

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. We have a quorum. There is nothing on the agenda for the labor update. No report from staff, I've got no one here to speak, so we're going to adjourn into closed session. We'll be back at 1:30.

>> Mayor Reed: I'd like to call to order the City Council meeting for October 23rd, 2012. We'll start with the invocation. Councilmember Rocha will introduce the invocator.

>> Councilmember Rocha: Thank you, mayor. It is my pleasure to welcome Ann Brownell to present our invocation today. October is national bullying awareness month. And as many of you know, Ann is the mother of Amanda Brownell and founded the Amanda network after her daughter attempted suicide to escape bullying at school. Amanda survived and through the strength of her family and her faith became the namesake for the antibullying campaign that her mother has championed. Ann's partner in this effort is the Cambrian park United Methodist church which is the one of the strongest social justice oriented faith based groups that I've come to know and I'm happy that they are serving our community in District 9. Ann will share a poem with us but as we're listening I hope we realize that it takes a community to raise a child and those children look to all of us for guidance. So we can and should champion antibullying campaigns in schools and our community and this is close to my heart as the father of three. But we as adults must model good thoughtful mindful behavior with each other to show our youth that respecting one another is important, that people can disagree without harming each other and that we have nothing to gain when we intimidate or bully other people. Sometimes we all need this reminder, myself included. Ann, thank you for joining us today.

>> Thank you, good afternoon, Mayor Reed, councilmembers, and the public in attendance here today. I am here with another Amanda network speaker, Rusty Davis Clem and he will also take part today. So first I'd like to start out from the Bible. Luke, chapter 6, verse 43. And it says, no good tree bears bad fruit. Nor does a bad tree bear good fruit. Each tree is recognized by its own fruit. On September 11th of this year I gave a presentation at bridges academy, and their assignment was for them to write a thank you letter. And what it was that they got out of my presentation there. And I would like Rusty to read one of the letters that I received that touched both our hearts.

>> Wednesday, September 12th, 2012. Dear Ms. Ann Brownell. I really loved your presentation. It gave a really big impact on me that day. I can really relate to what happened. Two years ago, my twin brother tried to commit suicide. We were in the sixth grade and he was getting bullied. We usually don't hang out together, during

recess. We had different teachers. I knew something was wrong, though. Normally we would go home and we would do our homework and then we would play one on one match together. But then, after we did our homework one day, I asked if he was ready. He shook his head. He said no, I wasn't in the mood today. It was normal, sometimes he just didn't want to play. We would play almost anything together. Basketball, card games, anything. But he continued to say no. That week, the next week, and every week, I got worried and I told my grandfather who we both lived with. We tried to talk with him but he refused to tell us anything. It happened a few days after that. I was downstairs helping my grandfather cook dinner. I called my brother downstairs, when it was done. But he didn't answer. I went upstairs and saw that every door was opened except the bathroom me and my brother shared. I knocked. And then I saw the door was unlocked. I went in. And I saw my brother. He had used a scarf to hang himself. I yelled for my grandfather and he came in. He told me to call for an ambulance. I did and by then I was crying. They came and took him to the hospital. He survived. But he's just like your daughter. He can't respond. But he knows. Currently, he does not live with us. He lives with a couple of friends in Tampa, Florida. He lives with a family that we trust and can afford his medical bills. I really miss him. But anyways I hope your daughter will one day respond back to you. This is a really good thing you are doing and I hope you will continue. Good luck, Miss Brownell. Sincerely, me.

>> So now I'd like to explain a little bit about why we use the purple scarves. At first it was because Amanda's favorite color was purple, and December is always very cold, even here in San José. And so we wanted something to unify us so we made these purple scarves and gave it to everybody who is here. But through time we found that the San José antigang task force uses the color purple because it symbolizes peace because gang colors are traditionally red and blue, and when you mix those two colors together, you get purple. It's also the color of royalty. Because in olden days, only royals could afford the purple material. And of course when the kids were little, us as parents called them queen or king or princess or prince so that they always are royalty to their family. So they should never think about hurting themselves. And the last is, it's a symbol for bravery. And when you serve our country, and get injured, you get a purple heart. So it also stands as the symbol for antibullying, and not just to the LGBT-QQ crowd, but to anybody and everthing. So I would like each and every one of you to repeat after me the Amanda network pledge. I pledge to not allow bullying in my presence. If I don't report it, I am just as

guilty. So thank you. Now each and every one of you are now members of the Amanda network. So you can share her story and prevent other kids and adults and even seniors from taking their life. Thank you.

>> Mayor Reed: Thank you, we'll now have the pledge of allegiance. Please stand. [ pledge of allegiance ]

>> Mayor Reed: First item of business are the orders of the day. Are there any changes to the printed orders? I'd like to note that the adjournment set for Isaiah White will be deferred to the October 30th meeting. Any other changes to the printed agenda? We have a motion to approve the orders of the day. All in favor, opposed, none opposed, orders are proved. Closed session report. City attorney.

>> City Attorney Doyle: The council met in closed session this morning. There is no report.

>> Mayor Reed: I'll now take up the ceremonial items. I'd like to start by inviting Jim Ortbal and representatives of the federations that are associated with the combined giving campaign to join me at the podium. [ pause ]

>> Mayor Reed: Today we're declaring the City of San José's participation with the combine giving today in the City of San José. Through an annual charitable giving campaign for many decades. City employees have the opportunity to eventually support some 300 local services and nonprofit agencies that have a direct impact on the lives of the people of San José and provide important services for basic needs in our community. This year's campaign like last year's is being led by the Department of Transportation. Jim Ortbal is here to tell us who's involved in making this a success. Jim.

>> Thank you very much, Mayor Reed and members of the city council. Yes today we are recognizing the four federations that have been instrumental in coordinating and distributing contributions from city employees to those charities that really help those in our community. I'd like to recognize first, representing community health charities and the San José burn foundation we have Mike Moses San José pharmacists, from earth share of California we have Dave Coyle. Dave. And from United Way we have Linda Tully. Linda. They coordinate put the brochures together our Website and the convenient online giving service. So a particular thanks to the United way. But I'd

also like to acknowledge all of our department coordinators. They do a tremendous job of getting the word out to our employees, of really encouraging participation. It's not an easy time to support campaigns like this, but they are doing a great job of answering questions and really making this a convenient way for our employees can help important charities in the San José community. So I'd ask all of them to stand in the front two rose Our department coordinators for the City of San José. And let's give them a round of applause, please. [applause]

>> As we all know the lingering effects of this recession are still very, very impacting people in you are community. The charitable donations and the volunteer time that our charities provide really meet the basic service needs of people in our community but we're also very aware that our employees have been impacted as well and those that continue to contribute generously, we very much appreciate what you're doing for the people of San José, in demonstrating that city employees are very generous with with their time and their resources. Please remember together we can build a brighter future for those in San José. Thank you very much. Thank you, Mr. Mayor.

>> Mayor Reed: Thank you all, we appreciate it and yes, Jim, I will be participating again, this year. So I got the e-mail. I appreciate that opportunity. Now I'd like to invite Councilmember Campos, Councilmember Kalra, Angie Martinez, to join me at the podium as we proclaim October 14 through 20, 2012 as freedom from Items week in the City of San José.

>> Councilmember Campos: Before I get started, go Giants! Had to do that. This week -- good afternoon. This week commemorates freedom from bullies week. It is a week we should all learn to recognize and implement into our daily lives. By doing so we as employers help create a healthy and productive work environment. Where each of us can reach our fullest potential as employees. Workplace bullying can jeopardize, your health, your train of thought and even your career. Bullying can be caused by many different ways. It is considered a nonphysical form of violence and because it is so abusive it can cause both emotional and stress related issues that can negatively affect one's life. Freedom from bullies week is a chance to break through the shame and silence surrounding bullying. It is a week we realize bullying will not be tolerated in the workplace. With that said, I want to recognize the California healthy workplace advocates or also known as the bully busters. The California healthy workplace

advocates carry on the important mission that is to raise public awareness and to compel our state to correct and prevent abusive work environment through legislation. This organization truly understands the importance of workplace safety and a zero-tolerance of bullying. Here to represent the California healthy workplace advocates is Angie Lomalie Martinez. I want to personally thank Angie for the outstanding work she has done to prevent bullying in the workplace. And now I would like to invite Mayor Chuck Reed to present this proclamation to Angie Martinez and the California healthy workplace advocates. [applause]

>> Thank you very much. Councilmembers, mayor, City Manager, and all the members of the community that are here today. I want to thank you for being here. And understanding that bullies not only start off at school, but they end up in our workplace. They come in all shapes and sizes. They are your subordinates, your peers, your supervisors, your managers, sometimes it's even your customers. Bullying is in existence, and unfortunately it is not -- at this point it is perfectly legal to be bullied at work sometimes. Unfortunately, the acts fall within the shadow's edge of any harassment or workplace violence and sometimes people are victims of such acts. And I'll tell you, I stand here right now as someone Haase who has been a victim and there was nothing be or very little that could be done. So I would like everyone to reach deep inside themselves, and take that Amanda's pledge and any other pledge that is out this, and recognize that we all need to work together. To put a stop to workplace bullying. Thank you for your time. [applause]

>> Mayor Reed: Now I'd like to invite Councilmember Chu and Ron Muriera and Thelma Boak from Northern California Filipino American National Historic Society joining us at the podium. We're declaring the month of October as Filipino American history month in the City of San José. Councilmember Chu has some comments.

>> Councilmember Chu: Thank you mayor. I'd like to thank my colleagues and the mayor for joining me in proclaiming October 2012 as Filipino American history month. A couple of weeks ago councilmember Ash Kalra and I attended a Filipino American history day event at our history park San José for the opening of the Pacific Hotel gallery on the history of Filipino Americans in Santa Clara County. It was a well attended event with great Filipino food, live music and dance, and performance and children's craft and activities. The City of San José's greatest strength is its diversity of residents from other parts of the world. Today's action by the city council

signified our appreciation and understanding of various cultures. California state legislature in 2009 designated October as Filipino American history month. October 2010 marks its fourth anniversary. On October 8, 2011, California governor Jerry brown signed bill 199 into law, the bill ensured that the social science curriculum in grades 7 through 12 include the significant role of Filipino Americans in World War II. Filipino American history month commemorate and honor the more than half a million members of the Filipino community in the United States. The City of San José recognized the contribution made by Filipino Americans of our community, and reflecting on the importance of their rich history and continued impact of their ancestors and themselves. Here today, to accept the proclamation, are Ron, I am also murder his name so let me try it again. Ron Moriera. I got it, great! A Filipino national history society better known as fun, shows part of the phenomena, also part of the fans retired east side union high school district and was the recipient of the 2010 outstanding Filipino American pioneer award. And Raymond Thomson, don't need much of an introduction, is the first Filipino American to play in the NBA. If you remember back in the '70s, '80s? Good long time.

>> Councilmember Chu: Long time ago, yes, yes. And he was also the honoree at the Filipino American history day on October 13th. So at this point would I like to ask the mayor would you please present this proclamation to Ron. Is [applause]

>> My brief remarks. On behalf of the Filipino American national historical society, otherwise known as FANHS, the Santa Clara Valley chapter, and our national office, we thank you Mayor Reed, Councilmembers Chu, Kalra and the rest of the honorable city council members for officially commemorating and acknowledging October as Filipino American History Month which was first established by FANHS' national board of trustees in 1992. We are proud that for the last six years, the City of San José has been one of the few, cities to officially honor and recognize this month threw proclamation. That sits very well in the national level. 2012 marks the 425th anniversary of the presence of Filipinos here in the United States and major contributions that Filipino Americans have made throughout all sectors of our society. I am very pleased to have Thelma Boak join us here at this presentation. As you know, she has greatly contributed as an educator for the last 37 years, having served Eastside union high school district as the only Filipina American principal as at a high school in that district. She was also, besides being the outstanding Filipina American pioneer award given by FANHS, she in 2008 was

recognized as one of 100 influential Filipinas in the United States. I'm also pleased that we have joining us here Raymond Townsend, the first and only Filipino American, to this day, right, Rayond, to have played in the NBA. He is not just -- yes, that should -- [applause] That's a tall Filipino right behind me. He played with the Golden State Warriors, so even more pride. So we honored him for not just his dedication as an athlete, but his commitment for working with at-risk youth and special needs children here in San José. As an educator, he's served well over 40,000 students through his various education programs. So by honoring our pioneers such as Thelma Boak and Raymond Townsend, the City of San José and FANHS, we play an integral role in honoring, preserving, documenting and educating all of our communities of the valuable contributions that the that Filipino Americans have made and continue to make in the United States. As a national trustee of FANHS, I thank very much the city of San José, Mayor Reed, councilmembers for always acknowledging the valid contributions of our Filipino American community. Thank you.

>> Mayor Reed: Next item of business is the consent calendar. Are there any requests from the public to speak on the consent calendar, there are none. Any items councilmembers wish to pull for discussion? We have a motion to approve the consent calendar. On that motion, all in favor? Opposed? None opposed, that's approved. I just want to check. I think the electronic signaling to speak request is not working, correct? So back to the old hand-wave stand-by. So if I miss you, just wave a little bigger, I guess. Item 3.1, report of the City Manager.

>> City Manager Figone: Thank you, Mr. Mayor, members of the council. Just a reminder that next Monday, October 29th, at 1:30, the city council has scheduled a study session to discuss the matter of homeless encampments in San José and what we can do to address this growing problem from a community-wide perspective. Homelessness and the encampments are a complex and difficult issue affecting cities across the nation, including San José. And although we in San José have been struggling with this issue for decades the number and size of encampments along our creeks have been growing especially in the past few years. And so this is a significant problem as you know, and will continue to hear at the study session, involving many dimensions of course affordable housing, pollution and erosion of our creeks, Public Safety both in terms of criminal activities and fire danger, and the quality of our neighborhoods. I would like to say that I did have a chance to visit several encampments last week and I watched our staff deal with a major cleanup and although

the extent of the problem really was very shocking to me personally, I was really amazed and very proud of the commitment of our staff who have been on the front lines dealing with this very difficult issue. And so I think we all know, and will hear, that there are no easy solutions or quick fixes. So at our study session next week staff will provide an overview of away we've been doing and what our strategies might be for the future. In addition to this study session we will also have another joint meeting with the Santa Clara Valley Water District in December to follow up on this discussion and our city district partnership. There will be no advance materials distributed. It will be all presentation-focused at the study session. That concludes my report.

>> Mayor Reed: Before we move on I wanted to make one comment under orders of the day I should have made. That has to do with the schedule today we have an unusual schedule in that we're having the evening meeting will start at 6:00 p.m, with a series of things. Land use not before 7:00. Considering that we have four ceremonial items and a couple of I think lengthy items, land use will certainly be well after 7:00 but we will start at 6:00 because of the length of the meeting. We will probably have a meeting that will get done by 5:00 this afternoon, so we have an hour's break for dinner. I think the clerk was planning on bringing in food. And maybe we'll get lucky and be done by 3:00, but one can always hope. But anyway, we will start this evening at 6:00, no matter what time we get done this afternoon, I believe. Item 3.6 is the next item, those are amendments to the staffing configuration for fire management classifications, city pay plan, and membership in the Federated retirement system for fire and police management classifications and related proposition adjustments.

>> City Manager Figone: The chief is here, mayor. I don't know, chief, if you have a presentation or just here for questions.

>> I did have a few -- if I could make a few comments prior to the consideration of the item. Number 1 is that I think there is a little bit of confusion about the item. And as a result of pushing the item back to today's date as opposed to last week, and part of that or the primary reason for that is the change in the recommendation. I want to make sure that it is clear that the proposal, particularly on the agenda, is incorrect, but on the item is correct. A-1, authorize the elimination, should say authorize the elimination of three vacant relief fire caption positions and the addition of three fire division chiefs. The item is correct but the agenda item language is incorrect. I just

wanted to also comment that the representations come forward, all the other recommendations listed on the agenda are correct. The items come forward after quite a bit of review of the department's capabilities as a result of a lot of the changes and reductions that have had to have been made to the department over the years. The valuation of our ability to provide the support and mentoring to our employees that we have, the current makeup and demographics of the department both current and future, and our ability to be able to forecast on the needs of the department into the future. And so wanted to address those. We believe that the recommendations provide the ability for us to provide much better support for our folks, the span of control issues are apparent and clear that we aren't able to provide the level of development, mentoring and coaching to our people and our focus on operational readiness as well as on the safety of our people and our wellness have been an issue for the department for the last couple of years. Those are you my comments. I'm happy to answer any of your questions, I'll respond to any of the questions that the council may have.

>> Mayor Reed: Thank you, chief. Before we get into council questions I just wanted to make sure I understood the change that you referred to in the beginning. So --

>> The change, many, many under recommendation, number A says adopt a resolution to and then number 1, should say authorize the elimination of three vacant relief fire captain positions, not battalion chiefs.

>> Mayor Reed: Okay, so the agenda is slightly off. But the staff memorandum has the correct --

>> Yes, sir.

>> Mayor Reed: -- language. Okay so the replacement memorandum is what councilmembers have in front of them. Councilmember Constant.

>> Councilmember Constant: Thank you. Chief I just want to go over a couple things because I know you and I had extensive discussions about this and at first blush it appears that there's pay raises but there's not. I just want to make sure we go over it so that everybody's aware. And my understanding, and just correct me if I'm wrong, is

that currently, the positions that we're talking about, the assistant chief and the deputy chief, they get stand-by pay. And that stand-by pay comes on their time card whether or not they have to come into work, is that correct?

>> Mr. Mayor, members of the council, Councilmember Constant, that is correct. Each of our deputy chiefs, we have three. Are responsible to cover duty responsibility about one-third of the year and as a result of that they are compensated with two hours of stand by pay each weekday or each business day and three days on holidays and weekends. So that compensation results in a payment to them if they choose to compensate for that time in. Now if they happen to be called in or have to respond it is actual time worked.

>> Councilmember Constant: Right. So the information that you gave me, and we don't have to go through all the numbers but basically it comes out to about 19.8% of pay annually goes into stand by pay for these classifications. But changing the ranges we're basically tapping that at 9% because we're increasing the range by 9%, right?

>> That's correct. And it's -- if they choose to take it all in compensation.

>> Councilmember Constant: Right, right. So in effect, we're eliminating overtime and increasing -- eliminating overtime and eliminating stand by time but increasing the range to make up for it and we are 10% or 9.5% to the better for doing that right?

>> Correct. In terms of the compensation to the employee, right.

>> Councilmember Constant: Right. And in relation to the assistant police chief, by again -- well again it looks like we're increasing the pay range. I guess this would go to the City Manager or Ed Shikada, that what we're doing is we're taking pays that are already supplemental pays and we're rolling them into the base pay like we're doing the bargaining unit.

>> That's correct.

>> Councilmember Constant: So there's no raise to that management position either?

>> That's correct.

>> Councilmember Constant: All right. I did have some questions about the division chiefs and I know chief you and I talked about this in the structure that we have in our department, and we'll have three, if this passes today it's three division chiefs that will supervise the battalion chiefs. And that gives us supervision ratio of 1 to 6 versus the 1 to 18 that we currently have.

>> Yes, sir.

>> Councilmember Constant: And instead of the chief going 1 to 18 or the deputy chief going 1 to 18, it's 1 to 3 and then 1 to 6?

>> Yes.

>> Councilmember Constant: We talked about this a little bit. Given the schedules we see in the fire department which we have staggered shift, the A shift B shift three shift which in effect creates each shift works on average ten days per month, and we're adding three division chiefs, three full time equivalent chiefs, that each will be working about 23 days per month. And my question that you and I explored a little bit in my office was, when you have these people that are coming in to perform a management function, and their management time is about 40% of their time, that they're at work, how do you see that working? Especially with people coming in on different days? Because unlike the police department when everybody comes in Monday Tuesday Wednesday Thursday and that's a reliable thing, with a the fire department you come in on a Monday, you don't come in until Thursday, then you come in, it's a set schedule, but random days, how is that accountability going to flow back and forth?

>> Mr. Mayor, members of council, Councilmember Constant, part of the reason we weren't specific about the shift schedule or the schedule that these folks will work, they'll work a minimum of 40 hours per week but it will be a very flexible schedule based on the rotation of the shift they supervise. So it may be four 10s this week and it might match up with what our expectation is that they spend at least two days with their shift, on the same days, and also, give us some time during the week to support administrative projects as well as major programs that we have that support our operation. And we came up with that through a variety of evaluation processes that we utilized, primarily asking other departments that were similar to us in terms of the scope or the services that were provided, and ask them not only why they were organized in the way that they were, but also, how they came to those decisions. And we used that information to help us develop a proposal so that we could maximize the opportunity for us to have our folks have contact time, and good communications, good, meaningful opportunities for them to develop our folks as well as have daytime hours that would allow for them to manage major programs. And we've also had the opportunity for the last -- since January, since chief Reed moved over to Oakland, to try it out in practice. Because of the vacancies that we have within our organization, we've had to develop some work arounds if you will to make sure we are supporting the people that we have. And in doing so we've asked our deputy chiefs, in fact we asked for an allowance to have an additional deputy chief for a period of time so that we could manage ought of the functions that were necessary to manage as well as provide the level of supervision that we believe that our folks in the field need. So we've had each -- three of our fourth deputy chiefs try to provide the support to our battalion chiefs as well as the captains in the field and we've had a good opportunity to see the amount of meaningful contact time work, support, correction, all the things that we're looking for, for our folks given our current makeup and our future makeup of our organization, we have had a chance to see what that looks like and what can and can't get done by a single individual. We've had an opportunity to test it and we think we've had the best option and that's the reason we have three instead of two.

>> Councilmember Constant: One of the reasons I still have reservations about this part, and not that we need whether we need division chiefs or not, because I agree we need them, but it's whether we need three, because even if someone were to flex every one of their days to accommodate their subordinates, they'd still only be supervising 40% of the time, if they're working five 8s, and maybe 55% of the time if they're working four 10s. And when you look at a similar supervision structure, I know the jobs aren't the same but a similar supervision

structure in the police department, the way the captains work is they work opposite sides of the week. And so I guess my continued feeling is, why do we need -- because these are quarter million dollar piece all in FTEs. If you look at all of our costs it's about a quarter million dollars. And if we had two working either four 10s or five 8s you would have supervision every single day of the week, you'd have at least two, perhaps more days of overlap to do the other administrative functions. And I'm just questioning whether we really need to have three? Is it about the FTEs, or is it about the coverage? And -- so that's my concern.

>> It's to me it's about the actual, the meaningful work that we expect these folks to get done. And you know in terms of not only the contact time that we're expecting out of these folks and I really think that consistent supervision amongst all our battalion chiefs as well as our fire captains is critical and really important at this period of time in the San José Fire Department's history, and I see that into the future. But also when you consider the amount of actual work that has to be done to make change that we're faced with in our department right now, the implementation of the squad program an in fact not only the implementation but the development of the project plan to actually put that into may and the amount of actual time that we needed from our folks to actual train our folks, understand their expectation, make all the logistical changes, make all the procedural and policy changes, all the things that it took to get that into play, you have to expect that some of their time is utilized other than direct contact with their immediate direct reports. And we have a lot of those programs right now. We have our safety program which we really need to be focused on. We have our return to work program which we're really ramping up, as well as our wellness program. Because I think that our experience with workers comp has been I think in our case higher than we are comfortable with. And I think we have an obligation to find ways to reduce our workers comp experience and I think these are things you cabinet do through e-mails or technology, that you need actual contact, support, and correction, and monitoring of behaviors as well as activities that are going on. So that your people actually are able to provide the functions at the level that you expect them to do that.

>> Councilmember Constant: Well, you know, I'm not completely convinced, I'll be honest with you. I'm going to support this but I think we need to review this next year because even from what you just said it seems like it would be better to have two division chiefs that act like the captains in the police department that share the week, and take the third person and create a position at whatever rank's appropriate, either the safety officer that we no

longer have, or a manager that manages all special programs, I just think there would be more consistency. But you're the expert, so I'm going to support it today. But I think that it's something that I look forward to talking about a year from now to see how it's rolling out. Because I can imagine being a division chief if they're expected to flex their schedule tall time to accommodate their subordinates. I think it's going to be a very not satisfying job for someone some especially when they could be at a lower rank working the ABC shift, versus their having five 8s or four 10s and having very little predictability over time.

>> Thank you, sir.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Looking at the fiscal impact, I notice that we're going to do some shifting here in funds and this is going to be no impact to the General Fund. That's right?

>> Yes, sir.

>> Councilmember Rocha: Okay. As far as this, I don't know how you call id, in terms of reclassifying positions, can you speak a little bit in terms of how this is going to help you manage the department better? Because I'm looking at this and I'm trying to understand and you spend a lot of time talking about it and I appreciate it and that helped me a lot, I have zero questions today outside of this one question which is timing-wise, given what we're grappling with and struggling with here in terms of costs and staffing and the amount of bodies we want to put on the beats in the firehouses, just trying to understand why you chose this time to do this.

>> Mr. Mayor, members of the council, Councilmember Rocha, I have actually been observing this and the ability of our department to support our folks from the time I got here. We our current condition and away I forecast for the future, sorry I can't turn around any more to see you, is that our demographics of our organization our department right no is we've lost a lot of experience and knowledge on our department over the last two years. Our average San José experience is 12 years. We've promoted 14 of our 21 battalion chiefs in the last two

years. 50 of our 150 captains. The level of support that's necessary that's needed that's required and the focus on safety and operational wellness is obvious and it's necessary for us to recognize that as an organization and provide that support for our people. And so that's the primary reason why we're bringing it now. I think additionally I think it's important for us to be able to hook into the future and see what we're going to see in terms of our organization. I don't see this as a one time event. I see that our organization is going to probably turn over in the future not much different than it has in the recent past. And so I think it's really important for us to be able to provide that level of support for our people and to focus our energies on making sure our people have the level of development that they need. In addition to that in the two years that I have been here, our deputy chief of operations has changed three times. And one of the -- only one of those is a retirement. The other two chose to continue in a different place in the organization, and I think it was primarily related to the difficulty at being able to provide the level of support, and even the communication that you could with your direct reports. And in addition to that I think that it's important to note that the difference between the jobs, in terms of the responsibility, authorities and what we're asking these folks to do is significant. And we really don't develop people from the position of battalion chief to the position of deputy chief at all. So we expect them to kind of drop into a very high responsibility and high authority position without a lot of development. And all of those things together suggested to me that if not this, then I need to find another alternative.

>> Mayor Reed: Before we move on City Manager had a comment.

>> City Manager Figone: And just so I can help the chief out, he has been talking to me about this for a while. In fact during the budget process we tried to put the package together and I needed more information. And so we got part of it done with I think legitimizing the standby pay that had been the practice since the '80s, and I think maybe even issued an MBA as I remember it, and there might have been a reference to moving on and kind of as a place holder. So it's just taken us some time to put the package together in a way that was comfortable to the chief and answered my questions. And so normally we wouldn't like to do these kind of off-cycle. But I really wanted to support him in bringing this forward.

>> Councilmember Rocha: Thank you. And that was part of where I was going to go to in terms of mid year or budget kind of type actions, so trying to get a sense that there is some urgency to this action today and why we're going forward in terms of timing. So thank you. I understand it much better. The last point I guess I'm left with is in terms of impression. Impression and the need of the public and the interest of the public and this council and I'm sure yourself is trying to find more ways to put more bodies in the firehouses and in the streets. And I just didn't want the impression to be that our rank and file were increasing management compensation at a time when we are eliminating positions or have been in the past. So impression was a-k of mine. When going through this exercise or at least talking to the rank and file did you have a chance to talk to local 230 and vet this out with them?

>> Mr. Mayor, members of the council, Councilmember Rocha, yes, we have had some discussions about it and that was the result of finding a different opportunity or different option to bring forward. There was some concern about the capacity of our battalion chief rank. And the initial consideration to eliminate battalion chiefs would have exacerbated another issue that we have in the department, namely, relief staffing out in the field. And because of that discussion we proposed what we're bringing forward today which I believe solves additional issues within the organization that I think are more comfortable for everyone.

>> Councilmember Rocha: Okay, thank you, thank you that's all I had. At the end of the day, I want to support you in being able to manage your department efficiently and effectively for the benefit of the public and based upon the meeting that we had and you walking me through it and the answers here today, I feel that that's the intent and what you're accomplishing here so thank you for your work.

>> Thank you sir.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Thank you chief. I appreciate the questions from my colleagues on clarifications and the impression it may have in the public space. And so if I understand correctly, chief,

originally, you came and said hey, here's my proposal of eliminating batallion chiefs to pay for this. The fire union was opposed, you then came back with another option of these fire captains and the fire union is in support of your current proposal.

>> Mayor, members of the council, Councilmember Oliverio, some clarification there. Number one is that our staff was concerned about our capacity as well, in terms of eliminating battalion chiefs. It was one area where we had some -- we looked for other options, if we could. But we weren't readily coming up with different options that we thought would address the issues that we had. I can't speak for local 230 but I can say that when I shared our modified proposal with them they were more comfortable.

>> Councilmember Oliverio: Thank you, chief. And in the position of battalion chief when you look to see how much these positions pay in total compensation, many battalion chiefs make more than our City Manager, make more than you, make more than our police chief, and make much more than a lot -- many of the senior managers at our City. And from what I understand, the batallion chief is in the field and acts as a supervisor to some extent, is that correct?

>> That's correct. But if I could add to what you just said there, sir. I took an action a couple of years ago, I think it was the budget of 2010-11, to eliminate relief battalion chiefs from the field. That action caused that every time any of our battalion chiefs were off duty that were assigned to the field for whatever reason that it created overtime. And that's something that we did as a result of the budget reduction requirement. The staffing calculation for the amount of time that our people will be off, for whatever reason, and considering that these are senior members of our department, the expectation is that we would need to have some relief for those field positions in terms of maintaining our minimum staffing. And so that's another opportunity that this proposal has brought forward.

>> Councilmember Oliverio: Thank you for that comment. And so and these positions that make as much as \$240,000 that you have mentioned have supervisory aspect to it. And you would say that each fire department,

based on the county or city, in the state of California has different rules on what triggers overtime for a battalion chief?

>> Councilmember Oliverio, I think that there are a variety of interpretations much the fair labor standards act across fire departments in the state of California, I think that's correct.

>> Councilmember Oliverio: So what may constitute overtime in San José is different in Santa Barbara?

>> It may be.

>> Because the position is of a supervisory stature and they are on a 24-hour shift and are essentially being paid while sleeping, my question is how do you supervise when you sleep? I guess it's rhetorical, I'm shocked really because I really believe the battalion chief was a ten-hour position, 12-hour position and not a 24-hour. I understand the need for the line to be compensated to be unsupervised for 24 hours, but I was sort of shocked to understand that this battalion chief that makes \$240,000 is paid during that time.

>> Mr. Mayor, members of the council, Councilmember Oliverio, part of the responsibility is response to emergency incidents and managing that -- you know our battalion chiefs are really in charge of the department, more hours during the week than I am. They're there from 5:00 at night until 8:00 in the morning and all the weekends. So we have -- we place a lot of responsibility in our folks and we expect them to be available immediately to our folks when needed. Now, there are things that are above their level of authority and responsibility, and we ask them -- and we train them to provide or to reach out to senior management or senior leadership when they come up with those situations. But the visibility, the importance, the critical services that are provided for our fire stations and firefighters need that level of support.

>> Councilmember Oliverio: Appreciate that level of clarification. So as I understand it they fill two roles.

>> Yes.

>> Councilmember Oliverio: One is a supervisor when they're awake and second position is relief to fill in in the field, and that's why it's a 24 hour shift, and that's why compensation covers the 24 hours.

>> Yes and the options for us to try to cover 24 hours a day, seven days a week, this is a -- we modified their rate of pay when they go from 56 to 40 hours. So our 40 hour battalion chiefs make the same base pay as do our 56. But because they're on a 56 hour work week we change their hourly rates such that it's the same total compensation on an annual basis.

>> Councilmember Oliverio: Thank you, and just a question that's outside this memo today. In general do you believe as I would say local governments are struggling everywhere to America do and provide city services do you foresee a day or do you have an opinion on consolidation? Meaning that instead of having each city having its own fire department, that we really have more of a regional approach, that we have a county sort of oversee it? Because at the end of the day, whether it's a fire in Campbell, San José, Milpitas or a heart attack in any of these neighboring cities my guess is we're going to handle it the same way and especially when it comes to the ultimate catastrophe of natural disasters or terrorist action, we're all going to be working in unison as a team, so I just want to get your thoughts on that.

>> Thank you for asking me the question because I have an opinion on that. That as spanned over several years. I believe that regional fire protection is a very responsible way to provide the services to communities. I think each community has to make their own determination as to how they want to provide fire protection and related services whether it's with their own fire department or through services provided by another fire department. I have found over the years and I've tried to -- I've been involved in let's see I tried to consolidate foster city and San Mateo and I've got the scars to prove are the. The firefighters, the City Managers and one of the councils was completely in favor. And the challenge came from the concern about losing the autonomy and ability to control your own resources at the end of the proposal. And so we were unsuccessful there. You may know now that now it's a good idea, in San Mateo and foster city are consolidating. It really is an individual city determination or decision by their governing boards when they see it as mutually beneficial to both communities

and both are better off, I think it's the right thing to do. And I think there are steps that can be taken in advance of that, most people don't meet today and get married. Most people date. So there's services that can be shared in between going from two individual fire departments to full consolidations and we're exploring those right now with our neighbors, including boundary drops. We have a meeting this week on regional fire communications, which facilitates lots of other opportunities for us to be more responsible or better ability to be more efficient, and how we provide services. So I'm a fan.

>> Councilmember Oliverio: Okay and thank you chief and I appreciate that because I think with consolidation if you look at merging let's say in Santa Clara County all these departments together and you can eliminate all these levels of management then all these cities could have that many more people providing the services on the street which I think is a -- warrants a discussion at a policy level to see is that a good idea? And I would think at first glance it looks like if you could consolidating management and put more people on the field or provide other services you want in your city, then it's worth considering. I appreciate your thoughtfulness and your hard work here at the City of San José. Thank you, chief.

>> Thank you, sir.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. Chief I wanted to congratulate you for your extraordinary attempts to grapple with the extraordinary amount of turnover and dislocation you've had in your department. So I really appreciate your efforts to do this. I think just independent of obviously the management and managerial advantages to this approach, I really appreciate the idea of getting rid of the stand by pay and wrapping them up into the salary. I think that's a much more transparent way certainly for the employee as well as for the public. And I think this is a really positive move forward. So thank you chief.

>> Thank you, sir, thank you.

>> Mayor Reed: I think -- Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. First of all I want to thank the chief and actually all the firefighters and the City of San José for doing a wonderful job. Also want to thank the councilmembers who spoke before me for raising good questions. So I really don't have any additional question. But I just wanted to make sure that when you communicate to the rank and file, make sure that they understand that this is really not a race for those battalion chiefs or assistant fire chief. Still have a little doubt regarding to their take home pay for those positions, assistant chief, the division chief and the battalion chief. Do you think at the end of the day they may be getting the same amount, or smaller, slightly smaller amount take home pay or slightly higher amount of take home pay?

>> Mr. Mayor, members of the council, Councilmember Chu, in actuality, we don't have an assistant chief so there will be nobody in that -- there is no one in that position to get their raise so someone will have to promote into that position to receive that pay range. The two deputy chiefs, we only have two deputy chiefs at this point, it is at the pay rate that we had talked about earlier. So we're going to expect them to still have some of those response and those approval, after-hour approvals and handling some of the more higher-level kinds of issues. And so those folks will still have those responsibilities. I think rolling a portion of it into their base is appropriate while we continue to ask them to do those things. In termination of their take home pay again if they take all the hours that they receive, their take home pay should be lower than it is today.

>> Councilmember Chu: Great, thank you very much.

>> And we don't have any division chiefs.

>> Councilmember Chu: Thank you. I just wanted to stress the importance of communicating, communication to your rank and file, regarding to this issue. I know this is not really subject to the approval of local 230.

>> Right.

>> Councilmember Chu: But communication again is very, very important. I just want to stress that.

>> Thank you sir.

>> Mayor Reed: City Manager.

>> City Manager Figone: There may have been pensionable costs that may not have been there before, if I'm remembering the details. I just want to make sure that's clear. But that's happened before when we've wrapped some premium pays and even with the rank and file. That practice is one we've used before to make a cleaner transaction and more transparent, as has already been referenced. The other thing I want to say is we've known there's been compression and compaction in the assistant chief rank for quite some time.

>> Yes.

>> City Manager Figone: Also when you do compare the battalion chiefs and the promotion time they get the promotability and attractiveness, deputy chief has been very difficult for the chief. And so I do think that these adjustments are important from that perspective to ensure that people who do want to promote have that opportunity and also know they are being compensated for it even though there might still be a view that there is compression under the classic sense. And then the other thing that I just wanted to say about the division chiefs. You know, organizations are meant to be nude. And so I would expect that the chief will evaluate the structure over time.

>> Absolutely.

>> City Manager Figone: And you know new innovative things are being done and I'm sure he's going to want some flexibility. Also think we need to be thinking about the bench and the strength of the bench, and so the division chief level will create promotional opportunities and prepare people for those next levels, especially as we look at the demographics moving through.

>> Thank you.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. And thank you, Chief, as well as Ed, for discussing this with me previously and for the answers to a lot of the questions here today. I do respect your opinion and your expertise in terms of what will make your department work better. You've already made some changes over the last couple of years that I think seem -- it really shows that you're trying your best under difficult circumstances to make e-manage the department and make changes that make sense. And I also appreciate you having communications with local 230, and the fact that you know, I think the impression sometimes, our unions always object to or jump up and down every time anything is done. That is just not true. And hasn't been true. And the reality is, we wouldn't have saved all the positions we have without a lot of sacrifices from the fire department and from local 230 agreeing to a lot of the changes that you've suggested. In terms of the positions -- so that previously, the deputy fire chief, currently they get stand-by pay but your suggestion is to eliminate that and roll it into the overall compensation and thereby increase compensation. How much -- you've had two deputy fire chiefs. Do we have information about how much they were getting paid?

>> Mr. Mayor, members of the council, Councilmember Kalra, they have option to take it as regular pay or comp time. They can take it all as pay or they can take it all as comp time. But the actual value of it is their base pay times one and a half times the 16 hours per week, about a third of the year.

>> Councilmember Kalra: Okay. And then in regards to the fire division chiefs, there's a recommended percent increase in pay of 24% but that's because there hasn't been one in I think almost a decade.

>> Right.

>> Councilmember Kalra: How is that arrived at, just looking at some of the other pays and trying to find a median in between?

>> Exactly. We were given guidelines or parameters if you will that there be no change in the upper or lower chief officer range. So me and battle I don't know chiefs would stay the same. We looked at how we would incent or provide responsibilities and do that in a way that within the dollars that we had.

>> Councilmember Kalra: And the comments regarding the battalion chiefs something of them making more than -- some of them making more than other positions, it's because they just worked more overtime. And so it's not like they were sleeping, they were actually working more and therefore earned that pay.

>> Mr.-- Councilmember Kalra, that's correct. It's for additional hours works. And again it's because we have no relief personnel in that position in the field.

>> Councilmember Kalra: And when firefighters and batallian chiefs are there, there's an incident occurs, 3:00 in the morning, a major incident because you need someone in charge, that oversees the operations; is that right?

>> That's correct.

>> Councilmember Kalra: So I make just the suggestion that they are making money when they're sleeping, we could say that about all our firefighters that take a nap in the middle of a 24-hour shift, and get a call at 3:00 in the morning, they have to get out of that nap and in two minutes out the door. And so it's a similar responsibility for battalion chief, at any moment they can be asked to respond to -- they don't know what it is, it could be a major accident or a fire what have you.

>> They keep themselves pretty busy during the day, though.

>> Councilmember Kalra: Yeah, I know they do, I know they work their tails off. While we're comfortably sleeping in bed, they are the ones getting the call at 3:00, 4:00 in the morning, not us.

>> Right, right.

>> Councilmember Kalra: Suddenly the discussion veered off so I just wanted the to follow up on a couple of things. One is the issue of mutual aid, which I think is great, and I think we need to continue those partnerships, but we are over 170 square miles, we are over a million people. Foster city, my understanding, is 30,000, over a million people, so they may make more sense from those small jurisdictions, to roll into a city like San Mateo which has 100,000, you know, so there are different arguments as to how large of an organization you want. And we already have a pretty large organization as it is. And then, you know, finally, the issue of compaction and having kind of the room for promotion and to attract people to the positions, doesn't that same argument exist at all levels of the department even entry-level?

>> Councilmember Kalra, yes. We are among the lower paid I think fire departments in the county and I'm going to say that just based, I haven't done the analysis lately. But yes, I think that there's some review that could be done. Assuming the city could afford it of all of our positions.

>> Councilmember Kalra: And I raise the same issue when we paid millions to outsource in order to make up the difference at the water pollution control plant rather than just taking a step back and looking at well maybe we're just not paying enough in general across the board in that department. And we need to take a look at that. And similarly I would say the same about fire and police that we need to take a step back and have discussions about what we need to do to make ourselves more competitive. It's not a matter of having 17 officers from background, it's not a matter of creating a new position in the fire department to make it more attractive for upper management but what do we do department-wide to make our department more attractive because that's how you really create a bench.

>> Right.

>> Councilmember Kalra: Is from the top to the bottom, not the top to the little bit below the top. But it's really system wide and pharmacist wide. And so I'd like to see us have a discussion about that. I do agree with your span of control changes. I think that they certainly make sense and I trust your judgment on the span of control decisions. But I can't until we start having a discussion department-wide frankly city-wide on what our strategy is in terms of attraction from top to bottom, it is difficult for me to support this. Because yes some of it will offset the issue of stand by pay which some can take in compensation, some can take in leave, what have you but it very clearly states that part of it is compaction issues and attraction issues. We've seen it in other departments, we're having difficulty, attracting people at the highest levels. And rather than just dinking around with the higher levels, in order to attract more people, we have to recognize that it's citywide we're having difficulty attracting people. We have to start having a discussion about that. Not about raising everybody's pay tomorrow, but what do we do to turn this ship around because it's affecting every department and I think the challenge you face is not unique and I really appreciate your professionalism and your expertise in trying your best to you know create the best situation possible for you to manage your department.

>> Thank you, sir.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Just a couple quick things. I was going to bring up the pensionable pay amount and fortunately, City Manager mentioned it. Because that is an impact we have to look at for the long term as well. But I also for the City Manager, you know, I just want to be clear that comp time is not free.

>> City Manager Figone: No, there's people get pate for time off, and then the chief is faced with how do you backfill that? How do you provide for that coverage of the person who's gone.

>> Councilmember Constant: Right. So when we talk about the cost, the costs are this, in fact if someone takes comp time, sometimes it takes us 1.5 and 1.5 because we have to -- it compounds itself because someone has to

come in on overtime. Where, quite frankly, they promote up and then get paid out at a higher rate. So when we're looking at the costs I think it's just important to keep in mind that the cost is equal whether it's on this side of the ledger as comp time or this side of the ledger as pay it still impacts us. That's why I think it's important to look at, and I pointed out earlier, the percentage you gave me earlier was 19.8% currently but the pay increase is only 9%. So there is that cost savings there. Which I think is important. So we'll see how it goes. In okay, thank you.

>> Mayor Reed: I think that's the end of the council comments. Did you have any requests from the public to speak on this? None, right? I think we have a motion on the floor. We have a motion to approve the recommendations noting that the change in the agenda language to comport with the staff memorandum. On that motion, all in favor? Opposed, one opposed, one opposed, Councilmember Kalra opposed, motion passes.

>> Thank you.

>> Mayor Reed: Thank you, chief. Before we move on I want to go back to the consent calendar, I had a request to speak that we missed, item 2.8, a contract amendment. Erica McCullar wanted to speak on that one. Come on down please. And that is a contract amendment for emergency housing consortium for homeless prevention and rapid rehousing.

>> Hello council my name is Erica McCullar. I'm here in representation for the majority of homeless citizens in this county, city, county. I just actually spoke with Jessica Schneider. She reported to me that the funding listed here that says is available is no longer available. However, I have a HUD report that says different. So I'm really curious as to sources of funding where it's going. I have numerous documents, documenting that there's a certain amount of funding. I have unknown amount. But enough to have done the last ten years as was projected by San José, instead of teamwork it's been a more showing under the carpet feeling. It's just kind of sad really. The encampment mentioned earlier, I was the one who brought it up here on the 15th with the video of that encampment. Thank God for the volunteers that were brought out by the City of San José due to someone's notification the next day, and I went and thanked them personally and also had EHC go out there as

outreach. This is also an outrage because if it takes me to get a gentleman a wheelchair within 24 hours, why can't someone step and help in pour areas. There is nothing wrong with these people. If there's a criminal element, put them in jail. If there's a need satisfy it. I was offered by Ms. Davis, the staff technician in the City Clerk's office an application for the commissioner position. It is voluntary, yes. The encampment position that pace \$111,000 is still unfilled. The application was taken down the 14th of this month. Now, I would even be willing to take that position, at half pay, put the rest of it back in the funding, please. Can anyone please help me understand why this is happening? There's people who really needing other people, they are all suffering from one condition especially, I hope I'm talking too much. Sorry about that. My bad.

>> Mayor Reed: Sorry, your time is up. Does council wand want to reconsider its action in approving that? I don't see any interest in that but I would tell you to speak to Ed Shikada and he'll.

>> She says the funding doesn't exist. Is that true.

>> Mayor Reed: Our staff is usually accurate with their staff reports. He will help you.

>> Thank you very much. I appreciate your time.

>> Mayor Reed: That concludes the consent calendar review and move on item 3.7, business tax and business improvement districts assessment amnesty programs. We'll have a brief presentation on that item.

>> Good afternoon, mayor and members of the city council. I'm Julia Cooper acting director of finance and I have Wendy Solazi, our revenue division manager assisting in the presentation today. Also before I get started I want to thank Wendy and her staff for working on this program and bringing it forward because we think it has a lot of benefits for our city and the business community as well in terms of collecting the revenue that's due to the city. As we're getting ready to put together this presentation and bring forward the business tax amnesty program, the question is often asked what is an amnesty program. Probably should start off with answering that question. What it does is, it forgives the past due penalties and interest when businesses pay their taxes for the

current year and then up to three prior years in which they may be delinquent in payment of taxes. So what we're doing is we're not forgiving the base tax it owed, just the penalties and interest that accrue from being delinquent. And the proposed amnesty period that we are proposing is to run from December 1st of this year through March 29th of 2013. And it will cover any tax delinquencies from January 1st of 2009 to December 31st of 2012. The goals of the program are to educate local businesses and self-employed persons on our business tax requirements. There are a lot of people who file, who have small tight businesses they may be running out of their home, they may be supplementing their income, they file their schedule C, but they may not be aware that they also owe a city business tax associated with that. So we think that this program will help get the word out and educate those people and have them come forward and be in compliance without incurring penalties and interest to do so. We also want to educate the public on the ability of our hardship exemption. Those are for people that are earning less than two times the poverty level, and they pay a hardship fee instead of the business tax which is currently \$38 a year. So we want to make sure that they get into our system because we all hope that they'll grow their business and be willing to pay the higher tax as they become more revenue-producing. So I also mention we facilitate compliance by eliminating the penalties during the amnesty program. We will also help reduce some administrative costs. Because it is always easier to get people to comply when you're offering a carrot as opposed to trying to get them to comply when they're not paying taxes when you are incurring penalties and interest. It will provide some one time money and ongoing revenues to fund essentially city services. Just a little bit of background. Most California cities do impose a local tax on businesses operating within their boundaries so our business tax is not unusual. The tax that's in place today was adopted in 1964 and the rate has not changed in the last 26 years. The business tax applies to all businesses of all types to individuals even with the self employment tax, self employment income as I mentioned earlier on your IRS schedule C and we are not proposing any increase in the business tax. That is something that requires voter approval and we are not looking at that at this particular time. So with that I'll turn it over to Wendy to give a little more detail.

>> Okay. This table represents the San José business tax rate structure. That generates approximately \$11 million for the city with a base of 75,000 businesses. And that revenue helps support city services, such as Police and Fire, parks and libraries, and street repairs. As you can see from the chart that most businesses fall into the tax rate on the top line there. So the tax, annual tax rate is \$150 for up to eight employees and the additional tax

increment is \$18 per employee over eight, with an amount not to exceed \$25,000. And currently there are 11 firms that are at the \$25,000 cap. We also have tax structure for the commercial landlords, residential landlords and mobile home parks and again the annual tax starts at \$150 and it goes up to per square feet or units depending on the tax category of the business. And the amount is not to exceed \$5,000 and currently we have 28 firms that are at that \$5,000 cap. This chart here will show the tax that could be owed for a typical business. If we didn't have the amnesty program as well as showing the benefit of the amnesty program. Businesses that are out of compliance would need to pay taxes for the current year as well as up to the past three years. So you can see if a business has been out of compliance for the past three years as well as the current year they would owe approximately \$864 without the amnesty. The benefit of the amnesty program would reduce that amount to \$600. If they owe just for the current year it would be \$252 without the amnesty. However with the amnesty it brings the benefit down to \$150. There is approximately a 30 to 40% savings depending on your category there. This next chart shows the benefit for our low revenue generating businesses and the benefit of the amnesty program. As Julia mentioned that we do have the hardship exemption program for businesses that generated annual revenues less than approximately 22,000. So the businesses could significantly benefit from a hearing during this amnesty program. Again, their tax structure if they were in the three previous years as well as the current year they would owe 864 dollars without the amnesty. However if they come forward during the amnesty period the tax result would reduce to zero and they would pay the hardship exemption processing fee for a total of up to \$148 and again for one year of tax compliance it would be \$252 would be reduced to the \$38 fee. Again this would benefit the taxpayer by approximately 83% savings if we had the amnesty program. The finance department plans on doing a number of outreach methods of outreach to the community. We plan on doing a direct mailing of approximately 40,000 notices, informing never registered and delinquent taxpayers about the amnesty program. We plan to do radio public service announcements, newspaper ads, e-mail and direct mail to individuals, as well as our various business and community groups to assist in their information dissemination. We'll be posting information on the City's home page television channel community centers libraries and in addition the finance department anticipates holding community meetings at least monthly to educate the businesses regarding the amnesty program as well as remind them for the qualifications for the business tax hardship exemption fee to significantly again reduce tear amount owed. The key dates are obviously today we're having the public hearing and the first reading of the ordinance and next week will be the second

reading of the ordinance. And from November through February we plan on doing all the public outreach and education. And just a reminder that the amnesty program will begin December 1st, 2012 and it will end March 29th, 2013 for the tax periods of January 1st, 2009 through December 31st, 2012.

>> So in summary, we have the recommendation before you today as the ordinance which allows forgiveness of the penalties and interest on the business tax and also we do have two business improvement districts downtown in Japantown business, so we are going to propose that they also participate in the amnesty program. And also adopting some appropriations resolution to add one time money to the finance department that covers the staffing cost and other media outreach activities. So with that we're available for questions.

>> Mayor Reed: One question I have is, I've been operating under the assumption I just want to check that once people come in under the amnesty program, they tend to stay in compliance. So it's not just a one-time sense of funding, now they are in the pool they understand they need to pay and it's an ongoing revenue source. So we're spending \$300,000 one time to generate ongoing revenues I think.

>> Yes, when they come in they'll be in for the on going. The majority will be the one time in nature the behalf tax but the base will be ongoing in nature. We'll provide an informational memo.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: That raises a question. Do we have any record of folks who availed themselves of the amnesty program previously and can we readily know that and has this amnesty available for folks who have already had one bite at the apple?

>> Thank you for the question. We implemented a new business tax team in 2008. And the last amnesty program was prior to that. So we don't have the data readily available in our current business tax system. It would probably be quite a bit of work to get that list together. I mean it is possible that they could benefit from multiple amnesty

programs but the goal is again to get them to bring their tax current to where then they'll continue to pay and hopefully if they catch back up they will pay their tax annually going forward.

>> Councilmember Liccardo: I appreciate with the switch of database systems it may not be worth the effort in trying to track down who's done it before. If we do revisit this in some future year and I hope maybe we can keep track in some way. The other question I had was, now in a perfect world, backing up a few years we'd probably say this is a tax that probably should be indexed to inflation. And I'm just curious if we had considered the possibility of making a condition of amnesty that future taxes or fees would be under this ordinance would be indexed for those who avail themselves of the amnesty. Had that be something that had been considered or would that require a lot of legal contortions?

>> I'll defer to Rick, but I think it's a 218 issue because it's a tax, requires voter approval.

>> Councilmember Liccardo: Well, it would be except for the fact if someone is voluntarily availing themselves of the benefit like amnesty and waiving those fees is making an election and they could certainly pay the penalties or alternatively.

>> City Attorney Doyle: What was the alternative if they didn't -- they I didn't get the gist of it.

>> Councilmember Liccardo: Currently they face substantial back taxes and penalties. By choosing to participate in amnesty, businesses are presumably taking the road of okay we'll pay the tax, the city will waive the penalties in exchange for that benefit. It seems not unreasonable for the city to say anyone who takes advantage of that would also see a tax that be indexed to inflation.

>> City Attorney Doyle: The difficulty is that 218 clearly requires that any increase in taxes requires voter approval. And this is an increase. I understand your point about a voluntary -- voluntarily doing that but you're asking somebody to waive that requirement that voter approval will be a necessary step to get, and it's a

constitutional provision so I think there's some concerns. We can look at it in greater detail, but just on the face of it there's a problem.

>> Councilmember Liccardo: Okay.

>> City Attorney Doyle: That you can't have an increase increase without voter approval.

>> Councilmember Liccardo: Okay, I can understand, I mean, we waived the constitutional objections all the time, we waive the fifth amendment and others so --

>> City Attorney Doyle: I don't think this is something that's waivable.

>> And just as a little -- the business tax modernization, is one of the things on the fiscal reform plan to look at. I believe we're going to look at it as an option in the 2014 election cycle.

>> Councilmember Liccardo: Okay, thanks.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you, mayor. I think this plan is really good especially because if we look at January 2009, couple of years that businesses this gives them an opportunity to kind of wipe the slate clean start fresh as the economy is turning around. And so I think this is a really good idea and the hardship exemption I really appreciate that as well. Because oftentimes we talk about seasoning we can do to help. Especially those businesses that are struggling and trying to make it that just haven't had the business. But they very well may now that the economy turns around now. And the Councilmember Liccardo's points are well taken especially on the record keeping I think going forward, pre2008 was prerecession, who knows how valuable that would have been, certainly going forward that is nice to know. Reaching us'out once again maybe there's some things we can still did to some point. The indexing I think we need to look at the whole -- I mean it's been a quarter century, we need

to hook at our business taxes. I mean we have a cap of 5,000 on commercial residential mobile home. There is probably mobile home apartment commercial they are make being capped at 5,000 a year. That's just not the rest of us have seen our tax rates go up sewer utilities go up. We certainly don't want to do anything egregious that would be detrimental to their ability to function but 5,000 a year is, treating all businesses the same it's just not fair especially to those that are the smaller businesses that are struggling. So I look forward to a discussion in the future of what we can do to right-size our business taxes so that it's fair to all businesses but also give to small businesses entering into the market mace a fighting shot as well. And so I'll be supportive of this recommendation.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thanks. To the City Attorney is it too late to add to the ordinance that anyone who avails themselves to this shall not be eligible for future amnesty?

>> City Attorney Doyle: I think that's a change that we can bring back with the second regent, we're going to give a one-week turn around on this acknowledge I don't think it is this material a change that it would require the first reading again, so that is something we can put in the second ordinance.

>> Councilmember Constant: Because from what I heard, I think everyone would agree you don't want people jumping on and off the business tax rolls.

>> City Attorney Doyle: It is a one-time thing.

>> Councilmember Constant: I had a question, I know when you did it last time you cast the net, hooking for people who had filed taxes that had 1099 income but there are a lot of people who earn their 1099 oncome outside of the City of San José, maybe they teach somewhere or they work for a company somewhere else, and they don't really earn it in San José and then you also have businesses that do a lot of business in San José, and

if they do more than X number of days they're supposed to get a business license but they never do. And some of them feel can some industries they make a lot of monetize in our city. What do we do to go after them?

>> So you're asking two separate questions?

>> Councilmember Constant: Two separate questions yes.

>> For the 1099 information, we have a partnership with the state to where we share the tax data, we compare our database with their database and that's what generates the 40,000 leads. That right there targets most of the businesses that would have -- if they do Tupperware or Avon on the side and they claim that on their taxes, those are the kinds of things that we would pick up, we would pick up there. So that would be the direct mailing of those 40,000 notices that we would be doing, so that's how we try to capture those businesses. With regards to ones that conduct business outside the city, we do a number of different ways of looking for that. I mean, again, it comes down to outreach and education and letting them know. But if they do business here in San José and it requires a permit it goes through Planning, Building, and Code Enforcement, and they let them know that they have to have a business tax certificate, regardless of how many days of business they do here. It just depends on the amount that they would owe on the number of days that they do business in San José.

>> Councilmember Constant: But there's a lot of people that don't have to go to our building department for anything. So like for example, a photographer. You get the school photographers where their company is up in somewhere up the peninsula, I won't pick a particular city. And they come here and they photograph in all the different schools and they're doing tons of business here in San José and they don't have a San José business license. If you conduct and operate business in the city for I forget the number of days you have to have a business license. So do we do anything to address those types of people? Because we all know there are tons of businesses to service our residents and businesses do we address that at all?

>> Again I think it goes back to when we audit our program and any information we get where there's a business that's conducting any number of days of business here. Again I think the shared tax databases that we have really

help, so I think the advertising you know and as we partner with different organizations where we know that type of business is prevalent we can continue to work on that to where we can capture as many businesses as possible. I think it's important when we work with our various chambers and the business associations and doing that within the community that everyone is aware of what the business tax requirement is. So again we'll just keep trying to do as much outreach as we can.

>> Councilmember Constant: Okay.

>> Just to say Councilmember Constant, it is really hard to find those businesses that are physically located outside of San José and do come in. So by doing the amnesty program and the amount of public outreach that we're going to be doing, hopefully they will see that information by listening to the radio as they drive through or picking up a magazine or having a reaction with some other subcontractor that they're dealing with, that that information will get out there. Question about the businesses and the schedule C even if they earn and physically located here, they are going to owe the tax. Doesn't matter where they're physically located they owe the tax.

>> Councilmember Constant: If you live in San José and work outside of San José and you get paid with a 1099 you're considered a business in the City of San José?

>> Yes.

>> Councilmember Constant: Is that standard in cities across the state, because that seems really odd that that would be the case.

>> Here you you are consuming services. You get out of your house you drive down the road if you are going to trip down the stairs you will call 911.

>> Councilmember Constant: That's the same as going to a job in another city. I don't know if I necessarily agree would that. In we could see what peer cities do across the state. That seems kind of odd to me that if you do

something in Vallejo then you have to come here and pay a business license. But anyway where he could talk about that further.

>> Yeah, okay.

>> Mayor Reed: If you are a California resident, it doesn't matter where you earn your money, you are going to pay taxes in Sacramento.

>> Councilmember Constant: But the business license --

>> Mayor Reed: Certainly possible that people will have multiple places where they have to about earn a business tax. But San Francisco they get \$350 million a year in their business tax, and we are getting how much, 11 million?

>> 11 million.

>> Mayor Reed: So there are differences in scale in some of these things. But it is really complicated when you get down into the small businesses, the 1099s, which is why there are 40,000 of them that aren't on the rolls and they don't usually understand it until we contact them. That's why this will generate some money no doubt. Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Just real quick. Do you have a guesstimate of what this net might bring in? I know that you referenced in 2006.

>> We're hoping we're at least as successful as 2006. So -- but as it's very difficult to predict and that's why we're running the amnesty program kind of during this period so that we can essentially know what the increase in the base is so that then it can flow into the budget process for 13-14 and help facilitate whatever relief we can provide in additional revenue. So that will be part of the information that comes back at the end. So --

>> Councilmember Campos: Okay.

>> Mayor Reed: Anybody else comments on this? I don't think we have a motion yet. Do we have a motion to approve? The question is whether or not the motion would include Councilmember Constant's request to add something on the second reading about people who do this once don't get to do it again. Okay, so that is part of the motion. As long as it's a minor change that we can do on second reading, should be no problem. Anything else on the motion? All in favor, opposed, got none opposed, motion carries. Our next item is 4.1, the sale of some property owned by the city on cherry avenue.

>> Councilmember Rocha: Move recommendation by staff.

>> Mayor Reed: We have a motion to approve staff recommendation. On the motion, all in favor, opposed, none opposed, that's approved. That brings our average time per item down, which is good. Quite a few left. I think the average is going to go back up. Next item is 4.2, San José convention center and Team San José benchmarking analysis report and agreement with Team San José. There will be a staff presentation on this.

>> Councilmember Rocha: Recommend deferral. I'm sorry, wrong item.

>> Kim Walesh: Thank you, mayor and council, Kim Walesh director of economic development and chief strategist, I'm joined by Lee Wilcox our downtown manager and the city's John Katz, CSL. I just want to start by recounting briefly some of the background. As you know Team San José was launched in 2004. As a nonprofit management company that operates the San José convention center, several cultural facilities as well as the convention and visitors bureau. Team San José and the city currently have two agreements. One for the management of the center and two for other services related to the convention and visitors bureau function. You will recall that a little over two years ago in December of 2010 and January of 2011 the city council took a number of actions. The first is, you accepted the City Auditor's report, which included a number of recommendations aimed at improving transparency and governance of the organization. You notice of default to Team San José

related to overexpenditures. Second, you directed the City Manager to amend the management agreement with Team San José which has helped to improve transparency and accountability. And then last at that time, two years ago, council provided direction to the City Manager, to begin development of an RFP for management of the convention center and cultural facilities and for the convention and visitors bureau services. Since that time however, two years ago, a number of positive steps have occurred. Which is going to be reflected in the benchmarking report we're about to hear. So last year in December, you'll recall that city council directed the City Manager to suspend development of the RFP, for management of the convention center and cultural facilities and for CVB services. So we have before you today, two recommendations, and a would-part presentation. So the first is, is that John is going to review the benchmarking analysis. This is a report that was required as part of the management agreement and has been very helpful to measure Team San José and the convention center's performance, against other facilities and operators National. So John is going to hit on some of the highlights of the benchmarking report. And then Lee is going to share our staff recommendation which is at this point that you direct the City Manager to negotiate a new agreement with Team San José, and that we consolidating those two agreements into one and extend the term up to five years. So John Katz.

>> Mayor, councilmembers, thank you. One more, okay. For the past quite a few months ago now, we have been analyzing many aspects of Team San José including the convention center financial performance, their organizational structures, the convention and visitors bureau efforts staffing levels et cetera. And what I've got here today is four or five slides that cover some of the high points of that analysis. So on the first slide what we've got here is the measurement of operating revenue at the convention center. We measure it against a variety of other facilities around the region, similar-sized facilities around the country, and in order to get to an apples-to-apples comparison we measured on a per square foot sellable space basis. So you can see in 2011, the convention center generated approximately \$34.71 in operating revenue per square foot of sellable space. You can see what's happening during the expansion. Obviously during construction we would lose the opportunity to rebound, reaching \$28 many 36 by 2017. A couple of things here the actual dollar amount does increase between 2011 and 2017 by about \$400,000. But since we're adding 60,000 square feet of sellable space, the ratio does change by the end of the day. There is an appropriate level of conservatism project substantial increases in revenue that may not materialize. Also in these numbers it's important to point out that looking at it on a source by

source basis the revenue food and beverage revenue that you're generating is substantially above average largely due to the decision to bring it in-house. We'll talk a little bit more about that in a minute. Then the audiovisual, those are a little below average so we've got a plan going forward to work with Team San José to try to understand that and try to grow those revenues as well. The next slide does show the total revenue per square foot measured against some other markets. This is an important slide here because we're showing not just your relevant position but the change from 10 to 2011. We've got about 1.4 million in added revenue between 2010 and 2011. About 1.2 million O&M increasing the overall revenue and now you can see you're actually at or a little bit average relative to building revenue on a per square foot basis and I would expect revenues per square foot. We've also looked at the expenses per square foot. In 2010 you can see said convention center ran at 42. expenses to \$31.83. That's about I'd say about a \$2 million reduction, in expenses which is substantial. About 1.4 of that comes from salaries and benefits. There's a freeze on hiring actually reduced positions, the is benefits have actually been cut, the pay levels have been frozen and as a result a fairly substantial reduction in salaries and wages. When I look at these numbers I do get concerned. There is going to eventually be an implication on this -- of this on service levels so we're encouraged by an aggressive approach to respect the financial realities we live in today. Want to be careful we don't use this as a benchmark going forward saying we're going to stay at these levels or below. We want to make sure we're creating a very service he oriented operation. Here are the salaries and benefits, \$21.63 down to \$18.63. A fairly substantial reduction that we applaud but we want to be very careful how that's rolled out into the future. Another aspect we've looked at is the combination of the revenues and expenses you can see that in 2010 the net deficit, and virtually all convention centers were 3.6 million. To 2011, again that's a \$2.5 million expense reduction and about a one and a half to \$1.6 million revenue increase. They're working very aggressively to improve the financial performance. But again, I wouldn't want people to take away from this and say we can sustain a \$1.5 million subsidy, for the foreseeable future. We've reduced expenses to the point where there's some concern that will suffer service levels and keep in mind you're just spending millions and millions of dollars improving and refurring beneficiary your product. Now is not the time to cut to the bone in terms of how you service that. Be couple last slides, this shows the total amount of sellable space that exists prior to the expansions and after the expansion at the San José convention center. 191,000 square feet is increasing to 250,00, and this is useful when you consider how other markets in California compete in the convention and trade show industry. For instance, Anaheim, Los Angeles San Francisco and San Diego all

have at least 750,000 square feet of space. So when we talk about how we compete in the world of convention centers and we have expanded, we've got a great building, but it isn't that kind of massive trade show venue that you see in some other large markets. That's a point of reference when you see San Diego? They are three or four times bigger than you and some of those events need that kind of space. So how do we sell our convention center? The majority of that is on personnel cost less so on direct sales marketing. And that's a very appropriate response to the nature of the destination. We are a heavy meetings convention oriented destination. So many much less so we're in the heart of Silicon Valley, obviously, and we don't sell those events without boots on the ground. You need the direct sales effort hence a larger proportion of their total budget on personnel which we think is very appropriate. Just a quick summary overall. Again we've covered many, many topics throughout the full report. This is just a quick snapshot. And as I characterize their financial metrics, we've identified four or five areas where we can work with them to continue that improvement and over the next 12 months we'll be working with them to do that.

>> Thank you, John. As John indicated the report overall is positive for Team San José and the San José convention center. Even where Team San José or the facility itself showed below average results, there showed grade improvement from 2010 to 2011 which is a forward trend for us to continue that into 2012 and '13. With that said there's a number of things in the report. And areas of improvement, CSL, the city and the team will continue to work together in the coming months to take advantage of the things we're moving forward. As Kim mentioned, we currently do have two agreements with Team San José, one to manage the convention center and our cultural facilities, the other is to round out our convention and visitors bureau and acknowledge the marketing sales force for the city. Last year's City Auditor's annual report for Team San José, City Auditor recommending that we should consolidate both those agreements into one and at the end of the term of both those agreements in 2013 would be an appropriate time to do that. The administration today is recommending that we conduct that now with the possibility of executing those agreements in 2013 during the first quarter next year. We've come to this recommendation for a variety of reasons, the first one being that the current team San José CEO will be retiring in 'tween in September. For us to be able to do the national selection and recruit top talent to run that organization we feel that a longer term agreement with Team San José would be needed. Second and most importantly we're about to have a world class facility that is renovated and expanded, for Team San José to take

advantage of that and be able to book the long term business that we all want, that high technical is business, there is concern within the industry, booking with Team San José with only another year on that agreement, so we would like the possibility to extend that. And then lastly, the administration believe that the steps taxicab by the Team San José board and Sr. staff over the last year to approve accountability, transparency are very positive. We'd like to continue to memorialize that and work together to be true economic development partners. In the downtown and in the rest of the city. Intends to follow. During the negotiation process. And a formal draft agreement would be brought back in 2013 for the city council's review and consideration. With that staff is ready for any questions that the mayor and council may have.

>> Mayor Reed: Thank you. I have a couple of questions to start. First I was in the convention center this week speaking to the global mobile convention. Maybe it was last week chemi think it was last week. I was surprised to see how much renovation had already been done. The newly renovated part of the building is great, obviously moving ahead. So it's good to see that we're getting the benefit of the renovation early because that helps keep people happy when they come to visit and hopefully the global mobile people will come back. This is the first time ever for the event. So we have a lot of work to do to finish the project, but it looks good so far, and I think we're still getting business even though at one time we thought we would have to go dark during this process. So it's good to continue to do that. I had some question about the are report, I I looked at a I have a hard copy and looked at it electronically. Just a couple of questions, I guess really perhaps just formatting suggestions. So on page 19 is the first of the comparable charts in which San José is not listed. Not described in the graphics part, if you read the text you can fill in the blanks and figure out where San José, 2011, 12 goes. But as you flip there you can't so I'd like to see you fix that report and republish it electronically, so at least we are in the form wherever, it's kind of a guess. On page 23 is there a graph of the excess revenues relative to the average facility per sellable square foot basis, that shows other revenues at 38% less than average, I guess. And what I don't know is whether or not that's an opportunity to get more money, or if that's part of how we keep our total expense to the customer down. And so is this an opportunity to get more money or is this just reflective of a way that we keep the cost down to the customer?

>> Well, first it's a signal to us as we look at those statistics rest to yourness a table so we want to reason that we want to make sure that we explore every opportunity to increase revenue from electrical services or audio-visual or Internet or telecommunications. At the same time, the San José convention center folks are very aggressive in not nickel and diming their customer and they are very protective of that. At this staining we're not wig to say there's no money there we think there 92nd be and we'll spend some money to expand that.

>> Mayor Reed: If you're the operator and you are making the decision, the cost of the city which of these metrics would be important to you? Because I remember is the cost energies by sum of the operators. And so while we could increase it and get more revenues it was a cost increase and it went into whether or not we were competitive with someplace else. This is what we're looking at if you were out there thinking about coming here which would be most important to you?

>> Well, the new are the event planner you're going to be paying that rental number. The published rates for the San José convention center are somewhat high but they price. So I don't think there's a situation where our rental revenue is high and that's a charge to the event planner. Now when you get to the guy that's say the exhibitor. I've got my booth there and I got to buy electrical, I got to buy telecommunications, I got to buy audio-visual, I've got all kinds of cost tied up in the business event planner might say charge me a little bit less rent but increase the revenue this way and that way you the building owner push back on that and it's just a continual dance so to speak but one of the things we need to make sure is we don't land in a situation like a Chicago or a Philadelphia land in where they've so nickeled and dimed and they've increased all those charges for labor, for Telecommunications, for audiovisual, for all those things protective of that relationship with the customer. The customer being the event planner and the exhibitor but I do think it's worth exploring opportunities to creatively generate some additional revenue. Keep in mind, the world is changing. changes as well so there could be some opportunities there.

>> Mayor Reed: Okay. On page 25, there's a comparison of total expenses per square foot of sellable space for competitive and comparable facilities. Santa Clara is on there. Well below the cost of San José. I assume those blanks are for San José at one time or another. But Santa Clara doesn't appear in any of the further graphs. And

shouldn't we be concerned about how we compare to Santa Clara, since that is the most immediate competitor and I know I've talked to people say, I'm taking my event to Santa Clara because I can save X dollars?

>> Uh-huh.

>> Mayor Reed: Bit it got dropped in the other comparisons.

>> We'd like to get that data. Our good friends in Santa Clara have not been very forthcoming with the breakdown.

>> Mayor Reed: They are our competitors they don't want to necessarily share that with us.

>> i'm confident we'll be able to get additional detail from them but right now we simply have the top-line revenues and expenses and we haven't been able to get the breakdown.

>> Mayor Reed: Right. And the question is on your selection of what are competitive and comparable facilities I'm curious as to what Team San José or the City's view is what really is our competition for the niche in the market, we know we're not competing with Las Vegas we know that but we are competing for a market nearby and where is the principal competition coming from, Santa Clara, Monterey, Sacramento? I don't really know.

>> It was the San José convention center is a mid sized convention center so less so a Monterey convention center but certainly from a state perspective all the major markets to some degree or another. Sacramento included. And then from a regional perspective, Portland, Seattle, even Reno to some degree will show up as a competitor although not on a routine basis. So we've tried to include all those facilities that are a routinely compete against and then we've added to that a couple of markets that are not necessarily competitive but are similar sized buildings that offer something for us to learn from relative to financial and other measures.

>> Mayor Reed: Can I remember the first time we saw a benchmarking, I don't remember when it was it was probably about 2004 thereabouts. My conclusion was I aspired to be average because we were substantially below average all in a negative way. And so I think we maybe have achieved that, we're kind of average. There are some areas where we're below average, we're not performing as well as others but overall I think a significant improvement over the last few years. Which is I think a tribute to our city staff and Team San José staff that has made this thing work and most of all, that operating subsidy has improved and the status of fund 536 has improved. So I think we have the right model. But it is a competitive world. And there are plenty of places for people to do conventions and visits. We happen to be the capital of Silicon Valley so we have a nearby market that we can exploit like the global mobile conference. But there is no doubt the competition is continuing to take our business and we have to be competitive on price and service and I think this model is the best way to do that. But turning to the staff recommendation on the contract, I think we ought to be more specific in the negotiating principles about reducing the operating deficit and using that money for the long term capital needs and the relationship of fund 536. Because the HP pavilion was built at about the same time as the convention center. And it is in much better condition than the convention center was a year ago before we started the renovation. And somehow we have to use that relationship to, as Team San José performance better and we continue to reduce that operating subsidy, that we don't suddenly realize hey, we have money so we're rich and we can use it for something else because we're going to have to replace this building that we've just renovated, we're going to have to renovate it again, you can figure out when that is and how much it's going to cost and there ought to be a way to make sure that we have the money when it's sometime to do that. Then it never gets in a bad condition. We've been successful at the HP pavilion and I think that's a model that we ought to make work here in the convention center. So I would add to the negotiating principles that idea that we're going to focus on that operating subsidy and use those funds that we have, and not treat it as hey, we're doing great so we can spend the money on something else realizing that somehow we're going to have to pay for capital operations some day, somehow we're going to have to do it again. None of us will probably be here on this council when you have to come out with another 50 million or \$100 million worth of renovation but we'll make it easier for the people that follow us. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. First I'm very happy to be here. There was a while in the not-too-far past where we weren't having such happy conversations. But we've made great progress at Team San José and I just want to continue to point out how well things have turned around and how much progress has been made by the team at Team San José. And that goes from the board to the CEO to everybody else who works for the organization. It's been a pleasure to see how positive everything has turned including funneled 536. I agree with the mayor, we really need to look for ways to ensure that we protect those moneys so that we keep investing in the building. Because we know that the renovation is doing a lot but it's not taking care of all the issues that need to be taken care of. And even if it did, we have to continue to keep putting money in so that we don't end up back in the same place over again. And I think the HP arena is a great example of the best way we can do things, and that is to have a plan to stick with the plan and to continue to fund it. So I'm happy that we're here and I'd like to make a motion to approve the staff recommendations.

>> Mayor Reed: We have a motion to approve the staff recommendations. Would you include in that my reference to the fund 536 the operating deficit and using that for capital?

>> Councilmember Constant: Yes.

>> Mayor Reed: I think that's what you are saying in your comments.

>> Councilmember Constant: I made that comment yes.

>> Mayor Reed: We have a motion, Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. Just a couple of questions. I agree with everything certainly that Councilmember Constant said, congratulation et cetera to the team for the extraordinary turn around and really impressive financial results particularly given such difficult circumstances coming out of a very severe recession and through a period now of construction or anticipated construction which I know can affect returns as much as the actual construction does. I had a question about the rental rates. I notice in the report identifies our rental

rates being hire than our peers. Apparently across the board. Exhibits, meetings and ballroom. And I recognize there's a lot that goes into the bill that the customer pays and there are lots of breaks that we give and there are lots of fees you can attach and some go to exhibitors and some go to the organization. But given the fact the exhibitors don't make the decision about where to bring their convention, the association or the organization does that's paying the rental rate, wouldn't it behoove us to push cost into items other than the rental rate i'm just kind of curious about the fact that we do stand out in that one statistic, does that free concluded us from having -- preclude us from having conversation west potential customers who might see a different published rate and be talking to competitors just by virtue of that number being where it is?

>> Bill Sherry: Councilmember, great question. Bill Sherry, Team San José, it's called the rack rate and I can stand here and tell you that no one pays the rack rate. There's a number of different revenue opportunities, and different sources. As was mentioned earlier, I think our philosophy is not to nickel and dime customers. It's all a negotiation where you sit down with the meeting planner or the organization, association, and almost -- well 100% of the time we come off that rack rate. So I think the main question is, does the high rack rate preclude us from getting opportunities. And we don't believe it does. Most of those go through RFPs. So we see them. We pitch the positive things about San José, the facilities and so forth. And during the negotiation process, we can come down on those. The other option would be, a lower rental rate and maybe higher in the other revenue. But that's when you start getting into the nickel and diming. And we think ease of entry is really the right approach.

>> Councilmember Liccardo: Okay, thank you. Thanks, Bill. I don't know much about the interactions and relationships that are out there. I understand it's complex so I appreciate all that. I also appreciate, I think, as the report points out what a large percentage of our sales and marketing dollars really goes to personnel. You really see it in that slide even though we spend an awful lot less on sales and marketing than some cities. I think we actually spent more on personnel and I think that says a lot about the fact we're focusing on what matters not on frills but on really hustling and getting out there and talking to folks. I had a question too about the impact on, I see our operating expenses have dropped enormously. Which is a wonderful thing. I understand it may not be sustainable. We may need to increase expenses over time. Does our decision to avoid exclusive contracts have any impact on those operating expenses? I see nods in the head. Okay. So that has a lot to do with why we're

lower than -- significantly lower than the industry, Bill? I'm sorry Bill to do this to you because I know you're still rehabbing from knee surgery.

>> Bill Sherry: Councilmember, I think where it really hits us is in the other revenues. There is a balance. You can go for the exclusive contracts. The clients don't always like that. But it does have a corresponding impact on raising revenues. I think the council will agree, our board will agree, exclusive contracts aren't for San José. And for all good reasons. But corresponding with that, we have to accept the fact that we're going to get less revenue in some of those oat areas. And I think that's a tradeoff that we're willing to accept.

>> Councilmember Liccardo: Okay, thanks Bill. Well thank you. I appreciate the report and certainly all the great work that's been done to get us here. I just want to I guess encourage not really make part of the motion but just encourage our negotiating team to as we're thinking of financial and economic metrics and I know we've fashioned and refashioned those over the years several times but I hope that as we are thinking about economic metrics in particular we can be thinking relatively broadly. I know we've had a lot of discussions about particular events that may or may not show up on the hotels rolls but have a very significant impact on the downtown and I hope we can think broadly about those melt tricks and encourage ways for those events to continue to come to the convention center. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. Bill Sherry I'm going to apologize now of asking you to step over there. Since you're the CEO and the best spokesman for Team San José and the consult best for the industry, I was wondering if you could simply have a discussion with him, assuming he's a prospective client for Team San José and he represents pain the apparel industry and he's considering between San José, Phoenix, Dallas and Denver, just basically what are some of the attributes that you would tell him about why San José versus those other cities. Is that enough info? Let's just say it's going to create 200 room nights this and that, whatever you think is fair. I have not been -- how would I say this -- I haven't really seen the sales presentation from Team San

José. I know we hear things that we say general statements, but I'm just curious. When it gets down to it having someone that could probably have some pretty good feedback that would be okay.

>> Bill Sherry: Well, I don't know thyme good at role-playing but nor aim --

>> I would just pretend you're the sales guy in terms of the strengths of the destination just my two cents worth, location obviously Silicon Valley with access to businesses that many of the exhibitors and many of the attendees want access to. So when you come here it's not just you're coming to a generic destination. You have got great hotels that ring the convention center obviously the improvement is going to be added very important, added ballroom is going to be a game changer in many respects, you've got an airport at your doorstep oop another one ore here too access to even though San José is not necessarily quote unquote high end vacation destination, I have got vacation destinations that you can add to before or after your trip all around the region. San José has a lot of things that cost structure the hotels can be fairly expensive hard to get you can't get a hotel in downtown San José today. You're full which is great. So there are some challenges but if I'm looking at it from a convention planner's perspective those are some of the features I would say allow you to compete for that business. And then it becomes a discussion on price and other things as Bill referenced earlier, so did I get you off the hook there Bill?

>> Bill Sherry: Yeah. One of the things that we've found is a lack of knowledge and understanding of San José. And when we're able to get the meeting planner or the decision maker here, it goes like that. They see a lovely downtown, a walkable downtown, they see an area that they really can own, you know, one of the greatest things I think we have, if you go to some of the bigger cities you're just part of the crowd. But here you can actually own the town while your event is here. It's friendly, the people are cordial. You've got a lot of ability to be able to go outside of the schedule of your event to Monterey, Carmel, you know, all the national parks. The little city up the peninsula, so you've got a lot of different options. And so I think once people get an understanding of what virtues we have, the sale goes a lot easier. And then in addition, so does the surveys that we do. When we survey and we find that you know 97, 98% of the clients say that they would come back, it's not only because it's a great venue, a great location but they were treated right.

>> Well, thank you for both of your comments and both scenarios and both extolling its virtues and you're a quick learner Mr. .

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor, I'm so impressed by this report, this is outstanding. My husband and I attended, as because paying along, have gone to lots of conventions in the United States, throughout the world, you name the continent, they've gone to conventions. He was with RICO, with the connecting businesses or -- people who were -- people who owned newspapers and that kind of thing. And you know, the interstellar communications that go with all of that. And I can say this: You're 100% right when you say cheap is a kiss of death. Because if you have to go cheap cheap cheap cheap cheap, something's wrong. It's like the wheels are ready to fall off the cart. And that, from having listened to people who were on the ground floor of putting these conventions together, stay away from that. The minute somebody started that, they're gone and they went on to someone else. Because there's always someone else who is willing to step in and take over. Since our convention center is million a third of the size of San Francisco and we're mid size, what I'd like to know is how do we stack up mid size wise as far as attributes and that kind of thing?

>> Well, it's a competitive world.

>> Councilmember Pyle: Yes.

>> Let's just say Seattle is a mid sized convention center, they've got a couple hundred thousand square feet of exposition space, versus portland is a lovely town Salt Lake City is a nice town. There is a high level of competition out there relative to the attributes and the characteristics that these other destinations offer. I think San José stacks up with all of them with the benefit of having access to a very critical industry. It's not to be underplayed and I think it's part of the economic development discussion going forward what is the nexus

between the convention center and industry in general. So I think we can play with any of those communities relative to the attributes we have but it's competitive, there's no doubt about it.

>> Councilmember Pyle: So as the leisure travel gets beefed up and I'm going to do my darnedest to make sure that happens, that will complement whatever traffic that you get from the convention center so that would seem to be a logical conclusion, would you agree with that?

>> That convention business there's peaks and valleys, and if you can layer in leisure that's very important. On the convention side you don't need to have a week's long list of entertainment, if you're at a convention and your husband's coming with you, you need a couple of nights and a day after to do that. I think we achieve that. The long term question is whether or not we go head to head with San Francisco and other destinations in terms of leisure and I'll take your word that we're going to work to improve it but it's knight nice to have as much of both as you can. Today you're very convention oriented.

>> Councilmember Pyle: I'm really impressed with your team. They work so hard, they do so much with not that much to work with. I will say too that the five years makes a lot of sense to me that you're going to be able to keep the client somewhat happy and they know when they schedule that we've got five years to make those commitments. And then also, is it upon to use the civic center which just had a really beautiful opening, great, wonderful food everything looked terrific. Is that something that could be used for adjunct space?

>> Bill Sherry: Oh, yes, absolutely councilmember. We use it pretty regularly for general sessions, and other special events. So while it's a great concert hall, it's also a great special event and general session facility as well.

>> Councilmember Pyle: Terrific. And the people that are looking to come here know that as well?

>> Bill Sherry: Yes.

>> Councilmember Pyle: Okay well I think it's just fantastic what you've done I'm very impressed and very much in favor of the suggestions. Thank you.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Really think it's more a thank you and also congratulations on the improved management and service delivery. I think this is fantastic. Every time you come before this council we get to hear good news on this item and I know traditionally and historically that has not always been the case. I'm very excited and it has made my job as a new councilmember easy obviously. I did have two questions and one was on the, there's a staple here on page 5 -- statement here on page 5 second paragraph next steps and conclusions, in the coming months areas that need improvement and evaluate the progress that is made. Can you talk to me I guess be a little bit more specific about what that exactly is going to be in terms of an outcome? Because I understand you're going to come back to this council in March, next year, with I'm sewage the contract changes. Or amendment or extension. So can you talk a little bit about that and is that going to be incorporated into the March meeting?

>> I believe so.

>> Bill Sherry: I'll take a stab at that. You know councilmember from my perspective no organization is perfect and all organizations have room to improve. I'll segue off of the mayor's comment, years ago, he strived to be average and now we've achieved that but I think we want to be far better than average. Constantly going through self-evaluation, comparing ourselves with the industry and how the industry's performing and trying to get ourselves I think now the goal should be that we want to be well above average in all of those areas in revenue production as well as expense control and I think we can do that. CSL is a great partner, they have a wealth of knowledge in the industry far greater than ours in terms of what other centers and cities are doing. And so through collaboration of partnership with them we can find where our strengths are, where our weaknesses are and then try to build on the strengths and improve the weaknesses.

>> Councilmember Rocha: Thank you. That helps me understand a little bit about what's written here so I appreciate that. I think, I'd completely agree absolutely on that. I guess then I would ask the question, take a little step further though. If you're in a perpetual mode of analysis and improvement, I don't know in terms of cost and time, that probably takes a little bit of effort. And if we had that luxury that's great. I guess based upon what you just said I'm a little curious or maybe concerned that we're spending a lot of time on that, if we're going to do that perpetually and offwhat the cost is for CSL if that's a contract we're extending or how long we had it or if there's a term that's going to end, not know enough going backwards for me knowing where we're at.

>> I can answer that, there is an initial effort to take that fine tooth comb through the entire organization, that's been done and identified three or four areas we are going to focus with them going forward. The other element we're going to be doing with them is rather than conducting perpetual studies every corridor let's take a look at how you're doing with respect to these benchmarks. They've already done a lot of than we'll make sure this is a fairly painless process for year 2. Year 3, we'll probably dig a little further under the hood not redoing the study, but find out how things are trending in that third year and that way we're doing a couple of things. One we're taking a look at the dynamic within the internal organization itself but it also allows us to say what is the rest of the world doing. What is Cincinnati doing that customers find are very advantageous, are there things that we can introduce on a moving basis into the operating of Team San José, it is designed to be nonintrusive and almost start the process as receive perpetuate and they can create those benchmarks and analysis.

>> Just to add one thought Councilmember Rocha to your initial question, I think the benchmarking will be very important to us as we go into negotiations with Team San José, specifically around performance measures councilmember Liccardo mentioned but again separate from that negotiation team that's going to meet with Team San José there is a separate team within the city that meets monthly on Team San José on an ongoing basis and works through these issues. I think it will be helpful for the structure of a new agreement and the chance for us to go forward. But it is something we've been doing even over the past year going ahead and instead of just having the reactive conversations to budget where are those prokitchen conversations where can we shift resources where's the industry going so it's been something that we've done pretty well for the last year I think.

>> Councilmember Rocha: Thank you.

>> Mayor Reed: City Manager wanted to add to that councilmember.

>> City Manager Figone: To pile on just a little bit, I also think just looking down the road probably by year 3 and 4 you're going to see the council at the time will be thinking about that next contract. So it will be really important to have the benchmarking, and the track record, and understanding where the improvements are so that when you're here reevaluating what to do, in that next RFP cycle you'll have some good data to base those decisions on.

>> Councilmember Rocha: Thank you. Again coming into this issue when this mayor and council dismissed it a lot of time which was necessary, it was absolute necessity as I understand it watching from the outside, in terms of how much resources we put into this, and it's clearly borne fruit, every report that's come to us it has been if anything as I mentioned when I first started this, an improvement I guess I'm keep playing this forward I'm wondering when we're going to take a little bit of a step back and not invest the amount of staff time and resources in this effort because it is doing so well. And just curious from your side of the dais when that time might be so that's the reason for my question so thank you.

>> Mayor Reed: I think that was it. Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I just want to congratulate the whole team on this report. I remember, lots of meetings where it was unhappy news. And it's just been great. I can't remember when exactly the date this all started changing but it's just been good news for quite a while now and I want to congratulate Bill Sherry. Certainly when you have great leadership at the top, it really helps. But the whole team has done an incredible job. So I had a few questions. As I'm looking through the report and you probably already talked about this. I'd like to hear a little bit more. The flagship product of our convention center if we look at the -- what is something that we would just -- where the ideal focused on the convention business more than the leisure

business, is that where we should be, relative to the size and what we offer? Are we focusing, is our focus on the products that we have to sell, the right focus?

>> So question being are we focused on the appropriate sectors of the visitor industry i.e. convention conferences meetings?

>> Councilmember Herrera: I heard you say is that about right.

>> It isn't necessarily the function of the size. Monterey California is a smaller town but it's heavy leisure, for good reason and lake Tahoe is a heavy leisure destination. In San José we small ks to the larders trade shows and it drives a larger share of our overall visitation than leisure. We feel at this stage at least until the product begins to evolve, satisfying sales staff to go after that business. You've got representatives in Washington, D.C, in Chicago, in Sacramento, all very, very appropriate, that is I think in my opinion the ideal way to deploy your current sales and marketing budget. Make changes over time but --

>> Councilmember Herrera: You mentioned leisure, I was wondering if you saw untapped area we can could look at. I would think it's --

>> Not in the short term. No.

>> Councilmember Herrera: Okay, another thing I noticed in terms of the ballroom space and we're apparently higher in the region that be comparable. How does the ballroom space just fit in to the idea of the convention space and what can we do to increase it? I know there's favorite groups I would like to see meet in San José and they keep meeting in Santa Clara. I want to see them come to San José. How much flexibility do we have in competing with those events?

>> There's host every one of them. The ballroom is I think a fantastic response to an emerging industry trend where meeting planners are using we don't even call them ballrooms anymore. They can do general sessions,

light exhibits, food functions, you name it. It's become the heart of the convention center for lack of exhibit hall in some fashion. So the fact that you have a slightly larger than industry average for your competitive set ballroom I think is a fantastic value.

>> Councilmember Herrera: You're talking about the prices that are higher, I'm looking at page 3 on rental rates and we're the highest,.

>> On ballroom?

>> Councilmember Herrera: Yes, that's my point.

>> Your rack rates are revolt high but that's not exactly how the bidding process works. And event planner will come to you and say here is an RFP I want you to respond.

>> Councilmember Herrera: Like hotel rack rates?

>> Exactly.

>> Councilmember Herrera: Ability to negotiate.

>> There are two things that are interesting. The hotel rack rates tend to be high because some sucker in a business suit on a Wednesday is going to pay rack rate to get a hotel so have your rack rate as high as you can. On the other hand, in the convention industry we are a little interested in looking at the implications of a high rack rate survey process and they do a great job of customer outreach to probe into that. Are we oning anybody because of our high rack rates? I don't think so. But it is something that we'll be taking a look at to see if there is a measurable impact to have the high rack rates.

>> Councilmember Herrera: Do we know, are we looking at events, and I don't know what the margin of these events are as compared to other conventions, that's what I was trying to get at maybe there are events we're losing to Santa Clara and we don't care because the price just doesn't make it worth competing for it, is there some way you particular that I don't understand why they keep going there and not San José but pain it's not worth it for us to try to meet their price, I don't know.

>> Bill Sherry: Great question, councilmember. There are a multitude of different types of events and they bring different benefits, and you have to look at those benefits differently. Obviously if you're looking at revenue and yield and margin, you know the corporate business is going to be right up there at the top. Corporate clients tend not to really care so much about the rate, and the price. They care more about the service and what you can do to America share event successful. At the other end of that scale are a more regional type of events that tend to be very low margin, sometimes we even break even or sometimes we even have to subsidize those. But those events bring people from around the region into the downtown area. And we can showcase the downtown. So while your measure may not be financial how are we casing our town. So we have to look at all of those things different. I had mentioned to Deb and also to Lee and Kim, that the regional events are something we're going to have to hook at very carefully in the renegotiation in terms of how we position those. Because if you look at our performance measurements, those performance measurements direct us almost entirely to those higher yield corporate type events and so forth. And so by booking some of the regional events we are locking out some of those higher priced margin events. But we also recognize that we want these regional events. So how do we give Team San José motivations and incentives to achieve both? And that's the balance that hopefully, we're going to be able to achieve in that new contract.

>> Councilmember Herrera: Thank you for that last answer. My last question is on food and beverage. I was surprised when I found out we were doing food and beverage, because my experience in business is when you try vertically integrate something doesn't work well because well with it and I imagine now we have the expertise so how do the margins look on your food and beverage part of the business versus some of the other areas where it looks like there's added revenue because of high margin opportunities. How does food and beverage compare?

>> So again if I may phenomenal. It baffles me. I'm not a career professional in the convention center business. It baffles me why everybody isn't doing this. We're able to control far far better the service delivery, the quality and the margins, you know, we run one of the largest kitchens in San José. Right now we're grossing about \$7.5 million with about a 30 and sometimes even higher 30% margin. And so that's significantly helping fund 536. When we get through this construction, I don't think it's out of the realm of possibility that we can easily gross upwards of 12 million. You mentioned earlier, that the success started with me. And I just want to point something out, that really, all I did is point people in the right direction. It's the team up there that really make this happen. And the people behind them. We've got a great food and beverage staff. And I am just constantly amazed at what they can do. Bill Sherry can't boil an egg but they do some really great work.

>> Councilmember Herrera: Don't minimize the leadership, it takes a great leader to do the work. You guys have done an incredible job and the food and beverage thing is just setting -- you're trend setters, you're leaders.

>> One thing is right now we've got a couple of individuals in the organization that really understand food and beverage. And the notion of taking it in-house really isn't scary to them. They can handle the pressure and it's a lot of pressure because if the food and beverage is bad the experience is poor. Most building managers kind of grow up as building managers and the whole food and beverage thing is scary enough to them risky enough to them that turning it over to a professional caterer is the easiest way to go. Again, you have staff that can counter that. The challenge you have going forward is as long as you have in house food and beverage you better have the right management and right individuals in place to handle that because if you be careful what you ask for in some sense if you don't have the right people in the right place.

>> Bill Sherry: And if I can just add one thing to that I'm going to quote Dave Costain who is up in the audience. We kind of look at ourselves less as a convention center and more as a big box hotel. If you look at a big box hotel they all have food and beverage in house because of the advantage it gives them. When you are looking at replacement staff they need to be strong in that area because in terms of profit centers it's one of our highest and it was a great move to bring it in and now it just needs to be managed.

>> Councilmember Herrera: Good for Team San José. That I give credit to Team San José and they are the ones that proceeded you I think Bill for sticking with it. It's one entrepreneurs in Team San José and I'm really glad that they moved us forward in that direction. In the report it talks about the organizational approach and how other convention centers are looking at us now and how we're doing it so it's very impressive and I appreciate the report. Thank you.

>> Mayor Reed: Any others? We have a motion to approve the recommendations with the addition of the focus on the fund 536 and the capital needs. Any problems with republishing the report with the blanks filled in whatever quirk that is of whatever software program? It would be easier to understand if that gets done as well. So often the motion? All in favor? Opposed? None opposed, motion is approved. Thank you very much. Congratulations. Keep up the good work. Our next agenda item is 4.3, ordinance amending drainage and storm water requirements for certain projects. We have no requests from the public to speak no staff presentation, is there a motion? We have a motion to approve the staff recommendations. On that motion, all in favor? He opposed, we have none opposed, motion is approved. 11.3 is rezoning of property on the West side of Wilson avenue. We have a motion to approve, no requests to speak on that motion all in favor? Opposed? None opposed, that's approved. That takes us to the last set of items for this afternoon's agenda which ask 3.8, council discussion on possible action on city positions regarding propositions and measures on the November 6th, California general election ballot. It is now 4:07 according to my clock which is reasonably accurate. I aspire to be done by 5:00, I don't know about my council colleagues but we do have a 6:00 evening agenda. I have about a half a dozen people who would like to speak. What would I like to do is take all the public testimony on all the items whatever people want to say, take that in and then go through the series of seven items and deal with them one by one and when we get into that we can talk about how we might limit the debate time or otherwise, if council wants to do that. But we will take the public testimony at this point on all of the ballot measure items. So if you wish to speak on ballot measure items get your cards in. Please come on down when I call your name so that you're close to the microphone. Jerry Mungai, John Vanec, Perla Florez. It is not just the state general election but it's the election ballot that includes the state and local measures. The council has previously taken action on other measures just the ones that we asked to come back. Jerry Mungai. In thank you mayor. I urge the city council to look at the various proposals

from a singular perspective. Will they help restore core city services either by increasing revenue or cutting costs? With that in mind I recommend on measure D, it is a job killer. Numerous studies show that minimum wage laws hurt those they intend to help, teenagers and those with little education and few job skills. This emergence and increase of over \$100 million for San José's 24,000 minimum wage workers and workers who now earn more than \$10 an hour who seek a pay increase. It is going to ratchet up all employee costs. That's why the unions support it. Also non offset resulting higher prices with reductions in their contributions to the nonprofits. I urge you to vote -- to oppose this alternately, I urge a no vote. Prop 32, elected officials are supposed to represent the people but with special interest funding their campaigns are under pressure to work for the interests of those individuals. Employees money should not be forcibly extracted from their paychecks candidates campaigns. I urge you to vote to support this measure. Thank you.

>> Mayor Reed: John Vanek.

>> Thank you for restructuring things. Some of us are off to Stanford for a panel on prop 35 tonight. My name is John Vanek, retired lieutenant from the San José police department. I managed the human trafficking task force as most of you already know. I currently consult with a variety of organizations on antitrafficking practices including state and federal government civil attorneys working with victims of human trafficking and attorneys whose expertise lies in legislation related to human trafficking. And in 2005, California passed the California trafficking victims protection act a comprehensive protection program and a piece of legislation created and endorsed by a broad range of these professionals. Prop 35 lacks this brought support and I'd like to give you three examples. The coalition to abolish based in Los Angeles has chosen not to endorse prop 35 and has publicly voiced their concerns about the language. The Polaris project a national organization that also does work in California supports many pieces of legislation has chosen not to endorse prop 35. And most significantly the sage project based in San Francisco, founded by a victim of the commercial sex trade, yesterday notified California against slavery that they are rescinding their endorsement of prop 35. After their careful consideration of the language. Locally and across the state those who actually do the work of assisting victims and who collaborate closely with law enforcement do not support the proposition. Media has chosen or has become more vocal in their opposition recently including the L.A. times and the San Francisco examiner. Collaboration is key to

our importance and requires that we listen to the broad range of experienced voices. Please consider the collective input of all those doing the work and oppose prop 35. Thank you for your time.

>> Mayor Reed: Perla Florez, Ruth silver Toab and then Jo Dietsen.

>> Good afternoon, thank you for the opportunity to speak with you regarding our concerns with and opposition to prop 35, large multiservice agency that has been serving South Santa Clara County for 40 years I oversee domestic violent sexual assault and human trafficking problems since 2004. Over the last eight years, we've learned a lot in terms of best practices and serving survivors of human trafficking and we even produced a 72 page manual for human trafficking country and two of the most important lessons learned during our time doing this work work is that any services for human trafficking must be victim centered and human trafficking is an organized crime and requires an organized collaborative response. As no one individual or organization can provide for the extensive needs of survivors nor does it embrace a collaborative approach necessarily to effectively combat human trafficking and these are the two main reasons community solutions oppose prop 35. Many others have expressed their concerns of prop 35 lpg human trafficking constitutionally vague and overbrought. It wrongfully makes penalties for sex trafficking more severe than penalties for all trafficking oop pes poorly written and contradictory in some elements. It focuses on sex traffic being rather than human trafficking for all purposes of slavery. And I did bring today additional editorials to share with you and so again we just strongly urge that you please oppose prop 35. Thank you.

>> Mayor Reed: Ruth silver Tobe, Joe Dietsen and Terry McCaffrey.

>> i'm Ruth silver Tobe, I'd like to read a statement from Kathleen Kim who is the co-author of the California human trafficking law and a professor of Loyola law prop 35 as co-author of California's AB 22 the antitrafficking law, that not only focuses on criminalizing human trafficking in California but also on access to social services immigration and civil relief. I'd like to state that prop 35's approach to trafficking will take these advancements backward. I'd like to highlight just one example of prop 35's negative consequences in a recent case Usef versus Teha, Yusef toiled in the defendant's home over 17 hours seven days per week under slave conditions over

threats of arrest and violence. When the traffickers were criminally prosecuted the victim was granted only \$13,000 in restitution in crlg code, he later sued in civil court under Civil Code section 52.55, which comadges and he received in excess of \$757,000. Yet under prop 35, the traffickers could have paid up to \$1.5 million in criminal fines to government agencies, and nonprofits, none to the victim, which may have depleted the assets of the traffickers and left the defendants judgment-proof and in the end all yousef received was \$13,000 of restitution we should do away wheeze can to protect and preserve access to civil justice for human trafficking survivors. Thank you.

>> Mayor Reed: Joe Dietsen Terry McCaffrey, Ross Signorino.

>> Thank you, Mayor Reed. I really appreciate this opportunity. Thank you councilmembers. I'm talking about yes on 34. So this proposition if passed, yes means that we will eliminate the death penalty in exchange for life imprisonment. Quite simply by passing this proposition, we can save the state of California \$130 million a year, and at the same time, we can make sure that we near execute an innocence person. So the money is actually quite surprising, you would think that the death penalty would be cheaper, it's not. And it's terribly disruptive to our court system. Our judiciary is in quite a bit of stress right at this time. With increasing number of cases and a never ending decreasing amount of dollars to support that. So these kind of circus trials make it very difficult to run a judiciary. Also, it is very expensive to keep these people locked up in a special confinement. The legal costs are tremendous. And there is required a large number of reviews. And I think these extra costs are make it so much more difficult to execute someone is probably because the people in California no longer are strongly supporting the death penalty. I know there was a time.

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

>> Thank you, Mayor Reed.

>> Mayor Reed: Next speaker is Terry McCaffrey and then Ross Signorino.

>> My name is Terry McCaffrey. I'm chair of the California people of faith working against the death penalty a statewide organization, and I'm also the western region death penalty abolition coordinator for amnesty international. I support proposition 34 and I'm just drawing wording from the legislative analyst. According to the leg inability shortened because of shorter trials. Housing of inmates would be shortened, would be less cost. And according to the analyst overall the savings would be over 100 million and \$130 million annually. Also another element of the proposition would be that \$100 million would be set aside to go to local law enforcement to work on unsolved murders and uncovered rapes. The unsolved murder rate for the state is 46%, the unsolved rape rate for state is 36%. I would also urge the council to adopt the resolution which I have a copy of here if I may submit it.

>> Mayor Reed: Hand that to the clerk please.

>> And ask any advice on some of the things I've talked about there so I've asked the council to pass a resolution in support of this. I want to thank the council for hearing me. Thank you very much.

>> Mayor Reed: Ross Signorino.

>> Thank you, Mr. Mayor, members of the council. Mr. Mayor, hope you'll tell me when my time is up. On measure D, this minimum wage, I say yes, \$10. If it's not \$10, that's human trafficking. Then on card rooms you took care of that long term, I won't get in on that. Then on political contribution, a person should have a say how they want their money spent on certain candidates. And then on the death penalty, I used to be for it very strongly but I'm kind of against it now. Unless there's proof positive no circumstantial evidence, on the case of McVey, he was guilty no question about that in the case of Peterson, I would not impose the death penalty just on circumstantial evidence. Life in prison if you want. Then human trafficking. Imagine there's people here much more eloquent than I were on human trafficking. This is a hideous crime. We spent the lives of over 600,000 men in the American civil war, trying to free our slaves here. That was human trafficking. Now we got to stop it. It still continues we got to step up to it. And then we have the three-strike law. Well I don't know, I'm kind of -- I'd like to know more about the three strike law. Just because a person stole all three cars all felonies, send him to prison, without the penalty of parole, I would say no. I think that's it, I'm ahead of time. That's all I have to say, thank you.

>> Mayor Reed: We'll credit 13 seconds to your account, Ross. That concludes the public testimony on all of these items under agenda 3.8, we have (a) through (g) to go. 4:22. If we allowed five minutes for each of these we'd get done by 5:00. Councilmember Constant you had an interest to do something on limiting debate. I checked my Robert's rules in order to limit debate it requires a two-thirds vote just as calling the question does. So if council wants to organize this in some fashion to get us done by 5:00 I would support that. But we need a two-thirds vote is, but Councilmember Constant.

>> Councilmember Constant: My intent in that is we are entrenched in our thoughts each so I'd like to just make a motion to call the question and do them each individually.

>> Mayor Reed: All right we have a motion to call the question and vote which would limit the debate. Yes. Personally I'd like to see how long it would take for Ash Kalra to convince you to change your mind but I just don't have the years of investment that it would take to get the answer to that question. So all right. So there is no debate on the motion to limit debate. So that is the motion. Just a vote on these without debate. On that motion, all in favor, opposed? I count one two three opposed so we have eight in favor three opposed that carries on an 8-3 vote so Rocha Campos and Kalra opposed.

>> Dennis Hawkins: Excuse me, Mr. Mayor, 7-3 with Councilmember Pyle absent.

>> Mayor Reed: Oh. I didn't realize she was gone. I'm just counting the no votes. So is Councilmember Pyle still in the building? I think she probably is. Well give her a minute so she can cast her vote and then we'll finish the vote. Sorry, Councilmember Pyle. So the motion was to limit the debate just vote on these seven things and be done with the voting. And so it's right now seven-three in favor of limiting debate and just voting. So your vote. We need eight votes to limit debate. Okay. Councilmember Pyle says she'd like to limit the debate. There's always mid ground.

>> Councilmember Kalra: Mayor, I think you made it clear, by saying limited debate by saying there's no debate. Just vote.

>> Mayor Reed: No debate. So Councilmember Pyle votes yes on that, no debate, we'll vote on each of the seven items. That's a no vote. So that motion fails on a 7-4 vote.

>> Councilmember Constant: Okay I'm going to do my part, I'm not going to say anything, I just do the vote. I urge the seven who voted with me do the same.

>> Mayor Reed: You're not required to speak.

>> Councilmember Kalra: Do I get an opportunity --

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: I recognize that a couple of the advocates on proposition 35 have to leave early, I was hoping we could take that up early. If that's possible.

>> Mayor Reed: You can certainly do that, there's no magic on which order you do things. Should we charge in here and hope for the best of? We'll do that in the traditional fashion although, certainly, a question could be called as we're debating these once we get into them. On individual items, that may be another alternative but Councilmember Liccardo's request, we'll take the proposition 35 the human trafficking item, first. We had originally a staff recommendation to support that. I know we have -- we're not going to get a staff presentation. That's all been done in memos but we do have staff here who could ask questions about that. So on proposition 35 human trafficking, Councilmember Kalra.

>> Councilmember Kalra: You know I think there's been a compelling argument made here but not just here but outside these halls and personally, I think that the tough on crime approach is kind of the traditional approach

that's been taken. I know that a more comprehensive approach is needed with prop 35. And so rather than go with the staff recommendation I would just suggest no position and rather than going with the other there's a lot more research that we probably haven't done that we could do but given the information we've gotten I would kind of drawback from support to no position.

>> Mayor Reed: No position. I've got a second from Councilmember Constant. Look at that didn't take him that long to change your mind. So on that motion which is to take no position on 35 anybody wish to speak to that? Remember I don't have the little lights today so -- on that motion all in favor? Opposed? None opposed, so the city officials takes no position on prop 35. All right. Let's six more to go. Go to start at the top of the agenda here, measure D the minimum wage item. Okay so we have a motion to oppose measure D. D as in that is the minimum -- the motion is to oppose.

>> Yes.

>> Mayor Reed: Okay on the motion Councilmember Kalra.

>> Councilmember Kalra: Thank you mayor. You know when we discussed this to put on the ballot and three of us voted to adopt it out right, many on the council said this should go to the voters. I would hope that those same councilmembers which included a number of folks almost half the council, would at the very least abstain. However, I do think the right thing to do is to pass this ordinance and I would urge the voters to approve it. So I'm going to put in a substitute motion to support position of measure D.

>> Second.

>> Mayor Reed: All right we have a substitute motion, Councilmember Campos had a second. Are you saying Councilmember Chu had a second? Or is it you're sitting closer? I'm going to give it to Councilmember Chu because Councilmember Chu is vouching for it. On that motion, motion is to support measure D. That's the substitute motion. I just want to speak to the motion. I've seen the beacon economics study. There's a range of

potential impacts to jobs, basically elimination of 500 minimum wage jobs to 2800 minimum wage jobs. I remember what it was like to have a minimum wage job. I know how important it was to me to have a minimum wage job, I remember how much I learned working in a minimum wage job. I just hate to see minimum wage jobs eliminated, so I'm not going to support the motion. Anybody else on that motion? All in favor, opposed, I count one two three four five six opposed that would be Liccardo, Herrera, Pyle, Reed, constant, Oliverio, opposed. So that fails on a five-6 vote. The original motion was to take -- I'm sorry what was the original motion?

>> Councilmember Constant: The original motion was to oppose.

>> Mayor Reed: The substitute motion was to support, the original motion was to oppose. Okay. On the motion to oppose measure D. Any debate on that? No debate. All right. All in favor? One two three four five six. Same five-six split, from the rearing's I believe. Councilmember Oliverio, constant, Reed, Pyle, Herrera, Liccardo voting yes to oppose, that's 6-5 so that motion carries. Measure E, card room gaming. Somebody wish to put a motion on that? Measure E. Councilmember Rocha.

>> Councilmember Rocha: I move no position.

>> Second.

>> Mayor Reed: Motion is to take no position on card room gaming. Measure E. On that motion Councilmember Liccardo.

>> Councilmember Liccardo: Mayor I'd like to ask for a substitute, make a substitute motion to oppose and if I could -- if I get a second I'd like to be able to speak on that motion.

>> Mayor Reed: I think I got a second, Councilmember Chu has a second. Substitute motion is to oppose measure E.

>> Councilmember Liccardo: In the last week we reviewed the City Manager's finance report and what we learned is that even though in our last ballot measure in 2010 we increased the number of tables by over 22% we increased the tax rate from 13 to 15% on those tables, the amount of revenue we generated over the ten months in which that increase was operable, was less than 200,000. The claims are made by the proponents of this measure is that somehow \$20 million will be flooding into the city's coffers. Certainly not from the evidence of the 2010 expansion. We do know however we're going to invite all kinds of trouble with the expansion in gambling and the expansion of game.

>> Mayor Reed: Anything else on that one? I forgot to mention earlier in case anybody is trying to figure us out with regard to ballot measures councilmembers can abstain as opposed to voting up or down on a motion. So it is possible for people to abstain which is not usually our case. Because you could support you could oppose or you could take no position. So if anybody was intend being to abstain just let me -- intending to abstain just let me know, otherwise I'm counting as no votes. On opposing measure E card room gaming, on that motion chem all in favor? Opposed, I counterone two three four five six seven opposed so that fails. I would support taking no pokes. That was the original underlying motion so the substitute motion fails on a 4-7 so we now have a motion to take no position. Which I think was Councilmember Rocha's motion. Okay. On that position, no position on measure E all in favor? Opposed? I count Chu constant and Liccardo and Nguyen opposed, so 7-4 to take no position on measure E. All right. Proposition 32, political contributions by payroll deductions, contributions to candidates. Councilmember -- who wants to make the motion on that is there discussion? Councilmember Kalra.

>> Councilmember Kalra: I'd like to put forward a motion to oppose, reality is that all the -- anyone that's even remotely objective on this knows it's a sham. It's not about getting special interest money out of an election. It's only going to affect unions. Because we know that unions are the only ones that use the payroll deductions that edged up going into the dues -- that end up going into the dues that are used in part for representing the interests of the members include ugh potentially in the realm. That's why California league of women voters common cause are opposed to 32 Charles Mun dprvetioner himself has teachers association has put in so it stells tells you that this is really these out of state right wing attempt to completely take away any ability for the to have any voice in actuality for the middle income earners so have any voice in California. It's I think that not oajt is it the right thing

for you to do to oppose it but I think it sends a terrible message to our workforce to kick them while they're down so to speak if we are in any way to get close to supporting proposition 32.

>> Mayor Reed: That was a motion, seconded by Councilmember Campos. On that motion, Councilmember Constant.

>> Councilmember Constant: Substitute motion to support and I'll just say that I disagree with everything that was previously said.

>> Mayor Reed: Substitute motion to support. Fails for lack of a second. I think. There is no second for that so back to the main motion which is a motion to oppose. Further discussion on that motion, on the motion, all in favor, opposed, Councilmember Constant, Reed, Herrera -- okay. Opposed, Herrera abstaining. Councilmember Oliverio abstaining. So it's seven votes in favor of opposing so that motion carries with two noes and two abstentions. Correct? All right. 34, death penalty. I'm sorry, it was a motion to approve support for prop 34 and I don't know who got the second. Did you get that, City Clerk?

>> Dennis Hawkins: No, I'm sorry we didn't get the second.

>> Mayor Reed: Vice Mayor Nguyen got the second. Okay, discussion on that, on that motion to support? All in favor? Opposed, one opposed, that would be me. And Councilmember Oliverio. Abstaining. Okay. Prop 35 we've already done. Prop 36. The three-strikes law, repeat felony offender penalties. Motion was to support prop 36. Discussion on that motion? I see none, all in favor, opposed, one opposed, any abstentions? Oliverio and Reed abstaining. I'm in favor of no position. That carries, I believe, with eight votes. So 39, proposition 39, taxes tax treatment for multistate businesses, clean energy, is the last one. All in favor, opposed? I'm opposed, abstention, constant abstention, Oliverio abstention, Herrera so that passes on a 7 en-something-something 7-1-3 vote. That passes. Are we done City Clerk?

>> Dennis Hawkins: I'm sorry, I didn't catch the third abstention on that.

>> Mayor Reed: Herrera. Oliverio, Reed abstaining. So we didn't even have to limit debate. Self-limiting is good sometimes. We are done except for open forum. We have no cards for open forum so we are going to recess until 6:00 p.m, niche we are taking up the smoibles first and some items before land use items. City Clerk.

>> Dennis Hawkins: Mr. Mayor, dinner will be set up for council at about 5:00.

>> Mayor Reed: All right, we are in recess until 6:00 p.m.

>> Good evening, I'd like to get the city council back in session. We've been in recess since the afternoon meeting. So we have a lengthy agenda, not a number of items, but I think in time this evening. Let me get started promptly here. We're going to start with the ceremonial items and move into the other business matters, so we'd like to start by having Campos, fire engine 1 at the podium. I'm sorry, we don't have everyone here for that, we're going to invite the representatives of the San José country club to join me at the podium. Tonight, we're commending the San José country club as it celebrates its 100-year anniversary. Congress member Campos will have some of the details.

>> Good evening. Established in 1899, the San José country club is the fourth oldest golf club in northern California. Tom Nichol of Scottish-born professional and the club's first head pro designed it in 1912, then in both 1936 and 1997, the courses were renovated and expanded in order to maintain the great standards, as well as giving the club a touch of Scotland. San José country club is known for its love of the game of golf and has a history steeped in tradition and golfing honors. The club is a founding member of the northern California golf association and has turned out many champions through the years. Eddie was the most famous club pro, who was club professional of the year in 1959. He gave lessons to Roger maltby, Cann Venturi, members today. Many golf celebrities have joined the challenge and subtle design of the San José country club golf course, such names as Babe Ruth and Joe DiMaggio just to name a few. They've grown up with a rich history and tradition still followed today. It continues to maintain competitive golf in a friendly and social environment, promoting camaraderie and friendship amongst players and competitors. I want to thank the San José country club for over 100 years of championship quality and dedication to the game of golf here in the city of San José. I also want to thank Kim Laura, who is also here representing the golf club with the outstanding work she and her staff do to offer the city of San José a beautiful golf course we all can enjoy. Also, I have up here my colleague Nancy Pyle, who we both have the heritage golf courses at the book ends of our valley. The country club on one end and the San José country club on the other. So with that, mayor reed, can you please present this commendation to the San José country club? Would you like to say a few words?

>> Not really. Would you? Any?

>> We don't have to. Thank you very much.

>> Step over to the camera, smile.

>> Thank you very much. Now congress member Pyle will stay down here as we ask the blossom valley all-stars to join us. Come on down, all-stars. Blossom valley all-stars represented San José and won the 2012 pony baseball mustang league world series. Come on down.

>> Hi, everybody.

>> Ladies and gentlemen, we saw the giants win last night -- YAY! And we have some future giants ready to go. The 2012 blossom valley mustang all-stars went to Texas in August to compete for the pony mustang world series. And there, outscored their opponents, are you ready? 74-4 in four tournament games. The pony mustang world series championship game was played on Sunday, August 5th, against Puerto Rico and the blossom valley all-stars won 10-1. And so now it's time for -- would you come up and we'll ping-pong the names and find out who all these wonderful people are. I'll begin with Marcus. Jaden. Coleman. Jonathan SIMEROT. William KempNER. Jack. Eddie Meyer. Logan ruleman. Jonathan Rodriguez. Jason SIRI and Jeter IBARA.

>> Yes, let's hear it for them. This team has exceptional leadership, manager Jeff SIRI. And, of course, parents who have come along. Where are you, parents? We have just a few here, yes. Congratulations, blossom valley mustang all-stars, and thank you for representing San José so well and winning the 2012 pony baseball mustang league world series! Thank you. We want to hear from the coach, right?

>> These boys worked very hard over two and a half month period, started in June and we won a tournament in San José and then from San José, we went to Los Angeles, on to Texas, and every step of the way, these guys played their hearts out. They grew as teammates. They are like brothers now. And it was just an incredible experience. And they even survived 110-degree heat in Texas. They had to play in for four days. So incredible job. Our motto was, don't ask yourself what if, and they never had asked themselves what if, what they could

have done better, because they did an awesome job over a two-month period. I've never seen a team so loose as this team. Thank you.

>> Thank you.

>>> Now we'd like to have the ALMADEN little league all-stars join us at the podium. This is a winning time of year for baseball in our town, so that's great. The ALMADEN little league all-stars represented San José in winning championship flags at the district 12 and section 5 tournaments. Congressman Pyle gets to claim full credit for ALMADEN, partial for blossom valley.

>> Hello, everyone. Are we glad to see you? So proud of you. I hear bells. Here come the moms. Okay. We're almost ready. The 2012 ALMADEN north star all-star team is made up of 10 and 11-year-old boys, who went farther in their all-star season than any other ALMADEN little league all-star team. You got that? Went farther. The ALMADEN north all-stars won the little league district 12 and section 5 tournaments with nine wins and only two losses, including winning eight games in a row. District 12 was represented from 11 teams through the city and section 5 was represented by eight all-star teams from five California counties. The ALMADEN north all-star team earned the right to compete by the northern California division 2 title, which is the highest level of competition of this age group. The northern California division consisted of teams from Fresno to the Oregon border. With us today, and I hope they'll raise their hands as we go, we have Conner Hendricks, who's a pitcher and a shortstop, Frankie, pitcher, shortstop, and second base. Trevor JOHANES, pitcher/catcher. Shane Mcknight, first base. Michael Garcia, pitcher and third base. Ryan Kent, catcher/center field. Ryan Keith, his dad is with us today, center field. Andrew McCann, left field, first base. Matthew youngSTN, right field. Andy Michael -- I'm sorry, pitcher, second base, and center field. Alex, center field. Then there's the wonderful, wonderful coaches. You look good in that shirt, Richard. Richard. The coaches are Jeff Hendricks, Jim YONIXT. Tom Mcknight, and Don Pollard. Thank you, ALMADEN north all-stars for representing San José and winning the 2012 district 12 championship and the section 5 tournament and representing San José in the northern California tournament. Great job.

>> I had to write this down or I'd really mess this up. Hi, everyone, thanks for having us here tonight to represent what these boys accomplished during the all-star tournaments. This is a great experience for them, and we appreciate being recognized for our accomplishments during the tournaments. I will, once again, congratulate the north little league 10/11-year-old all-stars for capturing both titles and becoming one of the top in their age group in northern California. After winning the district 12 little league championship on July 10th, finishing up with a 5-2 victory, the team went on to compete in the district championship with an even more spectacular run during the section 5 tournament. The entire team came together and played amazing games, with everyone being the hero at one point. There were a few games where they came from behind and won in extra innings or ended up taking a lead in the final parts of the game. Going 4-0 in the competition, they captured the section 5 title, ending with an impressive win in extra innings. The team scored an impressive 37 runs in four games, including five home runs from four different boys. One of the -- one thing the boys recognize is the amazing support they felt from the community coming together, with quite impressive turnout to each and every one of those games. With such an impressive turnout, it was standing room only with numerous boys cheering on their buddies. The team then moved on to the division 2 championship tournament in California from July 21st to July 28th. Only seven teams out of 500 moved on to this championship tournament. The boys played very well here, but lost their first two games by only a run each. This was the first appearance of an ALMADEN team in the division tournament in over ten years. It was a terrific accomplishment for the kids and the coaches and a summer they'll always remember. So once again, thank you for recognizing the team for this accomplishment at tonight's meeting.

>> Thank you, all, and congratulations. And thanks to the parents. Go parents!

>>> Now we'll turn to fire department engine 21 representatives to come down as we commend Robert SOTELO for his act of heroism in rescuing a woman from her east San José home. Congressman Campos has the info.

>> Good evening. Today, we have the privilege to honor a hero. After just meeting Robert, you get the impression of someone who is humble and actually might prefer to avoid all the attention he has been receiving for what he did on the morning of July 3rd. But what he did simply cannot go unrecognized. Robert was on a walk with his girlfriend and 17-month-old daughter when he noticed a burning single-story house on the 1300

block of FERRINGDON drive just after 11:00 a.m. Through the open front door, he saw an 85-year-old resident surrounded by smoke. Quick to react, SOTELO called 911 as he raced to the front door and gestured to the woman to come out. But instead, the woman went deeper into her home. Realizing the urgency to get out of the house, Robert ran after her and found her struggling to get dressed. Robert acted quickly, ripped off his shirt and put it on the woman in order to escape. Robert then opened the first floor bedroom window and passed the woman to a nearby neighbor -- to a nearby neighbor. Neither SOTELO, nor the woman, were injured. The actions Robert took to save the woman's life are a clear indication of his ability to think clearly under pressure, but also the unselfish act to put someone else's life before his in a true testament of his character. I want to personally thank Mr. SOTELO for his heroic acts. Robert now joins firefighters as our everyday heroes who risk their life to save others. Robert, I know you are a modest person, who might even be embarrassed by all the attention, but it would be a disservice to you to not acknowledge the fact that you saved a life. And we are all deeply grateful for that. With that, I invite mayor reed to present this commendation to Robert SOTELO.

>> Thank you for being nominated.

>> Before you go, I'm the fire chief here in the city of San José, and I wanted to just say a few words in recognition of the great act that was taken here. If you've ever been near a fire and can feel the heat and have to think about putting yourself at risk to make a rescue of someone you don't know, it's really an amazing feat. The fact that it was dark and very smokey and very hot in the house and the fact that he still decided to put himself in danger for someone else. San José firefighters, fire department, is great because of our great people, and one of the places we like to get great people from is here in the city. So we'd like to ask Robert to consider coming to the city of San José. We're going to be doing recruiting next year. I'm going to give him a couple of things to think about it and hope you encourage him to become a San José firefighter. Thank you.

>> We have several items on the agenda to take up this evening. Council member Pyle wants to make a motion to reconsider one of the votes from this afternoon's council meeting, but I want to wait until we have the entire council here before we do that. It was one of the 6-5 votes. We need to get everybody here before we do that. So we'll start with item 3.3, we had a lot of people that want to speak to that. So we'll get the public testimony

shortly. First, we'll hear from city clerk and city attorney's office on the recommendations and the supplemental memos, et cetera. Before we get into the public testimony and eventually get the council discussion and -- I think I'll turn it to Dennis.

>> Thank you, Mr. Mayor, members of the council. My city staff colleagues and the community would like to begin first by acknowledging my colleague, Lisa HERICK and a number of other people that have worked on this project over the last five years, including Roberto, Lesley, my predecessor, Marie Price, and others within the city staff. Also, I'd like to thank all the board and commission members who have invited me to discuss the recommendations over the last few months and the 200-plus residents and commissioners who participated in various stakeholder outreach meetings and sent communications to us with their suggestions and concerns. Tonight, we're asking the council to accept the recommended structural improvements, accept the recommended consolidation or elimination of commissions and report back to the city council. We get into the discussion, I am a little concerned where the original date we set of December 2012, and I know there's a memo for council member suggesting November, but I think there are some staffing issues that I'd like to bring to the council's attention, which may affect our ability to deliver within that time frame. Throughout this process, our purpose has been to define the role, responsibility, and the scope of the city's boards and commissions and really to develop or refine an effective structure that provides for meaningful involvement and advice to the mayor, the council, and the city administration. I think it's important to note that San José last reviewed its boards and commission program in a substantive way in 1996, so we're about 16 years since our last structural review of the board and commission program. We've had a significant increase in the number of commissions at that time. I wanted to familiarize members of the public, as well as the council, that this really has been a process that's been under way for over five years. It started back in 2007 when the city council voted to begin work on creating the neighborhoods commission, and one of the parameters established at that time was that the neighborhoods commission not duplicate the commission or work of any existing commission. At that time, the council also directed the administration to begin work at looking at opportunities for consolidation or elimination of boards and commissions due to redundancies or other factors. That effort continued on, and in 2008, my predecessor, Lee Price, presented a program of structural improvements to the rules committee, which received conceptual approval. In 2009, the city council approved the two-year pilot program. Also in 2009, the rules committee referred a proposal

to increase the membership on the mobile home advisory commission to seven members to the structural improvement program. In June of 2010, the city council adopted NBA number 16, which established some parameters for the conduct of boards and commissions, including the really reaffirming a previous direction in the municipal code that all boards and commissions complete an annual work plan and annual report to the city council and MBA 16 also reduced the number of meetings for advisory commissions. Some went from 12 meetings a year to ten meetings a year. Some went from three or four meetings a year, but the effort was really intended to help control costs and work load of staff, as well as keep things more efficient. In October of 2010, the rules committee clarified that MBA 16 also applied to subcommittee meetings and directed the boards and commissions to look at their committees and subcommittees and make sure they were necessary for the conduct of the commissions business. What was happening at the time is because MBA 16 was created, some commissions were holding a variety of -- creating a variety of subcommittees, and any savings that were intended for reducing numbers of meetings and staff report were being negated, so the rules committee clarified that subcommittees should meet no more frequently than the whole commission. In June of 2011, the mayor's budget message assigned to me and my office the task of reporting back to the rules committee by the end of 2011 on the structural improvements and consolidation or elimination procedures. We did that report and presented that to the rules committee in December of 2011, and the committee at that time directed me to complete a stake Holder outreach. I personally visited over ten of the commissions explaining my recommendations. I also had three community stake Holder meetings in which we had over 200 participants, and I gathered all that input that was used in putting together the revised recommendations that are before you today. Our review did not include the charter commissions, civil service, salary setting and redistricting. It also did not include some of the judicial commissions, such as the retirement boards and other commissions which had different memorandum of agreement that govern their structure and function. So our review really concentrates on the council's advisory commissions. In terms of structural improvements, just a high level overview, it's been 16 years since the municipal code section 208, which establishes the various boards and commissions, as well as the general procedures, was reviewed and were recommending we do some review and updating of the municipal code. Presently, there are two council policies that primarily direct boards and commissions, council policies 0-14 and 0-36 and in some cases, the provisions of those policies are contrary to each other, they are redundant and what we are proposing is we do a consolidated board and commission policy that would merge those two and eliminate

those redundancies and inconsistencies. One of the recommendations that we've made is for a standardized set of rules and procedures or bylaws for all advisory commissions. Currently, we have a situation in which some commissions don't have bylaws. We have some commissions that have bylaws that contain provisions that are contrary to the provisions of the municipal code, and so we're suggesting that a standardized set of rules and procedures is necessary and would be promoting efficiency in the operation of the commissions. Some of the other things we're looking at to standardize was a standardized agenda format so that members of the public appearing before commissions know what the rules of engagement are. They know how the meeting is being organized, so there are clear expectations for members of the community as they engage with our boards and commissions. One of the things that I think we acknowledge, but we probably have not done a good job over the last few years, is to provide commissioner and staff training. Every year we have a turnover of between 1/6 and 1/3 of our commissions. There are a number of legal issues that commissioners need to become aware of, ethics provisions and the like, and we really see a need for some standardized training, as well as some specialized training for chairs to help them run more efficient meetings. Staff training is important, also. Been a lot of council discussion about the turnover of city staff, so staff really needs some additional resources to help them work with boards and commissions and the community. We want to reemphasize the requirement of work plans and annual reports. In my supplemental memo that I issued on Friday, you'll notice that about half of the boards or commissions have complied with MBA 16, and over the last three years have completed their work plans. And about a third of the commissions have completed an annual report or annual reports within that time frame. We're updating that data because we became aware of a couple that were not shown on the chart, but that's the bottom line, we don't have very good compliance. And also we need to really look at the compliance of our boards and commissions. We have had a number of issues where we've had to cancel commission meetings because of improper noticing. We've had -- we have inconsistent minutes formats and records for the commissions, some commissions are not putting their minutes, once approved by the commission, on the website or submitting their draft minutes. So there's some just general compliance issues that need to be addressed. One of the areas that we looked at in doing our analysis is commission membership, and in my recommendations, I'm recommending that the council consider changing the method of appointment so that we would go to a system that the council has used for other bodies such as the redistricting commission and others which include a representative from each council district, an at-large member appointed by the mayor, and other members appointed with subject

matter expertise or representing specific constituencies. Part of the reason for that recommendation is that if you look at the composition of boards and commissions, we have a situation now in which about five or about half of the council districts are underrepresented if you look at the percentage of population to the percentage of commission membership. And I think that causes some questions about representation and equity throughout the city. I think it's particularly important to note that three of the council districts within the city that have minority majority populations are in the underrepresented categories. This is a bar chart showing that same data, and one of the reasons I've displayed this is that some people have suggested that the composition issues are transitory, but if you look at this data, I think that you can see that it's pretty much a trend over time that about half of the council districts are underrepresented. Two are about right where they should be, and three have a higher percentage of commissioners compared to the population. This chart shows you a comparison of city population per council district and the percentage of commissioners within those council districts. And again, that amplifies the data that we've seen here. So one of my concerns is that we, through the appointment process, look at ways to increase our geographic diversity among the cities, boards, and commission members. And I think if we can accomplish that, we will also address some of the other underrepresentation issues. I will note that staff and some commissions have expressed concerns about that proposal, and so I wanted to bring those to the council's attention. The airport commission or the airport administration, I should say, suggests that the airport maintain a seven-member format and that we modify the municipal code to add some special eligibility requirements, such as background and commercial air service, customer relations, and other factors. The downtown parking board recommends and the department of transportation recommends that body stay at seven members, which currently consists of five downtown representatives and two at-large members. The election commission also expressed its concern and suggest that it be maintained at five members and that the council consider a change in its name to the ethics commission, which they believe is a better definition of what they do. The early care and education commission has requested that we reduce the number of commissioners that are currently at 13. And they, among some other commissions, are having consistent quorum problems. The housing commission not move to an 11-member-plus format but be maintained at nine members, as indicated in the chart with some special representation for lower income persons and council districts as specified in federal regulation. They've also suggested the council consider some special eligibility requirements for appointment to that commission to provide that professional balance. One of the recommendations I'm making is we rename and repurpose the

project development screening committee. Because of changes in the law, we are no longer able to keep track of demographic data, such as age, gender, ethnicity, and other factors. What we've been trying to do over the last couple of years is have the committee focus more on outreach, recruitment, and selection. To that end, the committee has produced supplemental questionnaires that go to commissions specific information to help the council members identify those that have expertise that may be a good fit for the appointment. And we also need to improve the timeliness of our appointment process, going to more of a quarterly type time frame, because we do have a number of commissions that have quorum problems on a regular basis and we just need to speed up the process. One of the things that if we repurpose the project diversity screening committee, the work can continue, but it will be focused on helping council members evaluate their members of communities applying for the various commissions and help each council member in that appointment process. One of the recommendations we're making is that we look at staffing efficiencies, which would help improve our commission compliance and that we explore consolidation of commission support functions, such as agendas, minutes, web postings, audio recordings, et cetera. Some of the back room support for commissions, frankly, is an area that for many staff is an infrequently used skill and because as I mentioned before, we've had a number of problems over the last few years with agendas not being properly posted or problems with minutes and other documents that centralizing those support services makes sense and in many cities and counties, that is consolidated in the clerk's office. Budget considerations, one of the biggest questions that I've been asked over the last few months is what does it cost to run our boards and commissions? Based upon information provided by the departments, we know that the cost of supporting the commissions not including the charter commissions, is at least \$600,000 annually. Frankly as I look at some of the data, I think we're under reporting some of those costs. I'll give you an example, a cost estimate may come from a department that says there are three staff people that regularly attend the meetings, but we saw in the minutes there were more than those staff members regularly attending those meetings. And so I think we want to account for all the costs that go into supporting the commissions and from personal experience serving as a commissioner previous to my employment with the city as well as supporting for commissions, there's a lot of work that goes into supporting those commissions and frankly I don't know if we capture that data fully. I did want to point out that until we see what the council decides to do on any consolidations or eliminations, we don't know what the fiscal impacts of those might be, and if we were to revise the meeting, MBA 16, to have the meeting frequently of boards and commissions driven more by their work plan,

that could increase meeting frequency, which could have a result effect of increasing support costs. One of the questions I pose in my report, should certain entities be codified as commissions, couple of examples, the bicycle pedestrian advisory committee, the animal advisory committee, and there are others as well. If those bodies are providing advice in a policy way in occasion of the council or city departments, that's a question I pose to the council, should those be considered as full commissions and be subject to the brown act and other disclosure requirements. Consolidation with County commissions, one of the tasks in the referral to my office was that we look at consolidating with County commissions. I'm not recommending that at this time. I think there are opportunities for us to consolidate internally first and look at our efficiencies and operations, and I prefer to work on that first before we explore a consolidation with County commissions. I'll also note that many of the County commissions have a very different focus than our city commissions. For example, the airport commission at the County largely is oriented towards general aviation, whereas our airport commission is oriented more to the operation of a commercial airport. And I'm not sure that those two purposes would be compatible in a combined commission. So those are the types of issues that I think would need to be considered. I am proposing that certain commissions be maintained as they are, and this is a departure from my December recommendations to the rules committee. Specifically, I've recommended that the arts commission, the disability advisory commission, and the historic landmarks commission be maintained as separate entities. As I visited with each of those commissions and explored with their staff the work that they do, I feel that they warrant being maintained as a separate entity. I am recommending that two commissions be eliminated. One is the human rights commission. What you have in this slide is what the municipal code says that they should do. And I think that there's oftentimes a lot of activity in the human rights commission, but I'm not sure what the ultimate outcomes are. As I review their minutes and work plans. The same is true for the small business development commission. When the small business development commission was created, it was primarily ordinated towards city procurement practices. Over the last ten years or so, there's been a change in the city's procurement rules, and I think it's something that is done primarily through staff reports and other monitoring by the administration. And I just think that the small business development commission may have outlived its usefulness as constituted in the municipal code at this point. Some commissions to be consolidated include the airport commission where the airport noise advisory committee. The committee basically was overseeing the airport's noise impact attenuation, the acoustical treatment program, and that work has basically been done, so I think there's an opportunity to disband

that, and if there is any need for any of that work to be done, it could be consolidated with the airport commission. The housing commission is a consolidation of the advisory commission on housing community development commission. I will note that as indicated earlier, the housing department has some recommendations on alternative membership structure for the housing commission. But again, this is an opportunity to combine all of the work on the city's housing issues into one committee and I'll note that the housing community development commission has had problems with quorums over the last year or so. Parks and recreation commission is proposed to include the senior commission and the youth commission. My primary reason for recommending this is that primarily the senior programs and youth services that the city provides are done through the parks and recreation department and one of the objectives, I think, is looking at a more wholistic viewpoint of the commissions to embody all the work that that department does and restructuring the parks and recreation commission to make sure it includes diverse interest from seniors and youth I think would bolster that commission. Library commission. The library department supports the early care and education programs, as well as operations of the public library. I think there's some value in combining those services under one commission. And lastly, the appeals hearing board would be reconstituted to include the current appeals hearing board, the building codes and disability advisory community, which is basically nonfunctional at this time, but there's a legal requirement we have a mechanism to deal with those issues and the traffic appeals board so that all the code enforcement or appeal-type functions would be consolidated under one commission. Traffic appeals commission basically meets one time a year. I think it's more efficient to have that consolidated with one appeals board, since the work load would not be significantly greater for the appeals hearing board. It will be some logistic issues and training issues, but I think that's another opportunity. Some policy alternatives that have come about. One is to create a human services commission, which would encompass the disability advisory of the human rights and senior citizens commission. This is the configuration supported by the senior commission. They are not in favor of merging in with the parks and recreation commission. I know there's some council memos that suggest maintaining the senior commission and youth commission as separate entities. Myself, I'd recommend the disability commission be maintained as a separate entity, but this is a policy alternative, I think, that council may want to weigh as you take into consideration other input. If the senior commission were to be merged in parks and recreation, the other alternative would be to combine the disability advisory and human rights commission, and I believe that's a proposal in one of the council memos as well. In summary, our proposal

maintains 13 commissions as they are, plus the charter commissions. Want to eliminate two commissions, and we consolidate 16 commissions into five commissions. And with that, I'll be happy to answer any questions you might have.

>> I'm sure we'll have a lot of questions, but I have a lot of people who want to speak and I think I'd like to take public testimony before council gets into questions and a long, drawn-out conversation that might get into. So I'm going to take the public testimony first. It looks like everybody in the room wants to speak. Maybe not everybody, but close to it. I'm going to LIMIT all speakers to one minute. It's really important to get to the council decision making on this, which is going to take quite some time, I think, plus, we have other matters on the agenda as well. So please, come on down when I call your name. Close to the microphone, Susan Doty, Joshua. Martha O'Connell.

>> I would just like to speak for two things, actually, three. One is that you all take gender balance into account. I am the former chair of the Santa Clara County commission on the status of women. I was that for four years. I know that some people have also talked about enabling the commissions to fundraise on their own. I'd like to speak to that. We, as a commission, are able to fundraise on our own and it's enabled us to send our commissioners to several conferences, one of which has now enabled us to be the conference coordinator for the national association of commission on women. We're going to hold our national conference in San José next summer, which should make you all happy. And we also are enabled to give grants to groups and projects that support our mission. Without being able to fundraise, we wouldn't be able to do any of those things. The other thing is, if you're combining the human rights commission with the disability advisory council --

>> Sorry, your time is up.

>> I would have domestic violence, please.

>> Joshua Bruce, Martha O'Connell, Carl Vitt.

>> Good evening, mayor reed and friends of the council. My name is Joshua Bruce, chairman of the cities rights commission. Because of our focus, it is imperative to preserve the human rights commission. As a San José native, I enjoy the rich diversity of our city. As the tenth largest city in the nation, we believe community input on human rights issue. During my tenure on the commission, we have made great progress in developing relationships with the office of independent police officer, neighboring human rights commissions. We have also made a viable recommendation on the city's initiative to increase minimum wage. A new work plan focuses on issues such as human trafficking, equitable distribution and contracting practices. On behalf of the cities right commission, please, stand up for residents to preserve their participation. Thank you for your time and consideration of this very important matter.

>> Martha O'Connell. Carl Vitt. Jackie Hefner.

>> I have attended every single meeting of the mobile home advisory commission since the fall of 2004. I support consolidation of the three housing commissions to end the splintering of these important issues and bring a broader base of citizen input to the critical global issue of housing. Last night I attended the mac commission. Four commissioners, three housing staff members, and three mobile home park residents, including me. The current chair has been on the mac for ten years. Last February she said she'd been on the mac 12 years. Ten or 12, doesn't matter, it's too long. Combining will ensure mobile home issues are not marginalized or ghetto-ized. Citizens of San José deserve more diverse representation and a commitment to a wholistic, integrated approach to housing concerns. Such a consolidation will not dilute mobile home issues, but instead increase their visibility and put them directly in the mainstream of housing issues.

>> Carl Vitt. Jackie Hefner. Gael.

>> Podium right here.

>> Thank you.

>> Here's the microphone right in front of you.

>> Okay. Okay, thank you very much, mayor and city council. I'm currently chair of the disability advisory commission, but as a -- my comments tonight are my own. We have not had a chance to meet yet since the memos come out. I do want to speak and strongly encourage you not to combine the disabilities commission with any other commission. As the clerk has stated in his recommendations, it has a unique mission and purpose. It's currently comprised of all people who have experience and expertise in the field, whether living with a disability or working with people with disability, and this gives it the expertise to deal with the issues that comes before it, which is access to city programs, to city properties, and to city services. Many of the things that we have worked on is things as simple as bicycle ramps and the conflict between those and blind people so that blind people don't use them as crosswalks. We've advised on the construction and renovations of city properties. We've advised the housing department on issues that people with disabilities face in finding housing. We've advised the employment development department.

>> Sorry, your time is up.

>> Thank you.

>> Jackie Hefner. Gael.

>>> Good evening, I am chair of the mobile home advisory commission, referred to as mac. I have served on that commission for over ten years, actually, at the request of Martha O'Connell, I was reappointed. She was one of the people who helped me get reappointed to the commission. I am here tonight, because I have been one of the longest-serving commissioners on that commission. Mac issues are very specific. Most people, and I'm sure almost all of you here, have lived in an apartment at some point in your life. How many of you have lived in a mobile home? I have been on the commission for ten years and am still learning things about the mobile home life. Our commission is made up of five commissioners. I'm concerned if the direction is to save money, increasing the amount of people on the commission who don't know about mobile home issues will increase the

cost because staff will have to bring people up to speed, and it takes about a year to bring somebody up to speed. Our commission had a \$5,000 debt this year, and that was because for the first time in ten years, we had had a hearing on rent increases.

>> Sorry, your time is up.

>> Thank you very much.

>> Good evening, thank you very much. I live at colonial mobile home manor. It's a mobile home of 200 people. I want to go on record as saying I'm very against the consolidation of this board and commission. I think living in a mobile home, as a lot of us do in this valley, that we are very unique, and I feel if we lose the board and our separate voice, as well as losing this commission, we are -- will not be understood, because we have very specific issues and unique issues as mobile home residents. I am a member of GSMOL, which is an organization here in town, and I talked to many different residents that live in mobile home parks and they are completely against this consolidation. Thank you very much.

>> Good evening, I'm Mark with independent living center. I was astonished to find a majority of the council members signing on to supplemental memos that replace the elimination of the human rights commission. With the elimination of our disability advisory commission. Particularly, council member Chu and council member Kalra, who have participated in our agency's west coast pride parade and festival held each July. Back then, they seemed really good allies to have. Not so much right now. I can understand wanting to keep the human rights commission. If you want to keep it, keep it. Don't offer up the disability advisory commission as some sort of sacrifice to take its place on the chopping block. Thank you for your time and consideration.

>> Good evening, mayor reed and city council members. My name is Wendy hill and I'm a member of the human rights commission, but tonight I'm speaking on my own opinion. I appreciate the thoughtfulness of all the memos presented tonight. In particular, the mayor and Nguyen, Chu, Rocha, Liccardo, and Kalra. As you consider the clerk's recommendations and various structural improvement proposals before you tonight, I hope you're also

considering the following points, meeting frequency. I support the commissions flexibility to meet as frequently as necessitated by the work plan. Since the human rights commission has been reduced to meeting quarterly, it has been a challenge to meet work plan goals and associated reporting requirements. In terms of membership, I appreciate the track of going toward equal geographic representation, but I also want to stress the need for constant expertise. In terms of the proposals before you tonight, I would recommend in a consolidated fashion to have --

>> Sorry, your time is up.

>> Thank you very much.

>> Robin Martinez, Richard McCoy, Larry Ames.

>> Good evening, I currently reside in district 8 and speaking on my behalf, even though I'm a new member of the human rights commission. I'm very concerned regarding the recommendation for the elimination of the human rights commission. As you well know, San José is the tenth largest city in the U.S. and the commission has worked very hard addressing very important issues, such as human trafficking, equitable distribution and fair city hiring practices. The commission has established great relationships with our neighboring HRCs and also established relationships with the Mexican consulate's office and San José police department human trafficking task force. These need to be brought forward to the attention of the city council. I am personally concerned that a city with such a diverse community will have no collective voice regarding human rights issues. Please do not eliminate this important commission and thank you for your time and attention.

>> Richard, Larry Ames, Helen chapman.

>> Good evening, mayor and city council members. Richard McCoy, vice chair of the senior commission. At our last meeting, we had a large discussion and lengthy talk and ended up supporting alternative number two, the human services commission. This consolidates the disability advisory, human rights, and the senior commission

to help maintain the focus on human rights issues shared by many seniors. It would provide a venue for people with similar knowledge, experience, and skills to work together to solve mutual problems. While the consolidation may require additional staff, it would also require more time for the commission to solve the issues. The different issues the commission would address would serve seniors, disability persons, with experience in many of the same areas. Together, we could work together to solve our problems. We ask that the city council adopt and approve alternative number two from the clerk's September 14th memo. Thank you.

>> Larry Ames, Helen chapman, Janet.

>> I prepared a polite two-minute talk. This is more than just a one-minute limit here. This whole issue of the commission consolidation is indicative for the city's lack of participation and community involvement.

>> Helen chapman. Janet. Bev Davis.

>> Good evening, mayor reed, members of city council. My name is Helen chapman, former chair of the city's parks commission. I'd like to start with this quote. A community is democratic only when a humble person can enjoy social rights that the biggest and most powerful possess. The work of the commission is to provide information and resources on a variety of issues to augment the heavy work load you have and insight to the community. Why would you want to politicize to the city? The perception highlighted tonight is that the value of the community's input is not a priority. I sincerely hope this is not the intention. Please, support the memos to keep the views as separate commissions. Thank you.

>> Janet. Bev Davis.

>> Good evening, ladies and gentlemen, thank you for your attention. I am a commissioner on the early childcare and development mission. I'd like to thank Dennis for all his hard work and thoughtfulness he's put into this plan. Our commission does not feel like being headed under the library would really support the children we are trying to help. Families, parents, need support on how to better help their children. The parents either are not educated

enough to help their children, they work two jobs and are not home in the evening to help their children with homework. As a teacher, I see and live with this every day. So I'm hoping you reevaluate the choice of where our commission is going to be going. Hopefully, on its own. Thank you very much.

>> I'm chair of the early education commission and also a parent and member of -- resident of district 6. I want to thank Dennis for all the thoughtfulness he's put into this recommendations and the many, many meetings that he attended, especially evening meetings. I attended many of them myself. We do not agree with the consolidation of E.C.E. and the library commission, especially as it is called the library commission. We are very concerned that one of the goals of SJ-2020, which is to eliminate the achievement gap as the only citizen commission that's focused on learning and solely focused on learning. We are concerned that consolidation with the library commission would dilute that focus, because we are the only commission that has activities that will PREECHBT early achievement gaps. Thank you.

>> Hello, council members and mayor. I am human rights commissioner with the city, and as everybody in this room is, we're proud to be commissioners, proud of the work we have done for the city. And as a human rights commissioner, hope our -- what we do as a commission moves forward in some forth. I agree with the consideration that we should have well qualified, well trained commissioners in these positions. In addition, have the appropriate work load to be able to handle and proper advice to the council. Lastly, if you are consolidating commissions, consolidate commissions that make sense with issues that they are focusing right now do not conflict and still have the time to handle the work load and issues that are involved. So whatever decisions are made, please take light of those issues. Also, keep in mind we love the city.

>> Abraham Thompson, Susan Roth Malone.

>> Good evening, I'm a member of the mobile home advisory commission. I've been on the commission for three years, serving one year as chair. I'm new to the process of being involved in city government in this way. I'm speaking because I oppose the consolidation of the mobile home advisory commission with the housing commission. In the three years that I've been on the commission, we've made efforts to survey and understand

the problems in the mobile homes. I think we've made great strides in that, and what it's left me with is a real appreciation for the potential problems that are down the road. In terms of the infrastructure of these parks and vested interest of the parties involved. It's headed for a real crisis. We've been privileged to see some of those crises, and I think it's a mistake to make this commission any less potent --

>> Sorry, your time is up. Abraham Thompson. Susan Roth Malone.

>> Greetings, mayor and council members. I am a human rights commissioner here in San José speaking as an individual. I would like to first thank council member Chu for giving me this opportunity to serve as a new commissioner. I'm concerned about the potential elimination of the human rights commission. I've seen the dedication through the city with volunteering through the commission. I assume each commissioner is eager to make a difference in the city and protect human rights. We all want to get to work. This type of volunteerism is important to the city and hope the city will further their support of the commission. Human rights is dear to me because my wife and family all practice, many of you know has faced severe persecution in China. The city of San José, being a leader in the bay area, elimination, it's not acceptable for the city not to include a human rights commission, given the size and diversity of the city. I do not support the elimination of the human rights commission, and I hope we can have more dialogue on this issue. I thank council member Rocha --

>> Sorry, your time is up.

>> Thank you.

>> Suzanne Roth Malone. Gloria young Hu.

>> I am an ex-city council member serving under two mayors. I'm speaking in support of council member Pyle's memo and changing the way we do liaisons and appointments. I've heard a lot about geography and how we need to go throughout the nine city council -- ten city council, excuse me, Nancy, ten city council places, but the most important thing you're overlooking is there needs to be a passion, a skill, and an interest in the commission

on which you're serving. If you do not look at those when you're making appointments, you have missed the boat. I was told specifically the reason that I was chosen was not because I was a senior citizen or a woman, but because I had marketing skills that they thought could be used on the arts commission. So I think that city council is a little short staffed, and I think maybe the vetting process is going to be a bit much for them to be taking on. I'd like to see it stay the way it was.

>> Well, where to start? If you look at Silicon Valley engineers, a word you hear frequently is scalability. I think that's a word council ought to keep in mind when they approach these kinds of complex issues that need to be vetted out in the community thoroughly. I mean, what an opportunity we missed for meaningful civic engagement, and it's such a crying shame. What if we had our professional staff evaluate each and every commission and go out to those constituencies, ask them what they thought, and take input. Why did we have the clerks -- I've been to hundreds, maybe even thousands, I hate to say, commission meetings over the years, and the voice that we have not heard is our professional staff. Council appointees, council members, council liaisons, we come, we go, we come, we go. The one consistency throughout is not here, and I know personally they have studied this issue since 2003. Thank you. I don't support all of the member that came out of council member Pyle and the other offices, but I thank you very much for your intent. It's pretty dog gone close and preserves the most important part of the commissions and that's a passion for and knowledge of the subject of the commission. Thank you very much, mayor.

>> Good evening. My name is Gloria. I have served in the past on the planning commission for eight years, as well as served as a member of the diversity -- in fact, the very first diversity committee under mayor hammer. But I'm here today in my role as the president of the league of women voters of San José and Santa Clara. The league is a non-profit, non-partisan organization that's concerned about good conversation and civic participation and the opportunities that citizens have to participate in government. Therefore, we have been very concerned when we read with some alarm last December of the clerk's initial recommendations for some consolidations and eliminations of commissions. We spoke then at that meeting and we thank the clerk for listening at three different sessions to concerns of many citizens. I want to say that in August, we sent a second memo to the city council

thinking you were hearing this matter then, asking there should be a good analysis of the actual costs and savings by these consolidations. I don't believe you've done that.

>> Your time is up.

>> I'd ask you consider that before you move further on this motion. Thank you.

>> Pete Colestead, Jean Lee.

>> I'm just south of the convention center. I spoken with a lot of people around town, both commissioners and neighborhood people about this. Everybody thinks that the process that we're going through right now has been really good. Frankly, I'm shocked to hear it's been 16 years, but this is a good time to sit down and look at what's gone on with the commissions and evaluate what's there. There are a couple of main reactions I get from people, everybody feels the commissions have somewhat gone adrift in the last year. Everybody has been concentrating on the budget difficulties, so a lot of the work of the commissions has gone lost and there's been sort of a poor -- communications have been ineffective, let's put it that way. I have a couple of suggestions. This is an edited-down version of what the downtown association puts out every month, which is every subcommittee in the downtown association reports with one paragraph what was done, when are they going to meet next, who do you contact. And I think this would be a great thing to come from each commission. The other thing I think would be great to have, like, an employee review. Instead of waiting 15 years, doing a five-year process.

>> Sorry, your time is up.

>> I speak tonight as a private citizen and not on behalf of the library commission, which I chair. I urge you to reject the proposal for the following reasons. First, if we liken the consolidations to mergers, research has shown the vast majority of mergers, about two-thirds, fail, and I don't believe the city deserves a cost-cutting measure that's known to have a failure. I did an analysis of the numbers and my estimation is the consolidations will result in roughly a .003 to .006% of the city budget. Which is very, very small and if you look at the immeasurable

passion and dedication of the board commission members, it would not be a worth while tradeoff. Also generate own solutions for cost cutting. I think that would honor the compassion of the members. And promote greater adoption and I'd also like to encourage you to look first and most intensely at the greatest contributors to commissions costs.

>> Sorry, your time is up.

>> Chris, Michael Martin, Clarence.

>> Hello, Mr. Mayor, city council. I'm a business owner downtown, a resident, and an arts commissioner. I want to encourage you to not change the appointment process. As it relates to the arts commission, there are a lot of folks that are on the arts commission now that I work with that are passionate and very active in the community. These folks, like myself, in some ways chose to move downtown and closer to the struggle of making our city a creative community, and those folks moved closer to kind of be that much more close to the issues as it relates to the arts and cultural dealings of the city, so if those folks were taken off the commission, a lot of the heavy lifting and a lot of the work that they do would slow down from moving in that direction, so I really encourage you to think a lot about the arts commission in the sense of some of those folks that live in district 3 and surrounding areas. Thank you.

>> Michael Martin. Clarence.

>> Mayor, council members, I'm a member of the arts commission but speaking as an individual. I'd like to remind you that the arts commission's role to advise city council. Subject matter expertise and professional accomplishments are crucial to making informed judgments and recommendations, and while equitable accounts are desirable, it should be less important than passion and participation in the community, so I urge you not to change the appointment process. Thank you.

>> Clarence TAM.

>> I'm from district 1 advisory council. I stand here today to support my support that the youth commissioner should not be consolidated and must remain a stand-alone commission. The youth is the biggest demographic in the city of San José. It's clear we are the most under represented age group in the city. Must avoid any form of consolidation, because this is the only way to voice support of opinion and city government. It's wrong that the younger generation is the least politically active age group in the United States and decreasing the opportunity presented will do more harm than benefit in the future. The current 180,000 youth in the city are the future of San José. Our current generation will one day be in your seats as future mayors and council members. Taking away what we have will decrease our political awareness and participation. Underrepresenting the youth will further these consequences, rather than help these problems. The most important consideration is which measure is best for the future. Thank you.

>> Good evening. I am the P.R. secretary of the advisory council of district 1. I'd like to speak against consolidating the youth commission with parks and REC. The only resource for youth that addresses concerns completely and the consolidation would be a detriment to the youth. Only being an active member for a little over a year, I have seen the great participation yak has had. For example, we started a peer tutoring program a couple years ago, and a lot of youth have been involved with this regularly and have been coming and showing a great interest in schoolwork and they've been taking school more seriously, staying off the streets and avoiding gang violence. We've also just started a new program called youth against abuse, which combats the domestic violence issues that the youth face in our district. So I really feel if in one district we can do all this for the youth, imagine what its importance is as a whole. Given its power and potential, I really feel that it deserves to be a stand-alone commission. Thank you.

>> Kimberly Brady. That's the last card I have. This is our last speaker.

>> Last, but not least. Kimberly Brady. I, too, want to commend you guys for what you've done. When we first started talking about this and looking at a super commission, that was scary. It was very scary. So the work you've done has been incredible, and I just want to play tag team with Pete on what he's recommending on a 100

word or less monthly reports in addition to some sort of forum for the end of the year to do kind of like a performance review thing that each committee would fill out and submit that would summarize everything they've done for the year and possibly what they are looking to do in the year ahead so everybody stays on track. Basically, again, congratulations on the work you've done. For the most part, I think there are great changes and hopefully we'll put a couple of other things into place to make sure these new commissions do stay on fire and well involved and we don't get stagnant like we have had a tendency to do when other things were more important. Thank you.

>> That concludes the public testimony on this item. Have some opportunity for council to ask whatever questions they have of staff, and, of course, have a debate and discussion. I'm going to start just by, I think, apologizing to the city clerk and attorneys office for dropping this on them. Really difficult, complicated problem with, you know, direction from us to go fix all these problems. And so we had 42 boards and commissions at least. We had some sunshine issues. We had quorum issues. We had brown act issues. We had work plan issues. Annual report issues. Bylaws issues. District diversity issues. And budget issues. So that's all we ask you to come back with, a solution across those 42 commissions. I know you had lots and lots of discussions and hearings and put a lot of effort into it. A very complicated topic to come back with your recommendations, so I want to thank you for the work that you've done. I think your recommendations do address most of the problems. I think we up here will have some differences of opinion as to exactly the best way to proceed, but we are trying to deal with some issues. Not the least of which is the fact we've cut services in every part of the city and every department. It was necessary to try to deal with the budget issues and the amount of staff work that was going into it, because I know that everybody has noticed that our staff is shrinking. Our capacity to do things has shrunk and this is an area we needed to look at. That's why we made the assignments to the clerk with the help of the city attorney. We've got a good set of recommendations to begin the council of debate and discussions. So I thank you for a lot of hard work. I know it's taken a long time. I don't think Dennis has been working on this for 16 years, but close to that.

>> Only about six.

>> It's a big project, so I appreciate the work. Council questions or comments, council member Rocha?

>> Thank you, mayor. I was going to start by thanking city clerk as well, but I'm going to go a little bit farther and thank the commissioners, past, present, and future for their investment in San José and these issues. I want to thank my colleagues for their commitment to this issue as well, especially the folks who signed a memo. Actually, all the memos. Taking, as I mentioned in the last meeting when we talked about the HCP and thanked the mayor for his willingness to step up and be a leader and put out a memo and some direction first. That's always the one to be criticized and judged immediately, but it also allows the rest of the council to look to that as a starting place. I want to make it clear to my colleagues that the memo I put out with myself and council member Liccardo and Pyle was that, a starting place for the discussion. I'm sorry, and Kalra as well. I don't know if I mentioned you. We are very open to any amendments, suggestions, comments, and, again, criticisms from my colleagues and also the community. We've seen a lot of letters and direction come in for suggestions and modifications. Mayor also spoke to the many different opinions that are going to be voiced right now and that we've got here. The reaction here tonight and the mayor also spoke to that. He took a lot of my thunder and lightning on this issue, but any suggestions or direction that comes out of this is not meant to be devalued to any commissions or issues. The starting place was, again, about structural improvements and efficiencies, so we had to start there. The norm wasn't going to work as far as our funding was available, and we also thought it was very important for the commissions to take a look at their work plans, take a look at the scope of their work, take a look at their function and really look in the mirror and say are we doing the work we're intending to do and can we do anything better. I'm glad the commissions did that. Having met with a number of commissioners, I think that we were successful in that sense. I think going forward, we're going to have improvements regardless of the direction that comes out of this tonight. As far as, well, a motion. That's going to be extremely difficult, because I'm expecting a number of different amendments and suggestions, but -- well, I don't know where to start. Let me ask a question, though, for the city clerk. As far as next step, assuming you don't know what's going to happen in terms of direction, do you have concerns about coming back in November?

>> I do. Primarily because my partner in crime here as you know --

>> Has a new job.

>> Accepted another position and I'm working with the city attorney and we have some other folks that are going to be helping, but there's a lot of heavy lifting in these proposals. We're talking about developing changes to the code, we're talking about changes to several council policies. One of my thoughts is that we really need to come back to the council and talk about a transition plan, because quite frankly, we don't have -- if you were to accept all the consolidation proposals, we have to do some planning on how we would make those transitions. We've got to rewrite the code. We've got to go through new recruitment and appointment processes, and it's just going to take some time. So I think we're going to need to phase this work a little bit and so that's my concern. I think we could talk about chunking down parts of it, maybe coming back with some policy changes first or some code changes, but I think that we have to be realistic about staff capacity.

>> Laying off that work plan is, for lack of a better word, how would you like to proceed on that approach, what would be step one, step two, step three for you, and how do you want to bring that to the council and when would you like to bring that after the direction here tonight?

>> Well, I think I would like to work with the city attorney and the city manager, because I think that's a realistic approach to assess the staff capacity, but I think that we could probably bring back a program of when we would bring final documents to the council and phase it out over the next through the end of the fiscal year, perhaps. So I think probably coming back with a work plan maybe December after the first of the year, somewhere in that time frame is probably realistic, but I think the expectation of coming back with finished product such as draft policies or draft ordinances by December, I think, is very optimistic.

>> So the direction, in your mind, should include return to council or the rules committee, what kind of forum would you like to return with that work plan?

>> It has -- what has worked in the past has been for us to check in with the rules committee and bring things and get input from the committee and then bring it back to the full council, but I'm open to the council direction.

>> Okay, one way or the other, not a major impact on how to approach the issue?

>> No.

>> I think given the interest in this, I don't know if the check-in at the rules committee, not that there's not value there, but I think the full council has such an interest in this issue it might warrant returning to council, if you're comfortable with that, but again, that's going to be part of the motion and I'm happy to entertain suggestions and modifications on that. I'm going to move approval of the memos signed by myself and get it right this time so I don't mess that up and council members Pyle, Liccardo, and Kalra --

>> Heard a second.

>> Including the mayor's memo. Items "A" and "B," and I would like to refer as part of the work plan that Dennis is going to bring back to council, items "C" and "D." We wouldn't be moving forward on action on those until we had another report on those two items. Then I'd like to also include from council member Chu's memo, items number three and six, which are consistent with the direction already included tonight.

>> Is that okay with the seconder?

>> Trying to identify three and six. Council member Rocha could help us by identifying which ones he's referring to? Human services commission and boards of commission having flexibility to meet, yes, that's fine. Thank you.

>> Okay, we have a motion. Good place to begin with a motion. Let me see if I can restate it, if I got it right. We have the memorandum signed by the four council members, the memorandum signed by myself and council member Herrera, modified to include "A" and "B" but refer "C" and "D" for additional work before brought back to

us as part of the work plan. And items 3 and 6 from council member Chu's memo of October 19th. Okay, that's the motion on the floor. Discussion on the motion would be next in order. Council member Liccardo.

>> Thank you, thank you, mayor. I want to thank council member Rocha and his team for their hard work in taking this task to heart, and it's not an easy task. Certainly, thank you Dennis and thank you Lisa. Lisa, congratulations on your recent appointment. You thought these 11 egos are tough, boy, are you in for it. No, I'm sure it's certainly an honor, I'm sure, to be appointed, so congratulations. I think the most important recommendation in all of this actually has nothing to do with consolidation or frequency of meeting or any of that. It has to do with this little paragraph of page 3 of council member Rocha's memo, recommendations and comments from commissions to the council. Because I think the very biggest problem with all of our commissions, whether we have 42 of them or two of them, isn't the number and isn't the cost, it's the fact this is often a tree falling in the middle of the forest and we have no idea what the commissions are voting on, what they are deciding, what they are discussing, and frankly, we have to tackle the challenge on making sure there's communication before we do any of this. So I think that's the most important recommendation in all of this. And I appreciate all the work you put in, but I really disagree in the point of the memo there's already enough sort of process to enable commission recommendations that get to council. Because the truth of the matter is, 95% of the time, you couldn't find a single council member on any issue that could actually tell you what a commission decided on anything we voted on, and that's a problem. I think this whole commission process loses its value if their recommendations aren't consistently getting the decision makers. I thought that Pete Colestead made a good point. The VTA incorporates a process today where they had citizens commissions and had a summary of the findings of the commission and whatever the debate was, it shows up in paragraph form in every memo. We don't have to put that on staff, that can be the responsibility of the commission chair to draft that. If staff disagrees with the account, they can certainly weigh in, but it seems to me that every commission chair or whoever they designate, should have the responsibility of making sure something gets to city staff that gets into a report or stapled to a report so that the commission's actually heard. I think that's the best thing we can accomplish in all of this. In terms of arrangements, I know there's a lot of different ways to rearrange the chairs around the table, and lord knows we're not going to get it right the first time out. I thought Carl Vitt's letter made several very good points, and I think we need to think seriously about the greater representation on whatever we create, whether it's human

services or whatever becomes a disability excision, whether it remains as it is or gets merged. I think clearly there needs to be greater room for disability advocacy. I would suggest whatever is created have as a central purpose focused on equal access and opportunity. It seems to me whether we call it disability or human rights or small business commission, seems to me all those commissions have a central focus. And I think there's an opportunity there with further discussion with the community and the commissioners themselves where I think we could come back with something that gives fair voice to key stakeholders around the issue of equal access and opportunity. I hope we can have that conversation, and that's why I do encourage this comes back to council after some public feedback. And Dennis, I agree with the mayor, I'm sorry you got dumped with this very challenging responsibility. It's just not easy, and I know it's a very difficult conversation to have in the community. I do feel strongly that proportionate representation does not necessarily mean effective representation, and I think Dennis, in your own example, you identified a couple commissions. I think the report in downtown parking where you would make exceptions, I think there are others if we were to think about it long and hard. If you think about, for instance, historic landmarks commission and probably 80% to 90% of the historic landmarks are in the city probably disproportionately in two or three council districts. It should be natural we're going to expect to see more people interested in that issue and knowledgeable in that issue in those two or three districts than we are going to see equally. So I think before we race to conclude that we have to have one appointee for every council district, I think we need to seriously consider what the commission does and what its purpose is. I think arts commission is another, quite honestly. I know arts are important to people throughout the city, but it is a reality a lot of people tend to move to urban areas to be closer and more engaged in a cultural scene and in the arts community. That's where a large percentage of non-profits are, it's a large percentage of arts communities are, whether they are professional artists or amateurs. And so I just think before we race into the conclusion and we really need proportionate representation, I think there are certainly commissions where that makes sense, parks or libraries, may well make a lot of sense, I just don't think we can say it as a blanket matter. And I guess just the last thing I would say is this. I'm not sure why we're so concerned about sort of the risk of corruption with commissions going out there and raising money. I know there are some commissions we wouldn't want that to happen with, allocating money, but I'm pretty certain if METUMUCIL decides to sponsor the senior commissions health fair, I don't think there's a huge risk of corruption there. And I just don't think, you know, I think we should allow folks to engage in that way, and if it gives them resources to be able to do the outreach, you know, and have conferences

and do research and all the things that we all need resources to do, and lord knows the city doesn't have the dollars, let's let them do it. I think about the youth commission, there are other commissions like that where I just don't think the risk of corruption is very great if they are not making decisions that are central to the budgetary process. Or, obviously, the planning commission, we know there are decisions there that certainly have huge impacts in terms of dollars. We should relax, because after all, this democracy belongs to our residents, not to us. The government belongs to our residents, not to us. We should trust them with it. So anyway, I support the general direction here, and I hope with some conversation we'll get to a place that maybe everybody won't be happy, at least we'll actually feel heard and meaningfully engage the community and civic participation.

>> Vice mayor Nguyen?

>> Thank you. I also wanted to thank Dennis and Lisa, obviously, and all the staff member who contributed to preparing this report. Thank you for all the hard work. I also want to thank all the commissioners for really volunteering your time and your service, your expertise to serve on the boards and the commissions. I've had the privilege of serving at the council liaison in the last several years and I have to admit that when it comes to topic matters that are relevant to each particular commission, that I don't have the knowledge or the expertise like some of these commissioners do, so we really value your time and your knowledge to help with understand topics that are really important to you and of your interest. And so having said that, I also want to thank council member Rocha and my colleagues for putting their ideas and their suggestions in the memo. I think this is a good start for us to move forward and what council member Liccardo said about communications to the city council is so important, because we take some of these issues and sometimes we make decisions that really impact residents on a daily basis. And I think it's just really important for us to hear from you what you think are important and relevant in terms of some of the decisions that we make. So moving forward, once this work plan comes to some kind of fruition and consolidations of these commissions and board takes place, that one of the -- I hope that one of your first goals would be that how do you communicate more effectively with the city council, and that should be the mission of every commission moving forward, I hope. Having said that, I'm glad that we're doing this and really -- should take a lot of years to get to this point, but at least this is a good start. I just have one small friendly amendment suggested by our city clerk, and that is to change the election commissions to ethics commissions. I

think that's really relevant. Obviously, this is what this commission handles. So I was hoping that, you know, you would accept that amendment. Thank you very much.

>> I want to start off with thanking all the commissioners, that includes several of my colleagues up here, along with me, all served as commissioners before getting on the city council. I know there's a lot of good work that has been done for a number of years from all the different districts and on all the different topics that are covered. And as much as I'd like to say that Rick is my favorite city attorney, I want to say Lisa you have been and we're going to miss you. So I like Rick, but she's a lot nicer. And I will admit, most of the time I call her first anyway before I call Rick, so we're going to miss you. This -- I've been talking and dealing with the commissions for quite a while, and this is not quite how I envisioned it going, but I think we're going in a direction that are good, and I think there's a chance that we may modify things as we go forward, but I think as long as the goal remains that we're trying to keep as many people as involved, keep their work meaningful, not only for the commission, but also informative for the council in making their decisions, it's a good thing. I know I had talked in rules committee several times hoping we could try and align the city commissions with the council committees, and I think that would make a great way for information to flow if certain committees dealt with topics -- or commissions dealt with topics that committees did. You know, we have a neighborhood services and education committee, and they hear everything with the parks and the libraries and education issues, then we have transportation and environment and committees that deal with those issues. That's something I hope we can try to move to once we get to the boards that we have or end up with, maybe we can start to not necessarily consolidate them, but group them around the council committee so there's a clear reporting structure so that committees have a place to send stuff and commissions have a place to send their input. Maybe that will help the information flow. On the overrepresentation and the ability to get people from all the council districts, I think that's a really good idea. And I know there was some discussion about passion and expertise. I just want to remind you every district has 100,000 people and we all have people with passions and expertise, and I know there's a lot of people in my district that have a passion and expertise in the arts, and I know that's the same in every single one of those districts, and I think it's important that we look at that and we try to keep that geographic balance, because as much as we're one big city, there's a lot of different needs, whether it be my district and Javier's district or my district and Pierre LUIGI's district or whatever district, there's different viewpoints because of the identity people

have with their neighborhoods and the history of their districts. I think that's important to get that on the commissions. And you may remember when we went through the appeals hearing board appointment process awhile back, I was really emphatic that we needed to not have seven people from the same council district on that commission or five people, six people, whatever it was. It was almost a super majority of people from one district, and I don't think that's healthy for any of the individual committees, commissions, or for the council as a whole. So I think that we -- it's a good direction that we're going in to get that. I do know there's areas where we need expertise, and when we do, it's important to get that, but I think we can mind that expertise from different portions of the city. I think it's important that we get our appointment process aligned with our practice aligned with what our codes say. I know I've brought this up, but I'm the liaison to the appeals hearing board, which by our code, gets appointed by the liaison, but by our practice, gets appointed by the council. And conversely, the arts commission is supposed to get interviewed and appointed by the council, but has traditionally been appointed by the council liaison, so we don't even follow the rules that we have. I've pointed that out, and I think we need it codified and consistent that everybody knows where we're going, but I think it's important the boards go through the appointment process, because I think it's valuable. That's why I always went along with what we did with the appeals hearing board, because I felt the work they did in the QUASI-judicial manner was important to ask the questions and make the appointment. I think -- sorry, my notes are not in order here. I do think there are areas where we still could look to the County, and I know that's been kind of discounted here, but I know Roberto and I have talked at lengths about the family domestic advisory board. We meet and two weeks later, the County meets and it's the same group of people around the table, except here two council members sit and over there a supervisor sits. And the same people talk about the same thing twice a month, and we have events and they have events. None of that really gets combined. And I think that's an area where we could and should be joining those two groups together. That's not even on our list here today, but it's something I think we need to go forward with, because we are in a position where our commitment as a city to domestic and family violence is there in principle, but not in practice, because we've defunded the positions that support it. We weren't even able to have our domestic violence walk this month, this October, like we've always had. And in the meantime, we could be partnering with the County, and I think we should be. So I would like to ask the maker of the motion, the two of you over there, if you would mind adding in that we look at officially, have some discussions with the County, for

the domestic family violence work we're not doing to combine that and see what comes to it. Report back, not just make it happen, but bring it back to us and report back.

>> I think that's accepted as a amendment to do that.

>> Thank you. And that leaves me to the fundraising aspect. You know, the family domestic violence advisory board has done fundraising every year. We've done it for the walk every single year, and it hasn't been a problem, but I do believe that there is a chance for problems to occur in the future. So I might just suggest we look at something like we have for our council fundraising, and that is if you're going to have an event or purpose and you're going to fundraise, that a memo goes to the rules committee to be put on the council agenda to be declared an official city event and there's a process in going through the clerk's office for fundraising so we know where the money's coming from and going to and how it's going to be spent. I'd like that to be referred in the work plan.

>> As part of the, I guess, item D. We can include that as part of section D.

>> I don't think it should be the only thing you look at, but I think we have a model, and that model is working, so it would be, perhaps easier to parallel that model as we go forward. We talked about the disability commission, and the one thing we didn't talk about is we also have another group called the advisory board for the ten-year strategic plan for the office of therapeutic services, which most of you up here don't even know we have, but every year you appoint me to it, and I get voted on. In one swoop, we appoint all our liaisons, there I go, and we meet on a regular basis and that's where the disability advisory day came from. And Nancy and I have been able -- she's been working with the disability advisory commission and I've been working with the OTS board, and we've gone to each other's board meetings and talked and cross pollinated them and gotten each other involved, but they are two separate entities and do exactly the same thing. I think we are missing things by not looking at all the advisory boards. I know it's the volume of work and we have all these different things, but I think that's another area, I want to add that in the motion --

>> You said one. I keep saying yes and we're on number three now. I'm teasing. Go ahead.

>> This is the most you and I have ever agreed, so it's great to see this. But I think there's areas like that we can still do, because we have one group that's dealing with exactly what the other group could be dealing with, but not. We're kind of working around each other, and I think that's an area we need to do that. And the next one's a question. I kind of leaned over and asked, but the historic landmark commission, is there a reason, and I haven't been to any of their meetings, only seen a couple of their reports, but is there a reason we can't align that better with the work the planning commission does? Because I don't know. I'm hearing noes up there.

>> I think it was a question to the staff, not to the audience.

>> Okay, sounds like Pierre knows something about it.

>> You know, the group is divided, actually. Some members wanted to stay independent while other members of the commission thought they'd actually be listened to more by the council if they were part of the planning commission, because I feel as some commissions feel whatever they do as far as they pass, the council won't do anyway and typically vote opposite. I'd say it's mixed on the commissions opinion, but then our plan director is here as well.

>> I think that's a fair comment. The one piece I would say is the landmarks essentially we have defunded so it's on a very intermittent schedule at this point, so it makes it hard to be effective like the planning commission has been. I think one of the things, the real strength, it has very specific requirements in the municipal code about who is on it that the planning commission doesn't have at some strength, but look at the core mission, in some ways, they are different. The planning commission is that larger including landmarks versus more single issues.

>> Javier had mentioned to me that when the economy gets roaring, there might not even be time for the planning commission to deal with it, but I want to ask the question, because I think those are the questions we want to

keep asking as we go forward. And finally, I think that when we're done with all this, we need to look at the advisory committees, because there's a lot of them and I know there's some that have come up in the middle of come discussions and we'd say, who? We didn't know anything about them until a council issue showed up. I know their advisory to staff where commission is advisory to council, but we've seen in the past with things around animal ordinances and other things where they get entangled, not the leashes, but the policies. And we need to take a look at that as well as we go forward, because I think there's a lot of time spent on those informal advisory boards, and it might be better to tie what they are doing into some of the formal commissions so that the council benefits from the discussion when we make policy decisions. That now is it.

>> Council member Chu?

>> Thank you, mayor. I also wanted to add my appreciation and gratitude to the staff and all the commissioners and the citizens that came and talked to me, e-mailed me, and called me regarding to this reorganization. I particularly wanted to thank Dennis for reaching out to the BCAC and my company and the various community meetings, so this is a really, really great work. Council member Don Rocha for the memo. And thank you for accepting the 3 and 5 on my memo. Actually, item 6 is a duplicate, so I probably will ask for an amendment to include item 6, but before I do that, I wanted to speak out for the small business commissions. I was the liaison for small business commission for the last three or four years. Once I got on to the commission, the commission member Dan asked me that -- they told me actually that they have submitted a work plan, a revised work plan, and they wanted to change their charter to concentrate on helping the small and mis-sized business in the city of San José. Instead of just doing under procurement issue. So I brought that one up to Lee price at that time. They told me that we're in the mix of doing this consolidation or the review of all the commissions and boards and commissions, so promised me it would be taken into consideration when we were doing this -- this shuffling or this reorganization. So I would just really, really wanted to speak up for the small business commissioners, you know, to ask my colleague here to consider not renaming the small business commission, but allow them to change their charters, their work plan, to work with the small business and city of SNK and help them to become a larger business. So I don't know, do you want me to put it to you one by one or do you want me to just finish my other point and then --

>> Go ahead and finish, yeah. Please.

>> And the second big differences here is, let's see, what am I doing -- oh, advisory commission on rent and the mobile home advisory commission. Those two commissions, actually they are actually a cost neutral, because they pay their dues to have a staff member to staff their commission. So there's really, really not any savings from the standpoint of view on the advisory commission on rent or the mobile home advisory commissions, because they -- if I'm correct and Dennis, correct me if I'm wrong, they are actually a cost mutual to the cities, right, the two commissions?

>> Council member, the real point of my recommendation on the consolidation is to have a housing commission that will look at the broader housing issues, and I think in looking at the commissions over the last few years, perhaps haven't been as effective because there have been internal issues on some of the commissions and by broadening the charge, we might end up with a more efficient of housing issues. I recognize the cost issue that you raise, but that really wasn't the basis of my recommendation for the consolidation. It's really to look at housing issues in a totality rather than by segments.

>> Thank you very much. I thought the triggers is to save some money, but on that issue, I also wanted to bring out that the mobile home issue is very, very unique than other housing issues and rent issue, because they are renting their spaces on private property in the city of San José or have to yield at a state law. On that reason, I really, really strongly wanted to advocate to allow the mobile home advisory commission to be on its own and also consider including two more board members and one of your slides, Dennis, you brought up adding two members to the mobile home commission, actually my proposal two years ago. Currently, the mobile home commission have only five members, probably the smallest in any San José commissions or board or advisory commissions. Three of them have to be a community member and one of them is a part owner, land owner, and the other one is the mobile home renter, you know, the people that live in the mobile home. So I don't know how many mobile homes we have in the city of San José, we have only one person represent all the residents that live in the mobile home. I don't think that's sufficient, so I would like to see add another mobile home resident to the commission

and with that, also add another mobile land owner to the commission to make it into a seven-member board commission. So that's my second friendly amendment. I will go on to the third one, which, again, to keep the advisory commission on rent stand alone because, again, they've paid their own dues and this really costs the city -- doesn't cost the city anything to have it stand alone. And if you combine them with the housing community, the community and development advisory commission, you actually -- I guess Dennis, you have to resolve the issue of, you know, part of the commission or their membership pay for the fee of this combined commission and others representative or other members that have the same voting right on the same commission are not contributing any cost recovery to their commission. So would that create a problem? I guess this is a question for the city attorney or Dennis.

>> I think we have to look at that issue further.

>> So that's for that reason I really want to see the advisory commission on rent to be a stand alone commissions. I guess the other one, you know, was regarding to the airport noise advisory committee. I do agree with the staff recommendation to combine with airport commission, but serving on the airport commission, as well as the airport -- as well as the County airport land use commission, I personally feel that it's probably a better fit for the airport noise advisory committee to combine with the airport land use commission, because the airport land use commission actually deals -- spent a majority of their time in dealing with the noise issue, allowing our airport, and one suggestion for the airport commission is the fact it is a San José airport. The airport located in the city of San José, but the noise issue, many others, the traffic issue, a lot of issue on the airport actually impact our neighboring cities like Santa Clara, so the residents from the city of Santa Clara, elected officials from the city of Santa Clara wants to also be able to get involved with our airport commissioner, and I believe that the best place to really listen to their concern is at the airport land use commission, which is a County commission. That's another friendly amendment. With that, I think I pretty much covered all my points. If you jot down all the friendly amendments that have been thrown at you.

>> I did have one question for the city clerk and it starts with the first one that council member Chu mentioned. Can you talk a little bit about their scope and their work plan and maybe the suggested direction of modifying that?

>> Well, that is one option that the council would have is to recast the charge of the small business development commission. If you look and that's one of the reasons I included that slide, with their current charge from the municipal code, and it really centers around the procurement process for the city. And there really -- that was something the council wanted to take a look at to reconstitute the commission and refocus it, that could be done as part of the review, but based upon the current charge of the commission, it's not necessary. The functions that they currently fill are largely done by staff and by other compliance with other requirements, so it's in a sense outlived its usefulness based upon the current charge in the municipal code, and that's an example of a situation we have with a lot of our commissions where the original scope and the current desires of the commission are different. And I think it was to council member Constant's point, what I tried to do in the report and I think the mayor addressed it in his memo is align the purpose of the commissions and the work plans with the commissions with the department work plans, with the CSA work plans, and with the council committee work plans. So trying to evolve into that process where everybody's kind of rowing in the same direction, because we have instances now where the work plans are not aligned and that's part of what creates the problems. But as far as the small business development commission, we could certainly take a look at modifying its charge to capture the points that council member Chu's raised.

>> Thank you. I think that one has the most merit, in my opinion. My preference is to maintain the staff direction on the mobile home advisory as much as that pains me. I had the opportunity to work for assembly member Don Cortez, and we worked with Dave Hennessy in the hold days, who has passed. So I know the issue well and the passion these folks have for the issue and importance in terms of rent control. I really do agree with the city clerk in terms of the scope of the housing commission and including that. I think that I'd like to at least see how that works. As far as mobile home advisory, the rent and airport prefer to stick with the staff recommendation, but with the small business development, I would like to refer that as part of the work plan and returning to talk about refocusing. I'd also like to include some direction to staff as they look at the scope and work plan for a potential

small business commission that they look at maybe other municipalities and models they have and talk to OED and see what their thoughts are in terms of their staff work. In my opinion, that might be the office or city manager's office that ultimately would be working with this commission and at least get their input. I don't know if the secondary --

>> Secondary. I'm happy to go along for the purpose of moving forward. I agree with everything Don said. I have concern, though, about the small business. And it seems to me the charge in the meaning code is around non-discrimination around city contracting. Really, again, if it comes back to equal access and opportunity, we ought to be creating a committee that focuses on all those issues and concerns around discrimination and access. If it's around changing the charge to other issues, you know, we've got ethnic chambers of commerce, black chamber, Spanish chamber, neighborhood business districts. I think there are organizations outside the city that can be effective in advocacy. I'm happy to go along with this, but when this comes back, my big question is going to be what is a commission going to do that these organizations aren't already trying to do in spending a lot of energy doing it.

>> All right, so we have another friendly amendment.

>> And at this point, I'd like to put all the motion to pretty much incorporate all we have so far, but also to allow the advisory commission on rent and mobile home advisory committee to be a stand alone committee commissions and also in increase the mobile home advisory commission member to seven member commissions.

>> I think that's more properly a motion to amend the main motion rather than a substitute motion, so we should deal with that as amendments. So we have a motion to amend, add those amendments. So it's a motion to amend the motion that's on the floor. On that motion? Yes, council member Chu.

>> An amendment to leave the advisory commission on rent and to mobile home advisory commission to be stand alone commissions. That's the two commissions. Again, because they pay the due to support and

advocate for their costs. And to combine with some other non-due paying commissions may create another set of problems and issues.

>> Okay, is there a second to that motion to amend? Okay. Council member Kalra's got a second on that. We have a motion to amend adding those things. Discussions on that motion?

>> Talk about the whole thing or talk about this? Otherwise, in other words, I can make my comments on the entire --

>> Certainly do that. We're going to vote on the motion to amend first.

>> Exactly. You don't want to come back to me after I talk. Be here all night. All right, first of all, I seconded that motion. I do agree with the sentiment on that aspect, frankly, council member Chu put his whole items, but on those two items, both the mobile home advisory and rent advisory board is appropriate, especially with mobile home advisory, it still remains a stand alone commission. I want to thank council member Rocha and his staff. I truly appreciate it. Challenging as it was for us as council members to come up with some suggestions, I think that's just a tiny fraction of the challenge that our clerk had and his staff and putting all this together over many, many years and certainly the last few months as we've approached today, the city attorney's office, thank you, Lisa, you're a rock star and I know you'll continue to be a rock star going forward. And then, of course, thanks to the public and members of the commission here. I think this tells us why it's so important and valuable for us to have this dialogue and continue and frankly when this whole issue came up over the past year, I was -- I felt a lot of tension on the issue. I felt why are we even messing with the commissions at all? I feel that I understand we're going through this period of austerity and cutting back and what have you, but when it comes to having these democratic entities, it was troubling to me that we were messing around with something that I think that has worked pretty well. I served as a commissioner for eight years, five and a half on human rights, two and a half on planning, and although I agree I didn't always feel -- felt like the tree falling in the woods, I felt the work was extraordinarily valuable. A lot of people in the community participated and had their voice heard, so, you know, I go through this process with that sort of tension where I feel like there's too much concern about budgetary issues

and kind of strain on a process that really is democratic and democracy does cost money. Democracy isn't always pretty. Sometimes it's messy, and I think that's okay. That's the cost for us to have the kind of system that we do. I do think that there can always be efficiencies in everything we do and a couple of people have referred to, getting information on what the commissions are doing. I always read very carefully what the planning commission does, we get a good report about it. I wouldn't suggest we need that for every commission, but something very brief, I think could be a great value. And I signed on to the memo, all things considered, very well done by council member Rocha and his staff. Some of the key components I was in support of, senior advisory commission, I think the work they do is extraordinarily unique and important and actually as well as maintaining human rights commission in some form, having it merged at least keeps it and its work plan, you know, going forward. And so knowing the reconstruction was coming, I think we've had a good discussion here and are going in a positive direction. In regards to a proportionate representation, I really want to thank you, Dennis, for bringing this up. It's really important for us to understand that all of our districts do get heard and that all members of our community and our society are heard and we've seen based upon the data that's not always the case. That being said, it can be a challenge for using those district lines, but I do think that is something that requires more analysis as been referred to, maybe certain commissions may be more helpful than others in terms of cutting out or not having representation, but there are some, I would argue, just like council member Constant did, arts, parks, what have you, no matter where you are in the city, the reality is most great cities in the world don't have arts stop at any particular border or region of the city, they are throughout the city. But I think that's something we can certainly work through in ensuring that -- and I'm glad at least it's on your radar so I feel confident there's something set up where we're cognizant everyone in the community is represented well. In terms of fundraising as it was raised, I also don't have great concern with it as being done in the County, being done in many different forms, even if it's a matter of putting together one kind of fundraising entity for all the KMIGs and what have you, there can always be some conflicts. I would hesitate to allow Coca-Cola or McDonald's to sponsor something the youth commission is doing, so there are some concerns I would have if that did arise, but I think we can work around that. And I think ultimately, it provides a good opportunity to engage not just our business community, but our non-profit community and what have you and helping to fundraise for good and positive causes, as we have so many of them here at city hall. And as I mentioned, seconded the amendment because I certainly think that those commissions can serve to stand alone, finally, the voice we've heard from the commissions and we hear

them oftentimes throughout the budget season, here on their own volition, they'll put forward their positions, budgets are a reflection of our values. That goes to everything we do. It's not just a matter of dollars and cents, not just a matter of concrete and parks and police, it's a matter of us sharing with our community what our values are. The reality is the commissioners and those that volunteer to serve are the ones that inform us what those values are. Any opportunity we have to continue the dialogue as we work on these efficiencies and make sure communication and influence of these commissions is stronger than ever going forward, I fully support it.

>> Mr. Mayor, if I could.

>> City clerk.

>> The point that council member Kalra raises and was voiced earlier, I think in terms of the fundraising, the council does have a fundraising and sponsorship policy, policy 1-17, and I would suggest that we take a look at that policy in the context of fundraising for any commissions or advisory bodies. And see if we need to modify that policy to address the process.

>> Thank you.

>> I don't know if we're done or not, close to the end, I think. I just had a couple of comments. First, on the small business development commission referral, we need to get the work to future people to look at that, because they have a whole effort around small businesses. We don't have to reinvent the wheel here. Just want to make sure work to future is considered as part of that group. And then the other thing on the fundraising, what I don't want to do is to turn our advisory commissions into special interest groups that become lobbying and fundraising and are driven by special events. There's a role for that, but I don't think the city staff should be engaged in sort of creating that kind of enterprise. So there's fundraising opportunities and then there's groups driven by fundraising. I don't think we want the latter, because ultimately, we value commissions for the work they do in our community and advice they give us and I don't want to lose that as they become sort of a special event kind of an organization. I think we have to be cautious about that. It's not just the corruption, it's the change in focus from

being an advisory commission to being a fundraising commission with city staff supporting them. So that was one of my concerns. I certainly am going to support the motion. I appreciate the amendments council member Rocha made to his memo. I'm not going to support the amendment. I think the recommendations in the main motion are efficient to deal with those. I think the lights aren't working, remember. Council member Oliverio.

>> Thank you, mayor. My comments will be similar, first of all, thank you for the commissioners. Thanks for the volunteering for a level of interest in the community you probably care passionately about, and that's much appreciated. Apologize if anyone feels that through the idea of a restructuring and consolidating that has hurt feelings. At the end of the day, organizations are dynamic. Inevitably, there are going to be change. We have been challenged in austere times, so we have to look at things. There is a cost to providing commissions, and I know it. I attend as many of my colleagues here, attend as liaison and we know people set up rooms, take down rooms, staff that come, subcommittees, and Dennis, I really don't feel you have the true cost, because I think inevitably, there intends to be protectionism, but yet they are billing, you know, the city for their time or department for that time. That's just the reality. Thank you, because in the end, you have to carry the load of this. I will candidly admit I was for some level of consolidating waiting for a city clerk to come up with a plan. You've looked at what is required in the charter, other levels of government. I think you did a good job. In the end, we have 11 opinions here and a motion on the floor that's had many amendments, and -- but when I explain the commission system to residents and tell them, hey, four are required in the charter, then we have 30-plus that are advisory only, they think that's nuts. Now, that may be a different opinion from the people that serve on the commissions that like it the way it is today, but the reality is, this is a representative democracy, we're supposed to represent everybody, and the reality, there needs to be some change. I support the city clerk's plan. I think it's a thoughtful, well thought out approach that has all the bank account he gave on feedback and soliciting. It won't make everybody happy, but I don't think what's on the floor will make everyone happy, much like when we vote on any item in this council that has a level of dissension. We're not talking about eliminating all the committees, just talking about restructuring and consolidation. Again, the only person that is elected in the jurisdiction is the elected official, and that's the time to get the feelings out there about what kind of policies you want. And then outside of that, there are plenty of ways to engage continuously. I think Pete and Pete, Pete Colestead and Constant tonight came up with good comments. I like the synopsis. Any time what comes out of the commission,

people aren't paying attention anymore. I'm going to send an e-mail to council, send a paragraph. As soon as you write a novel; what's this about? I think we need synopsis of what's going on and keep it brief and Constant's comments about pushing it through the council committees is brilliant. I mean, it really should come through what happens at the library commission should be reported it neighborhood services and so on. I think that would be much more effective. I think you would go the way of keeping that dialogue going, because being here for five years, I would be hard pressed to find a time where we actually took the commission's advice. Someone comes out with a blue memo at the end of the day and goes a 180 and we vote on it and pass it. If we're going to have them, let's have the dialogue to make them effective. I think the comments on working with the County, especially on domestic violence, if we care about that and it envelops on the County, that's fine and the proportional idea is a good thing. We are proportional, we are elected by district. Yeah, arts doesn't stop in a geographic area. If you want an art program, you need all parts, because the viewpoints from different cities pull us in a different way and I think that's a good thing. I don't think consolidating a committee is the same as consolidating 1,000-people corporations and businesses. That's a whole level of difference. I don't agree with that premise at all. To the point at hand, we have an attempt to make everyone happy with the variety of motions and amendments made, but I was honestly looking to support the city clerk's initiative. I could support this tonight and vote affirmative on what we want to do as a council, but I would insist on this, let's fund the commissions where it really matters. If we think it's so important, then let's go to the council general fund and fund it out of that. Each of us council members gets an ADMIN or secretary. That's unnecessary. We read our own e-mail, can answer our own phone. If it's that important to keep the commissions, let's fund it out of council general. I'll offer it to council member Rocha, since you're the lead, I guess, yeah, I would offer it to you. I don't know if the amendment carries a higher water at this point, city attorney.

>> We have an amendment, a motion to amend on the table, so I think unless it's a friendly amendment accepted, we need to have these things orderly done one at a time. We would take up council member Chu's first.

>> I'll make a motion to amend to do as all you want to do with all the amendments but fund this out of council general, if I can get a second.

>> We're not going to -- I got to reel the motion of amend out of order until after we voted on council member Chu's motion to amend. Then come back.

>> Fair enough, thank you.

>> Okay, so I think we're ready to vote on -- no, we're not. Motion to amend. Council member Herrera.

>> I had my red light on. You're not seeing red lights.

>> Lights are not showing on the screen.

>> I guess I'll talk about the motion to amend first. In terms of the mobile home advisory commission and the commission on rents, from what I heard Dennis reply to council member Chu is we don't know what would happen if we combine that, given that they receive -- they are cost neutral and a certain amount of money accrued to them. I would think if we proceed and not support your motion, we may be coming back to look at that anyway. If that's true, the whole idea of consolidating these commissions is to both to have less staff involvement, I suppose, to have a clear mission, but we certainly don't want to do something that's going to have unintended consequences and make it more difficult. So I think there's some -- I think as we move forward and it looks like we're going to have a lot of time to deal with this, because as Dennis stated in the beginning with the transition that's going to go on in terms of staffing, this is not going to happen overnight. We're going to have quite a bit of time to move through this. So I think a lot of the ideas that we're moving forward, we're going to have time to work with, get input from the stakeholders that are here. That may be one that would, you know, change. I'm not going to support the amendment, but I think council member Chu brought up some good points and I look forward to hearing the resolution to that as we move forward with this whole thing. That's what I wanted to say about the amendment. I agree with much of what my colleagues have said. I sincerely want to thank everyone who's sitting in this audience who's waited patiently and given testimony about your involvement in these commissions. What you do is vital to our city, and I think that council member Liccardo and a few other people mentioned we just need to get that advice from you. So I look forward to, as this process moves forward, that we're able to construct

something where we actually get -- you are playing more of an advisory role to us, because I think a lot of times I know when I'm looking at things, I look at the planning commission, I listen to what they have to say, it informs me. I pay attention to input I get from the community, and so I think your input could be very valuable in a number of ways to this council. I would not lose heart over what we're doing tonight, because I think it's still a long process, and some of the things we may decide tonight, we may decide at a later date we're going to make another change in it. We're trying to move forward, and I really appreciate all the work Dennis has done and Lisa and council member Rocha, you're doing a great job tonight shepherding us and moving through these amendments, but I think there's still other things to discuss. I'm hopeful for that. I have to say I do agree with -- when I first heard the consolidation proposals way back, I felt similar to council member Kalra, I was a little bit disturbed we'd be trying to mess with the commissions at all, but I do believe in saving. We do need to look at how much we're spending and the numbers are compelling that have been brought forward tonight. I also, though, would like to look at how can we save money, reduce staffing, reduce the cost of these commissions, because the one thing I don't want to do is lose the valuable expertise that we have in this room. I really do believe that our volunteers and people that are taking their subject matter expertise learned in a lifetime as some of the youth commissioners -- youth advisory young people have talked to us, I think it's very important to keep that expertise. I know most everybody up here feels the same way and I'm going to be supporting the global motion here but want you to know your work is very critical to this council and I think we'll be able to move forward on a lot of these things as we go through and look at them. The other portion that I'm concerned about is the human rights commission. I once worked for the human relations commission. Having a commission that deals with equal opportunity and access is critical. I want to make sure we don't lose that focus by changing the names. I like human rights more than human services. I can live with that, but have a focus on equal opportunity for the city, for this commission. I don't want to see that lost. And that's all I have to say right now.

>> Council member Pyle.

>> Well, all my thunder has been stolen from my very brilliant colleagues, but I just did want to say that I, too, am very, very impressed by the fact that you're all here. Also very impressed with the fact this is what I call democracy. I think you do as well. You've all spoken and spoken very eloquently about maintaining democracy.

Without your input, we just don't make as wise a decision. I served on a small business commission and I really enjoyed it. I still meet with the people that I met there today. So I'm just delighted that there's an extension beyond just the commission, and I not only want to thank you for your service, but thank you for being here tonight. You have made a difference and we realize this is really important, we have to find another way. I can't believe commission members wouldn't be willing to put their own chairs away, take chairs out, I can't believe they wouldn't do that. If that saves money or is one way to do it, there's probably 100 other ways that you can be participating to get the cost down. Thank you again, you're very valuable in the community.

>> I think we're ready to vote on the amendment based on requests to speak.

>> Regarding the mobile home advisory commission, I recognize the point that council member Chu has made about the cost recovery aspect, however, the proposal to merge into one commission has been discussed with the director of housing and they've indicated there is no problem with going to a consolidated commission. If there were any funding issues, I think we're within our bounds to do that. I don't see that as a necessarily a problem. But I would work with the director of housing and the city attorney's office on that, but the fact we have a proposal tonight, I think, says it's been vetted and it's a workable solution.

>> Okay, let's see if we can vote on the amendment. This is council member Chu's amendment, the amendment to make changes to the main motion. All in favor? Opposed? Opposed, one, two, three, four, five, six, seven, eight. It fails on, I think, a 3-8 vote. I'm not sure everybody voted, though. Try that again. See hands in favor of that. Those three in favor. Everybody else opposed, so that motion to amend fails. Council member Oliverio, did you want to make another motion?

>> Yes, the amendment to add the funding source for excisions to come from council general fund and that can come back to the council, but that's what I would suggest. It's, obviously, important to all of us. We've heard each of us talk about the importance of the commissions tonight, so I'll be looking for a second.

>> Since you called me brilliant and council general is one of my favorite budget topics, I'll second.

>> Thank you.

>> On the motion, I'm not going to support it. I think I'd like to leave the budget discussion for the budget. We don't know how much this is going to cost, how much would come out of council general and whether or not council members are willing to give up administrative assistance is something to be discussed in the budget process. I'm not going to support this amendment. Anybody else? Council member Chu?

>> At this point, I don't even know -- Dennis, you probably don't even know how much would really cost the city to staff all these commissions after the restructuring, right?

>> No, I mean, we know what the costs are, approximately now, but council member Oliverio's point, and I acknowledge I think we've underestimated those costs, but what the eventual costs would be for any consolidations, I think we'd have to look at the consolidations as well as the work plans of the commissions before we could cost that out.

>> I'd like to differ that into budget time.

>> Anybody else on the motion to amend? All in favor? Oliverio, Constant in favor. Opposed? Everybody else? The rest oppose. So that motion fails on a 2-9 vote. I think we're back to the main motion made by council member Rocha with the friendly amendments. Hope we beat that to death. I don't see any other requests to speak, so on the main motion, all in favor? Opposed? I count one, two opposed. That would be Chu and Oliverio opposed, so that passes on a 9-2 vote. I think we're done with boards and commissions, at least for tonight. Obviously, the work is not done. Thank you, Dennis and Lisa for lots and lots of work on this. We appreciate the effort. Our next item, we're not done with boards and commissions. Next one has to do with the neighborhoods commission. That's item 3.4. Let me suggest tonight's not the night to make a decision on the neighborhoods commission, might be better off differing and continuing until the end of the fiscal year so we can figure out the fallout from all the other things we've done and what subject areas maybe we dropped somehow

and maybe there's a role for the neighborhoods commission. This is as a suggestion considering what we've just been through. Obviously, that's just a suggestion on my part. We do have some people that wish to speak on it. Council member Herrera? Take public testimony first before the staff report? Okay. Let's do that. Neighborhoods commission. Mr. Mayor?

>> Yes?

>> I would just say maybe if one of us, like me, would like to make that motion, if there was a motion on the floor, it might help.

>> I'll make that motion.

>> I'll second it for you.

>> Okay, the motion would be to differ the decision and extend it through the fiscal year and revisit it, obviously, but we revisit at a time we have a better idea of all the changes we discuss tonight and the issues that remain open.

>> If I may ask, council member Constant, how you envision this. Do you see this as part of the work plan or scope of work that the city clerk would be working on and bringing back for future discussion in the second and third phase of this or as a separate item on its own track?

>> Well, I guess since I seconded it, I'll give my opinion first, then the first can give her opinion second.

>> We can ask the city clerk --

>> No, I just think that as the mayor said, we've just made a significant change, and I think we need to figure out what's happening and then look at it more globally. And so I think that it could kind of run alongside and then when everything else is completed take a fresh look at it. That was my view.

>> I agree. I just was curious how you saw it.

>> You took the words out of my mouth there, Pete. I think the neighborhoods commission, you know, we're assessing whether to actually make it a commission and it's been a pilot. I think it's slightly different, but I think it can run at a parallel course. I think given the magnitude of work we've taken on tonight, I think it makes a lot of sense to start this work and run it -- let it sort of go along and look at that, look at it again at the end of this calendar year.

>> Council member Liccardo?

>> I think I'll be in the minority on this. I don't understand why we can't just make some decisions since we're going to be going out to the community and coming back anyway, let's make some decisions now. I'm concerned we're going to continue to delay and delay it, the commission essentially will die a slow death and I'm not certain I'm ready to see that happen. I'm concerned the farther we get away from its last meeting, the less relevance it has. I think some extent there will be a sense among those who participate and support it that the council is more or less avoiding decision and allowing it to die on its own weight. I'd much rather see us make some suggestions, there are community members, I'm sure, who came out to talk about this, let hear what the public has to say and make some decisions.

>> I do anticipate people will want to speak, we'll take that testimony and decide what to do with it. I don't think the motion was to stop meeting. I think the motion was to continue through the end of the fiscal year.

>> Its last meeting was -- when was the last meeting, this June?

>> Technically sunset in June. Its last meeting, I can't recall June or before that.

>> It's been a long time. I'm not sure I understand why we would go and say let's have good meetings but not make any decisions. Seems we are making decisions to not meet and form in a sensible way.

>> Has to say let's extend the pilot and come back with a quick ordinance that says we extend the pilot of a time certain, but that action, that's an easy fix. If the council desires to keep the status quo as the commission in place, we're going to have to bring something back, because it has technically expired.

>> I agree and understand that, Rick, I think that means we need to make a decision, I don't think we can keep differing this.

>> Your choice is doing something long term or a short-term fix while you consider it in the future?

>> Okay, council member Herrera?

>> I certainly want to see the commission continue. That's why I put out a memo saying that. The only reason I would support this differment is to look at the long-term decision. I don't think I'm supporting an ordinance to keep it going for a month or two. I would like to see this commission permanently established, so if we're prepared to do that tonight, I'm prepared to do that, but if we're not, I would rather have this deferred until we are prepared to do that.

>> I just wanted to clarify, I think the motion was to extend the pilot program through June of 2013, so we're not taking -- we're not deferring the item, we're extending the pilot program, so in essence, the commissioners can continue to meet until June 2013 and then after that, we will make a decisions, you know, the whereabouts of the neighborhood condition. That's my understanding. Not a deferral.

>> The come decided to let it sunset to bring it back as part of the discussion on boards and commissions, so if you do decide to extend the pilot until the end of the fiscal year, we would reengage the commission, go back to the work plan items that we had in motion and continue to meet as part of the pilot program.

>> Mr. Mayor -- sorry.

>> Let me get control of this for a second. Okay, I need to know who wants to speak, because I don't have the lights, council member Herrera, then I'm going to get Rocha.

>> I absolutely support continuing the commission in its current form through the end of December.

>> Second.

>> I'm sorry. Council member Herrera, you had a motion, the original motion, are you amending your original motion?

>> I was probably not clarifying, so, yes, we continue it in its current -- it's a little bit confusing, because it did sunset, and so I've tried a couple of times in different motions, I think I have more motions on this subject than anybody, so I am happy to support us moving forward with the commission continuing in its present pilot form through the end of the year.

>> Fiscal or calendar?

>> Calendar year.

>> That's only two more months.

>> Fiscal year, fiscal year. I would also support it being permanently instated. I see this as a compromise.

>> She's clarified the motion is extended through the fiscal year. Secondary have the same understanding, is that okay?

>> Yes, can I say why?

>> You're going to have to wait your turn. Council member Herrera, you had the floor.

>> Fiscal year, yes.

>> Council member Rocha?

>> Does that mean they will reconvene and meet? And what's the scope of their mission statement now? That's part of my interest asking the question, how do you envision this continuing in terms of concurrently with the work plan and incorporating that as part of the bigger discussion. I don't think I'm prepared and with all due respect for staff, I don't know if staff made a case to me about what the scope of that will be. Until we give them clear direction on what we're asking of them, I'm not comfortable continuing and asking them to meet and spend staff time and resident time until we've done our work and honestly 9:00 at night, I'm not comfortable going that direction. I'm 180% behind us having that discussion and talking about the value of this and continuing it, just don't think we're prepared tonight to make that decision, so I would only support including this as part of the work plan for this to come back to council to talk about this in the context of the whole commission effort that we're doing.

>> Okay, council member Constant. Then Kalra, back to Herrera.

>> Let me explain my thoughts on this. I think one of the critical things is going to be how we implement all the other boards and commissions, and I'm only speaking on my own behalf now and haven't spoken to any neighborhood commissioners yet or neighborhood commission about this, but if all the other boards were to go to

representation throughout the city, I think that would be a lot. Intent. Neighborhoods commission was, to have leaders throughout the city weighing in on all of the issues. If it comes back and that's not what ends up being implemented, then I think there's a stronger case for the neighborhoods commission. But if we end up with I don't know how many commissions we ended up with, but say there's 25 commissions at the end of this and 25 commissions have 11 members from all ten districts, plus an at-large and any specialties, that changes my perspective on it. That's why I think it's important to let's see how this plays out and see where we end up and then make the decision. I don't know if that clarified or muddied the water.

>> It was extremely clear. Council member Kalra, then Herrera, Oliverio, back to --

>> Thank you. I agree with council member Herrera in extending the pilot. I think as far as what they'll be doing, first of all, I agree with the comment if we don't do something quickly, it is going to fizzle away. We have great neighborhood commissioners. I think they know we have something here. We just don't want to lose it. If it's a matter of us reworking the work plan, I think we have to have the commissioners as part of that discussion. There's a unique commission where they select themselves, only commission like that, so my suggestion would be if we extend the pilot is direct the work of the neighborhood commission to be just that, as we are also going forward and working with staff, because this commission is so unique, let them be a major part of the process of determining how it's going to work going forward and incorporate and discuss the changes. The other commission impact it has, fiscal and what have you, but I think more so than any other commission, the commissioner should be part of the discussion and that's how we can have them engaged until we come back. By extending to the end of the fiscal year, gives us breathing room where we can come back in the spring after the commissioners have had a chance to get together and have meetings and we can have a free flow exchange of ideas with the commission so their part of the PROGSZ R process rather than have them meet, just to have meetings, actually have them doing something instructive and informing us how to go forward.

>> Council member Kalra, I think that's an excellent suggestion, and I think that as they go through and take a look at what kinds of opportunities they have for looking at how their commission goes forward, you know, I think they can look at the number of commissioners that would be on it, how they would be selected, some of the ideas

advanced in memos from the staff and others on how the commission should look. So I just want to say I think they are vitally important. They've brought back -- they have informed us as an advisory group on the budget. I think two years in a row, their input has been in the mayor's budget message. They've informed us on the tree plot and community advising. So I think actually in their case, they have performed that function. I'd like to see to make sure we have that kind of communication with other commissions. I think that's great. I would accept that as a friendly amendment to our motion.

>> Okay, with a seconder? Yes, council member Oliverio.

>> Council member Constant, since you're the liaison, will you be providing some type of feedback as to the effectiveness to the neighborhoods commission tonight?

>> I wasn't planning on it. I think we all -- I mean, I'll give my opinion on it. If we keep going and decide we're going to deal with it tonight, I'll, of course, give my opinion on it, but I think we should all share our opinions equally, because we all have people on it.

>> Since you as the liaison attending every meeting, I always put in a high regard.

>> I won't be bashful.

>> I'm sure you won't. If I understand correctly, we would have the neighborhoods commission meet, get together, and a lot of their focus would be on how to make a potential new neighborhoods commission, if I can get a head nod from council member Herrera maybe and heard from others we're still certain -- council member Herrera?

>> I think that's part of it, but if they are going to go through 2013, I think they'll probably take up the budget again. They provided a great deal of assistance in getting community outreach for various things for the city, so I would

think that would be part of what they would do, but also think there would be other areas like probably the budget. That will be coming up while they will still be in the pilot project.

>> I share the philosophy and comment part of the effectiveness because it's proportional and truly if we're going to come back with proportional commissions, that really sort of wipes it out to some extent. It was fairly unclear what we were going to do. Wasn't to overlap with anything else we had and we already have, obviously, through demonstration tonight, a fair amount of overlap, especially at the council committees, so again, be interested in hearing what comments -- I'm sure everything we're going to hear from the audience will be let's make this permanent, do it today, but when you're looking at changing such a massive amount of commissions, the question begs what will the -- what will we be doing for work load, what is it they want to do and what is it that we would like or need them to do or wish or request them to do.

>> Council member Liccardo is next.

>> I think if we're going to tell the neighborhood commission to meet, I think we ought to be very specific about the scope of their jurisdiction. I know there's been a lot of questions in the past, certainly, it sounds as though we want them to certainly decide and provide input about what their own future is and also heard we all want input about the budget, but I think there's going to be a certain sense among commissioners they are not sure what they are going to be meeting about if they could be gone in the next month or two anyway. We ought to be explicit about what we want them to discuss and what they should be advising us on. Council member's constant's point, I agree with much of what you've said today, Pete, which is rare, but I disagree about this motion that somehow or another if you have representations of other commissions we don't need a neighborhoods commission, because from day one, it's been whatever is not already covered by the commissions. If you say they have proportionate representation, you still get, theoretically, this large subject area in which there's still a void. By the way for all the folks who have been advocating proportionality, I expect you're all going to have nominees for the arts commission for me, because I'm tired of year after year only getting them from district 6 and district 3. I think you're right. You did have one a few years ago, you're right, Pete. I expect if you're arguing for

proportionality, you'll be sending the resumes my way so we can get more proportionate representation on these committees.

>> Council member Herrera?

>> Another unique thing about this neighborhoods commission is that the neighborhoods select the commissioners. It's the only commission like that. It's not top down. It's not somebody coming to the council office. It's not the council members doing it, it's the neighborhoods, and I think that's powerful. I totally understand the feedback the clerk gave about maybe there's too many commissioners, might be unwieldy, the caucus process might have to be revised, but the fact that the neighborhoods are selecting these folks and they are bringing us input that we might otherwise not have heard, I think, is vital to us. And so I like the fact I don't have any say over selecting those neighborhood commissioners. The council doesn't have any, it's not coming from any political perspective or anything else other than those neighborhoods. So I really think it's important to keep it and I hope my colleagues will support me in maintaining it through the end of the fiscal year.

>> Council member Rocha.

>> Thank you, mayor. I'm going to start with agreeing with council member Liccardo, actually, on all those points. Especially the one about council member constant and agreeing with him today more than I ever have in two years. I think your input has been extremely valuable. I don't know if it's the surgery or medication you're on, but whatever it is, keep it up.

>> He's still on the meds.

>> Again, it could be that you guys have changed and I haven't.

>> And again, if that's the case, I'm encouraging whatever it is, because it's been very good dialogue today on all the items. When I started my first question, I asked about the scope of this, since we've gone around, we've

gotten a scope as I understand it of asking the neighborhoods commission for them to present to council some feedback as to what the scope of their work would be going forward beyond the fiscal year and also include them in the budget process again as we have in the past. That's where I've seen the most value and that's where I've seen the value, so I encourage that as well, so I'll be supporting the motion.

>> Roberto had a response to a comment.

>> Along the lines, council member Rocha, when we set up the neighborhoods commission to bring their work plan to the neighborhoods service and education committee, so if the council decides to extend the pilot until the end of the fiscal year, what staff would like to do is bring their work plan over the next six, seven-month period to the NSC so you know what their work would be over this period of time, and that would include the future of the commission would look like.

>> Thank you.

>> Speaking of input, I'd like to take some public testimony on this item. We've got some people who want to speak. Come on down. I hope you've been enlightened by our discussion as to what we're thinking about. Larry Ames. Limiting testimony to one minute tonight because we still have quite a bit on the agenda.

>> If I had two minutes, I was going to thank the motion here. I welcome the opportunity as a neighborhood commission to work with the council and commission to figure out what we're going to do. I feel the neighborhood commission has been hobbled by the charter. Very little we were allowed to consider. Even so, we accomplished some things and provided input on the budget annually. We also served as a sounding board for the departments where they could beta test their presentations and so forth. I hope we can work on issues in the future, neighborhood issues that how it impacts the neighborhoods in the area. Envision 2040 calls for main streets that back up to neighborhoods. Where is that type of stuff discussed? Sign ordinances, public notification policies, tree policies, all these things affect the neighborhoods and don't fall into any of the other commissions. This

neighborhood commission would be an excellent forum for that. I look forward to working with this and figuring out how to provide input. Thank you.

>> Mauricio, Robert Sandoval.

>> Good evening, folks, thank you very much for your time. Please do take the necessary steps moving forward to reinstate the neighborhoods commission as a permanent body. During the three years as a pilot program, we have made many positive contributions to our neighborhoods, as have been brought up tonight. We've also made those contributions. We hope to city staff and you as a governing body and we hope your unanimous extensions of the pilot programs on two separate occasions speak as proof of that. We have realized there are some ways to improve the commission, as well as the processes it follows. To that extent, we welcome reducing the size of the commission, as well as most of the structural improvements proposed by the city clerk in term of efficiencies that may be realized by all commissions, including a standard on boarding and training of commissioners, standardizing agendas and work plan formats. In the course of the three years that we've met, including the time we spent outside the commission doing community work, we have contributed dozens of thousands, if not well over 100,000-plus volunteer time. We continue to do so for the neighborhoods we represent.

>> Sorry, your time is up.

>> Thank you.

>> Robert Sandoval. Marie Arnold.

>> Thank you, Mr. Mayor. Vice mayor Nguyen, council members. We like the neighborhood commission. Hopefully, that it will be a permanent position, make it permanent. We do like the fact that you have considered the fact to extend the pilot program to fiscal year 2013. I hope that takes place. We need a lot of great projects for this commission. We work with the project, as our mayor knows about it. We worked on various other

projects that we had on streets, safety, also with the kind of with the police department too, making recommendations and rotations, and hopefully that we do come back soon. I missed it badly. Thank you.

>> Marie Arnold.

>> Beth left.

>> Marie Arnold would be our next speaker. That would be you.

>> Thank you. For helping us out there. Ms. Herrera and our good old ash Kalra too. We followed the letter of the law because we are the newest commission. We've had all these people come to tell us about the brown act and all the things that were our duty as commissioners. But I think that we -- even though we're big, 33 people, we've always met and have a quorum, so people show up is what I'm saying. From district 5 says, if our kids don't have anything to do, they are going to go to your THABD and find something to do. When the city was thinking about closing rancho Dell Pueblo, about the only green space in district 5, I thought of ELSIE and her statement and her wisdom. We're one city, and our neighborhood commissioners, when we're together, listen to each other and we hear what's going on in everyone else's district, not just talking to our own self all the time. Thank you.

>> That concludes public testimony on this item. We do have a motion made by council member Herrera to extend the pilot to the end of the fiscal year, including all the discussion about the work plan and coming to the committee. So that is the motion on the motion we get additional comments. Council member Oliverio.

>> I see we have staff here. Was there a plan on speaking to some portion of this or do you feel it's a different discussion tonight since the council said temporarily extend versus making a firm decision either to eliminate or continue permanently?

>> It's a different discussion, council member, with the extension of the pilot. That's certainly direction that is different from the alternatives that we had presented in our council memo.

>> Okay, thank you.

>> Any further comments on the motion? All right, on that motion, all in favor -- opposed? I see none opposed, so the motion carries. I said earlier that council member Pyle, I would recognize council member Pyle to make a motion and reconsider an item earlier in the day. I'm going to do that at this time. Earlier in the day, item 3.8, we had seven ballot measure items that we voted on these individually. Council member Pyle wants to reconsider item 3.8-A. The motion that passed was to oppose notion D. She can ask to reconsider. She wanted to abstain.

>> The reason that I'm asking for this is because if you recall, mother nature was -- took hold, so when I came back in, it wasn't stated at that time there were three possibilities, it was either for, against, or abstain. And had I known, I would have chosen abstain.

>> So you want to make a motion to reconsider 3.8-A.

>> Thank you.

>> Anybody can second it. All right, we have a motion to reconsider item 3.8-A. On the motion to reconsider, the motion to reconsider. All in favor? Opposed? I got one, two, three opposed. Four opposed, so the motion to reconsider carries. Opposed was Liccardo, Herrera, Constant, Oliverio. Original motion, council member constant.

>> I'll remake my motion to oppose measure D.

>> The motion is to take a position to oppose measure D.

>> Again, I just urge the colleagues, especially those who wanted it to go to the voters, council member Nancy Pyle indicated interest in abstaining because she did say in May she had an interest this go to the voters and I think that we should certainly allow the voters to have their say on this.

>> It's on the ballot, voters are going to have their say. The question is whether or not we have our say on it, and that's really the question on it. Whether or not we take a position to oppose. So that is the motion in front of us. Council member constant?

>> I was going to say the same thing. We all voted to put it on the ballot, because that was the right thing to do. Now this is a position in telling our residents what we as a body think. I think those are two completely different things. I know I promised her I wasn't going to talk a lot on these items, but we just know this is going to have significant detrimental impact to our city.

>> Council member Herrera?

>> I agree with that and would state further I have already taken a public position a few times opposing it. I've taken that position. I'm being consistent that I've already stated publicly I opposed it.

>> The motion is for the council to officially oppose measure D.

>> Thank you, mayor. You know, every time we sort of go through this and explain to us when we have these opportunities as explained two weeks ago we have the ability to abstain, and so it's an odd circumstance, that's certainly the truth. I didn't speak to this at length because I was cognizant of time, but I see we had a 6-5 vote, and now, you know, reading the cards here, it won't be a 6-5 vote, because someone wants to reconsider their vote. And as someone who represents a council district that borders two cities, Santa Clara and Campbell, I see firsthand the difficulties of us getting sales tax revenue, leasing vacant space, and jobs. And in the case of my district, the passage of measure D, raising payroll for companies that were small businesses that employ

minimum wage workers is a 38% hit. 38% Delta difference between that city of Campbell, which I live very close to, and the city of San José. And this is going to be such an extreme disadvantage and, you know, for folks that talk about economic development here on the council all the time, I find it, you know, we're putting another hurdle here. We have a mall in San José called valley fair. It's split between Santa Clara and San José. If you're a prospective tenant and have a choice, you're going to go Santa Clara. Why? Not because of just the 38% on your payroll, because the city of San José will now be regulating and auditing your payroll. The city of San José will now be regulating and auditing your payroll as a small business. How can that be good? How can that be easy? And this city, we're taking up land use next, instead of hiring five plan checkers to help speed up commercial and central development on our city, I'm going to have to hire five people that add no value to the city to now regulate and audit these businesses. So as you contemplate, you know, taking another look at your vote, I just say this is a real detrimental situation to San José. It's going to be another hurdle to what happens. Unfortunately, we're going to see much of the brunt of the layoffs be to youth. Youth, although a job provides life lessons and responsibility and I can't say, you know, actually council member Pyle, I sent you an e-mail earlier tonight after the vote and I was just very thankful and said thank you for supporting this today. I was just so impressed. Obviously, that e-mail doesn't count any longer and I'm really disappointed. Thank you.

>> The motion is to oppose measure D. And I have several people who want to speak. That's what happens when you reopen these things. I thought I was quite eloquent this afternoon. Anybody who wants to see it can review the tape from this afternoon. It's probably true for my council members as well, but they are going to repeat it anyway. Let's go through and everybody have their say. Council member Liccardo, Kalra.

>> Thank you, mayor. Never had a chance to say anything, what the heck, I'll weigh in now. I'm certain of one thing, no matter what we decide today, not going to have any effect on the vote in November. Ultimately, voters are going to decide for themselves. I think most voters would happily, as I would, vote for this as a statewide measure and we're providing some PREKs for small businesses to phase in, as has been done in other cities. Certainly, we recognize the need here, but doing this as a single city surrounded by much more affluent cities doesn't make sense when small businesses are struggling so mightily.

>> Council member Campos?

>> Thank you, mayor. I'll give you a story of other situations I see prevalent in my district. This is the difference between putting food on the table and not. Paying an electric bill and not. Having heat and not. And if you're living in a garage, hopefully never making the -- the life and death choice to find heat in a barbecue pit. You know, these are life and death choices. We talk about kids that get involved in the wrong circles because perhaps they don't have proper supervision at home, because their parents are working two or three jobs just to put a roof over their shoulders. You know, this extra 300-something dollars a month, that can be the difference in a family where a participant parent decides I don't need to have a third job and stay home with my family and provide the support that I need. I mean, this just isn't an economic issue with large or small businesses. This is an issue with real people in our neighborhoods. Trying to make ends meet. And trying to survive and the most expensive region to live in this country. And I hope my council colleagues will consider that as we're revoting. Thank you.

>> Council member Kalra?

>> Thank you. Earlier I spoke a moment ago, I didn't speak to the mayor, because everyone knows my position, but here I go. You know, first of all, the sense -- most of the studies, especially those that have been peer reviewed, indicate there's a positive impact when you raise minimum wage, because it raises, especially when we've gone through really decades, but certainly years of wage deflation in this nation and this valley. We live in a place now with multibillion dollar corporations and companies and to think that this is somehow going to be the straw that's going to destroy small business is just not accurate. We're over 170 square miles, a million people in this city. People are not going to run for the border to go to other towns. And this is a time to take a leadership role. Even if you look at valley fair. Really, it's almost entirely in the city of San José, and Macy's is not a small business. And, you know, the reality is that the large majority of minimum wage workers work for Walmarts and McDonald's of the world, their business plan relies on the fact the taxpayer pays more so those employees can get food stamps and health care. They don't work them full time on purpose. My Uncle worked at Jack in the Box, I know how they treat them in making sure they aren't able to access, you know, the benefits of those that work full-time jobs. The majority of those working minimum wage are women. Majority are people of color. We make,

council members make \$39 an hour, mayor makes about \$50 an hour. I would venture to say we don't work as hard as many who work minimum wage jobs. The reality is \$70 million would be pumped back into the economy, the extra \$2 is not going to go in a retirement account, it's going to be pumped right back into our local economy. So, you know, this argument the minimum wage started during the great depression and has been raised, the federal ones has been raised seven times. Arguments made every time by the fiscal conservative advocates, always going to be bad for business. The reality is we know those working at the bottom of the wage scale are not going to get a raise unless we take some action in giving them one. If we do it, starts to raise wages regionally and other cities are already looking at it. Ultimately, it affects Sacramento. I don't know of anyone, whether here or part of the business community or chamber has signed on to efforts to raise minimum wage statewide, because there have been bills just to do just that.

>> Council member Chu?

>> 38%, where do you get that number?

>> When you increase someone's wage 25%, the employer has to pay matching payroll taxes. The total cost, the total cost. Measure D doesn't even raise sales 1% to pay for it. If you were employing X-amount of people, say the payroll is \$100,000, after the passage of measure D, it will be \$138,000 in payroll, with no extra sales to pay for it.

>> I like to share another story like council member Campos shared. Real truly family operated small business, you know, mamas and papas shop. They are actually welcoming the increase of the minimum wage because they feel now they can pay themselves better.

>> Council member Rocha?

>> Thank you, mayor. Questioning this council's commitment to economic development, to me, is a big leap. I have had many opportunities to vote on items for economic development, many. And now I have one opportunity

to make a symbolic vote supporting individuals who need, who potentially need, support. And to say you're disappointed in a council member's position or change of position, council member Oliverio, I have been disappointed in many statements and votes you've made in the two years you've been here, so I'm glad council member Pyle had the courage to say she wanted to reconsider a vote, regardless of what that vote is.

>> I just wanted to say that I don't think that we can actually sit here and argue on the merits of this initiative. I think that whichever side you're on, I'm sure your argument is right for you, your circumstances, how you grew up, your background. For me, I think that having the ability to vote on an issue like this just like council member Rocha said, is more symbolic than anything else, but it really defines who we are and how or what we care about, not to say we put down what other people care about, but I can say that I have had ample opportunities to be where I am today, and that has a lot to do with how I grew up. I grew up very poor. I had many opportunities to climb the different ladders, and those ladders can be hard at times, but those opportunities gave me a lot of leeway. And I think we have the ability here to give the kind of opportunities to many families in our city and especially minority families. And some of us happen to represent families who live in districts where it's not as affluent as some of the other districts in the city. So we're not sitting here questioning whether our values are the right values or principles are the right principles, it has everything to do with our identity and philosophy. So I just wanted to sit back, relax, you know, when people went out and collected the signatures, I think that by the time we take this vote, the city will take a no-position on this issue and really truly give the voters of this city a chance to weigh in and vote however they want. And so I think this is the right approach to go. I wanted to thank council member Nancy Pyle for deciding what she's going to do by abstaining and that would put us 5-5 and we'll leave it up to the voters to vote on this issue however they feel. Thank you.

>> I said I wasn't going to repeat what I said this afternoon. I come down on the side of the people who are going to lose their jobs. I've had a minimum wage job, they are important to the families and there are people who will lose their jobs, just as people will benefit from it. I come down on the side of people that are going to lose their jobs. They don't know who they are, they are not here to speak, but I feel for them. Just as I know my council colleagues feel for the people who need a raise, I understand that. I just got to pick a side here, that's where I come down. We have a motion. We saw people who want to speak, yes, we do.

>> I was just going to say, you know, even -- I'm not persuaded by the arguments to change my vote, but what I will say, this would be a completely different conversation if this ordinance or this ballot measure had been crafted in a way where there were things that would make it more palatable, like exceptions for internships, for training programs, had there been thoughtful enough to do phase-in approach. There are a lot of big flaws in this initiative as it is, and I know Sam has mentioned it before, that it would be a different picture if it had been crafted appropriately, and I think, like I say, wouldn't have changed my mind, but I think it would have been a whole different discussion if the people who crafted it would have done a little bit more work trying to balance it and to look at ways to lessen the impact on small businesses, to make sure there were exceptions for people who need to get the training, the internships, heck, there's not even an exception for a babysitter. You have a babysitter three hours a week and they are subject to that. And then on top of it, it creates this \$600,000 bureaucracy that I don't think we need now or quite frankly any time in the near future. So that's what I wasn't going to say earlier.

>> Council member Oliverio?

>> You know, we on this council all have our different views. Any given day, we may inspire each other or disappoint each other, but at the end of the day, we have a level of principle and we vote on that. My issue is, you know, changing the vote after the fact, and I think not to hide anything from the public, I strongly believe a major interest group called labor called somebody to say, hey, change your vote because we feel it's going to change the outcome of this election. I can only point to the article August 7th documenting the change of votes all the time. At the end of the day, I would rather somebody say I'm for it or against it, but just don't change it when it becomes a time where it has a political advantage.

>> I'd like to get to vote on this so we can move on to the rest of the agenda. Can we do that now?

>> I'd like to allow council member Pyle a chance to respond.

>> I have received no phone calls from anyone, from anyone. And even if I did, I wouldn't take them. I was simply not given the third option, which I much prefer. I would rather say, as council member Nguyen said a minute ago, this is where we take no position. That's what I recommended the last time it was before us. I said at that time, how can 11 of us decide the future of this particular thing? It's up to the voters to do that. I still have that position, and just now I have exercised that option. I didn't know it was available earlier in the evening.

>> Okay, I think we're about ready to vote. Council member Kalra says no.

>> Right after I say this. Council member Pyle, thank you for -- you expressed, you know, a thoughtfulness and so I appreciate that. I appreciate the fact that as you indicated earlier, that you were out of the room, when you came back in, didn't realize there may have been another option, and I appreciate you for everything that you've done over the years. And I'm glad that in a couple months you won't have to take the disrespect that you just took in this meeting.

>> We have a motion to -- for the council to oppose measure D on that motion. All in favor? Oliverio, constant, reed, Herrera, and Liccardo. That's five. All opposed. Everybody else. I have five opposed and one extension, council member Pyle. Five in favor, five opposed, one extension. Measure fails, taking no position. Council member Rocha.

>> Again, I'm going to repeat what I said earlier in terms of agreeing with council member Constant more than I have on any given day. I wish it would go forever.

>> I think it is going to go forever at the rate we're going.

>> I like to make a motion, and I'm not sure if this would work under this item, but depending on the outcome of this election, refer to staff to bring to council discussion of potential minimum wage ordinance, should the measure fail, but I don't know if brown act wise that is allowed under this item.

>> Well, the council is entitled to refer to matter of staff at any meeting, but it might be premature.

>> I think it would be better if you did a memo after the election.

>> I'll co-sign with council member constant, thank you.

>> You missed the part I said it didn't sway me, but --

>> It would be a different discussion and longer discussion. I'm sure we can make it longer. We're going to go back to where we were in the agenda before we back tracked. That would be item 3.5. Resolution amending the council's rule of conduct allowing scheduling of public hearings. Let me just explain how this got here. It came out of the rules committee and it was a result of council members and staff realizing there were occasionally meetings in the evening where there really wasn't anything to do because we had land use items that have been noticed specifically for the evening, yet no public interest, minor items, we didn't have a choice of dealing with them in the afternoon, even though we had time on the agenda. And so if you look at today's agenda, for example, you see we still have a couple of land use items on this evening's agenda we're trying to get to, maybe not as fast as we can, but we're trying to get to those and we had one on this afternoon in which nobody came to testify and there wasn't any particular controversy. So the reason for the rule change is to actually bring it consistent with the way we've been noticing meetings for a few months now to give us the capacity to have things on the afternoon agenda that were appropriate there and put them on the evening that were appropriate. It seems to be working OEX, but I certainly understand there's some concerns about how it might not work in the future. Council member Liccardo?

>> Thanks, mayor. Wanted to express that I certainly understand the sentiment that there have been evening meetings we simply don't need to have and I can understand why particularly during the worse of the recession when there were no land use items coming forward, why we could move to sort of a default, but we're seeing an upswing, I'm seeing a lot of applications coming through my office and sure it's happening in other districts as well. I think particularly the concern that I have is that the rules committee may not always be aware when there

is a land use item of significant public interest. Just because the styles we all operate, maybe council member Oliverio or Kalra may be engaged in three meetings and if they don't talk to anybody in the rules committee because of the pace of the work, suddenly it gets in the afternoon, you have a lot of frustrated, upset people. I guess with that I'd like to thank council member Pyle and Rocha for their work on this memorandum dated October 19th. I'd like to move the recommendation of that memo.

>> The recommendation is based on the memorandum. I have some requests to speak from the public. I'll take that now and come back to the council discussion. Larry Haynes and Helen chapman.

>> I only have one minutes?

>> Still one minutes. We have work to do.

>> Anyhow, I fear that if you have only the daytime meetings, you'll severely limit the opportunity for the public involvement and participation. Few will be able to take time off from work to attend the meetings and only retired people will be able to attend. You might be thinking that you do that, you might make silence come here, but I might retire and I'll be at all your meetings. You might not want that. Please, keep the evening meetings to accept and welcome the public's participation. Thank you.

>> Helen chapman.

>> I'll make it short and sweet. I'm representing committee for green foothills. I don't think I need to read it to you. I think you can basically endorsing congress member Pyle, Liccardo, and Rocha's memo. Thank you.

>> That concludes public testimony. Did you have something else?

>> I'm going to pass, thank you.

>> Council member Oliverio.

>> To the comments of my colleague that mentioned there might be items of intense interest, et cetera, I think it's any council member could simply tell the rules committee, write a memo, send an e-mail saying this item is going to be more interest, let put that on a night agenda, but so simply have items on the agenda when they don't have a sense of urgency is a waste of having that night meeting. At the same time, giving us the ability to schedule a land use item during the day allows us to move faster on an application of up to three weeks. And based if there's a holiday, could be even longer. So the ability to move forward if an economic development happens, wouldn't it be nice to have that item heard during the day so that we could then vote on it as to this issue being, you know, the most important to residents, I would say no. The fact and reality is that our agenda has items that pertain or are important to all of San José, regardless of land use. You can't tell me voting on public safety isn't important to the folks that can't come during the day, environmental services, raising your sewer rate, proposing taxes, street paving, all those things. If we're really concerned about getting the most people involved, let's scrap our current system and have two night meetings a week. We can have it Monday and Tuesday. We'll be here for the night, we'll get a higher participation, but otherwise I can't -- I can't support the memo, because I want the flexibility to bring things faster to the council to get approval or if a council member, as we all know, we have the heart and beat of our district, we know what's hot or not hot and I think we need that flexibility and this unfortunately shackles us.

>> Anybody else on the motion?

>> I'll be supporting the motion for the reasons stated. I think that we're not always going to know and I think in those cases that we don't, a lot of residents don't know -- don't know frankly where we've been doing this. Not until you have a project near them that it's relevant to them. I think it's up to us to really look out for the residents, present and future.

>> Council member Liccardo?

>> Emphasize if there's a really urgent economic development priority that needs to move forward, you know, the rules committee is always free to set another evening meeting. I don't think you're going to get any objection from any of us. We recognize urgent economic developments.

>> The maker of the motion accept, then, allowing the rules committee, when needed, a motion to come -- item to come during the day instead of scheduling a night meeting? Simply allowing a commercial and industrial application to come through during the daytime?

>> I think the rules committee has that power. The question is where the default is set, am I mistaken?

>> Different kind of noticing sets it for an evening meeting, 7:00 p.m. When it gets to rules committee, it's already been noticed for a certain time and place so we lose the flexibility being able to move it.

>> My friendly amendment is to give us the discretion when something comes forward to have it heard during the day. I apologize, the way I understand your memo, it locks us into evening only, even if we want to move forward quickly.

>> I'm not clear as to why if it's an urgent matter, why you couldn't set another evening meeting on the same day. If it's really that urgent, how many items are that urgent they depend on two weeks' time delay? If they do, set something up.

>> We have used the afternoon sessions to use items we don't feel warranted waiting for the NEC evening meeting. We would schedule those for the next available council date on the afternoon. It would be notice for 1:30 rather than 7:00.

>> We've been doing that for a long time.

>> About a year and a half.

>> The problem I have is that -- frankly I do have recollection of projects set in the afternoon where we had significant public interest. Frankly, let's face it, we're all here at city hall and don't know exactly what is ruffling feathers out there when it comes all kinds of impacts. I'm just concerned about that kind of practice, particularly as we get more and more busy with land use.

>> I'm not comfortable accepting the friendly amendment. Going backwards, I would be willing to leave the discretion, honestly, in the hands of planning staff and with all due respect to the wonderful folks on the rules committee, I'm not comfortable putting that decision in the hands of the rules committee. I'm comfortable of planning staff as opposed to the rules committee, determining which ones should go where and what time. As I understand it, as you pointed out, they have done that and generally at the end of the day, agenda is approved by the rules committee.

>> You can move items from the amp to evening or vice versa.

>> They tell us which ones they think should go in the afternoon or evening.

>> You've never gone different from their recommendation?

>> If you publicly notice it and mail it out to the people for 1:30, you have to have it at 1:30 or some time after 1:30. If you publicly notice it for 7:00, you have to wait until 7:00 to hear it. It's the legal public notice that locks the agenda and the time you can hear it.

>> Thank you.

>> Council member Constant then Oliverio.

>> I think what's important here is what the default is. Staff knows the ones that have significant public interest. They have seen -- they get harped on early in the process. They go through the planning commission. They know when there's a lot of interest, and I think we should as we used to rely on them in the alternative, we should rely on them to say the default is 1:30, but when you know we have public interest, bring it in the evening, and staff is at rules every week when we have land use items and they are there and give us the information, I think it's a good practice. So -- and as said, if we know something in our district is going to have significant interest, we should be able to tell planning this is what I want at night, because my residents want it at night. And I know every time we've had a dealing like that with planning, they say, okay, we'll do that. I think that's where it should be.

>> City attorney, the way I understand the motion on the floor, planning staff would have no discretion to come to rules and have a land use item any other time other than 7:00?

>> That's how I understand the motion, yes.

>> That, I find, I mean, it gives us no discretion at all to have a land use item heard during the day to speed things up for economic development. I can't support that.

>> My understanding, actually, direct staff to return to the previous practice of indicating the public hearing notices. In other words, we rejected change to the existing practice. Simply requires that there be at least one city council meeting a month that's scheduled at 7:00 p.m. and retain the previous practice. So I'm not certain I understand --

>> That needs to be clarified. The memo, I'm looking at item number 3, it talks about public hearing notice for land use items, talks about previous practice but references 7:00. If that's the intent, to give staff that ability to do 1:30 noticing, let's make it clear and we can proceed.

>> My read of it, how I was planning to implement this would have been for nights there are council days with an evening session, the land use items would be noticed for 7:00. If there are other items we think from a scheduling standpoint need to move faster, we'll bring them in the afternoon and notice them for 1:30 but we would not notice items like today for 1:30 until we said that that item was going to be on the 1:30 agenda specifically, you know, we would be more time certain.

>> Joe's explanation is consistent with my understanding.

>> That's what has to be clear on the rules resolution. You have a rules resolution that governs it, I want to make sure it gives him the flexibility. We'll make it clear that's the intent of the motion.

>> I'm looking at the recommendation in paragraph three. So my understanding is what Joe articulated reflects fairly what's in paragraph three.

>> Rocha?

>> Ask a question going backwards. Let me use the example of Santa Rosa for nightclub use, et cetera. I remember asking a question why that was on during the day, I got the impression, maybe I'm not recalling this correctly, a decision was made at rules.

>> No, actually, it was the city staff. City staff felt because it was an office development primarily with key economic development importance, that the afternoon was the appropriate time to notice that one.

>> Okay. Thank you.

>> Council member constant?

>> Thank you, council member Oliverio for bringing up the point. I think it's a really important point, and we don't want to hamstring staff, so I would like council member Liccardo to clarify the resolution is going to say what Joe's interpreting it to mean.

>> I didn't write a resolution, and my colleagues didn't write a resolution, we wrote a memo, and paragraph three says direct staff to return to previous practice. What I articulated, I understand there's going to be exceptions, but I think it's consistent with what Joe just articulated.

>> I just want to make sure, because I was hearing something different from Rick.

>> All I'm saying is that you have a rules resolution, it's a rules of conduct resolution. This is where the notice and provisions are contained. Your memo speaks only of 7:00. I understand the previous practice and I want to make sure there's the intent and if staff feels it has to because of urgency reasons, I want to make sure that's in the resolution. This council may understand this, this planning director may understand it, but five years down the road you may not have the same thing, so I want to make sure it's clear. That's all I'm saying.

>> My direction is whatever Joe said, make it so. We're on the same page.

>> Thank you.

>> Thank you, captain.

>> I want to understand clearly, city attorney, any given Tuesday, whether it's day or night, we will have the flexibility to have a land use item, day or night?

>> If the planning director notices it for 1:30 because of economic development or need to bring a matter quickly, yes, you will.

>> Okay, thank you for all the clarifications. Now we have that flexibility. When I read the memo first and asked you, city attorney, it was all about 7:00, which I felt was going to hamstring us. On that clarification, I support it.

>> Anyone else want to talk on this? I think not. Based on the memorandum clarified here, all in favor? Opposed? Okay, we have none opposed. Motion carries. Now we can go to land use items.

>> So quick I didn't even catch it this afternoon.

>> I thought we did 11.3 this afternoon. 11.4, Mr. Mayor, is the off-sale alcohol for grocery store. This is the first of the projects coming through with the new rules we enacted on the planning condition providing recommendations to the city council. You'll notice in this case the planning commission did recommend the council approve the alcohol recommendation for the come because of residential, the commission could not make the -- actually, approve it. Both recommending approval of off-sale.

>> Motion to approve, correct?

>> Correct.

>> Requests to speak on this. I'll take that now. ARULIO Sanchez? Still working on the one-minute rule.

>> Hello. I'm here regarding the Lyon's market alcohol and beverage license. My main concern is most single cans of beer be sold are those single tall cans. We have a 711 and liquor store next to the to be Lyon's market and we also have a huge problem of panhandlers loitering and sales of alcohol in this area, so that's the reason why I'm here. I did speak to ABC, unfortunately, I could not do a protest. This is also a very high crime rate area, so I want to make sure the city council gets this rate, since they are just opening up and applying for this liquor license. I also would like that there be cosmetics involving this market. This area is very blighted --

>> Sorry, your time is up.

>> Okay, thank you.

>> We have a motion to approve. All in favor? Opposed in? Unopposed? That's approved. 11.5 is our next item. Appeal of a planning commission's decision to deny a conditional use permit.

>> Thank you, many mayor. This is an appeal of a denial for a conditional use permit for the addition of a car wash to existing tune-up business. Staff had recommended denial of this application to the planning commission based on noise issues and conformance with city's drive-through policies. The project does not have environmental review completed at this point, so the two options available for the city council tonight are to either deny the appeal, which would deny the ability to do the car wash on the property, or to send it back for staff and the applicant to work on the environmental review and bring it ultimately through the planning commission for review at a later date.

>> Mayor, is there any requests to speak from the public?

>> Got about a dozen questions to speak. Need to get straight on the sequence here in terms of administrative hearings. I've got an appellant and applicant, I presume. We will hear from first and the rest of the public testimony. Is that correct? What I don't know is who the appellant is.

>> My understanding the appellant is the applicant.

>> That narrows it down, then. We're going to hear from the appellant/applicant first. We give him five minutes, then take public testimony. The applicant can use the time however they wish, they can save some time after the public comment, if they wish, too. So I have HABEEB. I can't read the handwriting very well. Come on down, whoever is representing the applicant. Then we'll take the rest of the system. Come on down. You can use this time yourself, have your lawyer speak, however you wish.

>> My lawyer present here.

>> Okay, great.

>> Good evening, mayor reed and members of the city council. I represent the applicant. He has operated a small business in San José for some 20 years. He seeks to install a car wash facility at his premises. As planning staff has indicated or the director of planning indicated, the conditional use permit has very recently been denied for concerns over the noise issues. Unfortunately, the planning commission did not have the benefit or was not given the report from the acoustical engineer that he had supplied with his application. The acoustical engineer, Mr. Pack, is here today to address you with any concerns over the noise issues. In addition to that, the planning staff's opinions appear to have been based on there being no mitigating standards and there is a six or eight-foot sound wall that's been proposed to be installed to insulate the neighboring properties or the properties, several of them directly behind the smog doctor and car wash facility from any noise impacts. Unfortunately, the information that was conveyed to the planning commission appeared to be that the noise generated by Camden avenue, which is the street directly in front of the facility, which the sound engineer has evaluated at some 80 decibels at the entrance of the car wash, would be increased by the noise generated by the car wash, which is some 55 decibels at the entrance to the car wash. Unfortunately, that's not how scientifically how sound transmission works, and that's why the sound engineer is here to explain that. An analogy would be if there were 20 people whispering in back of me at five decibels, you wouldn't be hearing 100 decibels of sound. It just doesn't work that way, and the mitigating factors that are associated with this project would indeed insulate the neighboring properties from the sound transmission generated by the facility. In fact, it's our position that the sound wall that is to be installed will lower the noise transmission to the properties that are in back of the facility so that the installation of this project would benefit the home owners so they be insulated even further from noise generated by the adjacent Camden avenue. In addition to that, the main source of noise transmission from this project, the air blower, is directed at the street, not towards the residences in back of the facility, and since sound travels in straight lines, it's not going to bend around and go to the homes in back of the facility itself. The planning commissioners did not have the benefit of this sound study, and after issuance of their opinion denying the project several weeks ago, Mr. Pack, the sound engineer, has included a supplemental report. I have asked

that it be included in a packet before you in addition to several photographs that depict two other car washes in the neighborhood. And those car washes, since there was an additional concern raised by planning that what if the home owner in back of the facility installs a second story on to his home, that's not an unusual situation. There are other, two other car washes that are depicted in the seven photographs I've provided to you, one of those car washes is adjacent to a three-story building and one adjacent to a two-story building, residential structure, apartment structure, both of them have sound walls similar to the sound wall that is to be constructed in this facility, except for the two-story apartment building, that sound wall is even shorter than the one for this project. In addition to that, and perhaps more important, the residential facilities and these other car washes that are depicted in the photos, are much closer to the entrance to the car wash than the homes in back of the proposed facility. The closest home to the facility is almost 100 feet, whereas in the photos I've supplied you that have a sound wall and residential structures in back of them, the homes are approximately 40 feet from the entrance to the car wash facility. These facilities are now state of the art and they do not operate when the doors are opened or if the doors are malfunctioning. So I request that you approve this project and if there are lingering concerns regarding environmental quality, those can easily be addressed by referring the project back to planning --

>> Sorry, your time is up.

>> Thank you.

>> We'll now take testimony from everybody else who wants to speak. Again, we're using a one-minute time period for testimony, so please come down when I call your name. James chow. SATAR DELDAR. Jon Stewart.

>> Did you say one minute?

>> I said one minute, yes.

>> Okay.

>> It's late.

>> I'll dispense with good evening. I'm the architect. I'm glad to be here. We started this thing over five and a half years ago. I hope you never apply for a project in this city. Five years will kill you. Okay, I've done about 50 of these. I'm only 72 years old, but I'm still learning. In fact, I just came from a job site in Gilroy, which is bigger. Anyway, the purpose for the car wash is it goes to the storm drain, goes to the bay. Detergent, dirt, oil, everything. With this car wash, we have 84% recycled water. About 2% to 3% water goes to evaporation, 13%, 14% of water actually goes into the sewer, which is treated by the sewage plant, before it's discharged to the environment. Far superior. Okay? I think we can all acknowledge that. That's why I encourage you to consider doing this thing, approve this project, so we can improve the environment. Thank you.

>> SATAR DELDAR. Jon Stewart, Jim Kohn.

>> Good evening, ladies and gentlemen, I'm owner and founder of the international TV base. I started the television 31 years ago in San José, and we are the biggest television outside of Iran. This is the second time I am here to speak. First time was three years ago. Your mayor and council recognized and give me this plaque. I want to say this small car wash is going to help democracy and human right in Iran. Why? Mr. -- I know him almost 34 years ago when I came to United States. He is really pure person, helpful, and since I start my television, because we are fighting in terrorists in the Middle East and the Iran, and working for human right and democracy for Iran. He help us always. In 30 years, he never stop his donation. And I know with this car wash, I am not expecting technical things, but I know we have this small car wash --

>> Sorry, your time is up.

>> We're going to support the democracy. Thank you.

>> John Stewart. Jim Kohn. Go ahead.

>> Good evening, my name is John Stewart, I'm a resident that would be affected by this project, and I oppose it. I wish I could support the project and feel for the applicant and his business, but this project is flawed and will have a major impact on the surrounding residential properties. So I'd like to please ask you guys to consider the following before making your decision. Please, uphold the city council's policy 610, the 200-foot set back. This project is why it was written. Look at the financial impacts of the adjacent residential properties. Taking consideration the quality of life and the environmental impact on the neighborhood and look at the precedent this will set in the future, the impact this decision will have on the future locations of car washes within the city of San José. Thanks.

>> Jim Kohn. Philips.

>> Hi, my name is Jim Kohn. My property backs up to where the car wash is proposed, and I am totally against this car wash. Currently, there's a lot of noise just from the smog shop there, and they have manual car wash and I sit in my backyard and hear the car wash, I hear their compressor going. There's quite a bit of noise, people back there, people talking, every once in awhile, there are people popping their heads up over the fence. There's a 6-foot sound wall there now, an 8-foot sound wall is not going to make any difference, I don't believe, in changing anything. That's basically what I got. I don't want a car wash in my backyard, just I'm sure none of you want a car wash in your backyard. That's what I got to say.

>> Good evening. He's my brother. I support him 100%. Not because he's my brother, because he has been working very hard for the last 20 years at this smog doctor and running the place very great and smooth. Even with the bad economy. He studied automechanics back in the 1980s and 1990s. He had been working very hard for the city the last six years and with all the necessary documents to obtain the license for the car wash. I hope he gets his car wash license this time, because he has been working very hard with the city. Thank you.

>> Philips, Edwin.

>> I have known him for many years. And I always go to his smog doctor shop for services such as a smog and oil change. He's extremely cares about his customer service and make sure all his services are provided according to his customers. Even goes extra miles for his customers' satisfaction. At one time, he told me he's planning to add a car wash as additional services for his community and to be able to provide more services for the neighborhood. And I told him, how nice to hear that, and I wish you all the luck. Today, I'm here to support him for his car wash as one of his happy and satisfied customer and hoping his permit will be granted. After all, in this tough economy, we hear from administration to grow small businesses and expand them. In order to expand and grow in this economy --

>> I'm sorry, your time is up.

>> Thank you.

>> Edwin, Bill Harris.

>> Good evening, I like to indicate I used to work for Mr. BABANI for over five years. I have served over 3,500 people per year over there and I'd like to indicate we never had one single customer ever complain about our business or the way we treat the customers. So what I was wondering is, after five years there, never had any complaints or anything, I would like to have you people consider that he have the right to have his car wash. Thank you very much.

>> Bill Harris. Jeff Peck.

>> For 18 years, I've had the pleasure of knowing this man. He has helped my family. He has worked on my childrens' cars, my wife's car. He's taken care of my business vehicles. I have never seen him do anything that would question his integrity. I have watched this man in his community become a respected member of a political group that is now watching you, and I'm wondering what you're going to do. This guy is an honest man. He's

forthright, he's straight. I come from a woodshop teacher's background, a counselor's background, and administrator and schools background. We are being looked at, and here you are, folks, you get a chance to vote on it and you get a chance to see and let this community know what your values are. So thank you for your time, and I will say that Bill is one HELL of a fine guy.

>> Jeff Peck, Bill BABAHANI.

>> Hello. I am his landlord at 2270 Camden avenue in San José. For the last 20 years, I have not recited any complaints from the city of San José or the neighbors. To be honest from anyone, he has suffered so much in the last four years to pay his rent, just like many small businesses around here. We have lots to offer from, we have gotten lots of offers from big companies to, I'm sure, and I'm sure there's more that will come around. Because of his integrity and his honesty with his neighbors for as long as 20 years, I would like to grow his business and to create more jobs for people who don't have jobs. We will pray for him to hopefully get his permit. Thank you.

>> Jeff Peck, Bill, Howard Elden.

>> Good evening, I'm the president of Edward Peck associates in San José. My company just completed its 34th year. I have completed about 30 car wash projects in the past, dozen of which right here in San José. Three years ago, I conducted the study for smog doctors car wash. That study concluded there would be noise impacts, I therefore recommended the car wash option of a set of doors be implemented. Those doors close during the entire car wash cycle, including washing and drying. That would prevent sound from emanating from the dryers. The sound walls that were proposed are designed to mitigate noise from the vacuum systems, which will be situated near the rack and road facility. The existing fence on the residential property line is not a sound wall. It does have gaps in it, it's not a valid acoustical barrier. The sound wall will provide a little bit of additional noise reduction for those residences and in cumulatively with the car wash noise, there will be a very small overall increase in the noise environment by a matter of a couple of decibels.

>> Sorry, your time is up.

>> Okay.

>> Howard Elden, Matt Kempcar, Bill BABAHANI.

>> Good evening, ladies and gentlemen, I am Dr. Howard Elden, my specialty is family care and I'm highly qualified in my career and I work with the organize. From the -- I talk about this project just from the health point of view. I think that it is not any environmental hazard or health hazard, absolutely it is quite good. Then from the other point, as I am a member of many volunteer organizations, we are supporting that project to be a pilot project. We have our group we have more than 25 small businesses. We'll be having all of them through the next six months. And one of them is that project and it will be a pilot project.

>> Sorry, your time is up, sir.

>> Matt and Bill.

>> Honorable mayor and city council, thank you for the time you're giving me to speak. This gentleman wants to expand his business, which is something we encourage in this city. To this day, I don't know why the planning commission never received copies of the sound report when sound was a major issue in this case. The 200-foot separation case, there is a chevron two doors down from this site. They received their car wash permit when nearby residents across the street is less than 20 feet away. So I think we need to apply the rules uniformly. As far as why doesn't he start a retail business, I know we encourage retail. Here's a list of the retail this area is retail saturates. There's a Starbucks coffee company, hotel, hot dog, Indian restaurant, foster feed, gas stations, subway, taco bell, stereo place.

>> Time is up.

>> So this area is saturated.

>> Last speaker is Bill if he wants to speak. He has a cards, so if he wants to speak, he can speak. Your lawyer has already spoken, it's up to you.

>> Hello, everyone. Customers send a notice, my neighbors, all the way around, I didn't get any notification. I just found out last week I had a court date. I had my lawyer, my landlord on my appeal letters but I did not receive any letters or phone calls from the city. I could have missed this court if I hadn't come last week.

>> That concludes the public testimony. Any additional from the staff in response to the testimony or anything you need to add?

>> Just a couple of thoughts, Mr. Mayor, quickly. The issue with this site is not the environmental issues related to water. We agree that car washes are much better than washing your car in a driveway. We do respect the commitment of the business owner to the community for the long-running history. This is really related to the noise issues. At the planning commission, we had extensive discussions on the noise issues of this site, and as a part of that, it's really because of what's over the fence and that you heard from one speaker, the gas station in the area has a car wash. It does not have a residential across the property line. It has an office building that sits behind it. There are residential across Camden avenue, so there are different situations. It is the reason we do have the drive-thru policy to deal with these issues. The other last issue that I think is important related to the noise in this, I think you're all aware that the city has -- is loud at times. When you stand in the roadways on a major street at 5:00 in the afternoon, it's much different than a Saturday morning at 10:00 a.m. In this neighborhood, the traffic volumes do vary pretty dramatically from this early morning hours, weekend hours, to the evening commute. And so part of what our concern as a staff is our benchmark should not be considering what is the worst of noise in the neighborhood and making sure we're not worse than that, but when is it residents will be wanting to take advantage of the quiet? They've gotten home and want to enjoy the summertime, being in their backyard, and if you have a car wash over the back fence that is operating with a vacuum right at the property line that has all the cars stacked up going into the garage for the car wash at the property line and in the car wash

tunnel pointed at the residence, we think it puts too much pressure for that interface. That's why the staff recommended denial and I think why the commission recommended denial.

>> Council member Rocha?

>> Thank you, mayor. Thank you, Joe, for doing a recap on some of the issues. You answered a few of my questions. I'll start with I support the concept of a car wash on this site, 100%. I'm not sure if it's illegal, but currently, the hand car wash going on there is where I get my car wash. Probably shouldn't have said that. It will end up in some literature somewhere. Again, that's impactly where I go and I think it's conducive to a car wash. My concern, if you won't mind showing the overhead, was the location of the car wash and forgive me, this is handwritten, the black area on the bottom left of the screen shows where I believe the proposed car wash is not to scale, again, just from my hand, and the red would show the circulation on site. I don't know if you could speak to some of the discussions that you've had with the applicant in terms of circulation and location on the site. I'm sorry to say the applicant never called my office, I didn't have a chance to meet with him to talk about this issue, not that they have to, but I would have outside of just listening to the planning commission testimony and staff report, would have been easier to have a discussion about this and talk to you about why the decision was made to have it there and why there was no effort made to move it or address issues the planning staff made. Go ahead, Joe.

>> Thank you, council member Rocha. Staff did look at options where to put the car wash on the site. Part of the challenge was working with the existing buildings on this property, former gas station. Ideally being able to put the car wash tunnel or building actually out at Camden avenue would have been probably the best location to get it further away from the residents, would have gotten probably about 80 feet of separation.

>> You mean under the overhang there?

>> I think it's a real challenge just because there's an existing tune-up business that's also operating on the site and how the garage doors operate for that, it would have cut off access into that part of the business. I think if it

was a scrape to site clean, might have been some flexibility. You see that in the letter staff wrote that I signed in 2008 to the applicant saying while we had concerns, there might be a solution that worked, but we hadn't seen one yet and went through all the things we talked about tonight in that letter in 2008.

>> What about the east side of the building where you shows the entrance?

>> Let's see --

>> Top of the screen on that side of the building.

>> One option might be to put it so it would be on essentially the right side of this picture so that the cars coming out would exit right out on to Camden avenue and stacking can come the other way. It pushed it, again, further away from residential. Still has the issues of how the stacking wants to sit up against the existing residential, but it would put more separation, probably another 50 feet of separation in.

>> Did these conversations happen with the applicant or wasn't there that kind of dialogue on this application?

>> There was a number of sketches, but I don't know what we showed. I think that was part of the frustration you heard from the applicant tonight, staff went through a number of iterations about how to try to find a STUGS and finally we just came to the conclusion there was not going to be a solution that was achievable with all of the constraints of working around the existing building and just where the residences sat on here.

>> You talked about two options here, one to deny the appeal and the other to refer back to staff the environmental --

>> Correct, so the other option would be to complete the environmental review process. You heard the applicant talking about the noise reports. The noise reports happen through the environmental review process. We did have some information available, and that's what we shared through the commission. I think as a part of the item

coming forward to the commission, some things crossed of where our packet was in going out and this was information coming in, but at the commission meeting, there was an extensive discussion about noise issues and different solutions. They heard quite a bit of testimony about the door system and how that would work, and I think when everything's working well, that works. I think the concern we have with staff is when it doesn't work, then it creates problems for the city to deal with enforcement on it. It's just, you know, it's always good in the first year. It's really in the year ten or 15 and how this car wash will still be here is how that really operates. That's been our concern to have that kind of a solution in such a tight circumstance really dependent on technology we haven't used here in San José.

>> Within the scope of that referral, could we -- could a discussion happen about site location again, or has that horse left the barn and only be into a referral to talk about the context of this specific proposal?

>> Well, we would deal with it in this specific circumstance. The council said go back, see if, in fact, there is a solution, applicant, go do all the environmental review. We will go do that. It's whether we end up in a different spot. At this point we're skeptical there's a solution.

>> Give you a hypothetical. What if they proposed another location on the site, would they have to start the whole process over and the time and application fees, et cetera, or could you talk about it within the context of this application?

>> It would be a context of this application.

>> Can I ask a question, vice mayor, can I ask a question of the applicant if they are willing?

>> Uh-huh.

>> My client indicates, yes, of course, he would consider an alternative location on the site, if possible.

>> That would wholeheartedly refer back to staff. I would reiterate my support. Given the site location, good choice for a car wash, but again, little bit concerned given the testimony I've heard from the planning director and action from the planning commission we haven't vetted that out.

>> I would ask also you placed your primary reliance on the report from the professional acoustical engineer. The planning, with all due respect to the planning commission and planning department, their opinions on this project are not based on expert opinion. And just from litigation, from a litigation standpoint, I know as an attorney, judges and triers of fact have to base their opinions on experts. And professionals. That hasn't been done in this case.

>> Do we have to make a decision solely on the noise or can we make a decision if you don't mind staying as a planning director or council, can we make a decision solely on the location of the proposed addition?

>> The council could make a decision tonight based solely on the drive-thru policy, which says you shouldn't do this.

>> Okay. Then I'd like to refer back to staff to have further discussion with the applicant on this.

>> In addition, as far as a drive-thru policy is concerned, that's the reason for the mitigation that was implemented in this project, the sound wall and the acoustical engineer is here to address some of the concerns that were raised tonight in rebuttal if you would allow him a minute or two.

>> I'm comfortable with a minute, if you don't mind.

>> Your decision, not mine.

>> That's okay, you can ask questions. If you can be brief and gist answer the question.

>> If you could run the question by me?

>> Actually, I didn't have a question.

>> He was asking the noise consultant to speak to the issue.

>> I'm the noise consultant. The drive-thru policy, as far as I know, applies to fast food drive-thrus because of the menu board speakers that make noise. I don't know that being applied to a car wash before. I haven't seen that. I know the chevron car wash is about 80 feet from some apartment buildings, three-story apartment buildings that has a tall sound wall, but certainly closer than 200 feet. I don't recall a drive-thru policy applied to that a few years ago.

>> Thank you.

>> I think you asked a question about whether is the car wash could be another location?

>> Yes.

>> Now, I raise this question before, your ordinance says you're treating us like a McDonald's. We have to have ten cars cueing up to the car wash. I think all of you have seen car washes. Because we have to follow that mandate of having ten cars, no matter what we do, that red line of circulation, whether it's this way or that way, you're going to get that many.

>> I think we have a discretion, though.

>> Five cars is more than enough.

>> Five cars is the policy.

>> I know, I understand your policy. I'm talking about reality, okay. I've done over 50 of these things. I know, and you all been through car washes at gas stations, you don't see ten cars or five cars. We were told by staff we had to show ten cars on the property or they won't accept the plan.

>> I think he's saying five now.

>> He's contradicting, his staff contradicting him.

>> I can't speak to that.

>> I know, I've been after this for over five years for this group. It's frustrating. That's what I say, I hope you guys go through what I have to go through. My client would have quit a long time ago, and I keep telling him to quit, but he won't. To his credit, I've had about 20 clients who quit after one year, you know what, screw it, it's not worth it. This city does not want us to do anything. I just had a meeting with a client this afternoon, he says I'm buying property and I told them not in San José.

>> Excuse me --

>> Thank you.

>> The answer is it doesn't matter -- you still have to have ten cars.

>> I'd like to refer back to staff, again, if I could. Well, I'm not going to belabor the point. My motion is to refer this back to staff for further discussion and I really want to thank the applicant for their diligence and willingness to invest in San José and apologize for delays on our end and I hope you're willing to continue this effort and have more discussion with our planning staff.

>> Okay. We have a motion to defer this item back to staff. Council member Liccardo?

>> I had a question for the applicant. I guess you're contemplating beating your head against this wall again. I just want to ask if the case is that the existing use repair shop, I'm sorry -- smog shop, thank you, smog shop, if that business is fairly marginal in terms of ability to sustain itself, any consideration in simply given the constraints you have on this site of scrapping the building that was originally suggested? Is that being considered at all?

>> Could you please come to the podium?

>> In answer to your question, council member Liccardo, it's been proposed by the planning department, but that's similar to asking him why don't you just become a brain surgeon. This is what he does. This is his life. He's been doing it for 20 years. Automobile-related functions. The business is simply not amenable to being operated as a fro owe shop or SHOM type of retail shop.

>> I'm not suggesting --

>> I'm not saying you are.

>> He wants to get in the car wash business since 2007, August of 2007, September of 2007, planning is consistently saying it's not going to work here, right? So my question is, if he decides he wants to get into the car wash business, why isn't he getting in the car wash business?

>> Because our position is based on science and sound analysis and sound acoustical engineers and the planning department's position is not.

>> Did you submit that? Sound study?

>> Yes, that's what I was saying during my initial presentation, not only was the sound study submitted to planning, but planning did not submit it to the planning commission at the last hearing. They didn't have the benefit of that. And my client, by the way, was also denied the right to appear at the community meeting where the project was discussed. He couldn't present his position to the community, he never got invited. I didn't even get notice of this proceeding tonight. I wouldn't have known about it unless I told my client to go to the clerk's office and see why haven't we gotten a date yet and he happened to find, well, they've already set it for the 23rd and we never even were given notice of this proceeding.

>> Do you want to respond to that notice issue? Seems it's come up a couple times.

>> I have been noticing we sent out 127 notices. I don't have the actual list of who was in the 127 for tonight's meeting, so I'm going to go check that tonight -- tomorrow morning.

>> You hadn't heard this.

>> Hadn't heard that. They are both listed, they would both have gotten the notice when we sent it out to the community of tonight's meeting, which would have gone out before tonight's meeting.

>> Okay. It's planning's position they only need to have five in the cue, is that right?

>> Council policy says five in the cue.

>> Okay. Thank you. I appreciate council member's Rocha's sincere effort to find a compromise. He's been a community leader. I think there is a concern, we've had a policy, it's pretty consistently applied, as I understand it, and I think planning has been fairly consistent from day one, so I'm certainly willing to look at another iteration, but has to be serious consideration to a substantial change in this site and it may be the case that we're trying to fit it, square peg in a round hole here, that may be scrapping the building. I'm okay to what another modification might look like, but the policy is fairly clear.

>> Council member Kalra, I think, is next.

>> I support the direction council member Rocha is going to at least give an opportunity for more dialogue if there was any information for whatever wasn't fully vetted, at least that opportunity will be had and the applicant has gone through a very long process and will have to suffer through even a longer process and has to understand at the end of the day, the result still may not be the one you'd like. So just be cognizant of that and open to different suggestions that are presented and we certainly want you to be able to be successful in the kind of business you want to operate, the smog shop and car wash, no reason for us to in any way be opposed of that, but we do have to abide by the certain restraints that we have. So I would like -- sounds like there's more to be done there. Hasn't necessarily been a full vetting of some of the issues by all the parties, so I'm hoping with the work of the planning department and the applicant and with the guidance from the council member Rocha's office that hopefully we can come to some understanding of what we can go forward with, because at the end of the day, I think it is a benefit to the community to have something done there, because it looks like a building that's been there for some time, so investment, this could be an opportunity for neighborhood investment, neighborhood business, so it could be a good outcome in matter how painful the process is.

>> Council member Rocha?

>> I want to thank planning staff for their work and this item is on an evening agenda, thank you.

>> I think that's it. We have a motion to refer this back to staff. Anybody else on that motion? On the motion, all in favor? Opposed? We have none opposed, so it will refer back to staff. Motion carries. That concludes our agenda, except for the open forum. Open forum, please, come on down. Again, we're on a one-minute rule. If you're still here. Now is the time for open forum. Come on down, please.

>> Good evening, mayor and council members. I'm one of the owners of cab. I've been driving four or five years, but lately at San José airport, we've been getting citations to drop off which doesn't make sense to me. In 50

states, I never heard that a single city that requires drop-off permits, plus, these citations, they are not even by the San José police department. They are just a bunch of scared guards and don't know the laws or anything. We said if we need the permit, why don't you allow us to pick up two? At that point, they said, no, we can't. It's only the drop-off permits. We've been getting 20, 30 citations in a week and money's adding up. It's already up to, like, \$2,000 within a week. This never happened before. Thank you. I think all three want to talk about the same thing. We'll do that when we get done.

>> I'm here to speak basically on the same thing, I'm lacking some better words. This is basically a rip off by the San José -- not authority, I don't think they are authority. These are private security guards citing us for this matter that should be handled by police officers. One, there shouldn't be a permit to be required to drop off. I don't know any city that does it, San Diego doesn't do it, name it, they don't do it. A permit to drop off, how would we even handle that? Permit to drop off a customer? I drop him off at the border, Mr. Mayor, I can't get into San José, I don't have a permit to drop off into San José. This simply doesn't even make sense. This matter looked into immediately and these security guards issuing us tickets without a badge number, no driver's license, no name of the driver, they are simply writing the cab number on the back and issuing citations worth \$250 each for a dollar fifty that's a drop off.

>> Good evening, I'm an independent contractor that works for slick valley cab and I just wanted to come here and share a situation that I went through at the airport. I was basically -- I thought I was harassed and singled out and targeted for this citation and I think it's completely unnecessary that hard working individuals like myself that just want to make a living driving people around have to go through this kind of stuff and we're told that we can't even drop off at the airport, which is 30% of our work. When we get these tickets, \$250 ticket, two in a week, that's what I took home everything, gas is \$5 a gallon, it's ridiculous, this needs to come to the forum, you know. This is keeping me out of trouble, this job. It's important to me that I came down and instead of working tonight, came down as an owner/operator, brought it to the table to let you know we want a permit, want to operate, but want it to be a level playing field so we don't have to deal with yellow cab.

>> Your time is up. We'll refer these to our assistant city manager to sort out whether or not they are being properly cited, et cetera.

>> Mr. Mayor, members of the council, be happy to talk to the individuals about the situation. I would note for the council, it's part of a couple of prior actions. I believe the actions are consistent with prior council direction on a couple of fronts. One, dealing with the taxi cab regulation at the airport where nonairport permit taxi companies are required to require a permit as effect of equalizing the service costs at the airport. Second, that the issuance of citations by contracted parking traffic control officers were part of the service delivery at the airport as part of the current fiscal year.

>> You'll talk to these folks and make sure they get connected to the right people and get the right answers. Okay, that concludes the open forum. Concludes our meeting. We're adjourned.