

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

>> Mayor Reed: Good morning, let's get the meeting started. Starting the morning with our labor update. In this session we'll adjourn into closed session and we'll be back in open session at 1:30. Start with the labor update. Alex Gurza.

>> Alex Gurza: Good morning, mayor, members of the city Council, Alex Gurza, Director of Employee Relations. I'm going to turn it over to Gina, Deputy director of Employee Relations.

>> Good morning. As we do every week, this is just a reminder for everyone that all the proposals exchanged between the city and the unions are posted online and can be viewed on the labor relations information page on the City's Website. A brief update for you this morning. The city and ABMEI, the building inspectors' union, are at impasse and are proceeding to mediation this afternoon. IBEW provided a proposal last Thursday, which you have in your packet this morning. The city and IBEW are at impasse and are proceeding to mediation this Thursday. OE3 negotiations continue to be at impasse and are proceeding to mediation on May 4th. The city and ALP, the attorneys union, are at impasse and are proceeding to mediation this Thursday. The city and MEF and CEO are at impasse although MEF and CEO cancelled yesterday's meeting and we are proceeding on May 2nd. I'll turn it over to Alex for a brief update on POA negotiations.

>> Alex Gurza: The POA did provide a package proposal to us at yesterday's meeting, and I thought I'd take a minute because it is the first proposal that we have received from the Police Officers Association since we began negotiations, in January, as well POA president George Beatty is here in the audience. But briefly the package proposal is a two-year contract, it includes an 8% base pay decrease. And then, on the last day of the contract, the proposal is a 3% pay increase. So net, at the end of the two years, it would be a 5% base pay reduction. They have also proposed a change in sick leave payout for current employees, and it intends to address the large payouts by reducing the maximum number of hours that someone can get a 100% payout. So currently if an employee for example has 2,000 hours of sick leave and goes out on a service retirement they can be paid at 100% of all those 2,000 hours. Their proposal caps the 100% payout at 1200 hours so regardless of whether somebody has 1500 or 2,000, it would cap it at 1200 hours for the maximum payout. They also, on retirement, are proposing not a second tier, but an optional tier. So this would be an option for either current employees, or future

employees, that could choose to go into an optional tier. The details of it are in the proposal. It is an 80% maximum benefit after 30 years, compared to the current 90% benefit after 30 years. The pension would be calculated on a three-year average highest salary versus the current one year. And it is a 2% fixed cost of living increase compared to the current 3% cost of living increase. And you'll see in the proposal that they estimate cost savings from that, and that is based on their estimate, of the percentage of employees who would choose to opt into that program. So any kind of opt-in program is completely dependent on the savings from it the number of people who end up choosing to opt-in to the program. And there are other proposals, they do -- are agreeing in this proposal to accept the City's proposals regarding civilianization. There are proposals currently to civilianize 15 positions within the police department and in addition, they are proposing to agree to the civilianization of police services at the airport. Their proposal indicates that they would agree to that portion of civilianization beginning in the second year of the contract, although they verbally told us that they are willing to move that up into the -- into a date into the first year to be negotiated. So that is a very brief summary. I didn't go over everything but since it is their first proposal I wanted to take a minute in public to describe it. It is, as Gina pointed out, it is posted on our Internet site for anybody to review the details of the proposal. So and that's the end of our presentation. Thank you.

>> Mayor Reed: Any public testimony? Anybody need to speak? Okay, we're done for now. We'll go into closed session. Back here at 1:30.

>> Mayor Reed: I'm having a great day. Are you having a great day? Let's get started with this meeting. I'd like to call this meeting to order, the San José Council meeting of April 26th. We'll start this meeting with an invocation and Councilmember Chu will introduce the invocators.

>> Councilmember Chu: Thank you, mayor. Today I'm pleased to have Morrill Middle School Chamber Orchestra here for invocation. Morrill Middle School has been proudly serving residents of District 4 since 1972. The chamber orchestra is an auditioned, all-volunteer group, that meets after school, to further their dedication to music. The orchestra is led by Ken Rydene and has taken the students to many performances including a recent visit to Disneyland. The Anaheim heritage festival and many hours. Today they will be performing sound without words with Gustav Host. I hope I didn't murder his home. Today's performance is actually a teaser to entice you to this year's Berryessa Art and Wine Festival on May 7th at the Penitencia creek park, right next to the Berryessa Community Center. The Berryessa Art and Wine festival is San José's oldest and largest festival. In its 36 years, the festival is a community fundraising event for music programs at various schools such as this great young group today. So please join me in welcoming the Morrill middle school chamber orchestra. [-|| music-||] [applause]

>> Mayor Reed: Thank you very much. We'll now have the pledge of allegiance. All please stand for that. [pledge of allegiance]

>> Mayor Reed: Thank you, Morrill middle school, great job. Give them a moment to get off the stage. While we're doing that, are there any changes to the printed agenda that we need to consider under orders of the day? We have a motion to approve the orders of the day. All in favor, opposed none opposed, orders are approved. Closed session report, City Attorney.

>> City Attorney Doyle: Mayor Council, the city Council met in closed session this morning, pursuant to notice. We were given authority to enter litigation in one case as amicus curiae, the case of Taft, et al. vs. Superior Court. It's a challenge to the City of Long Beach medical marijuana ordinance.

>> Mayor Reed: Now take up the ceremonial items. I'd like to start by inviting Vice Mayor Nguyen, Councilmember Pyle, Councilmember Rocha, Councilmember Constant, and Katherine Englehart of the March of Dimes South Bay Division to join me at the podium. Katherine will bring a few of her volunteers with her. Please come on down. Today we're commending the March of Dimes South Bay Division in recognition for their efforts to support premature babies and their families through the march of babies on April 30th. The March of Dimes program was founded by President Franklin Delano Roosevelt in 1938. It's an organization that helps mothers have full-term pregnancies and researches the problems that threaten the health of babies. It helps reduce premature birth rates through prematurity campaign and has raised more than \$2 billion, the March for babies part of it has raised more than \$2 billion since its first in 1970, 7 million across the country around 900 cities going together to raise funds and promote the cause. The March for babies will be held by the South Bay Division in San José on April 30th to raise funds for important research and programs to help babies begin healthy lives. And I understand that Councilmember District 1 Pete Constant has a team that is going to be in the march, participating. I want to ask Katherine Englehart to tell us a little bit more about that.

>> Thank you. This is a great opportunity to thank the city and the mayor for recognizing the March of Dimes and the work we do. If I ask anyone in this room if you have been affected by March of dimes or been touched by the March of dimes, all of you have would raise your hands, because all of you have had a polio vaccination, which was our first mission. Now we move on to prematurity. I would like to welcome one of our teams, and this is one of the moms that the reason why we walk. And so please come out and support it. Thank you.

>> Mayor Reed: Thank you. Here is the commendation.

>> Thank you.

>> Councilmember Constant: And they mentioned that I'm walking and I have a team. But most importantly, I need sponsors, so a walk-a-thon doesn't do much without sponsors. Visit my Facebook page because we really need sponsors of this because as a father of five, all five of whom are born prematurely, this is a very important issue. So I hope all of you who are sponsoring will come out and watch us walk.

>> Mayor Reed: Now I would invite Councilmember Oliverio and the relay for life of Willow Glen to join me add the podium. As we recognize May 1st as show us your hope day in the City of San José. Councilmember Oliverio has some of the details.

>> Councilmember Oliverio: Thank you Mayor Reed. We have the member of Willow Glen relay for life that are joining us here. All of us have our story for cancer. Just a week ago I was at a funeral for my friend's father that passed away of colon cancer. But everyone at the funeral kept mentioning the fact that he would be joining his daughter, who unfortunately died of cancer at the age of 30. So cancer strikes at all ages, all genders, all ethnic backgrounds. And relay for life is a great way for survivors and those who rally for cancer to have a special and unique event. So at this time I would like to welcome Jen Lesser from Willow Glen relay for life to tell about the event and then for Mayor Reed to present the commendation.

>> So this is actually the 26th year of relay for life and it also is a significant year for me, as well, because 26 years ago, my younger brother was diagnosed with cancer. And we lost him at the age of eight and I was ten. As a result of that this is a very, very important part of my life. I am so thankful to the city for acknowledging this event and this day. On behalf of our relay Willow Glen and the other four relays within San José, Almaden, blossom valley, Cambrian and Alum Rock. And on behalf of some of my other fellow committee members, and our American Cancer Society staff partner who is here with us today, thank you so much. And Pete Constant, from District 1, we will sponsor you if you will sponsor us. Thank you so much. [Laughter] [applause]

>> Mayor Reed: Thank you very much. Enjoy your walk. Next I'd like to invite Dennis Hawkins and the staff of the City Clerk's office, to join me add the podium. As we celebrate May 1 through 7 as municipal clerks week in the City of San José. I don't know if we're going to get the entire office here or not, because somebody has got to

do the work. We're doing the ceremonial, but we'll get most of the office staff here. The City Clerk and the office play a vital role in the efficiency and democracy of local government affairs throughout the country ensuring people's access to government, conducting fair elections, providing accurate and complete public records for efficient and democratic operations of cities throughout the world. City Clerk's office is of course the information center and functions in that capacity here in San José City Hall. And we really appreciate the work of the Clerk's office. They are small but mighty. This is most of the office here you if not all of it. I think you drafted somebody else to hold down the fort while everybody is down here. So while it's not a big operation it is an extremely important operation to all parts of the city. And I'd like to invite our City Clerk, Dennis Hawkins to add to this.

>> Dennis Hawkins: Thank you, Mr. Mayor. On behalf of my colleagues in the City Clerk's office it is my honor to accept the proclamation. City clerks as a profession are among the oldest of all civil servants, and we're dedicated to opening doors to government for all members of the community. In addition to supporting the mayor and city Council in pursuit of its legislative duties, we play a key role in conducting city elections, assuring open government, supporting community involvement through the boards and commissions program, and a myriad of other roles. So we thank you for this proclamation, and for the recognition for week of municipal clerk. [applause]

>> Mayor Reed: Now I'm joined by Councilmember Pyle, Councilmember Herrera, I think Councilmember Campos is coming down. As we invite the Mormon helping hands group of the church of Jesus Christ of latter day saints to join me at the podium. We're going to recognize April 30th as Mormon helping hands day in the City of San José.

>> Councilmember Pyle: It is always good to see this group because they do so much for this community. I'd like to begin by telling you who's here. Although maybe I better wait a minute until everybody gets here. Ron Daly is the representative from Mormon Helping Hands of the Church of Jesus Christ of Latter Day Saints. Kim Wickstrom is here, there she is, with her children Dana, Isaiah and Hanna Wickstrom and Jida Naidu of the public affairs Council for San José south stake. Debby Torrance and her children are here of the public affairs Council of San José stake. And that would be Sharon and Jeff Freeman and Isabel and Abel junior and senior. Let me tell you a little bit about this group. The Mormon helping hands program was officially established in 1998, and since

then hundreds of thousands of volunteers have donated millions of hours of service to their community. Mormon helping hands day provides a wonderful opportunity to render meaningful public service. Approximately 900 San José citizens volunteer their time each year on Mormon helping hands day. Saturday, April 30th, will be the annual day of community service of for the Church of Jesus Christ of Latter Day, and this year they plan to split their efforts between the Almaden Lake Park and the Police Activities League stadium. So they will also be spending some time in District 8, as I understand. So therefore, Mayor Reed, if you would present a proclamation to Ron Daly. And Ron is here to say a few words.

>> As the mayor well knows, the city has need of helping hands. And hearts that know and feel. There's plenty of work. And on Saturday, April 30th, in addition to the sites that Councilmember Pyle has mentioned, we will also be doing work at Overfelt gardens and Lake Cunningham park. And part of our group will be refurbishing and helping restore rancho elementary school in the city of Milpitas also. We thank the city for the opportunity to be able to serve them, and to be able to contribute in some small way, to this great City of San José. Thank you, mayor and thank you, city Council. [applause]

>> Mayor Reed: Our next item is the consent calendar. I have one request to speak on the consent calendar, David Wall.

>> David Wall: With all this walking going on Mr. Mayor, I want to report that I walked from my house to City Hall for the first time. And I know it's shocking. I'm going to pay for it on my way home! I would like to give great comment to the City Clerks for their remarkable improvement on note-taking. On the ad hoc committee of the airport competitiveness report and the Rules and Open Government -- well, both of them. And this accentuates the argument that the treatment plant advisory committee needs to be documented by the City Clerk. They've done a great job and the ESD people, it's a demonstrative conflict of interest for them to have complete control of the information considering the billions of dollars that are being going to be spent. With reference to San José reinventing itself once again I assert, getting rid of this capitol of Silicon Valley business and going to the valley of the heart's delight is far more encompassing, far more creative and innovative. Madam City Manager, I'd like you to consider all the security people that are being bumped from other locations in the city to be consolidated as a

group, and be reassigned and funded at the water pollution control plant. Because security out there is nonexistent. And that place is -- needs security at every phase. Especially the foundational aspects prior to the rebuild and all the contractors coming in. I don't want to see the security guards here, bumped out of their jobs to water pollution control, but save all those other security people, in a new vision, and mission, to guard that plant from intruders. Thank you.

>> Mayor Reed: That concludes the testimony on the consent calendar. Any matters Council would like to pull off for discussion? Motion is to approve the consent calendar. All in favor? Opposed? None opposed, that's approved. Item 3.1, report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor, members of the Council. As you know we're finalizing work on a proposed budget that will be released next Monday. In advance of this we have begun notifying those employees who will be impacted by the recommendations either directly or indirectly. As I've previously noted, closing the \$115 million deficit will require significant reductions. The recommendations will unfortunately include the elimination of almost 600 positions including those that are scheduled for elimination based on last year's budget decisions. This will result in close to 400 employees being laid off at the end of June. This was obviously a very difficult time for those employees as well as for the more than 400 additional employees who will be displaced through the bumping and seniority process. As always our HR department is ensuring that each of these employees knows what transition and support services are available to them. Now, at this point I must unfortunately insert an important caveat to the members above. Based on the Council's direction we have balanced the budget assuming that we will achieve 10% reductions in total compensation from all employee groups and the roll-back of any wage increases given in 2010-11. To the extent we do not achieve these concessions from the bargaining groups, additional reductions will be necessary. And I really can't stress this point enough. So what this would mean, based on current estimates, is if we are unable to achieve the 10% concessions from our police union, our best estimate is that we would need an additional \$20 million in reductions. This would require the elimination of approximately 155 additional sworn positions. For the remaining nonsworn bargaining groups failure to achieve the compensation reductions would translate to additional reductions of about \$23 million, which would require the elimination of nearly 300 additional positions. I want to

emphasize these numbers now so that everyone is aware what is at stake. The proposed budget will include additional information on these tier 2 reductions, this information will be provided at a high level, and include a range of service impacts. However, due to the significant analysis necessary to evaluate specific service impacts and all the costs associated with the individual reduction proposals, a more detailed list of tier 2 reductions will be provided later in May, if necessary, and not with the publication of the budget document on May 2nd. That concludes my report.

>> Mayor Reed: Next item of business, item 3.3, airport commercial paper program letter of credit extension. And after we take that up we'll take up the joint city financing authority agenda regarding the San José financing authority lease revenue bonds. We want to take those in short order. First item is 3.3, airport commercial paper program letter of credit extension.

>> City Manager Figone: I do not believe we have a presentation. We're available to answer questions.

>> Mayor Reed: Well, we have talked about this quite a few times before so I think Council is pretty familiar with it. I have one request to speak, David Wall.

>> David Wall: This is -- is this in reference to July 1st, and the impending \$40.2 million interest payment that will be either due or begin to accrue? And the city's inability to pay for it out at the airport? Now, the airport's expansion is not really the discussion here, but this letter of credit and the ability to meet debt service is. Because it is reflective of financial decisions made by the learned honors that sit before me and some that have already retired. With reference to either not knowing what you were doing, or being misled by people who have given you calculations as to the amount of people that want to come to San José for whatever reason, they want to come to San José. Now, this looks like, from a layman's point of view is doubling down on a gamble that you've already lost your first round and now you're doubling down to try to save yourselves. And when you demonize city employees to the press about poor decisions or how much they cost the city, I think, in all retrospect, you folks cost the city orders of magnitude far more. And with this comes a cost. And the cost is not only to reputation, and

professionalism, but the cost is also, reality. I mean, how much money, from what fund is going to pay this interest rate and this bank service charge of over \$200,000? I'll have to make inquiries of that. Thank you.

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

>> Councilmember Liccardo: I just had a quick question, Scott.

>> City Manager Figone: Arn Andrews will be responding today.

>> Councilmember Liccardo: Thank you, Arn. I understand our long-term strategy here is to be replacing the commercial paper with a different debt instrument. I was just wondering why we're not doing that now rather than just extending the letters of credit that we have? In other words, recognizing -- under the assumption that interest rates are likely to raise over time. Why wouldn't we want to rush and replace the commercial paper today?

>> Arn Andrews: Thank you, honorable mayor and city Council, Arn Andrews, treasury division manager, Finance Department. Your question is an appropriate one, because actually the reason we're only requesting a four-month extension is because we anticipate doing exactly that. We are currently in the process of working with underwriters to restructure several elements of the existing debt profile of the airport and that restructuring will allow us to wean ourselves off of the commerciality paper program which was utilized during the construction period. Now that the phase one construction project is complete, it makes more sense to fix out the profile to match the existing facilities.

>> Councilmember Liccardo: Okay. So it sounds like what you're really saying is, we just need more time to be able to do that.

>> Arn Andrews: Right. We are currently on a track to probably come before Council in June with the memo to authorize the debt issuance, followed by a closing on the bond sometime in July.

>> Councilmember Liccardo: Okay, thank you very much.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you. As a new Council, the situation, has been looking through this memo has been very helpful and it lays out a time line very well so thank you for that. What I'd like to ask is either a meeting with yourself to go over this in more detail but as part of that meeting I'd even ask for a spreadsheet that has an accounting of the financials that got us to this point, what's outstanding, and where we're at in the totals, just so I can see this in more of a spreadsheet form, as opposed to more of a time line, written dialogue if I may ask.

>> Arn Andrews: We'd be happy to do that, and you can schedule a meeting to us. And we do have spreadsheets similar to what you're suggesting internally. We'd be happy to share that with you.

>> Councilmember Rocha: Thank you.

>> City Manager Figone: And mayor we can share that with the full Council.

>> Mayor Reed: I don't think I have a motion yet. Now we do. Motion is to approve. All in favor? Opposed? None opposed, that's approved. We'll now take up the joint city financing authority agenda to deal with actions related to the San José financing authority lease revenue bond series 2000 F.

>> City Manager Figone: Again we're here to respond to questions.

>> Councilmember Herrera: Motion to approve.

>> Mayor Reed: We have a motion to approve. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you. Just a quick question about the variable rate issue. Is there -- is the variable rate the only game in town, or are there fixed rate bonds out there that would ever be worth our while to be looking into right now?

>> Arn Andrews: Currently, the City's debt profile has somewhere under about 20% variable rate mode which is consistent with debt administration throughout the state and the nation. Most of the reason we utilize variable rate mode is one, it does provide flexibility. Certain assets may not necessarily be better suited for a fixed rate mode, in particular with the FMC property where we currently have option agreements with the potential for a possible sale. It makes more sense to maintain that in a variable rate mode.

>> Councilmember Liccardo: Just because it will be cheaper by the time that we expect the option to be exercised?

>> Arn Andrews: Not just cheaper but in fixed rate debt unless you have a call provision it actually is prohibitive to try and move it out of that structure. In the variable rate mode we have the flexibility to take out that financing based on the legal documents.

>> Councilmember Liccardo: Okay, thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you. I just had a quick question, in reference to the fact that an existing gas station's on this property and it would be converted to a car wash and -- let's see -- I'm not -- 4.1.

>> Mayor Reed: That's a different property.

>> Councilmember Pyle: I'm on a different property. Sorry about that. Sorry.

>> Mayor Reed: We'll come back to that. This one has existing stuff as well. Anybody else on this? We have a motion to approve. All in favor? Opposed? None opposed, I think that concludes the agenda unless there is somebody else who wanted to speak on the financing authority matters, we are done with financing authority. Taking us to item you 4.1. That's the rezoning of property on southwest corner of Tully road and South King road. Councilmember Pyle.

>> Councilmember Pyle: Thank you. I think I was trying to get ahead of myself here, it doesn't work I found out. So I know it was recommended but I just had a quick question about the fact that there was a gas station on the property and in the past those have always been problematic. So how with this be different?

>> Laurel Prevetti: Thank you, Councilmember, Laurel Prevetti, assistant director of Planning, Building, and Code Enforcement. The proposal before you seeks to renovate the gas station and add a convenience store and a car wash. What would be different is they are going to relocate the pumps and make other improvements to the facility.

>> Councilmember Pyle: Thank you for that. Appreciate it.

>> Motion.

>> Councilmember Pyle: Second.

>> Mayor Reed: Motion to approve the rezoning. I have no cards to speak on this matter. All in favor? Opposed? None opposed, that's approved. Item 6.1, work plan for the rule 20A and rule 20B in lieu fee underground utility program. I don't know where 20A comes from, and where 20B comes from, in some code somewhere, has to do with putting electrical facilities underground, right?

>> That's correct, Mr. Mayor.

>> Mayor Reed: But everybody knows 20A and 20B only if you've been in the business, right?

>> Mr. Mayor, members of the Council, Dave Sykes, acting director of Public Works. I have a brief presentation for you today. As the mayor just mentioned, this program is about taking utility wires and putting them underground. The goal of the program, by doing that, accomplishes a few things. One, it improves the aesthetics, the aerial clutter. It also improves pedestrian mobility, particularly the poles that the overhead facilities are on are in the sidewalk, and it also improves the reliability of the system with less outages typically with underground power systems. We do this report annually to the Council. Presenting our five-year work plan. As the mayor mentioned there's actually three types of programs. The 20A program, that program is done by PG&E, funded by PG&E, and the utility companies as an obligation to underground their facilities. In the past we have had some trouble getting this program to move forward. That is why we are sitting on about \$47 million worth of funding available for construction. But the program is doing better. PG&E is making more progress. And we are projecting to be able to draw down and issue about 15 to \$20 million worth of construction annually as we look forward. The 20B program is funded by developers, and the undergrounding is actually done by the city through contract. The developers do this in lieu of doing the undergrounding themselves. The fees are only collected for projects that are along designated streets. We adjust this fee annually based on a cost index. Couple of years ago it went down, and it's now coming back up. Current fee is about 409 per linear frontage. 20C we don't see very often. This is when a private party wants to do the undergrounding themselves. It's mostly done by developers when they're trying to improve or enhance the marketability of one of their projects. It is important to highlight that none of these projects use any General Fund money to implement them. As you see on the slide, the PUC and the city have established extensive criteria for prioritization of the projects. The focus of all the programs is to try to underground around high volume streets so we take advantage of the limited amount of dollars. Some recent accomplishments. Guadalupe gardens phase 1 and 2, that's in essence done at this point. The only thing that remains to be done is the taking down of the abandoned poles. Two more projects will be done this summer, the market Almaden and Jackson Taylor and we should have those poles down by the end of the summer. Some projects coming forward. We have actually 12 that we can consider in the design phase. Here are six projects that are ready to move forward. We also have two projects that are going to be going out to construction this summer. The park Naglee project and the Delmas park project. Just to highlight a couple of things in both

programs. Overall, the status of much better than it used to be. We've seen an increase in the amount of dollars that we've been able to move forward with PG&E on the 20A program. PG&E's also looking to take the lead on the conversion of service panels. This is a big deal. Typically the property owner had to do that and PG&E reimbursed them. PG&E is coming to the conclusion they would be better doing this conversion work themselves so we are piloting a project like that. The program has seen a few delays just as PG&E moves over to other priorities. But like I've said we've seen some progress. 20B, there hasn't been very much activity in this program just because of the lack of development activity. The ordinance changes that we did do in 20B recently though will put this program in pretty good position when development activity returns. And that concludes presentation, I'm available or the any questions.

>> Mayor Reed: Thank you. I'd like to first thank PG&E for their work with our staff, and trying to expedite these items and the work I think that we're going to continue to do with PG&E, we've made this a topic of conversation when I've met with the president of PG&E. I know that staff has been working with PG&E staff to try to facilitate it, and you can see the results of those efforts in the acceleration of work for this year. So I appreciate PG&E's assistance in working through this. Knowing that they're constrained by the PUC and the rules they have to work under, and plus things that happen that may divert their resources. So this is a good program for this year, much more than we usually have. So that's good news for us, and we're looking forward to getting those underground for all the reasons outlined. Councilmember Pyle.

>> Councilmember Pyle: Thank you. Dave, what does this agreement look like? In other words, how does the city avoid indemnification? If PG&E says you go ahead and do the work do they approve it as you go or how does it come together?

>> Well, in the 20A program PG&E is actually doing the work themselves. There's an allocation, almost like a bank account that the city has. Currently our bank account is \$47 million. Although we don't have that money in the city coffers. It's more like a credit. We keep track of that and work with the utility companies, PG&E to move those projects forward.

>> City Attorney Doyle: Dave, if I can add, you typically have to give an encroachment permit to PG&E to get going into the ground, is that --

>> Yeah, there is a -- there's a permitting process to go before. Sorry if I misunderstood the question --

>> City Attorney: And that's where we get indemnification.

>> Councilmember Pyle: Because I didn't see it covered.

>> City Attorney Doyle: It's through the permitting process.

>> All the utilities working in the right-of-way get a permit from us, and we make sure they have all the necessary bonds and indemnifications to move forward.

>> Councilmember Pyle: Great, thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you Dave, good to see this moving forward. Where is the pilot, can you talk about the pilot project you're going to do, where it looks like city staff is going to actually be doing some of the engineering and construction projects on 20A on a pilot basis?

>> We've got a custom of pilots if you will, one was the service conversion, where PG&E is going to be doing service conversions themselves rather than the property owners. What we're in the progress of proposing to PG&E is allowing the city, like we do on the 20B program, to implement 20A. So we're going through a process of trying to determine what the cost of that would be and to show them that we'd be able to compete very well for that. So I don't know if we've identified any particular projects yet but we're just working in terms of a concept right now.

>> Councilmember Herrera: Well I like that OPM using their money and getting them to pay us, that's great. Do we have a motion to approve on this? Motion to approve if we don't have one.

>> Mayor Reed: Now we have a motion on the floor to approve. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. On page 4 of the staff report, the report sites potential challenges. That being diversion of resources, due to the San Bruno pipeline explosion. How likely is that?

>> It has been our experience that, when issues like that come up for PG&E, that they do have to marshal resources and move them away from these projects. These projects, and we do recognize that these projects are a lower priority than some of the emergency-type work that PG&E does. But as the mayor mentioned PG&E's commitment has been much stronger than it has been in the past. And so we're hopeful we're not going to see too much of a delay in terms of the commitment that they've made.

>> Councilmember Campos: So will you keep us informed I mean if the delays will be longer than expected?

>> Absolutely. Certainly through annual process but if there's individual projects in certain Council districts that are going to be moving off the schedule that we've shown here we will be updating each Council office.

>> Councilmember Campos: Okay and then last question I did see some of the I.D.ed areas. You did describe areas north of Reed Hillview airport. Would that be on Ocala, is that you're identifying?

>> Near Ocala, actually I'm not sure --

>> Councilmember Campos: You can get back to me off line. Yeah, thank you.

>> Mayor Reed: We have a motion to approve. All in favor? Opposed? None opposed, that's approved. Our next item is 6.2, actions related to taxi way W extension, J-L project at the Norman Y. Mineta San José international airport. We have a motion to approve. One request to speak. We will take that now, David Wall.

>> David Wall: This project is fairly innovative. And I wanted to point out an innovation that I think, Mr. Mayor, that you might want to take back to Washington. It is -- the project was approved at \$11.5 million for the grant. But since that time, the engineer's estimate has dropped to 9.9 million. Now, that's significant. Now, I understand because of the terminology, and the time frame of the grant to the FAA, but I think it would be prudent to call the FAA up, and say, you know, you had a problem with the grant program because we can do the work for \$1.6 million less. And we should be patriots here and return that money back to the federal government. Instead of stealing it, basically, unless of course you were going to give it back anyway or use it to offset the cost for the fire department and the police department which should never be taken away from the airport to begin with. But this is a very interesting thing. Even on the report on page 3 I quote, this recommendation preserves the city's ability to provide grant funding within the city's existing authority, award the project at an amount higher than the engineer's estimate but within the grant amount. And to meet the requirements of the FAA, AIP grant conditions. Period close quote. But it also should say but it fails to say we made a \$1.6 million profit in the deal. I think the money should be returned to the federal government, and tell them that we're innovative here in San José, and we're all patriots and we don't lie, cheat or steal. Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Should I pose questions to -- I'm looking at Dave. Sorry. As for the contract, what context or what form should I request information about how the project breaks out, how much is construction cost, how much is consultant fees, how much is staff overhead? Where would I find that type of information? I'm looking at the memo and forgive me if I miss it. The last page shows the budget reference. But outside of that the detailed budgeting?

>> There's a little bit more detailing on page 4 where we do the cost summary. If you are looking for more information, we can certainly break that out and forbid it to your office.

>> Councilmember Rocha: Okay, generally what are we looking at, what won overhead, what would be consultant fee?

>> It depends on this project. On this project for example, I believe the consultant did the design of the much bigger project, and we are now constructing it in phases. So for example, we'd have to kind of attribute that overall cost to the overall project to come up with percentages. Typically, percentages for design on our capital projects range in the 15% and then soft costs in terms of staff managing the project, 15 to 20%. Overall we average around 30 to 40% in terms of soft cost on a project to consultant and city staff.

>> Councilmember Rocha: 30 to 40% broken out between --

>> As an average. Larger projects, though, that percentage would come down, and smaller projects, the percentage would be up a little bit.

>> Councilmember Rocha: If you wouldn't mind, on the project, just to get a sense going forward, a map might be a good idea when you see these coming forward.

>> No problem.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you Mame Mayor, those were some of the questions I was going to ask as well. However it would help if you would provide in the future site plans or maps because again it gives us an idea of exactly what portion of the taxi way you're doing. I did take the tour out there of the airport and they did sort of explain how they're doing it in phases. But it would help in the future.

>> We can definitely do this. Sounds like you already understand, there is -- this is phase 3 of a five-phase project. We've been kind of doing in different pieces, not necessarily connecting to the last, but we can provide a map in the future.

>> Councilmember Campos: Yeah, because taxi way L, that is the taxi way on the most western end of the airport, right?

>> That is correct.

>> Councilmember Campos: Okay.

>> Mayor Reed: We have a motion to approve. All in favor. Opposed, none opposed, that's approved. That takes us to our next item which would be item 7.1, the status report on cooperative efforts between City of San José and Santa Clara Valley Water District.

>> John Stufflebean: Thank you, Mr. Mayor, John Stufflebean, director of environmental services. There is no presentation, but I would like to note that, as you can see, there are dozens of projects and programs that we are now working with the Water District, on and we think we have a great partnership with them, and also that the Water District board passed this item this morning and we also have a couple of members from the water district, Ann draper and Alan Cortori in addition to city staff to answer any questions you may have. Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. I just wanted to first of all thank you and your team John as well as folks over at the Water District for your hard work on the project that will soon be launching with the help of the federal government as well on working with the creek encampments and the downtown streets team. I'm really thrilled to see that take off and I know our housing department is working very hard on that. I know that's going to

be a great model hopefully for expansion as well. I just had one really quick question. I know we've asked this question in different ways and I want to understand clearly. Whenever we think about the hot spots map, Guadalupe creek is always just inundated. I know we're starting this in Coyote. Could you refresh my recollection, why are we starting in Coyote rather than Guadalupe?

>> John Stuffbean: We have the creek expert here to give us that information.

>> Councilmember Liccardo: Fabulous. Thank you.

>> Good afternoon, my name is Elaine Marshall, I'm the program manager for the storm water management program. To answer your question, Councilmember Liccardo, we started with Coyote creek because the encampments along Coyote creek are bigger. It's a more excluded part of the creek and while we recognize that there are also similar concerns along Guadalupe, because there's an active trail there and because of the interaction with the Guadalupe river park, those encampments tend to be smaller and more individualized. So we thought that going with Coyote first kind of gave us a bigger bang for our buck and access to the larger encampments.

>> Councilmember Liccardo: All right, thank you. And I recognize that there's a lot of countervailing factors here. Just looking at the hot spots, looked like it was a five or six to one ratio.

>> It is. We tried to focus those hot spots on where trash was coming more predominantly from the storm drain system and not from the hot spots. So those hot spots -- the hot spot selection was influenced by that.

>> Councilmember Liccardo: Oh, I see. So that doesn't necessarily mean the trash is coming from the homeless, but it's coming from other sources?

>> Other sources too.

>> Councilmember Liccardo: Thank you, I got it, that's really helpful, thank you. And I just had a quick question about page 5 and there may not be someone here that can answer this. Probably -- actually maybe Yves can. It really has to do with the Guadalupe river railroad and having bridge crossing project. I know you've been working diligently with the folks over at the railroad. I know that's hard work in itself. But there's a lot of anxiety around that trail and when we can get it reopened and I know there's a question about when the federal money is going to run out and at some point the army corps is going to have to run away. I just want to know if however we can make that open.

>> Good afternoon, Council, Yves Zsutty, Parks, Recreation, and Neighborhood Services. We had a meeting last week with the Army Corps, Guadalupe Conservancy, parks and recreation staff, and public Works inspection, and we looked at the current construction, we looked at the phasing that was going to occur and as part of that meeting we got a commitment from the army corps representative that they would open the trail in October. At the same time they talked about the work they still needed to do. So we trust their opinion but we plan to follow up every month with them to check on progress, make sure we're sticking to that October time frame.

>> Councilmember Liccardo: Great. I know a lot of folks will really appreciate having that trail open so thank you. I know that the traffic along the Guadalupe trail still increased last year despite the closure, that's really remarkable, that really shows that people are using that as a commute option which is great. Thanks Yves. I guess finally, I guess, I just wanted to express my thanks to the Water District. I know some folks are here from the Water District. Specifically thank you. We spent quite a bit of time out in the community or along reach 6 a couple of weeks ago, and we have a lot of residents in the Washington neighborhood who are really concerned about safety issues, about how -- what's happening there reach 6 may expose them more to whoever may be coming through the creeks. And I look forward to working with the Water District to see how we maybe can work on lighting solutions and other things just to improve the safety in the area. So I know those conversations are ongoing but I appreciate the ongoing cooperation of the Water District.

>> Mayor Reed: Vice Mayor Nguyen.

>> Councilmember Nguyen: Thank you, mayor. I just wanted to follow up on Councilmember Liccardo's first question, regarding the homeless encampments. I was wondering if someone from the Water District can talk a little bit about specifically what are some of the ongoing efforts that you're doing to address some of the activities that sort of happen revolving around the homeless encampments, especially along the creek trail. We have had numerous issues and complaints from residents around this area. And I know in the report it talks about the monthly cleanup that the city's coordinating and the weekly cleanups that the Water District's coordinating. But are you working also with the county? Because I understand that county staff has also been out there, dealing with some of the trash issues, some of the other issues that revolves around the homeless encampments.

>> My name is Andrea Graham with the Santa Clara Valley Water District. We have a separate memorandum of agreement with the City of San José where we coordinate on efforts to pick up after the homeless encampments and so we do this jointly because there isn't one agency that has all the right resources, or the type of resources to be able to address this issue. And so we work with your city staff, in doing that, and periodically we do work with the county, as well. There are some homeless encampments that are not within the city, of course, and we have less formal agreements with those other cities or the county to work with them. The sad reality is literally after we jointly move that away, it comes back. And so, this is why we wanted to participate in this pilot project, to see if there was another -- another way of trying to deal with this issue.

>> Councilmember Nguyen: Thank you. And just to follow up on that, is there any way that we can get sort of like an update status of what the Water District is doing to address some of these issues so that we can inform residents who live around those areas, that you know, these are some of the ongoing efforts that the Water District is doing in coordination with the City of San José?

>> I would say yes but I would turn it over to the city staff as we would want them to take the lead in terms of that communicate, because we generally do that in coordination with the city. One of the main issues around homeless is working with the police. And so the police resources have been -- had to alter this last year, as you all made different budget decisions. And so instead of having on-duty resources we have the -- I forget the term but it's the off duty ones that they -- the city and environmental services department pays for to help us. So scheduling their

services is one of the things that's an issue that we need to jointly work with because they have to be there with us to actually move the folks before anybody can do anything. So it takes quite a bit of coordination that we do, to effect those actions.

>> John Stufflebean: And yes Councilmember, we'll certainly work with the Water District and give you a memo on the status of these and give you periodic updates as necessary.

>> Councilmember Nguyen: Thank you John.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you mayor. I just wanted to thank staff, EDS, staff as well as Santa Clara Valley Water District for a long list of achievements, and relating to flood protection, water supply. And watershed protection and policy and planning. Have a very, very urgent question. On page 19 you mentioned about a Silicon Valley antilitter pickup campaign. And on March 19 there is a competition going on among the different districts to see which districts will pick up the most garbage, mobilize the most volunteers. Which district take the number 1 position this year? Do we have the tally out yet?

>> John Stufflebean: That's top secret information, reveal that when the information is available.

>> Councilmember Chu: Okay. All right. Well, you know, March 19, I've been anxiously awaiting the result.

>> Mayor Reed: Probably have to come to the earth day celebration to know the result. I have a couple of questions I want to go over. First I want to thank the Water District and the city staff for keeping this initiative moving and work together, because as you can see from this report, there are a lot of things that affect our common interests and we've been at this for a few years and have made great progress. So that is good news. Speaking of things that we're not making progress on: Page 6, the upper Penitencia creek project and the King Road bridge. Which we had funding for when I was I think first year as a Councilmember. And we haven't

started construction yet! But it's not Water District's fault and it's not the city's fault, it's the federal government's fall as I understand it. So the army corps of engineers is working on the upper Penitencia creek project which would include this area. I see that documents are anticipated to be completed by the end of 2012. What happens after the corps has completed their documents? Is there then a round of looking at the documents and thinking about the documents? How far realistically to the nearest decade are we from we could start construction on that bridge project?

>> Mr. Mayor, David Sykes, acting director of Public Works. We're a little unsure of the next steps as well. I do know that the study's important. I do believe that the Water District's plans would include the work in the channel, but that the city would probably still need to be a contributor to the bridge project which we're all very interested in. I do believe that that project has been somewhat defunded in our CIP so we'd have to kind of re-prioritize that project. And we can look at doing that in the future budget processes.

>> Mayor Reed: Well, it's hard to justify funding something that the army corps won't let you build until you get to that point.

>> That's correct.

>> Mayor Reed: A related question, though, is will the habitat conservation plan help us in dealing with the issues around this bridge?

>> Potentially it might. In terms of some of the hurdles that's prevented us from being able to move forward in the past, that may have -- that plan may clear some of those hurdles. So we'll have to get back to you as to exactly how that would be but potentially yes.

>> Mayor Reed: Well, it would be helpful. Wherever we can find it, and that takes me to the habitat conservation plan section of the report which is page 20, 21, 22, somewhere in there. I'm not clear what the Water District's participation level is now, with the -- want to make sure each plans, there's two plans, there is the valley habitat

plan, which I'd never heard of before. And then there's the Santa Clara Valley habitat plan, are there two plans or am I just getting things confused?

>> Ann draper again. There is the Water District is working on two plans. One with the City of San José, and other partners, and one that's solely ours. And so the valley habitat plan is the one that we are working on with you. And have for some time. This document -- it has changed names over time, so I'm thinking that perhaps in our editing we didn't get all the edits correctly. But it should be the valley habitat plan is the one that we're working on with you. The district is fully supportive of that plan. The board took action at the is last maybe meeting or meeting before. With its comments on the environmental impact report. The other plan that we have is called the three creeks plan. And that is solely on water supply structures, that we have in the water supply operations. And so we're the only entity that has that plan. The main difference is that the three creeks plan is with Guadalupe, Coyote and Stevens Creek, Stevens Creek is not in part of the valley plan. And it covers essentially the aquatic type of resources, where the valley plan is the terrestrial resources, things with feet as opposed to things with fins. So those are the two plans that we are working on.

>> Mayor Reed: Well, which of these plans would be relevant to the King Road area, for example?

>> The valley plan.

>> Mayor Reed: Although the valley plan does not include fish.

>> The valley plan does not include fish. And so the -- when that project goes into what's called a section 7 consultation, the valley plan will take care of, not take care of but provide the pathway for resolution for all the terrestrial, and we will then need to separately in the environmental impact report take care of the fish, if the -- because the floods protection part of the project is not in the three creeks plan. Just as a little bit of background, the take permits for -- is what you get at the end of the habitat plan, cannot be provided, for anything that requires separate consultation. Every flood protection project requires separate federal consultation. So -- but it creates the plan. And so the habitat plan is what's called a section 10 and the other things are called section 7s. So all of

the flood protection projects will need to go through its own separate 7 process, where we'll pick up fish at that point. But the existence of the plan will -- we will be able to say, we're going to use the plan. And so it streamlines, hopefully, that ability to get that section 7 consultation. And at the end of that section 7 consultation we will then have the -- hopefully the take permits from the federal authorities for their species and from the state, a separate process for the state endangered species.

>> Mayor Reed: I know that the federal government views streamlining differently than we do in local government. It just narrows it down to a decade or so, streamlined version, typically.

>> Yes, I fully appreciate that comment.

>> Mayor Reed: So the Santa Clara Valley habitat plan, that happens the one we're in and the Water District, together.

>> That's correct.

>> Mayor Reed: But we're not covering steel head or salmon or any other fish. What is in it for the Water District?

>> We are covering several different species that are in the other projects. So in the dam phase, you are interested in the Anderson dam. On the dam face there are protected plant species, Cyanosis as an example. And therefore, this plan will provide us the take permits for those protected plants. We also have quite a number of other kinds of other species that we experience a California tiger salamander, although they are not in the protected classes but species of concern is the burrowing owls which we have what the protection and maintenance of our levees which we experience. We have about 23 different species that we actually touch, or have the potential of touching their habitat, that we will get coverage from both plants and animals in the valley plan. Probably, the one that we don't touch very much is the -- some of the ones that are of importance to the

county that are in the outside like the kitsock. But anything that's in the aquatic area we will probably have some impact with them with our project.

>> Mayor Reed: And I've read that either Gilroy or Morgan hill are withdrawing or month longer participating, whatever one that will be. Which one is it and what did they do?

>> Yes, Gilroy took it to Council and took a vote to withdraw from the habitat plan. There's quite a number of actions to discuss with them the opportunities for them to re-think that decision. And the -- I would say all the resource agencies are discussing with them the impact of their decisions on their development plans. And so they may reconsider it in the future but right now they have chosen to withdraw.

>> Mayor Reed: Okay, well, as I've said here previously, I'm not yet convinced that it's in San José's interest to participate in this, just in the way the thing has been narrowed in scope and increased in cost. And so I'm interested in seeing what is in it for somebody else that we care about, and we do care about the Water District. It's good to know that the Water District feels like there's something in it for them. I think that's it on the habitat conservation plan section, trails and open space section on page 23. I think that's how this joint effort got started a few years ago was our desire to move ahead on trails. And that was kind of the leading edge of us discovering that we had a lot of things that we were working on together. So we've made some progress. And that's a good thing. I have a question about the state-of-the-art award received from the American trails for the milestone mileage marker guidelines document page 24. I was out on the Los Alamitos creek trail riding on Sunday, so I got to see all the signage including the mileage markers and I understand the cost has gone up even since two weeks ago when we talked about it in the Council meeting, or a week ago, I forget when it was. It is now \$2500 for every quarter-mile marker. I think that's extraordinarily extravagant in terms of what it could be done for us, so did we win the award because we have the most expensive mileage markers or is it something else in it besides cost?

>> Yves Zsutty, Parks and Recreation department. The price of the market is something we will discuss with your staff. We have been looking to plan a meeting this week. We've done some comparative analysis so we'll show

that information. The state-of-the-art award was given by the American trails symposium because we're the first city in the nation to find a means to accurately address trails to use existing software and at least resources to provide quicker response. So we of course look at price, we looked at a bunch of design objectives, and that's what we've produced.

>> Mayor Reed: Having been on the trail and seen tall other -- there's a whole bunch ever signs. I don't know what the total is on Los Alamitos creek trail, 50 or 100 something like that because you put a lot of signage in, safety signage, much of which is good, I especially like the stop signs, where people are required to stop when they're crossing the streets and don't necessarily do so, those signs are useful. What's the price tag on the other signs, the non-mileage marker signs per unit? Those look like all the signs we put up, put in a steel post and put a sign on it of some kind.

>> I don't have the price tag but the price of that product would be comparative with any other sign we would put on a post.

>> Mayor Reed: But substantially less than the mileage markers I would gather?

>> We'll have a report to share with your staff. There's certain costs that we see with the maker and a sign that's bringing concrete on site, digging the hole, staff time, those costs are carried through on each installation.

>> And I'd like to -- Matt Cano Parks, Recreation, and Neighborhood Services. Just to add on to what Yves was mentioning, we are planning on not awarding any more of the milestone marker project into the construction phase that already has been awarded until we get a better understanding of the costs and of the alternatives.

>> Mayor Reed: I think that would be good, because at a price tag of somewhere around \$10,000 a mile, that's a lot of money for us and the Water District or anybody else that's got to pay for signage as we retrofit all of our trails and build new ones. That's just such an extraordinarily high cost I think could come down closely.

>> We're also closer to \$1,000 per installation as opposed to \$2,000, as we had originally thought. We'll get those details back to your office shortly.

>> Mayor Reed: City Manager.

>> City Manager Figone: Mr. Mayor, I think what we will do, given this has come up a couple of times, staff, when we pull together, we'll do an info memo and share it with the Council.

>> Okay.

>> Mayor Reed: Then finally, both the Water District and the city are working on the flood protection issues around South San Francisco Bay. I did get invited to a meeting called by senator Feinstein, with a group of people, many of whom have helped fund the acquisition of the salt ponds in the South Bay. So I know that there's an effort going on to figure out how to pay for salt pond restoration but primarily flood control. And I think I heard at that meeting that the Water District was pretty close to having the funding necessary to do the -- there's a report in here, let me find the name of it. The South San Francisco Bay shoreline study. And so -- and if you know how much more money do you need in order to be able to put that study together so you can identify the work that needs to be done that we can then begin to look for funding to do the flood control work.

>> The shoreline study which is with the corps started out by looking at all of Santa Clara County, plus two ponds that were in Alameda County. And so we got up to a point in that study where we needed to make priorities. And we did do that. We looked at the areas that were the most vulnerable for tidal flooding now and in the future given sea level rise. And so approximately, let's say two months ago, the Water District decided to narrow the study, to - - so and in the Alviso area, but it extends more than just Alviso area, because it had a high vulnerability to tidal flooding and B, it had the greatest opportunity for the salt pond restoration. So it had sort of two big benefits there. And so the -- I believe that two complete that study, we have essentially -- I believe we have all the funding with that narrowed report. But the actual cost-share agreement between us and the corps has -- will be coming back in the next few months. And also the coastal conservancy is also one of the participants in the local cost-

share. So we had the conceptual agreement and now that has to be formalized. Our hope is with the next voter initiative that we'll be going out with is that there will be then, the construction part of it, will be part of the -- that measure. And so we are seeking to as I said prioritize the areas that we are going to go in and then start with the most vulnerable and that's our path forward.

>> Mayor Reed: And I presume that we can't do anything at our water pollution control plant with that regard until this study is done, so that we can then begin to move forward on that part of it?

>> John Stufflebean: That's correct, and we're working out right with them to make sure our plans coincide with the future there.

>> Mayor Reed: I would just offer, we're already working together. You've already thought of this. If you need any help in Washington dealing with the army corps that should be on our list of what we're talking about to them as well. We have that on our legislative agenda already.

>> I should say, the third benefit is the water pollution control plant so I apologize for not adding that. So we have both flood protection significant infrastructure as well as environmental protection which is why that became the first priority. We will be working with the city on the plans, and we'll see where we can have mutual benefit and we will of course involve the city when we can, because we understand the interest that you have in that project.

>> Mayor Reed: Thank you. And just add that as we looked at that time map of the South Bay when we're in this meeting which is really a Bay Area-wide, it is pretty obvious that the San José water pollution control plant is probably the most important part of real estate that we have to worry about in terms of bay flooding as the sea level rises which is what prompted the meeting. So senator Feinstein is interested in helping us. She's very interested in flood control. She's very interested in the restoration project. And so she offered to help and I'm sure we'll take her up on that. Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. Thank you for raising the issue of sea level rise, I'm sure it's something we're all concerned about. I raise two questions. One is, I'd heard from some folks. I'm not sure how accurate this was or not, but that the shoreline study may not be taking in comprehensively to look at sea level rise impacts and in fact may be more focused in some way. Am I misinformed?

>> The shoreline study does take into account sea level rise. And there are three scenarios that the shoreline study is using. Looking at three different levels of sea level rise. One of the things that the corps does, which is that it has a 50-year horizon as opposed to a 100 year horizon. And that makes sense because the life of the facility is 50 years and the state of the knowledge will change as we go along. So yes, it does incorporate the sea level rise. The level that it's looking at are compatible with what the state has requested, which is a 100-year. Is not half of 50, I mean half 100, in terms of the elevation, because when you look at the curve, it actually, the first 50 years goes up at one point and then the raise of the curve goes up in the last 50 years if there's greater uncertainty. There's some people who might look at that and say well it's not half of 55 inches. There's a reason for that, the way the curve is it will. The science is evolving and it's probably important to use the best available science that you have and also understands the elect of the life of your infrastructure so that you don't go you know overbuild beyond what the life of that infrastructure would be.

>> Councilmember Liccardo: Great, thank you. And along with that, I also had a question about sea level rise impasse on the potential risk of greater saltwater intrusion in our groundwater, reservoirs specifically the -- I'm sorry, the aquifers that we rely upon. Is there any significant risk that the sea level rise, we could see potential contamination of our groundwater?

>> So I've had conversations with our groundwater people on that subject. And what they describe as the most important thing is that we keep our aquifer charged. Because we have hydrostatic pressure that would not cause for that intrusion. But should we lose that hydrostatic pressure which means not continue to have the ability to recharge the aquifer or there's significant pumping, then we'd need to be -- start -- be concerned. There are wells that are up there, test wells that are looking at that and other things.

>> Councilmember Liccardo: Great, thank you. I'm guessing this probably adds to our desire to want to be able to move recycled water to the level of purification where we can be recharging with recycled water. Is that fair?

>> I don't have that particular information but I would say that we have a collective interest in keeping the aquifer for many reasons charged. Subsidence being another big one.

>> Councilmember Liccardo: Yes, certainly. Well I certainly hope that we can move along. I know I'm hearing Orange County in locations that they're moving forward with recharge, I hope we can do the same thing, I think it's going to be important for many reasons. Thanks.

>> Mayor Reed: Any other questions for Water District staff or city staff? Anything to add --

>> John Stufflebean: I do have an answer to Councilmember Chu's question, all districts did great and everybody won.

>> Mayor Reed: And they all get a participation trophy, right? We're still waiting to hear who was number one. Is there a fundraising component to that too, if you want to be number 1 you have to raise at least \$100,000 or something? Okay, I think that concludes our questions on that. We need a motion to accept the report. Motion is to accept the report. Congratulations to the staff for another year of progress. I had one speaker on this, let's take that before we close up here. David Wall.

>> David Wall: Let's start off with the storm drain management of the watershed protection division. This is mission creep, ladies and gentlemen. The Water District, our good friends, for a long time, have been passing away the responsibility of the management of their property to cities. Specifically, to the City of San José, with reference to storm drain funding from the environmental services department. These homeless encampments should be rephrased as vagrants encampments. There is a lot of convicted felons, a lot of criminals down there. A lot of shiftless people that need to be dealt with in a very firm and effective fashion. The Water District has been reckless with the management of their properties to such a degree, I contend the City of San José and other

jurisdictions could have a cause of action against them for a nuisance. The actual vagrant management program should be looked at by the city for a variety of reasons. But in no way should it be funded out of the storm drain fund for some trash hot-spot idea. This is mission creep. With reference to reclaimed water the advance water filtration and ground charge -- groundwater recharge, this also is integral into the habitat plan. For example, if you enact a sewer hookup moratorium, all these programs solve themselves. In particular, the reclaimed water project has been the biggest white elephant this city has ever undertaken. The cost of this water is prohibitive, the last audit, in the year 2000, I believe, showed exactly how the administration overadvertised this problem -- or the reclaimed water issue. The issue is growth, ladies and gentlemen. You've got to stop residential building. You do not have an adequate water supply. A sewer hookup moratorium will solve this, it will reduce this cursed reclaimed water project which is water that nobody wants. It costs too much, and when you use the reclaimed water, in addition to water conservation, good afternoon.

>> Mayor Reed: That concludes the public testimony. We have a motion to accept the report. All in favor, opposed, none opposed, that is approved. We'll now move to the Redevelopment Agency portion of our meeting. Take a moment to change staff. First item is the consent calendar. Are there any matters on consent calendar Council would like to pull for discussion? Motion is to approve the consent calendar. All in favor? Opposed? None opposed, that's approved. Item 7.1, it's an approval of amendment with SJ real estate partners LLC to modify terms of a promissory note for 360 Residences.

>> Harry Mavrogenes: Mr. Mayor, members of the board, we have a full report in the packet. This is very good information for us in that Kennedy Wilson has acquired the 360 project. They have reached an agreement with us, they would like to convert it to rental for the time being and as such they do need our approval. They have agreed to pay certain costs up front including the public art fee that was owed on the project of \$539,000. In addition, \$250,000 cash, will be given to the agency immediately for a portion of the promissory note as well as forgiving of some fees. We have also been able to renegotiate the reinstatement of that note for the balance of one million seven so when the project does become a for-sale project in several years the agency may recoup some of that money or all of this money, hopefully. So we've structured it in such a way that it improves the chances. So we

welcome Kennedy Wilson's involvement and look forward to working with them. I know there was a representative from Kennedy Wilson, Joan Cramer, in the audience. She may want to speak on this matter, also.

>> Mayor Reed: All right, we'll get the comments in a minute. I have some comments from Councilmembers first. I'd love to see that building full of renters who are going to have dinner out, and spend their time in downtown enlivening the downtown and adding to what is already a nice place to live. So it's good to fill this up, hope they can do it in six months or less. And so it's very good. We appreciate their investment in San José and their confidence in San José to come in and take this project over. So I think they'll be very successful, it's always been one of those places that I think would be a great place to live downtown. So looking forward to that. The other thing, it's in the staff report but I think I just want to call this out, that the agency received \$8 million for the land on this site, at close of escrow. So what we're talking about now is the subordinated back-end interest kinds of things on the deal because we got \$8 million up front and that was a pretty good price. So that should be noted. Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor, mayor, I just wanted to thank Harry and his team for negotiating what I think was a really win-win here. Being able to move \$790,000 out of the deal into the agency and to the public art fund, I think that's a great victory, certainly. And an even greater victory is obviously bringing three to 400 residents downtown in a beautiful tower. And I welcome Kennedy-Wilson. I think this is going to be a great opportunity for all of us. I see that Rick Freeman and Charles Taylor are here. I just want to thank them both. In really tough times like we've experienced in the last couple of years in every big city, it really tests the character of a lot of folks and we can see in certainly in Charles and Rick and other folks we saw a lot of collaboration in a lot of tough times. People were willing to work together. The other high rise developers were working together on marketing. Certainly their collaboration with the downtown association, their supporting BART to downtown, I really appreciate that in tough times they're willing to step up and obviously leave a great legacy here for our downtown in this beautiful tower and we hope they will leave many more to come.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you mayor. I want to thank staff for this creative proposal, fine work. I'm very excited about supporting this. I do have a question about the mention of the anticipation that they'll start selling units in approximately five years. As part of the agreement is there any language in there that gives us assurances and if it's listed in here I missed it. I read this late last night. I apologize.

>> Councilmember, Tom Murtha with the general counsel's office. There is no requirement that they sell within a certain period of time.

>> Councilmember Rocha: They sell the land and the product?

>> We allowed them to convert to rental. The DEA require that it be hotel so they could add the addition that they could rent it, so basically it is their option.

>> Councilmember Rocha: Okay, there is no guarantee that it would convert back to a for-sale project.

>> Yes, it is whatever they want do with the project.

>> Councilmember Rocha: Thank you.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I just want to congratulate Harry and the staff. I think this is a very good outcome and as Councilmember Liccardo said, we're going to have more residents downtown and that means also a great place for employees to live, that can be working for other companies that will be locating to San José. So I'm very pleased at this outcome and hopefully, down the road, if there's a sale we'll get that almost \$2 million back. So it's a good deal.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I would like to add my congratulations to the list. I think this is fantastic. I wanted to ask, I have no idea how many people, how many renters we would be adding. Is there some ballpark figure?

>> Harry Mavrogenes: Well, there are over 200 units. So it would be somewhere in the range of 250 to 400 people.

>> Councilmember Pyle: Okay. So this would be at least a start towards getting more people downtown to expand some of the retail opportunities.

>> Harry Mavrogenes: That's correct. This is, you may recall, this is the fourth of four high rise towers we help facilitate over the last decade. And certainly, it's a major piece of strategy. And will help retail. So we're very hopeful that this will move quickly.

>> Councilmember Pyle: Right. And then for anybody who's out there listening, the price range for the rent?

>> Harry Mavrogenes: I don't know if they're ready to speak about that.

>> Mayor Reed: Joan Cramer is going to speak in a minute. She's from Kennedy Wilson.

>> Councilmember Pyle: Okay, and then there is a program called rent to own. I didn't know if that would be part of the offerings as well. Thanks I'll wait for the answers.

>> Mayor Reed: Okay, why don't we get those now. Joan Cramer.

>> Good afternoon, Joan Cramer with Kennedy Wilson representing the owner. I just wanted to start by saying thank you for listening to us today and to echo Councilmember Liccardo's comments regarding Mesa and Charles

Young and Rick Freedman. Because it's also been through their character and their project which enabled us to be here today. As I'm sure you're aware this is a very large investment for our firm and acutely aware as we are as our interest ticking away with an empty building we are also acutely aware that every day, we don't put people into these units, there are 213 residences, is money coming out of the neighborhood development or the neighborhood businesses. So I'd just like to also say we're ready to hit the ground running. We are leasing, office is set up. We're ready to open tomorrow based on the approval and hit the ground running on that as well as the payment of the fees, in very, very short order. So again, I wanted to say thank you, and I'm happy to answer any questions you have.

>> Councilmember Pyle: I was interested in a price range for the rent.

>> Price range for the rent is about \$2.20 a foot. So on the low end it's in the \$2,000 a unit range. There are six penthouses which are significantly more expensive in the four to \$5,000 range.

>> Councilmember Pyle: Great, thank you.

>> You're welcome.

>> Councilmember Pyle: Will you be doing any rent-to-own opportunities, is that familiar to you?

>> You know what, we haven't considered any rent-to-own opportunities. We look at the market and the feasibility in the market right now, I don't know if that makes sense but long term, obviously this is a beautifully built building and really built to condo specs so that would be the direction we would look at.

>> Councilmember Pyle: Thank you.

>> Mayor Reed: Thank you very much. Don't have any other questions for you. Take additional testimony. David Wall.

>> David Wall: I forgot about this one. This is probably one of the lighter moments in today's meeting if not the abject comedy of errors. I want except for the two new Councilmembers, Councilmember Campos and Councilmember Rocha, the rest of you look at each other and say high density living projects don't work. What we have here, what you have to actually discuss with the people that bought into this program, I mean, do they have a cause of action against the city for misrepresentation? Here they didn't spend all their money to buy a big penthouse to hang out with, for example, District 3's inclusionary housing, your ultralow income housing and whatnot. Moving into these structures. Pay your million dollars or \$2 million whatever it is for one of these places and then you have you know a group of gang bangers hanging out on low income. What does this say of San José's policy of these high density living projects? Personally, my own personal opinion is high density stupidity because they were unsustainable from the day they were designed. It's engineered, social engineering, telling people how to live in a city, doesn't work. People will do what they want to do. If you wanted to experiment, maybe one of them, sell all of the residents, but you took on four of them. Now your money's taken away from you, your tax increments are collapsing and you pat yourselves on the back especially District 3. We've done a good deal today, we've saved ourselves. It's comical, ladies and gentlemen except it's taxpayer money and taxpayer debt and it's an atrocity in all aspects. I feel sorry for the people that bought into this program because they're stuck with that property for as long as the foreseeable future. And what do they get out of it, life in the downtown? Go to St. James park that I walked through this afternoon, 30 to 50 vagrants hanging about. Welcome to San José.

>> Mayor Reed: As I understand this, there is nobody living in this building, at this time, that has never been sold, not a single unit was sold to anybody. The entire building was sold and everybody that moves in there will be a renter paying a couple of thousand dollars a month or more.

>> Harry Mavrogenes: That's correct.

>> Mayor Reed: And anything else? We have a motion to approve, I believe, Councilmember Liccardo made the motion. I think whatever the clerk says. I just wanted to make sure we got a motion. And a second. We do. Okay,

clerk says we've got one. So on the motion, all in favor? Opposed? None opposed, that's approved. Taking us to the open forum which is the last item on our agenda today. We have a request to speak, Mr. Wall.

>> David Wall: First I'd like to thank Tamera Davis of the clerk's office for her expert note-taking. I'd like to thank also San José police officer Anthony Diev who flies top cover for this meeting and several meetings periodically. Yesterday at the Community and Economic Development committee meeting, it was very disturbing to see the mindset of Councilmembers, in this case two learned counselors of law, to even consider funding the Mexican heritage plaza. It's \$600,000 from the General Fund, Mr. Mayor. After our learned City Manager is laying off countless San José police and firefighters to even entertain bailing out this failed corporation for what, the third time? This is ridiculous, Mr. Mayor, absolutely ridiculous. There is no chance in hell that that project is ever going to be successful. It is a good idea to have an art school. I don't have any problems with that. I support that. But at this day and time, \$600,000 a year for three years? Mr. Mayor, how do you justify that? How do you justify that for an art school? For just a handful of people, versus laying off police officers, which you're going to need by the droves, to protect this city. I, for one, don't understand. But there's one thing I do demand. And that is a full accounting of 1stAct of Silicon Valley's financials. I want that to be part of the public record. And access to all their records, if you go forward and do business with these people. Once again, this project should be stopped dead in its tracks. It should never have been passed at CED and it should never be a going-forward for this May 24th vote by you folks. I don't see how you sleep at night. Laying off cops, and funding for an art school. That escapes me. Just escapes me. And Mr. Mayor, you better watch --

>> Mayor Reed: Your time is up. Shirley Vargas.

>> Good afternoon. I'm here today to discuss what I read in the newspaper the other day, and that was there is going to be an increase in property taxes, and that was going to be for the sewer department. Well, you know, last year, I read on my tax bill, it said sewer department, you know, \$450 a year. And I called the sewer department and I said you know, that's a lot of money, \$450! For just the sewage department! I said how much was it nine years ago, or ten years ago, for that matter? She said nine years ago, it was \$45. I said 45, and today, it's 450, that's in nine years. I'm here to say all the Councilmembers, as well as the mayor, keep the cost down for property

taxes. You know, people like to retire, like some day I'd like to and you know, you can't possibly retire and you can't even get a job. So if you're over 40 they won't hire you in Silicon Valley. So I'm here to keep the cost down on all forms of taxes and not just for myself but also I'm speaking for other property owners who would like to retire. One of my friends she said her father was 85 years old, had to go back and look for a part time job so he could pay his property taxes. I know another person who had a 1.2 million dollar home had to sell it within four years because property taxes went up so much. Another woman was on the other side of the coin. She was so poor she let the taxes go and so what happened, when she passed away of course there was a probate on her taxes because she couldn't afford to pay the taxes. You know she was living on Social Security and Social Security is not a supplement like some people think, it's a supplement for your income. It's actually a safety net for a lot of people, that's all they have. So I'm here to ask the people here to understand the property owners who are actually paying your wages here. Not just the city employees. But if you think about it --

>> Mayor Reed: Sorry your time is up.

>> Thank you.

>> Mayor Reed: That concludes the open forum. That concludes our meeting. We're adjourned.