporting the motion.

>> We will take public testimony and we had a few hours of testimony Monday night and there are still people that want to speak and I will call you down now. Please come down when I call your name. (calling speakers).

>> I know you're all tired. I really think the budget has to wait until this business with the 10% is dealt with primarily because you're trying to save too much, and the international financial markets dictate tough times are here for some time, and you're going to have to really start consolidating down on the entities that the city really

needs, not as luxury items but what it really needs and public safety obviously is number one otherwise the city will come apart. In addition to all the fee increases all of that has to wait too because there is theoretical rebates because of restricted use funds and the 10% reduction in employee wages. This represents a tremendous amount of money and you can't use it to balance the budget. I honestly think you have to differ the budget message completely and start pairing down. You cannot keep public art and things of that nature. These are luxury items. You just can't keep it. Thank you. (calling speakers).

>> Mayor reed, members of the council, the major flaw in the message is it fails to provide adequate set of options. It only has two strategies and the dangerous cuts in public services or massive \$50 million of concessions from the city's workers and offers no alternatives. None. And to offer no alternatives is to put the people of San Jose at risk. It's thanks to council member Pyle at least we have a debate about the other options. Have an example and move that from the serve and reserve and into the sexual crimes division and there are risks but there are risks associated in not fully funding that unit. That means it's possible for a rapist to attack once and then again and then again because the investigative officers to stop him don't exist or on a personal level I am a 64 year old male who works too hard. A couple of minutes and a delayed response time from the firefighters may have an ultimate cost to me. I think the city is better off if the firefighters arrive on time and I continue to pay taxes for a longer period to help restore the city's reserves. [Applause] It is one thing to say we can't find \$50 million in alternatives and I don't think we should do a demonstration project that eliminate all the reserves just to show how bad it is to do that, but there are other alternatives and we should look carefully at council member Pyle's ideas and move on some of them and some of the alternatives will literally save our lives.

>> Thank you Mr. Mayor. Day three and taken for me to get up here and I want to bring this down to a project level and I have been working for ten years on the project and I have been trained on a number of issues including budgets and for ten years we asked the same questions. Are there enough bond funds for that's projects and operate the facilities? At every step we're told trust us. You'll be the hub and make sure all neighborhoods are served and open all sites and even if we have to cut back services and be patient and pay the bonds and taxes and trust us and share the pain as well as the gain. In this case it was trust us as we waste

years on the joint agreement with the college for the good of the city. Trust us while you slip down on the priority list. Trust us while we look at the land. Trust us and down size the project and still the hub and add the library and go looking for a new piece of land and unfortunately they don't want to sell it and trust us while we go through eminent domain litigation and trust us and good for the city and in it together . It wasn't until ground breaking and your center -- not the city center, your center is going to cost a commillion a year to run and between the library and the community center and we needed to figure out how to get that money or get involved in the city's labor disputes and I object to and it's time to earn our trusts and keep the commitments to the peep that have been paying the taxes and the bonds and time to keep your commitment to me.

>> Sorry. Your time is up. (calling speakers).

>> I am Ben field and work for the south bay labor counsel. The cuts are so deep it is easy to lose track of the human tool, the individual human tool that they are bound to take and instead of the big picture and numbers I would like to talk about an example that will have a cut that will have a profound impact. The sexual investigation department of the police department is slated to cut three detectives. Now those spots are a drop in the bucket of the budget short fall. However, the difference that those three detectives make to the hundreds of rape and child molest victims of whose cases would be investigated by those detectives is immeasurable to those victims. As a long time prosecutor of sexual assault cases I can tell you when they're delayed in the investigation or dropped all together bad things happen. Witnesses disappear. Witnesses are pressured to recant. The offender continues to have access to the victim, so the consequences of such a cut are really horrific. This is just one example of many in a long list of cuts contained in the mayor's budget message. Now, fortunately you have other alternatives and I want to commend council member Pyle for proposing those alternatives to you. I urge you to follow her lead, to accept the proposals that she has put forward. Otherwise it will be long hot dangerous summer. Thank you. (calling speakers).

>> Good evening. Nancy OSTROSSKI. I am here tonight to really thank council member Pyle for the memo you wrote and I ask everyone here to really approve and support the writings of council member Pyle. I am a former

rape crisis counselor and former wife of a proffer and police officer and needed these and take time and stay focused and there is a lost going on but the people don't want it cut. Thank you.

>> (calling speakers).

>> Mayor, city council and I am the San Jose firefighters and we want council member Pyle's memo. Thank you very much. And to cemetery everybody in the city and San Jose firefighters have been working since last year to find solutions to the budget challenges of the city and its citizens. We have put forward a proposal and to support this effort. Firefighters are offering to immediately reduce their salaries and create a cost share on health care, to support the budget and keep fire services in place so we can continue to try to save the lives and property of our services but firefighters are offering more. San Jose firefighters recognize there are long-term issues and pose challenges and to confront these the firefighters are offered to be first in off the like in emergencies and for example San Jose firefighters will make additional payments towards hasn't care. We're offering to install -- not talk about but install a second tier of less retirement benefits. These structural reforms will lessen the burden on the city and savings tens of millions of dollars and in addition we're willing to partner with the city and driver's license vendors and gen-- and vendors and keep all fire stations and companies funded and open and we are offering you the resources to do it. Through our proposal and met or exceeded your request and providing salary concessions and health care sharing and real retirement reform and we are ready to meet with Alex and hope you give him the direction to do so. Thank you very much.

>> All right. (calling speakers).

>> Good evening honorable mayor and council members and I am president of the local 21 and you're right it has been a long day. I am here tonight to ask for your support of the recommendation in Nancy Pyle's latest memo. Thank you very much.

>> (calling speakers).

>> Good evening mayor and council members. I am Mr. Cleveland vice president and I live in council district ten myself and thank you council member Pyle for your memo. I support it and please don't reduce public safety response time. Thank you.

>> (calling speakers).

>> Good evening. I am a fire department employee and I encourage you to support council member Pyle's memo and restore these things and we have one of the leanest fire departments in the country and please save our fire stations. Thank you.

>> (calling speakers).

>> evening. Thank you for let us speak on this. I am from the local 21. Our fire department and police department is some of the leanest running departments in the country in the big cities. Council members pile's memo help support these services going and enough staffing and one of the essential services for all of us as residents of San Jose and we support that memo. Thank you.

>> (calling speakers).

>> Hi. Mis butcher and first vice president and the engineers and architects support council member Pyle's REM REM memorandum and urge you to do the same.

>> I apologize that I am not too knowledgeable in politics and budget terminology facts and figures but I plead as a mother that you would consider the request of my district leader, two, to keep our police and public safety open. I witnessed not far from here two young men fighting where the buses and trains are located. There was no police in sight. It took two women. Myself and another to break up the fight. Dimension we got hit and does I mention did I mention that we got hurt. And there was a fight on the train and the conductor did nothing about it

and is it because some services are afraid to get involved? I am certainly not. If you keep cutting the services take it into our own hands? Please consider keeping public safety for the sake of all of us. Thank you.

>> Good evening mayor reed and members of the council and I am from the police association. First off I want to commend all of you and showing the leadership this afternoon and not imposed on the other bargaining groups. We know this is difficult times and we're in a difficult situation so I am here to ask you to continue that leadership and endorse council member Pyle's memo. We really believe in it and we think it's a win win for all of us. Excuse me. We cannot afford to lose one cop in this city. This is the most under staffed police department in the United States and I want you to know as I stand before you we understand the public safety is very important to the citizens and I think we demonstrate that with the cases we solve but we can't continue at this pace because we're under staffed and I want you to know that the POA is continuing to bargain in good faith just like we always have. We see the big picture and we understand and working on concessions and on going and one time concessions and I can assure you an agreement will be reached in the new future. Thank you very much for your time. I appreciate it.

>> I have other cards from people and speak on agenda item nine and probably want to speak on the budget message so if you put in a card for item nine and speak on the budget message please come on down if you think this is the right time. If not we will take it up later. I'm not asking for second turns. This is for people who already have spoke know.

>> (INAUDIBLE).

>> No. If people put in cards and I'm not sure about the numbers and if they wanted to speak on the budget message this is the time to do it.

>> Mayor reed and city council members thank you for taking the time to listen to us. First I would like to talk about fire station closures and layoffs and I urge you not to close any stations or lay off any firefighters. I urge you to negotiate in good faith with the bargaining units. The idea of closing fire stations and dynamic deployment

is like rolling the dice or Russian roulette. I am a captain with the fire department and yesterday 16 calls, five after midnight. Station 35 is just to the south of us is scheduled to close or be subject to dynamic deployment. I finish a fact that know for a fact that high calls to that district will be eight to 12 minutes. Don't be the unlucky one to have a heart attack. Brain damage sets in four minutes. And the closures and dynamic deployment response times will increase, medical treatment will be delayed, fires will get bigger and greater damage and greater life loss. Second, I would like to talk about employee sacrifices. Everyone that spoke to you today has talked about sacrifices. I would like to talk to you about firefighter sacrifices. Most people don't realize that police and fire have a greater incidence of divorce and over 75% and statistically they only last four to six years after we retire. Over the last several years several fire department members have given the ultimate sacrifice.

>> Come on down and give me your name so I am know where I am in the card count.

>> Most of the you probably recognize me and probably know me by name and rely you to get the message here or the community rooms. I the video engineer and keeps this on the year and I have submitted by thoughts to the city council and I am here to talk about the proposed cuts and eliminating staff and out sourcing and this is a microscopic part of the budget and the savings could be very little in the budget and this proposal will cost the city more money and waste existing resources and help residents in these difficult times. I believe services provided by my team are left out and provided and holds hidden costs and oriented and in my submitted document I outline why those savings are unlikely and reduce services and raise costs and increase liabilities . The while this proposal comes with a claim of savings it sals comes with realities and internal departments encouraged to spend on vendors that we can and do already provide. Those costs are not provided for. Furthermore this proposal and the restricted source and with the savings and my ability to maintain the savings and also not noted in the proposal. I ask that look at all the costs are shown in the light of day I don't think there is a way this makes any sense. Thank you.

>> Good evening mayor reed and the members of the city council. I am here to talk with two hats today and listening to the dialogue and as a employee I know that the employees that we are are hard working and blessed to have them here in San Jose and as you talk about the proposals and everyone has that mind set and

open to ideas and recognizing that we all value the same things and have a good quality of life here in San Jose and the second point and those families are impacted are the same that we serve at the youth center and different in demographics and we had 50 kids this morning watching the world cup. We give them a safe place to be in the afternoons and evenings as you look at your budget I encourage you to work with the community partners and we all value the quality of life in working together is how we're going to solve this problem. Thank you.

>> That includes the public testimony on the budget message and bring back for some council discussion and action. I would like to note we are still in negotiations with police officers union and POA and firefighters union and local 230, and hopefully we will have some kind of agreement tomorrow so we can get it on the agenda for Tuesday and it's really up to the unions to determine what kind of layoffs we're going to have in police and fire. We need \$34 million to avoid all of the -- not even all, most of the cuts in the police and fire. That's a lot of money. It's a very important service and we don't have enough money and can't afford it unfortunately and we're doing the best we can with the resources we can and why we're here and allocate those based on the priorities of the community and the council and that's what I hope the members will support. Council member Liccardo.

>> Thank you and I want to commend Cindy and taking on a challenge and running it during a difficult time in the economy. I know that we're looking at various options right now with regard to community centers and may have nonprofit partners and take the pressure off fiscal for community centers and I know I communicated a little bit with staff and hopeful to keep open some options and might need some run way to keep things going with their facilities out there. If we can find funds to keep that going and create revenues and hopefully creatively look for that in the coming months.

>> Council member Pyle.

>> There is a lot of research put into my memo and I know in absolute certainty that the ratio of the police officers versus the public is incredible and two times today the sexual unit was mentioned by the detectives. I was on the board for about four years and the rape crisis unit is really absolutely amazing and I know first hand

what happens to individuals, and it's not just women. Men get raped too and I know for absolute sure case studies that we have looked at happens and what we said today is true. The victims become victims again in many cases and I am sure there isn't a police officer out there that that is true and I would move my memo and when we can put some of these forward we would do it. Maybe we won't be able to at one time but strive toward accomplishing as much as we can and prioritized as we go and I suggest that do that with help from the communities that are affected and the police and the fire and with that I would like to move my memo.

>> Well, it's some kind of a motion. I'm not sure what it is. You have to explain the memo and how it would affect it.

>> We went through it and some of is covered by true.

>> And some doesn't work and you have heard that from the staff and I don't know what is left from the memo that is part of the motion.

>> Well, what do you suggest I do? Go through and do a line by line with your memo?

>> I am taking your motion to amend the budget message.

>> You really caught me there.

>> I don't know what it is that you're trying to do.

>> I am trying to find out if there is any support from my memo.

>> Let's take that as a motion to amend it and maybe it's the simplest way and motion and a second from down here.

>> I second it and my understanding is we're trying to find the money identified by council member Pyle's so and different memo and different line items here and probably agree get input from the community to prioritize the police and fire and as well as the libraries and so I support the motion to with the budget message.

>> Let me say that's what we have been doing for the last eight months and priorities and that's in the budget message and based on the work from musn'ts and communities and those are the priorities and I have laid it out in the budget and reflect the priorities of the community. I don't support the amendment and unbalance the budget and start over and trying to figure it out if this motion is approved and half of what is in the memo is already covered and the other half can't be done necessarily so I don't support the amendment. Council member Oliverio.

>> Thank you mayor. I think that was well encapsulated. I wanted budget and my colleagues and not that the ideas are relevant to this discussion but the mayor and city management and council has moved forward since September in encapsulating what needs to be done and reflected in the budget message. It doesn't have everything but we know in reality and based on attachment one and the others we am buy back services and matter of putting those in and I think the mayor's message is the most thorough, most thoughtful, and the taking the most amount of input and from Jennifer McGuire and the other alternative and thoughtful does not pencil out with items covered in the mayor's budget.

>> And if the maker of the motion would entertain a friendly motion and sexual division and talking about the reserve and where we might spend those funds. I am recommending that the additional funds freed up and minimize layoffs in the police department. That is page 22 and item C and I would add to that starting with the sexual assault unit and appears there is money but we don't know how much it is and additional funds out of unemployment insurance reserve and minimize layoffs in the police department and probably enough there to at least cover the sexual assault another and suggest that is a friendly amendment.

>> To council member Pyle's.

>> I'm sorry. I am out of order.

>> I would be happy to incorporate that.

>> Sorry. It's been a long day and responding to council member Pyle there is something I would add in.

>> I don't know if I could add to what you said and maybe stating the obvious. We have a motion we're asking to vote on that's very vague and unclear, and because we have already had the budget director go through and say virtually line by line that these are either in the budget or not workable, and if we took a hole punch and 11 for every item we wouldn't have a memo and none of these are workable so it's really an undefined motion and I urge my colleagues not to vote for it. I think it would do serious damage to the mayor's budget message if we through this kind of wrench in at this time. I know the sexual adult unit is important and I might get one more plug and the rollovers could fund that and more.

>> Supervisor Chirco.

>> Unfortunately I can't support the memo. I don't think the viability is here and I appreciate what council member Pyle attempted to do but I believe this memo is covered in the agenda cum attached to the budget -- attached to the memo and I would love it to happen but needs to be in the way the message as presented and unfortunately I can't support the message.

>> Council member Herrera.

>> And I support what council member Pyle is attempting to do with the memo but I can't support the motion because I just don't think the numbers work. Today I want to say that we have made a lot of progress as a council and as a city giving every opportunity for compromise to work and I am hoping we will have good results in the next few days with the bargaining units working with that and I urge our police and fire negotiators to continue to work to achieve a good agreement. I think we can. I think the issue that serviced today for me

surfaced today is trust. I think we all need that and come back to the table and knowing and believing we all want to do the right thing and I think we can. Thank you.

>> Council member.

>> Thank you mayor. I had a comment and the budget proposals and first of all there is an issue and even and gone down the direction and what the council member raises and one time money and a comment I want to make and the folks that live in my district and it was 221,000 and exceeded everyone else and I am cautious about the constituent's money, the money that we are allocated and I did that purposely and in tough economic times. I down staffed and continue to provide services and ultimately provide more services. I support what the mayor is putting further and the 1.3 million or so and restore critical services but I want to make it clear that the amount of money my district is asked to sacrifice and the other nine districts from one to ten and mine excluded is less and my constituents are making enormous sacrifices and the others used their funds and that's what it's for and I wanted to make that point and in order to restore services and my office is making the sacrifices on behalf and restore services and that's the right thing. With that being said and the memorandum and not everything is canceled out and the first line of the memo does say to approve the mayor's budget and that's the first step and go forward with what is put forth and it's not all workable and the key component of council member Pyle's memo and restores some of the services and public safety and relying too much on the concessions. If we don't get them then they're gone and some of the items that Jennifer referred to are not unworkable. They are policy decisions. One of the policy decisions is do we want to use the reserves and we both have comments on that and two legitimate points of view and with the policy decision and with the reserves and to the \$9 million amount and not fund police officers and firefighters and it's our decision to make. It's work annual but it's a question whether we want to use them or not and potentially face lay off says and not replushish the replenish the reserves and with the taxes and no guarantee it's going to continue and I get that but the consequence is laying people off right now so we can lay people off right now and put the reserves back or use them and hopefully the economy is sound November and go forward enough and not it's a matter of choosing to save these positions that are so critical for public safety, and additionally using the additional sales tax revenue I know that the recommendation from the budget office is to use a portion of that to save fire engine company. Now, there's also

a million others and use for sick leave payments and council member Pyle says no it should go to public safety as a priority and save our fire engines and to save our police resources and save our patrol offices. Officers and that's what the memo indicates and if some things are consistent with the budget message it cancels out but their had are things that have a priority and save jobs and public safety and which is the number one thing our residents ask for and public safety and we're not doing that and the one thing I like about it and without sacrifice of police and fire. It's saying to still get 5% --

>> Council member Kalra and I hardly interrupt a council member and it's 7:00 o'clock and please wrap up the remarks so we can vote on it.

>> I will wrap it up mayor and my point being that what council member Pyle memo and use funds it is policy direction and still ask for fire and police to do their part and 5% and more realist being ten the realistic ten the 10% and I will support the memo. If something is not workable it's not but for the most part I see things that will save positions and lives.

>> Council member.

>> Thank you mayor. The majority is for public safety and saving engine company.

>> All right. On the motion -- this is council member Pyle's motion to amend --

>> I had one question.

>> Council member Liccardo.

>> when was this prepared? Yesterday? Thank you very much. Okay.

>> Okay.

>> Mr. Mayor may I change my motion. I would like to change to accept your friendly amendment.

>> My friendly amendment is not to your motion. It would be to Sam's motion when we get there. I am sorry I got everybody confused. Fund the motion and council member Pyle's motion. All in favor? In favor is three and fails on a three to eight vote. On the motion in chief by council member Liccardo back to that. Any further discussion?

>> I will.

>> I will accept the friendly amendment.

>> Yes.

>> If that's okay with you.

>> Okay.

>> And I appreciate the friendly amendment I think that puts further prioritization in your package message. I will not support the budget message because again we're going forward with the message with an assumption that they're going to be massive layoffs with the police and firefighters and dynamic deployment and use our community as a Guinea pig and not in a city of our nature and the staff that we have and the assumption we're going to lose lives and we're not going to investigate crimes anywhere near the level we should be able to.

>> Council member.

>> There are no reasonable alternatives brought to question.

>> All right. We have a motion on the floor and modify with my recommendations and my recommendations. That passes and that concludes that and we do resolutions and item nine and direct the staff to do more work and resolution and operating the capital and operating budget and amended by the message and resolution on fees and charges and take this up in two pieces much the operating capital budgets and I think there are questions on the fees and charges. Motion is to approve the resolutions. It's not clear who wants to speak -- sorry, was there a second? There was a second. On the resolution and speak that wanted to speak on the resolutions I think. Mr. Wall okay. Anybody that wants to speak on the resolutions? Okay. I don't have any speakers on the resolutions. On those all in favor.

>> Mr. Mayor.

>> Yes.

>> I need to make a friendly amendment to our recommendation on number nine. It just occurred to me -- well, it was on the parking rate schedule and number four and extend the hours of operation and Japantown and from one hour to nine am to 6:00 p.m.

>> Is that fees and charges?

>> It's part of the hole --

>> Go ahead and finish your recommendation.

>> We dropped that and consistent with your message.

>> Okay.

>> And that portion is considered I would like to speak. I'm sorry.

>> We have a motion on a resolution. Okay. Let's get a motion on all of them. Council member and all three the resolutions and the budgets and the schedule fees and charges, so fees and charges is now on the table and subject to the change that was just mentioned and council member Liccardo you have something on fees and charges.

>> I thought this was pushed to a separate and why I didn't speak up and there was 1400 petitions plus gathered by the Japantown community and patrons and businesses and objecting to the increase and I meet with them over -- met with them over the last weeks and I want to thanks those meeting with me on those occasions and I appreciate the change that Jennifer made and I wanted to incorporate that and ask to make a friendly amendment. First authorize staff to move forward on the vague cant courtyard site and I don't know if that was incorporated or not and we talked about it with transportation and move forward and paid parking at the site and secondly authorizing the staff to look at and extension of hours in the civic center and compensate for loss revenue relating to the delay and the implementation of the later hours in Japantown and third to authorize staff to look at other districts where metered parking could be implemented in a way and based on staph's reexist staff's direction.

>> And before I I incorporate it and recommendations for them to come back and not implementing anything except the paid parking in Japantown.

>> Correct and certainly no time table attached here. These are conversations I had with Jim and Emails between Jim and myself and I don't see them here -- I do see Jim. Sorry Jim. My understanding is they're agreeable in this general direction and incorporate it as part of the motion there is a very delicate balance we're trying to strike with the community and probably can speak to it.

>> Before you speak I am okay and as long as it's direction to come back before anything comes in and we can have a discussion.

>> I think that is policy.

>> I am fine with that and don't belabor not point.

>> We have a motion on all three items on the table and I know there are people that want to speak and I'm not sure if they still want to speak. David wall.

>> Very briefly I have already testified several times before and the schedule for fees and charges for 2010 and 2011 may have modifications in terms of rebates and the storm brain fund and Muni water funds. Thank you.

>> I have a bunch of cards and some are old. Anyone that wants to speak on this item? Okay. That concludes the public testimony on this items. We have a motion on the floor. All in favor?

>> Aye.

>> Opposed? None opposed. Those items are approved. So that takes care of the public decisions. We still have appropriations decisions that need to be made on Tuesday and whether or not the staff will have enough time to get those in front of us on Tuesday remains to be seen. It is late on Thursday and there is not much time and I have a herred the council alerted the council it may not be possible.

>> until we have that and take the recosting so far and implications on over head reimbursements and others and retirement pre-payment plan and not finish by Thursday but we will have discussions how fast after Tuesday.

>> Okay.

>> And bring that back to you.

>> Open forum. I have no cards. Mr. Wall, you're going for the record? Okay. We wore them out. Amazing.
Thank you. We're adjourned.