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>> Mayor Reed: Good morning. We have a quorum. I want to call the meeting to order. We have one item, on the agenda, early, that's the labor update. There is no labor update from the staff. I have one request to speak, we'll take the testimony now. Michael Seville.

>> Thank you, Mayor Reed. Councilmembers, my name is Michael Seville. I'm the acting senior representative for IFPTE local 21. I wanted to introduce myself to you all. As many of you know Nancy Ostrowsky resigned late November early December. I was a prior political director then I went into private practice, labor attorney, and I was asked to come back to fill some rather large shoes. I look forward to working with all of you. Two points I wanted to make this morning. One is regarding local 21 suspension of participating in the coalition negotiations regarding retiree health care. I wanted to assure all of you that local 21 is committed to working in good faith with the city on a rather complex and difficult issue. The suspension is just that. It's not that we -- the union is stepping out of and terminating its participation, but rather, we made a decision that moving forward, with the resources that local 21 has, we could better craft a proposal, a well-thought-out, well intentioned proposal and could work with the city in a constructive manner regarding that issue. The second issue is, deals directly with retiree health care. We are in receipt of the city's first proposal on that and we are currently going over the proposal, looking at some of the assumptions and valuations. But we do have outstanding information requests. At the last coalition negotiation session that local 21 was at, some vocal information requests were made regarding some numbers, facts and figures and assumptions that the city was making with regards to the positions that it was taking. We have not received any of that information. I understand that the coalition did receive some information at its last coalition meeting but we have yet to receive that information. And we look forward to receiving it. And just to follow up on that, yesterday I sent a formal information request to Alex Gurza the chief negotiator for the city and look forward to getting a response on that in terms of the goals and the aspirations that the city has in terms of savings. Local 21 has a history of working with San José on, you know, some challenging questions and problems in the past and around the Bay Area as well. And we're committed to you know going through the process, working in good faith with your negotiators and with you. I look forward to chatting with you individually and moving forward. Thank you. Just -- I do have a copy of the information request that was sent. I'll give it to the City Clerk.

>> Mayor Reed: Hand it to the clerk, please. Thank you. That concludes public testimony. We're going to adjourn into closed session. We'll be back in here at 1:30.

>> Mayor Reed: (gavel strike) Good afternoon, I'd like to call the meeting to order. San José city council meeting for December 18th, 2012, the last council meeting of the year. We'll start with an invocation. Our invocator is Sally Ashton, Santa Clara County poet laureate. Sally Ashton was named poet laureate of Santa Clara County in April of 2011. She is a poet, writer, teacher and editor of DMQ Review, online journal featuring poetry and art. She's a recipient of the artist fellowship, poetry from arts council Silicon Valley, and has been nominated twice for the push cart prize. And of course she is also an alumni of San José State university, our favorite university. Sally.

>> Thank you, and thank you for the invitation to be here, honorable mayor and councilmembers. Before I begin my formal remarks I would like to express my gratitude to this council and the City of San José for your support of the poetry on the move project which has enriched the lives of the people in the entire county in a really tangible way where art thrives we grow discloser to the better angels of our nature and I thank you for your support. Just last week I planned a very different invocation for today's council meeting. I had planned to talk about how poets in trying to make the world look like what it feels like, learn to rely on close observation of the sensory world. We were going to specifically consider sound. And the difference between hearing and listening. I was composing a poem just for the council around this consideration. I planned to read that poem and then wish you all a quiet season of listening in the days ahead. Then came last Friday ask horrific shooting and the world as it does, as it will again changed. And I thought that instead of talking about how poets rely on the senses to choose words, which is true, that I should talk instead about Ohio how poetry makes sense. With words or through words or even by what lies under the words. Poetry not only says what is often unsayable, it says it in a way that lets us recognize something of our own experience in it. Poetry offers a way in. Yet how can we make sense at such a time? People turn to poetry in times of crisis. We saw this at 9/11. Poems posted ton Internet and read on TV. Poetry is our earliest collective expression of what it means to be a people. Of how life is ordered. Perhaps because poetry still endeavors to express what it means to be here, alive, now, people still turn to it and find consolation in the pattern of words. Poetry takes the are spiritual and searches for the universal spirit that inhabits it. Poetry gives shape to that experience. In poem number 372 Emily Dickinson begins a consideration of grief. She writes after great pain a formal feeling comes. Dickinson concludes: This is the hour of lead. Remembered, if outlived, as freezing persons recollect the snow. First chill, then stupor, then the letting

go. Stupor, it's a brilliant and exact word for grief, for shock, for the initial leaden feeling that paralyzes us when tragedy streaks. Stupor is not an easy place from which to write poetry. Usually, some degree of distance is required to gain the type of insight we hope to discover in writing a poem. That we hope to offer a reader so I bring today a poem written by Naomi Shiabnie, an American poet of Palestinian descent. The poem is written for her grandmother, who lives outside of Jerusalem, through telling a particular story about an old woman in a distant land, Nai is able to uncover a larger significance that connects to you and me. It's called the words under the words. My grand mother's hands recognize grapes. The damp shine of a goat's new skin. When I was sick, they followed me. I woke from the long fever to find them covering my head like cool prayers. My grandmother's days are made of bread, around pat, pat, and the slow baking. She waits by the oven some watching a strange car circle the streets. Maybe it holds her son. Lost to America. More often, tourists who kneel and weep at mysterious shrines. She knows how often mail arrives, how rarely there is a letter. When one comes, she announces it, a miracle. Listening to it read again and again in the dim evening light. My grandmother's voice says nothing can surprise her. Take her, the shotgun wound and the crippled baby. She knows the spaces we travel through. The messages we cannot send. Our voice are short and would get lost in the journey. Farewell the husband's coat the ones she has loved and nourished who fly from her like seeds into a deep sky. They will plant themselves. We will all die. My grandmother's eyes say, Allah is everywhere, even in death. When she talks to the dessert, when she talks of the orchard and the new olive press when she tells the story of Joe Haw and his foolish wisdoms he is her first thought what she really thinks of his name. Answer if you hear the words under the words. Otherwise it is just a world with a lot of rough edges. Difficult to get through and our pockets are full of stones. It is my hope that in the days, the quiet days ahead, through poetry or prayers, or sharing bread, or gathering together, we find the grace and wisdom, the words under the words for such times. Thank you.

>> Mayor Reed: Thank you, Sally. Next item is the pledge of allegiance. Please stand. [ pledge of allegiance ]

>> Mayor Reed: First item are the orders of the day. We need a couple of changes from the printed agenda. Items 1.3 a commendation and 1.4 a commendation are being dropped to be renoticed. Any other changes to be printed agenda order?

>> Councilmember Pyle: Move to approve the balance.

>> Councilmember Herrera: Second.

>> Mayor Reed: Mowing is to appreciate the orders as -- motion is to approve the orders as amended. All in favor, opposed, none opposed, that's approved. As noted on the agenda. This meeting will be adjourned in memory of Frank Lopez Sr, a decorated Vietnam veteran who served two tours of duty and earned a purple heart and two bronze stars. Returned to San José and later helped co-found the Vietnam veterans war memorial currently being built at conference point in Guadalupe river park. Frank Lopez Sr. returned to San José to teach and coach football at Mountain Pleasant, Overfelt and James Lick high schools. He passed away in November after a lifetime of service to our nation and to the residents of San José. Councilmember Liccardo has some additional comments.

>> Councilmember Liccardo: Thank you, Mayor. Remembering Frank today are many good friends who we will introduce shortly when the Mayor provides a commendation to the foundation, but also Frank's wife, Carol, thank you Carol for joining us. Frank was born in 1948 in San José, as the Mayor mentioned, attended high school and city college here, played football during the golden era of Bay Area football, playing with Hall of Famers such as O.J. Simpson and Jim Plunkett. He served as a marine in Viet Nam in 1967 and '68 and he was assigned to protect South Vietnamese villages from attack, and while serving Frank learned to speak Vietnamese and ate and drank water from the village wells. And that proved to be his undoing. Unknown at that time, those wells were contaminated with agent orange. And that toxin, 40 years later, would cause him, obviously, throughout his lifetime, serious health problems that led to his untimely death. His extraordinary courage and leadership as the Mayor mentioned left him with a purple heart and two bronze stars and Frank will widely be remembered certainly for his bravery in action but beloved for his leadership in keeping alive the memory of our fallen veterans. It was after the war when he returned to San José to work the local factory, married, start a family eventually went back to college became a high school teacher after he graduated from San José State and a football coach. And in the late 1990s was when Frank began teaching Vietnamese students who were, war, three decades after his final tour of duty. He was eventually diagnosed with PTSD and began treatment and it was during this time that he learned

that San José unlike other Silicon Valley communities had no memorial for its fallen veterans. And so in 2006 he began collecting the names of San José service men who had decide during the war and recruited other San José veterans to help and several of them are here today and we'll be introducing them during the time of the commendation. So Frank helped to co-found the nonprofit organization the San José Veteran War memorial foundational along with Dennis Fernandez and many others. After his retirement, he eventually stepped down from the foundation but his co-founders and friends continued his good work and his mission and they're here to honor frank and as a result of their collective effort and Frank's leadership the foundation broke ground on the sons of San José memorial. In October. Only weeks before Frank's death. Carol informed him of the progress of the memorial, something that kept Frank his spirits buoyed at that time. Frank died on November 24th as I mentioned of illnesses stemming from his exposure to agent orange. And although he didn't live to see the completion of the memorial which we will celebrate in 2013, his legacy lives on in that memorial and in the hearts of many who share his passion and reverence for those who gave their full measure. As Frank told the Mercury News in 2010, war is bad. But worse is forgetting their names. Frank Lopez's name will not be forgotten.

>> Mayor Reed: Thank you, Councilmember Liccardo. Before we get into the work of the day, I'd like to ask for a moment of silence for the victims of the tragedy at Sandy hook elementary school at Newtown, Connecticut. Our flags are flying at half-mast for the victims. Our hearts saddened by the tragedy and our hearts go out to the families of the loved ones so if we could have a moment of silence. [ Moment of silence ]

>> Mayor Reed: Thank you very much. Back to the business in front of us. First item, we'll do the closed session report. I'd like to report that in closed session this morning the city council approved the City Manager's recommendation of Julia Cooper to be appointed as the director of finance. And Roberto Pena to be the retirement services director. And I'd like to give Julia a chance to come down and say hello to the community and Roberto as well. So Julia.

>> Ed Shikada: Mr. Mayor -- [applause]

>> Ed Shikada: Thank you, Mr. Mayor. I'd like to take a moment simply to introduce Julia or perhaps reintroduce Julia to the community. Clearly, Julia is an institution already in our organization, and so it is with great pleasure that I'm able to, on behalf of the City Manager, announce and welcome Julia as part of the senior staff. This morning's action really exemplified the qualifications. Let me take a moment to acknowledge her family who is the real reason we're here this morning and introduce her parents Doug and Barbara Harper as well as her children, perhaps not even so much children anymore, Andrew, Sarah and Jonathan so thank you very much, for lending Julia to us. So with that, as the city council knows, Julia has been act as the finance director for a little over a year now. But that really has simply been the latest phase in her tenure with the city which began in 1987. She started her career as the assistant budget analyst for the mayor's office. And after concluding that tenure moved over to administration and has served as the City's debt administrator, deputy director in charge of the treasury division within the finance department and as assistant director for the finance department. Julia holds a master's in public administration from San José State university and a bachelor of science degree in political science from Santa Clara University. She's also been an executive board member for the government finance officers association. Affectionately known as GFOA and currently serving as a standing member on their government debt management committee. Her extensive experience and deep technical understanding of the city's financial operations will serve us well to provide steady leadership in managing our investment and debt portfolio as the department -- as well as the department as a whole. And then fundamentally, Julia's extraordinary ethical standards and integrity will ensure that the trust that we must hold on behalf of the taxpayers of the city and the City's finance department will remain in paramount importance to our organization. So really, on behalf of the City Manager who I know sincerely regrets not being here personally to congratulate you, congratulations Julia and thank you for joining our service.

>> Julia Cooper: Thank you, Ed, good afternoon, mayor and city council, Julia Cooper now director of finance for City of San José. I'm so humbled and honored to be here today assuming the role of director of finance for one of the greatest cities. San José is truly an amazing place to work, to live and to play. I want to thank Deb and Ed for all their support and encouragement over the last few years and especially over the last 15 months for as acting director. And I especially want to thank Debra for her support. Over many, many years. Our first time our paths crossed was in Los Gatos when she was coming in, in 1986 as the assistant town manager and I was leaving an

internship so we've known each other for a long time. It's also a very exciting day for me. I've come a long way professionally. As Ed mentioned, starting in mayor Tom McEnery's office as a budget analyst just finishing graduate school all the way now to being the director of finance. I've passed them, as some of my other colleagues that have been here for a long time, never really envisioned as they would stand here today. In the past 22 years I've worked with some really amazing and talented people in the finance department. Today is also somewhat of a sad day for our department, because we lost one of our most dedicated and committed members of our team, Winnie Rosenbloom, who passed away early this morning. When I wrote these comments last night, I really thought of people like Winnie in our department who work hard every single day ensuring the highest quality of public service and doing the work that's really largely invisible to you yet so very critical to keeping our department and our city running smoothly. From paying the bills to collecting the money to paying our employees to investing, billing, procuring goods and service, doing the citywide records management when you send stuff off, tracking financial activities, issuing bonds and ensuring against loss. So those are the things that you don't hear about, and it's good that you don't hear about it because that means we're doing a super job. I want to thank the senior staff team in our finance department. They've been extremely supportive and committed to excellent public service. Many of them too are working through new roles and responsibilities. So I thank Arn and mark, Wendy, Maria, Pat and Rachel, thank you, up there somewhere, yay. And finally I want to say without the love and support of my family, it's really hard to be successful. My mom and dad have been nothing but supportive to all of their six children, I'm only one of them and I want to thanks my siblings because they kind of start you in the with world about how to resolve conflict and collaborate to make sure the family runs smoothly. They are all from afar so some of them maybe watching on the Internet now. My kids Andrew, Sarah and Jonathan, they're really great. Andrew is just a semester away from graduating from college, and I'm trying to convince him that public service is truly honorable career. Sarah used to crawl up into my lap as a toddler and say read to me, read to me, I would read bond documents and she would promptly go to sleep so that away good. And Jonathan who sometimes not so patiently waits for me to finish that yet one more e-mail. So thank you. I truly love my job, there is no greater city to work for and I will ensure thank you [applause]

>> Mayor Reed: Roberto pena, come on down so Ed can introduce you.

>> Ed Shikada: Thank you, again, Mr. Mayor it is truly my pleasure to introduce be Roberto Pena, our new director of retirement services. Once again I know and I can speak with absolute confidence that the City Manager really regrets not being able to welcome you personally but I'm sure she's rooting for us from home. Mr. Pena was also selected after an extensive recruitment process in which both retirement boards were extensively involved. Police and Fire and Federated retirement boards. I believe I saw here Matt Loesch and Sean Kaldor. Thank you for your service and collaboration with the administration on this selection. Both boards are in concurrence with this decision. And once again would really like to thank the boards for your participation in the process. Mr. Pena has brought with us extensive experience including his bachelor's degree in business administration with concentration in accounting. His retirement industry, particular public sector retirement industry expertise will serve us well. He has had tenure and experience in the -- as the retirement administrator in the Fresno county employees retirement association as well as assistant retirement administrator with the Kern County Retirement Association and we'll put that experience to good use here. He's expressed a strong commitment to maintaining open and transparent communications with all stakeholders and providing excellent customer service to our retirees as well as active employees and plan participants as well as the city as the plan sponsor. I would really like to welcome Roberto and invite you to make a few comments as well.

>> Thank you, Ed. Thank you, mayor and the city council members. And congratulations to Julia. I don't think I have as much say as you did. But congratulations once again. I'm actually honored by this selection. I always wonder, and certainly very honored to be chosen for this position. And I am looking forward to working with the members of the retirement systems, the board trustees, and the city council, and above anything else, all stakeholders with the retirement systems. And I'm looking forward to working diligently on everything that is related to the retirement business and I can assure you that from me, you will get someone that will be to working in a collaborative approach with all stakeholders and that transparency will be key to make sure that we are all working together in a appropriate form to make decision he. Like I said, I don't have as much to say as Julia did. But again I want to thank you for the opportunity and I'm looking forward to working in San José. Thank you. [applause]

>> Mayor Reed: We'll now turn to the ceremonial items. I'd like to start by inviting Councilmember Herrera, Councilmember Constant and Sameer Vij to join me at the podium. As Councilmember Constant promised the previous meeting we'd see more Harker things. Today we're commending Harker school student Sameer Vij for his exceptional leadership in founding TIE youth a nonprofit youth entrepreneurship conference held at Tiecon2012 some the largest entrepreneurship conference in the world.

>> Councilmember Herrera: Thank you mayor. We welcome Sameer Vij and his family. Sameer Vij is a rising star at the Harker school and recently founded tie youth. An annual nonprofit youth entrepreneur conference that took place at tiecon, the largest entrepreneurship conference in the world hosted at the Santa Clara convention center in May. Tiecon's hosted by Tie, a not-for-profit global network of entrepreneurs and professionals that was founded in 1992, right here in Silicon Valley. I was at one of their first meetings. Although its birth name the indus entrepreneurs, tie now stands for talent, ideas and enterprise. It is an open and inclusive organization that has rapidly grown to more than 57 chapters in 14 countries. And San José takes greatly pride in its position as the center of world class innovation. And Sameer recognized the major interest among youth to pursue innovation and entrepreneurship. Being in Silicon Valley and seeing the limited opportunity for youth encouragement and involvement is what led him to inaugurate the 2012 tie youth conference. The inaugural tie youth conference allowed teens and young adults the opportunity to discover their passions in entrepreneurship and be inspired by local and successful entrepreneurs. The tie youth team included, they drove content for their two sessions themselves and did a fabulous job. Their session topics included inspiring young entrepreneurs and a young entrepreneurs guide to getting started. And additionally Sameer inviteworld famous entrepreneurs from Silicon Valley and abroad to speak, among them were Sun Microsystems founder Vinod Kosla, of Kosla Ventures, successful 14-year-old app developer and entrepreneur Cameron Cohen, Liquid Comics author and founder Gotham Chopra, and serious energy founder Kevin Sorais. Because of the amazing success Sameer and tie youth have been featured in the Mercury News, India West, Silicon India, and interviewed business Indaz TV that was broadcast on international Indian television. Sameer, congratulations on your outstanding achievements, and thank you for your hard work and dedication that will continue to provide a platform for students interested in entrepreneurship. This encourages other youth to pursue their passion and help promote awareness of young people's interest in business at one of the best ten conferences for ideas in entrepreneurship as listed in Worth

Magazine's Elite List. Keep up the great work, and with that I'd like the mayor to present the commendation to Sameer Vij for his exceptional leadership and commitment to the community motivating our future entrepreneurs. Would you like to come up and speak a moment, congratulations.

>> Thank you. I'm very humbled to receive this honor from the city in which I was born and raised. The idea for tie youth came when I was a volunteer at Tiecon 2011, the largest entrepreneurship conference in the world. Which is held here in the Bay Area. While I was there giving directions to people I realized that much of the experiences and elements conveyed by the speakers would be perfect for youth to be inspired to become the entrepreneurs of tomorrow. I soon created a business plan and pitched it to the board of tie. After they accepted, we held our first tie youth event at tiecon 2012 last May. With over 600 local high school and college students attending, and the world famous speakers such as Vinod Kosla, founder of Sun Microsystems and venture capitalist, we are happy that tie youth will now be an annual event held at tiecon. Thank you. [applause]

>> Mayor Reed: Next I'd like to invite Councilmember Liccardo to join me and Councilmember Herrera and invite down representatives of the Vietnam War Memorial Foundation to join us at the podium as we commend the San José Vietnam War Memorial Foundation for raising funds and completing installation of the San José Vietnam war memorial to be dedicated in late December. Councilmember Liccardo, who mentioned this earlier, has the details.

>> Councilmember Liccardo: So we are here honoring, thanking and commending board members and leaders, with the San José Vietnam war memorial foundation. They are led by Dennis Fernandez who is himself a decorated war veteran. He served with the army 82nd infantry division, earned two Bronze Stars and an oak leaf cluster with a V Device. His wife Sandra who is the CFO and she collects the checks and yes they are still fundraising, so yes, you can still contribute. We encourage you to do so. Jeffrey berg is an architect right here downtown with Steinberg architects and designed the memorial, which we will be celebrating the ribbon cutting in early 2013, Michael Solis, the CIO who is also a Vietnam war vet, and served with the air force in the F-4 phantom tactical air command, William Auture, a trustee, and also a vet with U.S. Army 9th infantry division, and also is a decorated vet with two purple hearts. This very distinguished group has been aided by various leaders in

the community who we also want to especially thank Chuck Toeniskoetter, and Bill Highlander and many others who are coming together to make this dream a reality, as was mentioned earlier, it was a dream Frank Lopez, Sr.'s in 2006, and ultimately this foundation, was brought together in 2008. And their determination to erect a memorial here in San José to honor the 142 soldiers who came from San José and gave their full measure in Vietnam, is finally coming to fruition. And they are a persistent and patient group and we're grateful for their leadership. The groundbreaking was only a few weeks ago in October. The -- we expect a completion with a matter of a couple of months. And if you want to see it under construction now, I encourage you to check it out. It's being installed at the confluence point in Guadalupe river park right here in downtown near Santa Clara street and 87. So with that I'd like to ask the mayor and Councilmember Herrera to present commendation to Dennis Fernandez, the president of the foundation. [applause]

>> Thank you so much to everybody, council, mayor, everybody on your staff. And always whether we speak, when we're out there building it truly is in the memory of our co-founder, Mr. Frank Lopez, a United States marine corps, and his wife who is in the audience. Behind every man is a good woman, she certainly meets that criteria. Thanks Carol. From the very beginning it's been a commitment to brotherhood for the 142 sons of San José who never came home from the Vietnam war. They registered here in our wonderful city and died on Vietnam soil. Ever since we took the oath to defend the United States and the constitution, in the name of freedom, it is -- it was instilled in us to leave no one behind. And that's what our mission has truly been all about. Our outstanding courageous group of five in our foundation, and all the volunteers that have stepped up, are truly the result of all of our success. We're not done yet. We're still in the fundraising mode. We have some wonderful events coming up next year. And without all the volunteers, none of this could be possible. Our comrades will be memorialized forever, and when you are memorialized, no one dies. They live forever and they are truly the true heroes. Thank you and God bless. Thank you very much. [applause]

>> Mayor Reed: Today is notable for one other item that we haven't mentioned yet and that is it is councilmember Nancy Pyle's last council meeting. I'd like you to come on down here Councilmember Pyle. Councilmember Pyle has served district 10 in the City of San José for the past eight years with dedication, enthusiasm and style. The public private partnerships that she built keep Lake Almaden open and construct new

soccer fields in Almaden valley are a testament to the tireless work she performed daily on behalf of her constituents.

>> Councilmember Pyle: Thank you, mayor.

>> Mayor Reed: I think we'll have some other councilmembers joining us as well, Councilmember Pyle.

>> Councilmember Pyle: Is this a roast?

>> Mayor Reed: This is not a roast, it's okay, don't sweat it, the roast comes later. Two years ago we started a transition of recognizing our outgoing councilmembers with a gift that honors them to the San José people through the San José Public Library's partners in reading book drive. We thought it was fitting to continue this tradition since Nancy began her career as a teacher and she uses the skillet she learned as a teacher quite often, they do come in handy. I'd like to invite Julie clickham manager of partners in reading to come down. Each of your council colleagues assembled here have picked a book, a favorite book to be donated to the partners in reading family, so parents can read together with their children. The list is on the overhead in case anybody's wondering who had what favorite books. Nancy is also our most well-traveled councilmember. Perhaps ever, having I think maybe set a record of visiting 44 countries, most of those before she got into the city council. And now with more time that she's leaving the council, perhaps she'll even get travel in that I know she enjoys. So she's an ambassador for San José wherever she goes. Extolling the things that make our city a great place to live work and visit. So I think it's fitting to close with a few words from a book selected on the above list. Perhaps you'll recognize the author, Dr. Seuss. Congratulations! Today is your day. You're off to great places, you're off and away. Oh, the place you'll go. You'll be on your way up. You'll be seeing great sights. You'll join the high flyers who soar to high heights. You won't lag behind because you'll have the speed. You'll pass the whole gang and you'll take the lead. Wherever you fly, you'll be the best of the best. Wherever you go, you will top all the rest.

>> Councilmember Pyle: Did you write that?

>> Mayor Reed: I don't have the skills. [applause]

>> Mayor Reed: And the books. We do have the books.

>> Councilmember Pyle: Well, I recognize 98% of these books. Some of them snuck in when I wasn't teaching anymore but at any rate, this is wonderful, what a great send-off. I really appreciate that. And I was doing this to my staff, because they kept this very, very, very secret. I had no idea that you were going to do this today. But I knew when they were still here that something was coming up. I just didn't know what. And I must say that I have enjoyed these eight years. Some days are not so enjoyable. But the majority of those eight years have been such a wonderful learning expense. And it's not just learning about things or actions or whatever it is that the city needs do. It's learning things about the people in this city. And their dedication. And their clever ways of solving problems. I tell you, this is one of the most dedicated earnest staffs I have ever had the pleasure to meet and I will go away with wonderful memories of each and every one of you. Thank you. Darn, I wasn't going to do that! [applause]

>> Mayor Reed: Our next item is the consent calendar. Items 2.17, 2.28 and 2.33, we'll pull off for --

>> Councilmember Constant: Mayor could I have 2.29 please?

>> Mayor Reed: 2.29 or 2.28?

>> Councilmember Constant: Boat.

>> Mayor Reed: And 28 will come off. There are some requests to speak, I'll take those now except for some that are pulled off later. I'm sorry. Councilmember Oliverio.

>> Councilmember Oliverio: 2.10 and 2.11.

>> Mayor Reed: Chris Sarbaugh and David Wall want to speak on the consent calendar.

>> Thank you, Mayor Reed and members of the council. I request a temporary deferral of this item and that it be referred to the transportation and aviation services committee for further review and investigation. The memo for this item is incomplete. Approximately four years ago, having been informed that the City Attorney's office stated that city regulations prohibit airport staff from discharging firearms which includes live ammunition, the airport willfully and deliberately violated city regulations. Airport staff, Mr. Sherry, John Aken, Kerr Ackerman, knowingly violated city regulations by obtaining a firearm from a San José police officer with the stated intention of using live ammunition to discharge a firearm at the airport. I repeat, live ammunition. It is -- is it legal for a police officer to give a firearm to an airport employee in violation of city regulations? The memo for this item was not coordinated with the state fish and game. The memo for this item was not coordinated with TSA at the airport. The memo mentions the wildlife hazard assessment report. This document has not been posted on the airport Website for the public to review. The FAA posts all its bird strike data on its Website for the public to review. The public has a right to see this report. The memo fails to indicate that with the wildlife hazard assessment includes specific recommendations. I believe one of those recommendations was that the burrowing owl management plan be incorporated into and be made part of the wildlife hazard management plan. Are Mr. Sherry and management at the airport above the law? Do they have to comply fully with city codes, regulations and city council spots? When airport managements knowingly violates city regulation, who holds them accountable? I've seen city employees fired for less. Thank you.

>> Mayor Reed: David Wall.

>> Item 2.34, your travel to New York City, to discuss pension reform. Sir, you've been on a travel junket on several different cities, Des Moines, Iowa, for one, San Diego for another, and now New York. I would like you to explain to people what is the benefit to New York or to San José rather, from you risking your safety, health and safety by flying around to these places, telling them about pension reform that actively served to break contract agreements with all city employees, decimate the San José police department, which is probably the finest police department in the nation, and which this council has just torn apart, and now you're trying to rehire police

officers. Decimating the fire department, all city departments, trying to withstand even on the consent calendar today there are several hiring agreements with outside firms, contract firms at great expense to the citizenry because of your actions that cause an atmosphere of no employee wants to work for you. Now, with reference to the police department, we now have, what, 43 murders now? I have no idea. I lose track of how many murders we actually have in the city. And this is due completely to your poor financial planning and to your abrogation of contract agreements. So Mr. Mayor I just want to know if you're telling the whole truth to these different places that you're going about all the lawsuits that have been filed and that are pending, especially from the Police Officers Association and the firefighters and all other city employees, about what you're doing. My own personal concern, too, sir is for your health and safety. Because flying around the country, you're invariably going to get a head cold. And that gives you a defense to some of the arguments that you make and some of the decisions that you make that you didn't do so with mental clarity. Thank you.

>> Mayor Reed: That concludes the public testimony on the consent calendar. I would like to note that item 2.11 was renumbered to 4.6 and we'll take it up immediately after the consent calendar matter. So is there a motion on the balance of the consent calendar? We have a motion to approve the balance of the consent calendar. Other than the items we're going to pull for discussion. On that motion, all in favor, opposed, none opposed, consent calendar is approved. We will start then with item 2.10, Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, Mayor Reed. For the City Manager and City Attorney, this is a lease agreement with the tech, which receives the city subsidy and tech's a great institution and they have their tech awards which used to be in San José and then they moved to another city's convention center for cost and some other reasons that are just the way that convention centers are organized differently. But I'm curious can we broach this subject during this lease negotiation or lease amendment to try to encourage them in what way we can move the event back to the San José convention center? It's a premier event, brings a lot of incredible tech laureates into the area and I just think it would behoove us since they are receiving a substantial seven-figure subsidy from us.

>> Ed Shikada: If I could, Councilmember Oliverio, I'm sure staff would be more than happy to engage that conversation. Perhaps Kerrie Adams Hafner has some more specific information. I would note that this is a good thing in that it is adding a capacity for some improvements and the implement of the capital maintenance funds so I'd like to acknowledge moving in a very good direction from the city's perspective. Kerrie.

>> Thank you, and Councilmember Oliverio. I just spoke with Naresh Kapuli, and we will encourage them to relocate back to San José, especially with the expansion of our beautiful convention center.

>> Councilmember Oliverio: And I'd really appreciate that and if they could just let us know what is the exact hurdle because if there's a policy change that we need to do at our convention center to accommodate them I would at least like to know that.

>> Thank you.

>> Mayor Reed: I have one request from the public to speak on this item, Mr. Wall.

>> Sir, with respect to capital improvement cost and maintenance, there are some organizations listed within today's agenda that are already getting heavily subsidized, city tax revenue, the Mexican heritage plaza was discussed. Their financing from the city is well over \$600,000 a year for approximately -- \$600,000, \$500,000 I believe for three years. They have consistently lost money but part of the discussion today is to augment some of the capital improvement projects for which they have a 10% sink fund from each one of those separate funds that I have already mentioned from the city for capital improvements. So I'm very much concerned as to the financial shell game as far as enticements for this project at the tech by shifting money around, which is already given, with reference to a project that is a complete failure where it's at. Not culturally wise but financially. And I would like a more further financial disclosure on these type of shifting of money around that is not so apparent to the public who does not have the time or notion to keep track of financial details. Thank you, sir.

>> Mayor Reed: That concludes the public testimony. Is there a motion?

>> Councilmember Liccardo: So moved.

>> Mayor Reed: Motion is to approve item 2.10 on the motion all in favor? Opposed? None opposed, that's approved. 2.17, open purchase with trend tech. Staff wanted to make some clarification to their recommended action before the council considered it.

>> Good afternoon, I'm Mark Giovanetti from finance purchasing. Just wanted to clarify there is a slight discrepancies between the recommendation on this item that's on the agenda vs. what's in the staff report linked to the agenda and the agenda recommendation language is the correct language.

>> Mayor Reed: All right so what's in front of the council in the agenda language is what we would ask for a motion on. I have a request to speak first. David Wall.

>> Sir, with reference to this agenda item, this is so damnable that I'm confined by the orders of conduct not to analytically describe with accurate terms my disgust for this allocation. This goes directly at issue to first of all the incompetence overall, the competence of the environmental services department directly to the office of City Manager for the hiring and retention of environmental inspectors is a very, very simple thing. In the past they've allowed almost anybody to take these positions and train them up. That means you could take a high school senior for example or a college person and train them to do these positions. They are not difficult whatsoever. However, before you is an enormous expenditure and overhead cost for these positions. Another argument could be made that the environment and transportation committee does not pay any attention whatsoever to details of the purview of their committee and this committee has hid behind their ministerial shields of just placating staff. Once again, these position he are not needed with this rate of pay and could be easily incorporated back under the fund source of 513 from which they flow and from these funds will flow and this is a greater cost to the taxpayers than doing what I have just said. Especially with reference to the transportation and environment committee, getting off their duffs and starting paying attention next year since they pay very little attention to warnings that were given this year. Thank you.

>> Mayor Reed: That concludes the public testimony on 2.17. Is there a motion? We have a motion to approve staff recommendation based on the language in the agenda. On that motion all in favor, opposed, none opposed, that's approved. Item 2.28 is the independent police auditor compensation package which I have asked to be placed on the agenda with a recommendation for compensation package for the next term of the independent police auditor, the council approved the appointment of judge Ladoris Cordell to be the IPA for a four-year term, starting the first of the year, some month or so ago this is the compensation package which we do in open session, which is what we're doing here now. And I know that some people are surprised to see that I recommended a compensation package that would effectively be a pay raise for our independent police auditor after what we have experienced over the last couple of years. And I just like to go back to the June budget message. My recommendations to the city council in June which was approved by the city council. And on page 13 there's a strategic support item 3.A importance based increases. Now I'd just like to read part of that. It is important to be able to reward excellent performance and provide pay raises based on merit. It's unlikely the city will be able to grant annual across the board wage increases any time soon. Centers directed to continue to move towards a merit based system which would require current positive performance appraisal, eliminate automatic step increases, implement a process for rewarding excellent performance with additional compensation. The current management pay plan already provides for performance based pay and can be used to reward excellent performance as resources allow. This plan has been in place for many years and it may need to be modified, to reflect best practices moving forward. Fully merit based pay system for represented employees should be proactively explored for the meet-and-confer process with our bargaining units. So I believe we're on a path towards using performance pay and merit pay and that's reflected in my recommendations for the independent police auditor. I'd just like to note that during the time that judge Cordell has been our auditor, around two years, she's greatly heightened the community trust in the IPA office, she's vastly improved the perception of the IPA office, greatly improved the relationship between the IPA office and the San José police department leadership, vastly improved the relationships between the IPA office and the Police Officers Association, improved the relationship between the IPA office and internal affairs. Her ability as -- to do the job is great. She's done an excellent job, she's been a stellar performer and I think deserves a merit-based pay increase which is why I've recommended it. There's a motion to approve the recommendation. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I don't disagree that the IPA has been doing a great job. In fact, as you know in the memo that I put out, I acknowledged that. And I also don't disagree that perhaps we should move towards a merit-based pay system. But the council appointees there are several of them. And we evaluated all of them. And we had no discussions as a council about pay raises being discussed with any of them based on their performance. And even the memo that came out didn't discuss that at all. The pay was just in there as if it was the amount that had been being paid. It wasn't until I questioned the dollar amount that it was clear that there was a 10% reinstatement of pay. And I think that if we're going to move towards performance or merit-based pay it should be done on a basis where all are created equal. All council appointees are evaluated on the same basis. And all have the same opportunity. And that also, anyone below them, we have a plan in place to put performance pay in. Now, I haven't spoken to any of the other council appointees in relation to this, because I know it is really none of their business how we interact with one of the appointees. But I can tell you that many of our council appointees have been given very, very favorable reviews. I get the summary statements just like my colleagues that has how everyone rates them. They are all rated very closely. As far as we have that point-scale that comes up to X percent and you can see the comments to pick one out, and treat that one appointee differently, I think is wrong. And we have all of our appointees are doing a lot more with less. Every appointee's office has taken significant budget cuts with the exception of this one particular one which got a budget increase last year. But I don't see us having implemented a performance or merit-based pay process. And if we had, I think all of the council would have been engaged in it. And it should have been a discussion that we as a council had. This is a council appointee not a mayoral appointee. I think we have a responsibility to treat all of our appointees equally. All that being said, I think we have a responsibility to all of the employees of the organization. Because whether we went to our thousands of employees, we told them that we were going to treat everyone fairly, and was going to start at the top and go all the way to the bottom and everybody was going to get the same pay reduction. Except we made an exception in one case. And it happened to be this particular office. The second year, when we made the pay cuts permanent, the ongoing cuts because the previous year had been one-time, the council specifically included on a 9-2 vote that this office is treated just like all the others. So I get your point. But I don't think that's how we got here. And to just label it performance or merit-based when we don't have a system and we haven't done it fairly, and we haven't respected all of our employees are working

harder and doing more with less, I think there's a lot of other areas that we can use this money. So I will not support this. I'd like to make a substitute motion to move my memorandum forward.

>> Councilmember Oliverio: Second.

>> Mayor Reed: All right, we have a substitute motion based on Councilmember Constant's memorandum. Councilmember Pyle.

>> Councilmember Pyle: Thank you, mayor. I wanted to add one more thing to the list of -- a list of what shall we say, perks that La Doris Cordell has brought to this position and that is the community. I don't know how many people have had the the pleasure of seeing judge Cordell out there in the community. She's engendered trust like no one I've ever seen before. And this is the very person that can help to end strife in the neighborhoods which we're beginning to see more of. I think at this point we are not talking about -- we're not talking about anything other than a conversation that the mayor had with judge Cordell. And agreements were made. And I feel it's up to us to respect and honor what transpired between the judge and our mayor. I trust in that. And so I absolutely will not be voting for the -- your proposal.

>> Mayor Reed: Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Thank you. I really appreciate Councilmember Constant's memo by I think that -- I don't disagree with what's being outlined in the memo. However, I concur with the mayor's comments about the outstanding work that judge Cordell has done since she accepted our appointment you know, I think we have to be careful in how we go about this. But at the same time, these -- we have four appointees who work strictly for the city council. And to think that at every given time when the appointment process come up we have an opportunity to vote, and I know that this comes from the mayor's recommendation, but we have the power to discuss at this point, and so everyone can weigh in. I don't think that it's not just the mayor's recommendation. That is his recommendation. But we all have the ability to weigh in in terms of what -- whether we should move forward or not. I highly respect the work that the judge has done and she has really put the city in

a really good spotlight with the community. I know that prior to her appointment we many critics in the community that talk very negatively about the police department, the work that the city council has done. And ever since she came into office almost all that stuff has gone away. And I think that she should be commended for that. Now whether or not she should be commended with an increase in salary or just you know, our positive comments about her her, that's really up to us to decide. But I feel very comfortable with the mayor's recommendations with the 9.65 pay increase. And again I think that all the appointees have done a tremendous job in these really difficult times and when they're appointment process comes up we have the opportunity to vet that process with each individual appointee. So I will not support the substitute motion but I -- again I want to thank Councilmember Constant for his memo and I'd like to support the mayor's recommendation.

>> Mayor Reed: Councilmember Kalra.

>> Councilmember Kalra: Thank you mayor. I'll be supporting the mayor's memo. However I think the Vice Mayor is correct in saying this is a council decision although the mayor certainly has had the opportunity to have direct negotiations and discussions with our independent police auditor. We all have to come to our independent judgment as to what we feel is the right thing to do. I don't hear any disagreement as to the exemplary work of judge Cordell. I think everyone agrees with that, at least that's the sentiment I'm getting from everyone, including Councilmember Constant. It does bring up an interesting issue on how we go forward in how we can attract the best and brightest but there is a distinction with direct appointees where there is one on one negotiation as opposed to with the rest of the workforce. I voted against giving raises to the assistant chiefs, in police and fire department, and because I felt that in that case, when we're giving classification increases we need to talk about the entire workforce in the police department some the entire workforce in the fire department. This is a little bit different scenario where we have to negotiate directly with an individual. But I do agree with the sentiment that we need to start talking about compensation increases, not even in the context of merit or performance. Just in general given how much our employees have given back. And it's just not sustainable to expect that we're going to be able to stop them from leaving because they are -- so many are leaving and it's not realistic to consider retention without us talking about now turning the ship around in terms of continuing to take and take and take from our employees. And that's why I did not support the upper management essential of Police and Fire to get

the raises, we offered the rest of the patrol officers the rest of the firefighters to also be part of the discussion of how we move forward. Because this is a one on one negotiation, I'm comfortable with how the mayor -- where the mayor arrived and how he arrived there. The mayor's memo was released three weeks ago and to get a memo a day before or without any discussion or negotiation of how to approach this I don't think is the appropriate process wise. Although it is within the reign of any of us to do it, I don't support that approach.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, Mayor, I'll be supporting the original motion not the substitute motion, I don't see that as this increase as a merit increase. Although I agree with everybody here that judge Cordell did a fantastic job as IPA. I see that as a correcting situation that we have pushed the pendulum too far to one side. So I will be supporting the original motion.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you, mayor. I agree with much of what has been said by the recent speakers. I do appreciate Councilmember Constant's points. I think -- I'd independently reviewed judge Cordell's performance as I observed it. I think it's absolutely meritorious of the pay increase that's contemplated. The change in tone around the IPA office and around the community has been extraordinary and for that reason I think this is an extraordinary situation. We should be honest with ourselves about the fact that we all agree the entire workforce deserves in some way to have pay increased. We recognize that everyone in this organization has taken it on the chin. In a very tough way through this recession. At the same time, we are identifying particular classifications of employees for instance recently at the water pollution control plant, where we are saying we recognize it's awful for everybody. But the particularly acute impacts at the city with the loss of these employees means we have to think how we can adjust classifications and other things to keep the wheels on. I expect we will be doing that for our police officers as well. I think we all recognize there are some really acute critical needs. In this system of leadership this is a particular one and this pay increase is meritorious.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: Thank you, mayor. I do very much appreciate Councilmember Constant's memo and the issues that he outlines and brings up. It did give me a lot to think about. Judge Cordell though by any standards has done an incredible job. I think everybody up here has already said that including Councilmember Constant. I think what tips me more to not supporting the substitute motion is the fact that the mayor has had to do the negotiation. I don't -- I don't know what the discussion was. But I think that you know, his recommendation is based on that discussion. We know that her performance is outstanding. And so I'm somewhat reluctant to support it because of the process issues that have been brought up here which I am concerned about. Because I do think other employees should be given consideration too. Because we have some other outstanding appointees. But I'm going o-- I'm not going to be supporting the substitute motion.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. I'm very happy to hear the discussion not be around the merit of the police auditor's performance. I want to thank the police auditor for her work very honored that you're serving San José. I think we're blessed to have you here and I really appreciate the fact the discussion is not centering around that. I think it's States a pure testament to the work you've done here and the time you've committed to this. I won't support the substitute motion. I appreciate the concern for process. I'm also quite happy to hear and hope you apply that concern about process in the future universally not just specifically to certain items. Thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: So I'd just like to address a couple final things. First as the judge knows I appreciate everything that is being done and I concur on the performance. And I said as much as we did on the performance review. But the Vice Mayor point it out that we have this ability at the reappointment process. But I want to remind everyone that's not quite the case. Because only two of our appointees are on terms. The others

are appointed until they are no longer appointed. Its just the independent police auditor and the City Auditor that serve specific terms. So we don't have this opportunity with others to do the same thing. And I just want to ask very directly, Mr. Mayor, how are we going to apply this going forward? Because I took out all of the council appointees evaluations, laid them out next to each other. Compared the numbers. And the comments given by each councilmember on their overall performance. And I have to be honest. It wasn't like one outweighed the others by 40%. They were all pretty similar, or several of them were very similar. And if this is merit performance based, I'd like to know what the process is. Because again, these are council appointees and if you used a process I think it's important that you share that with those of us who make the appointment. And you know, I've expressed concerns in the past about how we deal with council appointees. And I'm not opposed to it, if we're doing it even-handedly, if we have a system, if we have a process. As much as Don might point out I haven't done this in other case he I think he's wrong. We need to look at that and say if this is our process, how do we equally apply it? And I haven't seen that. So my question is, what did you use to make that evaluation, when you compare it to the other performance of the other appointees?

>> Mayor Reed: Well, first, the independent police auditor is the matter that's in front of us, and we have to make a decision for the next term. Second, I anticipate that as the manager comes back with performance based increased work that we asked her to do in June, including implementing a process for rewarding excellent performance with additional compensation, as we do it with the rest of the organization we would develop a process for dealing with the appointees. In the same time frame. And we obviously already do a performance review process. And it has been just a matter of having money or not having money. Like the rest of the organization, everybody took pay cuts and everybody would like a pay raise. There's no doubt about that. So I would plan to run it completely with the manager, as the manager comes back and we begin to be able to implement it for the rest of the organization, I would want to implement something in the same time frame. And obviously we'd have to have some council conversation about how to set that process up.

>> Councilmember Constant: Well then I -- you know with all due respect we get the cart before the horse. That should have been the discussion. And I'm disappointed with the way this went and I don't think it's appropriate. And we really do need to be more cautious about how we move forward. You made a comment

about when we have money. We don't have any money. We're staring down a huge deficit and we know that it could be getting bigger based on the actions of our retirement boards. So when we're having these discussions in June, I hope we at the same time will be reconciling our budget deficit and we're going to be cutting positions and cutting services throughout the city. And you know if I really think that if we want to do as Sam pointed out, to compensate those area where we are having difficulty we should be starting with the police department quite frankly where we're having the most staffing difficulties. And you know, again, it's just amazing how one thing gets plucked out of context and dealt with instead of coming up with a system and applying it fairly and having a strategic plan for how we're going to spend our money. Because now every single person in the organization is going to be raising their hand and say, me too.

>> Mayor Reed: We will have a strategic plan for how to spend our money. It is what we do in the budget. We'll be specifically talking about whether or not we can afford to set aside money for raises, for the organization, parts of the organization, performance pay, et cetera. So we'll be doing that in the budget process. And I anticipate we'll have specific discussions about what we have to do in order to be able to make the adjustments that we deem necessary to make in the budget process. I have some requests of folks who want to speak on this item so I'll take this now. Ross Signorino and then David Wall.

>> Thank you, Mr. Mayor, members of the council. Mr. Mayor I have two items on the consent calendar. I'll be brief, if I can just do them both at the same time.

>> Mayor Reed: We already talked about everything on the consent calendar except item 2.29, 2.28 and 2.33.

>> I have 30 on here. Can I go with both of them, or not?

>> Mayor Reed: No.

>> I'll go with 2.28 then. Mr. Mayor, I find your words what you just said, trust that you used was a very valuable word and then Councilwoman Pyle took up on that woman to trust, trust in this individual. It's all very good. I think

we trust all the employees we have. Not to just pick one out and say we trust this individual, all right, what about the rest? But nonetheless this is so strange at this time, as councilman constant just said a moment ago, we have a policeman that we cut down as salary, how do we justify this raising one and not the other? It seems strange to me that we would do this, at this time, when things are so critical with the city, in regards to the budget, that you would go ahead on this. We are not begrudging anyone the merit that they're due we find this good. But I feel it a bit unusual doing it at this time. If you don't approve it which I think you're going to do, again you have to look to yourself how you feel about this how this is going to look to the public, thank you.

>> Mayor Reed: David Wall.

>> Sir you have opened up multiple doors with your commentary. Beginning with door number 1, performance based or pay for performance or performance based pay increases. You really have as Councilmember Constant greatly said, you really don't have any basis for this. In my opinion this is more or less political appeasement and rewarding. The office of the independent police auditor over time, over this jurisdiction has feared greater concern for the criminal element, illegal alien gang bangers drug dealers how they can afford to sue the City of San José and sue San José police officers for alleged mistreatment. They've been given a media budget to go out and even coerce young people very young people even in grade school not to trust the San José police. And if they feel from their own perspective that they've been mistreated in any way, to call upon this office for any action against a police officer, the San José police department, and/or the city. This office has also provided indirectly discovery information for all attorneys representing these malfeasants, miscreants and other forms of the criminal element. But with reference to today's performance-based package, Mr. Mayor you have no money. And if anything, if you are talking about employee pay cuts and treating employees fairly, that sir is another lie. But what we need here to fund this pay increase is some form of reverse performance-based money. And that way we could reach into your personal pockets, from your public salaries, to fund your whims that we see here today. Thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion which is a substitute motion made by Councilmember Constant based on his memorandum. Provided that these starting biweekly salary shall be no

greater than the current salary being received. On that substitute motion all in favor? I count two in favor, Oliverio, constant, the rest opposed. Correct? Okay, so that motion fails on a 2-9 vote. Back tot main motion. Councilmember Liccardo had the main motion. To which was to approve my recommendation. On that motion, all in favor, opposed, I count one two opposed, Oliverio and constant opposed so the motion is approved. Next item is 2.29 some the conflict of interest code revisions. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. I think I found a potential error in appendix 1 on page 1 of appendix 1. And this is the reportable disclosure categories and I believe this list for mayor and council staff is the old classification list and doesn't include all of the new classifications. So that's the error I want to point out. And then I have a question for Rick afterwards.

>> City Attorney Doyle: Yeah, we'll look at that and if that appendix needs to be changed to update the classification scheme we will.

>> Councilmember Constant: Okay. And then Rick just a question. I know the form 700s are designated by the state. So when people fill them out, it covers conflicts that are within the state, so only property you own by the state and things of that nature. Does the city have the ability to increase the reporting requirements in situations where there could be potentially conflicts out of state? Like specifically if on the retirement board for example, retirement systems are involved in real estate transactions, if a hypothetically a board member owned a piece of property right next to a piece of property that was being invested in that wouldn't necessarily be reportable on the form 700 because you only have to report property owned within the state or another example if in our division of gaming control if somebody had interest in gaming in Nevada, that is not an interest in the state of California so not reportable. So I'm just wondering if is there a way for us to deal with things like that?

>> City Attorney Doyle: I think your question is really can the city increase the sort of the minimums? If you take the state law as the baseline can the city have lier standards? We do take that position with respect to the gifts and gift ordinance, you're aware of that. But I want to do a lot more research. The issue there is preemption. I think we really do have the power but probably a little more involved than an answer from the if dais.

>> Councilmember Constant: I just want to know in the future here we're up for the biennial ethics review. There are areas in our city where we have things outside the state that can affect us. With that I'll just make a motion to approve. With including that appendix 1 page 1 will be updated to the current classifications.

>> Mayor Reed: All right, have a motion to approve the item with a recommendation to update the appendix, all in favor, opposed, none opposed, that's approved. Last item to take up is item 2.33 which are my recommendations on council appointments for boards, commissions and liaisons. I have a couple of changes, corrections to make on that. Let me just point out there are a couple of things that are not on here. Like Councilmember Liccardo's appointment to the Metropolitan Transportation Commission and the fact that Councilmember Kalra serves or is going to serve as the chair of the air resources -- regional air board this next time because those are done in other ways. And so this is only part of the workload that councilmembers have to undertake. Not everything. There are a couple of changes to my recommendations. First, I'm told that San José beautiful is no longer operating. So we don't need to appoint somebody to that. I want to correct the recommendation on the local agency formation commission. It should be constant as the member, and Khamis as the alternate. And valley transportation authority it should be Rocha as the member and Khamis as the alternate. We have CalTrain joint powers board, Kalra should be the member of that, and I won't go into all the VTA boards and things that people serve on coming from other agencies. Sometimes I get a little confused who's doing the appointing but with those changes I would recommend council approve those appointments.

>> Councilmember Constant: Mr. Mayor.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Sorry I just had a question. Wasn't there some kind of change in law how we dealt with stipends? Is that why the stipends are on here, do we have to vote differently?

>> Mayor Reed: The stipends are on here because there was a statute from the state that the council has to approve or has to be aware of the fact that there are stipends.

>> City Attorney Doyle: Has to approve with that disclosure.

>> Mayor Reed: That's part of the memorandum that's why it's on there.

>> Councilmember Constant: Not like a bunch of different recusals on -- thanks.

>> Mayor Reed: It's really to require the public be made informed, there are stipends associated with some of these positions. As you may recall there were some abuses in some other cities and the legislature responded with this imrequirement. Any other questions or comments? Can I get a motion on that? I think I did get a motion. Have a motion to approve on that motion, all in favor, opposed, none opposed, that's approved. Item 2.46. Was renumbered off the consent calendar. And that is, agreement with Hopkins real estate group for potential development of the singleton landfill. Staff will have some comments on that. Councilmember Rocha, did you want to start? You want to wait for the staff to come down?

>> Councilmember Rocha: Let staff make their presentation first, thank you mayor.

>> Mayor Reed: Okay.

>> Good afternoon, Mr. Mayor, members of city council. About 18 months ago, OED was charged with the strategic management of the City's assets. Staff was directed to bring forward proposals that would increase revenue, decrease liabilities, and where possible, achieve multiple city goals. The project before you today is potentially a very exciting public-private partnership that is -- this is the beginning of an analysis that would allow us to achieve not only city sports fields but important city economic development goals. Let me move this one first forward. There we go. The site itself as mentioned is the singleton landfill. It is located on capitol expressway between Senter road and highway 101 and adjacent to Andrew hill high. It is approximately 90 acres and was a

former landfill site. In 1973 the city purchased both of the former land first sites and operated the landfills and the landfill was closed in 1978. The site as we move forward is bordered by the Coyote creek and taking into account the riparian setbacks in accordance with city policy is one of the issues we would be considering or analyzing and there's also an aged methane collection system on the site and the project could potentially cover the costs of approximately \$2 million which would have normally been the City's responsibilities. The project opportunity is a destination sports complex geared toward youth and adults that would be for residents and out of towners. The proposal would bring forward the opportunity to have T.O.T. and sales tax adjacent or in conjunction with the project, as there could be a retail component of the project. The agreement before you is non-binding. No funds are requested of the city at this time. The due diligence agreement allows for 128 days for the team to do analysis on the feasibility of the project, and the agreement can be extended for up to 180 days. The product by the City Manager, the product results in a conceptual master plan with an additional cost process. Julie Edmonds Mares will provide you with additional information.

>> Julie Edmonds-Mares: Thank you, Nancy. measure P those funds produced \$228 million in general obligation bonds to expand recreational opportunities throughout the City of San José. Over the past decade we have been able to add more than 80 new amenities as a result of that vote location for. In addition, in 2008, the staff also completed a community sports field study. At that time, volunteers within the sports community worked with city staff to study ways to address the growing facility needs for recreational amenities within the city and an overriding conclusion of the study was that we just have an insufficient number of fields citywide. Identifying a shortage of over 100 fields. Since that time we've had a number of different projects including the ones at Leland, Mies Shepard and many other locations that added 14 fields to the inventory but yes we still remain a major shortfall within the city. We are excited about the potential of having a destination sports complex as our final project within the bond. And this due diligence agreement will allow staff the opportunity to fully analyze this potential partnership and bring back to mayor and council with full data a recommendation for a future siting. We're excited to partner, potentially partner with big league dreams, an organization with excellent reputation and a history of partnering with cities and counties and districts throughout the United States. And with that I'd like to turn it over to Rick Odeker, founder and CEO of big league dreams.

>> Thank you ladies. Mayor and ladies and gentlemen, thank you so much for allowing me to speak to you here today. My name is Rick Odekirk and I'm with a company called big league dream sports. I appreciate the fact that your city sought us out and invited us here to speak to you. It is kind of a nice thing for me to be back here in San José. I am a guy that played in the minor leagues many, many years ago, and I actually lived here in San José and played in municipal stadium as a home player for a season. And actually, the way as part of that journey through minor leagues I played 15 years, 14 and a half years technically of ball in the major leagues -- in the minor leagues. And I didn't play and make any of that money in the major leagues that they're passing out there today. I wasn't a good enough player to do that. And I -- during the course of my career I knew that as I came towards the end of my career I'd have to get into a different field and that is partial an answer to how big league dreams was born. One of the things you may find interesting as to what our company stands for and how we did get to that point is, I grew up in a family of real estate developer and my father was also a professional minor league player as a younger man and my brother and I grew in the backyards. We didn't have X box, all the games they have today. We went out in the backyard and played Wiffle ball, typical games with the tennis ball. And when dad would come home he'd get angry at us because we'd taken the Ajax and made the lines in the grass and we had the broom sticks up for and made pitcher's mound in his lawn in the backyard and we were trying to pretend that we were professional baseball players at that time. I fast-forward to several years when I was in the minor leagues. I was a left-handed pitcher very mead yoke are talented guy. And I found out every time I had you have a lot of those, there was always somebody as I was leaving the field that wanted to tell me just how badly of a job I had done that day. And as I looked up into the crowd in those events and you do that as a player, you look up more than people think you look up in the crowd and as I did that invariably it was a guy in a softball shirt with a beer in his hand and his little boy with his glove and his little league uniform on and they were booing me because they knew in their heart the they could have done it better. They just didn't get the chance to play in the major leagues. And from those two stories I just told you, having grown up in the backyard pretending I was a player, having seen over the requestors of 14 years how many players wanted to get that shot. We created and I was fortunate enough to come one a concept, we got some help from creators of Disney effects, we built our first sports complex in the cathedral city area, we recreated small small scale replicas in an event in order to give those exact type of players your weekend warrior and little leaguers a chance to see what it was like to play in a major league stadium. It was never my dream to be in business 15 years later, at the dream -- at the goal we've

reached. We've certainly reached, I know a lot of you have spoken with us and have done a lot of due diligence. I know 11 operating in places across the country in places like Las Vegas, Phoenix Houston Dallas, five other California cities, the closest one being Manteca that you've heard a lot about. We have four facilities in construction, three in the Tampa-Jacksonville-fort Lauderdale area, I'm proud of the fact that 11 of our facilities that have been built have been not only successful, every one has been profitable, nine of the 11 have a waiting list on them at least two years out to play in. These facilities you've got an couple of very brief photographs here in front of you. If we do go ahead and take some time to take a good look at this down the line and you'll like us to do that some I'll come back with a lot more information about our company and a lot more detail about how we make this work for community. But in very short description what we do is during the week, the park which will have anywhere from four to eight stadium replicas which you as a council and your staff get together and we choose which ones are the most popular, which ones your community wants to have in it. We are the only company in America who has the rights to build these in major league baseball and appropriate stadiums and ball clubs and as a result of that we serve the community during the week all the local youth league that you want to play in that facility, the local it's not just -- we get a lot of talk about softball and there's no question that the adult softball players and the fans and their families love to be -- to play in our facilities. We're a lot more than adult softball however. We are also youth baseball. We have got facilities often each of our sites for a variety of sports depending on what your community asks for. Whether it be soccer, lacrosse, cricket, a variety of other sports, that play on multipurpose fields. Indoor batting cages, two facilities have indoor seating. If you play as an athlete in big league dreams, you watch a videotape replay of the game you just played in or your child just played in and it gives you a chance to see and watch and you can see in the overhead, that's one of the typical layout of what one of our eight field complexes look like. That's our Dallas facility I believe. Having said all of that to you, we are enthused about the chance that we've looked at this site here, our company has been on -- been located on every kind of site imaginable, we've had to deal not only with a site similar to this, a landfill site in the city of West Covina, California but we have also had a variety of environmental challenges with things like the Frenched to lizard and the California sand flea and things we have had to deal with to get through those environmental challenges as well. So we clearly believe this -- we are only going to build two more facilities in California, my company is, there is no question we're on a nice expansion plan throughout the country. We won nice awards naming us the best what we do in the United States. This part of the 61 where our next facility is being in San

José would be an honor to us and it is clearly one of our greatest goals. We believe this could easily be our nicest location in California. As you know we have five others. I'm here to answer any other questions that you may have. Last I'll introduce you to a man who is part of our team. We partnered a couple of years ago with the Hopkins group which is a retail group. Let me just tell you why we did partner with them. Every time we would build a facility in a new part of the country we found that the same retailers and the same hoteliers were locating directly across the street from us or within the same block, take advantage of the 350,000 people that go through each of our parks on an average base. On a non as a result we began to see that we're making a lot of people a lot of money, a lot of retailers and a lot of hoteliers and we decided we wanted to get into that end of the business and opened expansion to ourselves. We're interested in bringing hotel and retail industry to each our location. We partnered from these gentlemen, I'll let Tom Lenne from the Hopkins group say hello and introduce himself to you once again. Thank you very much.

>> Mayor Reed.

>> Mayor Reed: The microphone is not on yet. I see it now it should be picking up.

>> Mayor, city council members, Tom Lenne, I'm senior vice president of Hopkins Development Company, we're a 40 year old shopping center development company. Not too many people can make that statement, we're beat up gray wrinkled but still kicking. It's kind of exciting for me to be back here in San José. I was part of a great development team around we came up here I think it was in 2002 and we were able to take under control Taylor and Coleman, we worked with the City of San José and the CRA and them and we felt pretty good about what we did there and I think highest and best use of that piece of real estate was there today. It was win-win for city? The retailers, the RDA in those days, and it's exciting for me to come back up here I developed a lot of good riches. It kind of reminds me of Taylor and Coleman, see if we can't bring new retailers to the City of San José, and to develop around the big league dreams. So that's really my role and also his driver. But just kidding. But thank you. We'll answer any questions.

>> That concludes our report and we're here to answer any questions you might have.

>> Mayor Reed: All right, I'm sure we might have a few questions starting with Vice Mayor Nguyen, this is in your council district.

>> Vice Mayor Nguyen: Thank you very much, mayor. I do have a couple of questions. Can you -- assuming this action will get approved today, can you talk a little bit about the community outreach process during the 120 day evaluation process that you're going to you know put this together?

>> Yes, Ms. Vice Mayor. Our situation here, we are typically asked to work with the community and see what is needed in each city. We would be meeting with the local youth groups and see exactly what their needs are, what their needs are for fields, what their needs are for facilities. We would also reach out to the adult sports programs. But we would also talk to all the citizens who have the retail and the business interests of the community and put together some committees and some meetings that we could have a plan that when we come back to you it's not as vague as some plans are. We'd have something that came back to you that would be -- have some guidance from the community. We do that typically every time we go into a community anyway. So what we've been asked to do here is very much in line with that.

>> Vice Mayor Nguyen: Great. I think that's great because this site has been vacant for a very, very long time, many years. And my council district has definitely been underconserved in terms of sports facilities. So I think this is going to be pretty exciting news to the community. The more extensive outreach you do I think the more positive response we're going to get from the community members. I just want to move along a little bit about retail versus just the sports complex that is just a sports complex without any retail. Just from your remarks I heard that seems like the sites that have the retail component have been very successful, and then you also have some sites that are just exclusive sports complex. Can you talk a little bit about the sites that do not have the retail component and talk to us about how successful or maybe not so successful those sites have been?

>> Sure. When we first went into this business I didn't know anything about creating a sports facility that would be an economic benefit for the community. That wasn't what we went into this business for. I was a former minor

league player who was going to enter the sports complex and make a living off of it the first facilities we were involved with and created were built solely stand on their own facilities. The city itself needed more parks, needed more playing facilities. They had a way to pay for facility but they had no way to pay for the maintenance of the park. So those cities came to us, asked to team up with us to create those and then our job was to then take care of all the maintenance of the park. We've done that on all 11, all 11 facilities, the facility has paid for its maintenance and operation since day 1 but there was no retail on any of those. Those parks are great successes. In fact we have two with Riverside county, to the same county government has hired us twice to create parks and neither of those has to do with retail. They just had a need for more facilities. On the other hand we then began to have in the last six, seven years we began to see that retailers started flock because of the traffic that we were bringing. And as a result I can tell you Manteca is the best example and those of you know where that is, near Stockton and Modesto, it has over a million square feet of retail, that was developed a year after we were built. There was nothing there across the street from us. And even during the height of the recession they built and filled a million square feet including the first bass pro shop in the western United States, first was there, first people to tell you why they came there. We've done it for both reasons, just for athletic purposes, they've been major successes. That's where our headquarters are Chino hills they didn't have a hotel there. So it wasn't built for that purpose but now in most of the facilities that we're going in we find that cities have recognized that we do draw the economic benefits, we do draw the tourism benefits and those retails and a lot of cities are are coming to us for that reason as well.

>> Just want to jump in there mayor, members of the council. The idea that staff has been charged to is to create as special a place as we can, really utilize our land well and solving multiple problems and in accordance with general plan 2040 how do we create a unique place and also hopefully adds revenue to the city's coffers.

>> Vice Mayor Nguyen: Thank you some I want to conclude with some comments. I want to thank staff for reaching out to big league dreams and of course the Hopkins Development Company. Thank you for coming to us with this great project. When I came into office back in 2005, this site, the potential of developing in site into a sports facility was definitely one of the top priorities. And you know it's been seven years since I've been sitting on this dais. So I'm really excited to see that we're starting to have conversation about this. And not sure how long it's

going to take to make this happen. But personally, I'm very excited about this, I think the community members are going to be extremely excited to see this landfill potentially could transform into a new destination sports complex in a council district that historically been very underserved in terms of sports facilities. In terms of the retail component I'm very excited about that as well. It's just hard for me to imagine going to or attending a sporting event or going to a sports complex without having the ability to go and grab drinks or grab some food to eat, especially if you're going to be attending a softball game, if it's a softball complex for three hours or so or if you're there the whole day for a tournament, just very difficult to imagine having to drive outside, to buy something and bring it back into the sports complex, so you can be comfortable. And then of course the fact that our city we have very few large sites where we can actually have smart retail development and you know for staff to look at this site as potential development site for smart retail I think that's very crucial moving forward. And so I'm really excited about this. I wanted to thank the mayor, you know for his support on the memo that Councilmember Don Rocha actually put together and I also wanted to thank Councilmember Don Rocha for your memo and for your interest in a -- when we represent when we each represent our own specificity district as a whole we represent the entire city. So it's just real exciting to see another councilmember who represents another district looking at something that are in my council district and think that it's a great idea and that we mutually agree on this so thank you. And since it's your memo I'm going to have you make the motion.

>> Mayor Reed: Let me recognize Councilmember Rocha and he can make a motion if he so chooses.

>> Councilmember Rocha: Thank you, mayor. If I may jump into a couple of questions and appreciate all the comments of the Vice Mayor thank you very much and thank the Mayor for his willingness to support the memo for additional analysis. Jump ahead hypothetically we move forward, the analysis goes back glowing and we go ahead and it gets to us one day. What I'm a little troubled by, I'm very interested about this, let me start this. I'm excited about the soccer complex concept. But let's hypothetically say we move forward, we don't have a comparison to look at and say, is this another better alternative? That's the end part that I'm concerned about. And asking staff to maybe look at other options and just make sure we're doing this right. Weaver got one shot at this, we have one shot at a soccer complex, at least as far as I know within my lifetime, I want to make sure we're doing it right and making the right decision. What I want is a destination site where folks travel to and

where if youth teams or even the adult teams in this area can go play and participate in sports. What troubles me is I travel with my children to such small cities like Manteca, we are the 10th largest city in the country and we go to Manteca for a tournament. I want Benicia for tournaments or Danville for tournaments. These cities are with all due respect extremely small compared to San José. I know sales tax is an issue, I know cost is an issue. But we're doing it halfway is the right way to do it? I'm not suggesting that I just want to make sure we have got the best shot at this. That's the reason for some of my questions, that's the reason for some of my interest and that's the reason for suggesting some consideration on this. You looked like you wanted to jump in on there, I'm sorry, go ahead. Okay. Now as far as the access to the public if I can ask Mr. Odeker, youth groups or just the City of San José. Because in my experience for us the parks department does this for public use, not purely to drive a profit.

>> Sure.

>> Councilmember Rocha: This model drives a profit because of your engagement I appreciate this and happy do you this reality this provides a lot of opportunities for folks who wouldn't have it. But would you talk about the public access and how that works for other municipalities?

>> That's a great question. Glad you brought this up. Off the top, these facilities are open from sunrise every day, you walk in and the local community uses it at their will. It's an open park from sunrise Monday through Friday until about 4:30 or so. And that means you go in there you hit ground balls to your son your daughter you play in the tot lots, I have an office that sits above one of our corporate headquarters down in Orange County and I happen to be partial, I'm a dog lover and people come in all the time and they throw Frisbees to their dogs. They use the facilities in that manner and there's no charge and that's who is using that. Clearly during the weeknights some the facility is open first and foremost as a local facility. In other words, the local people play there. The tournaments are held on weekends. And by the way, those are even held and geared around so that if it's little league season they can get their little league games in the morning and the tournaments can start at 10:00, 11:00, whenever that may be, go the weekend, six or eight fields large you're able to attract the big tournaments, still take care of your locals all Saturday if you need to by engaging a couple of those fields. So if it answers your

question, the local people play first, there's no question in league play whether it will be adult sports and softball or the youth sports, little league pony league they get the first priority before anything. Their and that will be in the contract.

>> Councilmember Rocha: Thank you, that was going to be my last question you just spoke to, that is part of the negotiation, any future arrangement or negotiation we talk about the contract terms that becomes part of it.

>> Yes.

>> Councilmember Rocha: Is this pretty standard or not a public use?

>> No standard, that's the way all of ours are used.

>> Councilmember Rocha: So your agreements are generally with municipalities? Not the property owner?

>> That's a great question. Our first 11 are all with municipalities. Our first three in Florida, first two in Florida in municipality. It was in Georgia the first thing we've done something with a private entity. Only one time we've had in our 15 years. So something that's done with a city or county government.

>> Councilmember Rocha: Great, I think partnership with the Hopkins group is a great idea. The amenities that you provide, the Morgan hill soccer complex is a perfect example with the soccer complex, it's not a joint development but the hotel was quite pleased the soccer complex ended up across the street. My general softball complex and a destination softball complex first and not an afterthought.

>> Understood.

>> Councilmember Rocha: Having to drive past a Starbucks or a dry cleaner is what I don't really want this to end up being and I'm sure you folks will work that out as you do your due diligence. That's going to be my next

question, looking through page 2 and 3, the exclusive due diligence agreement. Maybe I missed this, is site analysis the work you're going to do part of the documents that we also retain ownership of?

>> Conceptual design.

>> Councilmember Rocha: That includes the retail development just not the field?

>> Yes.

>> Councilmember Rocha: Does tenant much further down the past?

>> I'll refer to Mr. Honey.

>> We'll come back in three or four months with a plan.

>> Mayor Reed: I need you talk into the microphone.

>> Spoken to all the retailers then we'll come back with a plan and sit down and go through it with you.

>> Councilmember Rocha: Did you folks, these two folks have an opportunity to look at the memorandum in the mayor, Vice Mayor and myself?

>> Yes.

>> Councilmember Rocha: Are you comfortable with some of the direction in there or is that going to require to you renegotiate the scope of the due diligence agreement?

>> No, I think we're really comfortable. We're happy to take this step and see if we can do it at what you need.

>> Councilmember Rocha: So you can accommodate the direction?

>> Yes, sir.

>> Councilmember Rocha: Wonderful. As far as the work and the due diligence maybe on our side is there any work on our side that's going olook at the potential impacts in terms of infrastructure improvements, mainly the one I'm talking about is the expressway. We know our work with the county and expressway is mid cuts in the middle of an expressway is probably not then the most popular item for county to talk about in their expressways. That's why I'm surprised that we think that it might even be viable, let alone a cut where we would have to add a light for a turn, otherwise we'd have a one-way access.

>> Councilmember, you are correct, that the transportation access is a critical item, some very preliminary conversations have moved forward, largely because there isn't a spacing issue about it in their section. There is some initial view that this could be done. So that is a key element. We will have to work through to make sure it in fact could be done.

>> Councilmember Rocha: So while they're doing that work we're doing the work with the county to determine whether or not --

>> Absolutely.

>> Councilmember Rocha: As far as other mitigations, how deep is the landfill going to do to look at the site is what I'm asking?

>> During the due diligence period it is the environmental of the, ESD has extensive amount of information, well below phase one phase two as a closed landfill some we'll be reviewing that as a team second initiation that more

consultant studies and actually borings will be done. Look at information that the city already has and making some initial pro formas.

>> Councilmember Rocha: If I may ask another question surrounding this is residential and any mitigation issues or issues impacts on the community in terms of lighting and noise that you've had to deal with in your experience?

>> Another dead-on question. And in total honesty with you, I believe that in my 15 years the most painful lesson I've learned is dealing with that question which is people not in my backyard because a park is going otheoretically invade on my space. All the not in my backyard arguments. We have gone through this many times. There is no question we have the abilities and the studies of all the sound studies the light studies all the light situations the traffic that show that absolutely in a scenario like that this can be mitigated so that without question, I was just going over this with your staff and a couple of councilmembers today, a half a block off this facility you genuinely will not be bothered know it's there. So we've had a lot of experience with that. But at the same time, councilman, there will be people, our experience is such that some of those people won't believe it till they see it.

>> Councilmember Rocha: Yeah. Sounds like you're speaking from experience. You captured it perfectly.

>> Some bad, ultimately good. Manteca itself that facility took six years to build because tried to put it in a location that was not appropriate. Extremely crowded area and they were jamming it into an area that the neighbors didn't want. And ultimately, we were fortunate enough to convince them to move the site where it was not as obtrusive. And it's been, I don't mind telling you I don't think I said this in my presentation.. Of all 11 Manteca's our most successful facility we've ever built both from a use and a financial.

>> Councilmember Rocha: That's greatly news. I'll go back in the beginning in terms of the interest, my memo and the direction included in that was just to make sure in my opinion I would rather us look at an alternative site just to make sure we're comparing sites and we're on the right path. Purely it. No more no less. This doesn't

suggest that singleton is not the right site or the county fairgrounds is not the right site. I want to at least do a little bit of prework on this to make sure we're moving in the right direction. I think the fairgrounds could also be a good site. The infrastructure is built there, less issues in terms of mitigation where industrial is on one side and the whole fairgrounds is on the other. There's the hotel right there, there's retail at the plant. So those kind of sites are also good location is as well. I think either one could work but I'm sorry. Jump in.

>> From my standpoint, my job as a businessman as the owner of this company is to be in San José. We want to be here. Where you find -- where it is that you find for us, it's your call. We believe we could be successful a lot of places here. That's going to be your call. I'm happy to go whatever direction you point us.

>> Councilmember Rocha: Thank you, that's great to hear, makes me feel a lot better about this action today. I had the opportunity to talk to a lot of folks over at the county. As you know the location has been sitting for a long time. Recreation is one of the uses they are looking at, some issues that just don't work on that site but again that is part of my direction is to ask those questions so we can at least have the conversation and start it. So with that I'll stop and let my colleagues move ahead with this and move my memo that I signed with the mayor and Vice Mayor.

>> Mayor Reed: All right we have a motion on to move forward based on the memorandum. Councilmember Constant.

>> Councilmember Kalra: Thank you mayor. Fully support I had a chance to talk with staff about this project, I'm excited about it and you know, as a youngster growing up here in the summertime we had our bottom of the ninth scenario with the baseball or tennis ball site, appreciate you setting the scene and now that I'm older, an older weekend warrior and I see my football and basketball dreams more in the rearview mirror, twin creeks is far too cold for me so I think we can do much better than that and so I think it's a great concept. I really look forward to it but I do think that the retail component. I think part of the reason why a lot of the complexes are in these smaller cities away from urban areas is they have the space and they have the luxury to do that. We don't have the luxury we have to just have a softball complex, the retail component, that becomes extraordinarily important if we are

going to use our planned in that manner and that's something that I can certainly talk to staff about and I think it's great to see the synergy with the parks department and Office of Economic Development, I think that certainly the retail can be oriented towards the retail, I agree with Councilmember Rocha, softball should be the primary focus and theme. But there could be sports theme retail as well as other general retail because as opposed to some of the complexes that are built out great opportunity to provide good quality retail to the existing residents in addition to those that will be traveling from all over to come and take advantage of the facilities. So I think that there's a great opportunity for economic development. Obviously great opportunity to provide fields where we sorely need it. And I think with small risk, there's really a great reward here. And so I'm really looking forward to the results of the talks that we had and the discussion we had and the opportunities presented by staff. Thank you.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you. I'll try to go on to one of the items that you didn't take care of. Councilmember Kalra and I want to tell you I know more about the rearview mirror than you do. Just so we establish that. But the reason they're incredible, first of all, the fact that San José doesn't have to use any money to do this. Because it's already been coming from the 1978, I believe it was, measure P bonds. That is fantastic. Two, it's built on landfill which, what a great use of landfill, to wait 34 years, and then to be able to get 90 acres. That's awesome, I don't know anywhere else that we so get 90 acres that would work as well as that. And the fact that you have 48 fields at one time, that's just awesome. And we can keep our faith with the public, tourism has already been mentioned, as has the rest of the object or the subject. So congratulations, Tom, Rick and Tom, I don't know where you've been but we're glad you're here now. Thank you.

>> Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thank you very much and gentlemen, welcome back to San José. I share the enthusiasm for project and the concept and I'd love to see it here in San José. I just had a few questions about how you typically operate. How do you in the past entertained joint use agreements with schools at all?

>> We have had situations where the local municipality did get involved, in some kind of a switch or an agreement with the school district but it was arm's length away from us. We weren't the entity that was involved in it. So between us, no ending up on school sites, yes.

>> Councilmember Liccardo: Okay. So there might be an opportunity for that, if there were schools that were interested in contracting with you.

>> Okay.

>> Councilmember Liccardo: You're saying at least the door is open.

>> Sure.

>> Councilmember Liccardo: Okay, great. Recognizing there are challenges in building anything on landfills, I know a little bit about that. District 3 is the home of a \$15 million headache known as a landfill on which Watson park currently sits which is a beautiful park but it took a lot of effort from Julie in our parks along with Dave in the Public Works team. And we're also trying to build up the park on Martin landfill in our district and we know something about methane gas and the time and all that. I'm particularly acutely concerned about the city and its liability and the health impacts, environmental impacts of having recreational activity on landfills. Sometimes not knowing what we don't know. And so I am very much supportive of Councilmember Rocha's memo, because I think it is helpful to take a look at other sites like the fairgrounds because I think we'd all love to see this in San José. But I am concerned about the long run about city retains ownership, sounds like it will, sounds like it will be a ground lease, and we all know that if there's any risk that ultimately we're going to be holding the bag and most importantly we don't want to subject our residents to risk. So I guess one question I have about measure P money

and how it would be used, is that what would require city ownership of the land, that is, is that why we would want to hang onto land or are there other reasons?

>> Julie Edmonds-Mares: Let me answer in terms of measure P and then let this particular analysis as we're bringing forward, measure P will be a part of the analysis but it is not a forcing conclusion at this point that that would be the usage of those dollars. It would be a part of the analysis. In addition, we're also evaluating four other sites, which we've talked about before, for the measure P, shady oaks, Arcadia, Columbus and Alviso, which we would consider doing on a parallel path the due diligence on those locations as well. So we would bring all that information back to the mayor and council. In terms of owning the land, I'll let Nancy talk about that.

>> Councilmember Kalra just to address the city landfill issue, it's likely that big dreams model is they do leases they don't own.

>> Councilmember Liccardo: I see.

>> That's part of the normal course of business with big league dreams. Part of the conversation with Hopkins on any retail component may include their ownership. That is part of the analysis to look at the characterization of the landfill itself. And ESD has indicated the methane collection amounts have been falling precipitously. We won't know the full answers to these questions until we delve in a little bit more.

>> Councilmember Liccardo: Sure, understood, look forward to seeing the results and hopefully they will all be successful. One question around hotel. Recognizing that a lot of hotels particularly in the downtown are subject to considerable fees with the H-bid and T.O.T. requirements to help finance many of our endeavors like construction of a convention center, would this hotel be subject to the same zone fees as downtown hotels or would this be -- what do you see happening with that, Nancy?

>> OED has been a strong partner in working with the hotels coming forward, and requesting? Strongly, that there be parity in fees and to date, we have been successful. There is one hotel that was on the Sierra on the Brocade

site that came in before we began those efforts. But in general hoteliers and particularly property owners at the very front end of that have been positive, been supportive.

>> Councilmember Liccardo: Okay, great. I know nobody wants to talk about fees but I just wanted to at least make sure it was out there in the conversation. And I think that was all my questions. I just want to say thank you for this bringing this opportunity to San José. I'm mighted for this however it would happen some wherever you are looking. I would advise if you are looking dodger stadium. Want to try omaintain free from graffiti and abuse.

>> I assume that that would be the sentiment here, thank you.

>> Councilmember Liccardo: Yes, thank you.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Thank you. First of all I wanted to say I think this is a great idea. I really enjoyed going through your Website and looking at your projects in other parts of the country and seeing the greatly benefit you bring -- great benefit you bring to cities. I agree with everything that was said so far so I'm not going to repeat it just so i'd rather have it hereby and whenever we deal with the county it never ends good. So charge forward. And hope to see you back soon with an agreement so we can get this thing built and open before some of us leave office.

>> Thank you.

>> Thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you, mayor. Most of the questions I had have been asked and answered. So I do have a couple of more. One being, to the facility that -- excuse me I forgot your name, sorry, Rick. Have you ever, in these areas you have done these complexes would this be the first one on the landfill?

>> No, sir. We built one on a very large landfill in the city of West Covina outside of Los Angeles.

>> Councilmember Campos: So are you -- throughout since it's been open have you had any meth Thai issues or any --

>> We've only been open three years so it's not a real long test period but so far it's been excellent.

>> Councilmember Campos: Excuse me I'm trying to fight a cold so I'm trying to think straight here. Down the peninsula we have an amphitheater, shoreline which was built on a landfill and there's been some cases where methane has seeped out, and you know, that being a concert location, back when you could smoke cigarettes, you know in an open -- you know there's been some incidences where you know flames have ignited. What types of -- maybe this is more of a question for Joe. And I see Joe up in the audience, more on a development or planning standpoint. What types of continuous mitigation measures do we have for methane on a site where you know, I mean where you have a natural grass gas will seep through the soil. So what types of things would we be requiring them to do to make sure that the public is safe out there and then I'll get to my second question on that.

>> Joe Horwedel: Councilmember Campos. The state regulates closed landfills and one of the other parts of our office in code enforcement deals with the landfill closures. We do look at the methane collection systems. It is one of the opportunities we see what the development is actually upgrade the methane collection systems. We do really want to ensure that the methane is actually being pulled into that system and not coming up through the top. Environmental services has been capping all of the old landfills in the cities with dirt as we've dug high rises we actually take that dirt and make it actually a thicker cap on the top. And the last piece up in Alviso we actually have high rise buildings built on a former landfill. We're federate familiar with how to deal with the issues with

methane. It's really the older ones that haven't had anything done that are the problematic ones, so doing something like this actually solves that problem.

>> Councilmember Campos: I take it that we would be doing soil remediation on the topsoil so we don't get some of the things I know at Watson broken glass would come out. Rick -- Joe don't go that far. I have another question. So I would imagine we would do that because I remember even before this whole issue happened with Watson park, I used to coach youth football and we'd have games there at Watson park and back then didn't realize that it was a former landfill and always remembered why was there always glass you know on the field. And so the remediation should take care of that, and would we be -- would we do periodic replacement of soil? Because you know with a sports field you've got to continue to replace the wear and tear on the fields. Would that -- is that part of what you do already?

>> Julie Edmonds-Mares: Councilmember what we've done in other locations is you put a cap that's so deep that it's not necessary to replace on a regular basis..

>> Councilmember Campos: Okay but over the course of 20 or 30 years I'm sure we would have to come up with some sort of a plan.

>> Julie Edmonds-Mares: We would definitely follow as Joe was saying the state guidelines in that respect.

>> Councilmember Campos: And Joe I know there's been talk of a hotel you know for the site. So from again from the planning perspective, the desirability probably not that desirable if you could put a hotel somewhere else you'd want to do that given that you know some folks up there if they are given this is the valley, some folks stay for a week, two weeks when they're doing jobs for our tech industry. What types of things would we do to make sure that a living facility such as this is you know has the least amount of impacts as possible? And what comes to mind is the old G.E. site, when that was all being debated --

>> Joe Horwedel: Right.

>> Councilmember Campos: I remember the EIR showed some soil contamination because of some of the things they did at G.E. and that's one of the reasons why the council stood its ground on absolutely positively no housing on there. So looking at those two sites, and the contaminants that could be there.

>> Joe Horwedel: Right. The real reason why G.E. was that G.E. refused to indemnify or land restriction they never wanted to be the deep pockets p.m. from a lodging standpoint people are there overnight they're sleeping so it is an important consideration. Again as a part of how we look at methane and how the state looks at methane it's look at where methane would collect at, it collects in low spots, under foundation of houses, we've had that done housing all arounds it that back in the I think it was early '80s it was creeping in underneath the highways so they had to go back and fix the collection system. That is one of the things we would look at, is are there place that are better suited to put the hotel or not. You know from a planning or land use standpoint we really look at lodge scattered throughout the city. We belongs somewhere else but we'd look at if it's going to happen here, how do you go through and do it so that it is absolutely safe for the people that would be staying there.

>> Councilmember Campos: Okay so given that, Rick, so long term given that we would -- we're ultimately going to own the land what's our liability knowing that -- I mean perfect example. G.E. basically said we're not going to sell it to anyone who's going to put housing on there. So knowing that we own a landfill and there are potential contaminants, what's our risk?

>> City Attorney Doyle: There's always risk and that's why the development's been limited on this landfill on this site. There's been a struggle for the last custom years trying the find the right fit. As part of any due diligence as part of any long term development that has to be addressed and then proper indemnifications or proper restrictions on use need to be put in place. But I'm not saying there would be without risk, but we need to at least be able to know what the level of risk is, and then address it either in the form of indemnities or restrictions on use.

>> Councilmember Campos: Okay, and I'm asking these questions because it's not every day you develop on a landfill. I'm more concerned about the commercial and you know potential hotel, which in my own opinion, we have built golf course he also on former landfills and they performed well. So I think this is a great location for a solve ball complex. I'm look forward to seeing what transpires as we do look at other sites, and I appreciate Councilmember Rocha adding that into the memo. With that I will be supporting the memo and look forward to what we find out and what final product you bring to us. Thank you.

>> Vice Mayor Nguyen: Councilmember Herrera.

>> Councilmember Herrera: Thank you. This is an exciting project. And I imagine the singleton landfill and look at potential types of opportunities, what else have we considered, what else comes to the top of the list for this, if we didn't do this type of a project? I would imagine there's pretty limited concepts for this.

>> That's correct. We have also really tried to accomplish energy savings or energy projects. But it's very difficult because the cost of infrastructure associated with that have proven not to pencil.

>> Councilmember Herrera: And in terms of big league dreams, I just wanted to -- this is the Dallas picture we're seeing up here, is that right?

>> I believe it is.

>> Councilmember Herrera: Rick, what kinds of retail on this site?

>> On this facility here it's kind of interesting in that six hotels were built within three quarters of a mile that did not exist. So pretty much there's no question they brought in I don't have the number of square footage, because it's change rapidly, that facility has been open for five years and they've got a variety of restaurants and some shops that went in. But they saw their dramatic deal was in hotels. And six hotels were built for that facility right there.

>> Councilmember Herrera: But as part of the development or did that just occurred?

>> That just occurred.

>> Councilmember Herrera: That occurred adjacent to that because there was opportunity for that to happen?

>> That was the day that we felt we were missing the boat in a development opportunity when we saw that happen.

>> Councilmember Herrera: So in your typical facility what percentage is it retail? Is it retail associated with the facility in -- as part of the development, is that always a piece of it or --

>> No, this is the first time that we're coming to a city and saying we're coming to you to do this as a sports facility and a retail situation as a team. This is the first time and again that's as a result of us watching others do it for so long.

>> Councilmember Herrera: Again, I think it's a great concept, sounds like a great company and you have a great track record. And I know from talking with parks and rec over time, over the last four years, we've been looking for a place to do this kind of a soccer complex. So this will be the place. So I am concerned about the city owning it and what liability might be associated with having this landfill and given some of the comments others have made and that might be more of a concern depending on what retail ends up there, such as a hotel. The other thing I just wanted to make sure that in terms of measure P, since measure P is mentioned in the memo and I appreciate Julie that you brought up the other sites that have been looked at. What we're doing here is we're doing due diligence on this particular site and it sounds like on the fair ground site as well. But we're also look at all the other sites on the list that you have been looking at for a while, because it may turn out this will not be feasible so you don't know how this will move forward.

>> Julie Edmonds-Mares: Thank you, Councilmember Herrera. We going to continue to explore the others per the direction and we'll also on a parallel path be looking at the opportunity sites for softball that we've previously talked about, shady oaks and Columbia and Alviso, and come back to the city council together so you can make that determination.

>> Councilmember Herrera: One thing I would like to ask the make are of the motion if you don't mind, so it's clear we're looking at these in terms of the others in terms of the measure P funding ?

>> Councilmember Rocha: The other sites that were mentioned, yeah, happy to include that.

>> Councilmember Herrera: Great. Now I know the fairgrounds has been brought up and I'm just wondering if either of the -- if Rick or if you are Hopkins, have you met with the county at all to talk about the fairgrounds as a potential site?

>> We did. We had some -- I personally was not involved in that. The Hopkins group was contacted and they had some conversations with them. It never went far enough for me to get on our airplane and drive up here. To be horns with you, Mr. Lenne had some preliminary -- Tom you can elaborate if you want. But the fact is there was some problems going ahead with them. We're in a situation, councilmember, where we're look for situations that we are a great fit for. And that for whatever reason did not appear to be a great fit.

>> Councilmember Herrera: What are the problems since we're talking about that as a potential site?

>> We met a year ago July and the conversations just kind of died, didn't go anywhere. I think they lost interest with my assessment.

>> Councilmember Herrera: So there wasn't any specific reason?

>> I think their finance ability was probably the biggest one that I heard.

>> The timing was wrong and financing like I said, they just kind of faded away. Weren't interested.

>> Councilmember Herrera: So my only concern would be, if there's -- if it doesn't -- I wouldn't want to spend a lot of staff time on an option that doesn't look like it has a lot of feasibility if we're moving forward. So if there are some significant issues there, I just would you know, I would want to consider that in terms of how much time you want to spend.

>> I'd close the statement with this, I know what got back to me as a final decision makers is they were not in a position where they could fund the deal at that time, they approached this as this came up, when they saw everything that was involved they couldn't make it happen. So I don't think that that, you know, closes the door on anything except for us having worked with them directly at that time.

>> Councilmember Herrera: And I am concerned about I think we might have a little more control with the project if it's in the city, on city land and moving forward. I also think that we have several city sites as we've already mentioned that could be potential for the measure P money. And could you remind me again Julie what is our obligation with this measure P money that our voters voted for? I think provide more recreation for our residents. I really appreciate the economic development of this, I'm on the economic development committee but mindful that we have the recreational opportunities for our residents. That there aren't enough sports fields and that the community has been waiting many, many years over ten years acknowledge I know the Oletto area, those residents have been waiting year after year having this in their top 10 SNIs which doesn't exist anymore, but just reminding everybody that there's other projects out there and I look forward to have all of these looked at and evaluated against everything we're trying to accomplish.

>> Julie Edmonds-Mares: Sure, thank you, councilmember. \$228.9 million community centers five trail segments have already occurred. The only single project that was actually called out in the voter-approved project was the HP Happy Hollow enhancement. But in connection with our citizens oversight committee we committed to a series of projects, there is still discretion within council for that, but one project is softball and in terms of the current soccer

complex that we'll be moving forward with and in addition to that there's a complex, softball complex reserve.9.7 million remaining and a bond contingency reserve of 7.5 million at that point we will be concluding.

>> Councilmember Herrera: All going forward.

>> Councilmember, I want to make sure we're going in your minds the right direction I keep hearing softball complex. There's no question that when we're mentioned in television and sports illustrated magazine and some of the great publicity, we're referred to as that but I want to also remind you that we do a lot of other sports, this is a full sports complex, just as many travel baseball travel soccer travel lacrosse industry has exploded it's huge and while without question the softball players from this area and the tournaments are well represented and love it, this is very much a full service sports complex. Of all ages. And I wanted to make sure that we're clear on that.

>> Councilmember Herrera: I appreciate that. I heard you mention cricket. There are -- we are a very diverse community, we have folks from all over the world and we have people who play psychiatric it, folks from India and other places that would appreciate that. I like the idea that you are open and willing. I played in twin creeks when I worked in the private sector. I also think being here on a public council we need to look at what all the residents need and they have different needs and I'm glad to hear you focus on the youth needs and the adult needs. Thank you.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. Thank you gentlemen for visiting San José and your proposal. For staff all the variety of opportunities out there, my guess is this would be six months of work?

>> The initial phase is four months and we're going to try to hold to that as quickly as possible.

>> Councilmember Oliverio: Do we have if benefit of billing the bond funds for staff time, since it's related to a possible bond project?

>> Julie Edmonds-Mares: We have the ability to do that with the staff analysis, however we had intended to use staff works and not expend additional funds on this particular research project.

>> Councilmember Oliverio: Okay, thank you. I want to say obviously through discussion that we learned that former landfill sites don't offer you all the utility to build everything you want. So we are limited in this parcel and I think we have to look at it as an asset that can produce the most for us. And with that said, that I know that Councilmember Herrera mentioned things at the county and I certainly would like to see whether it's an MOU, a letter or the Board of Trustees, simply voting to have some intent. Because we don't -- apparently we don't have anything concrete. We have a desire but it's not my land. So it would be nice if some communication could happen through board to the staff to say if this is something you're really interested in. Because for it to fall off the radar again might be the same course. Since the limited opportunities in the land in San José I'd like to see that opportunity be maximum applied. Finally on the idea of that, running a scenario that would say, how much would it cost for the city to run it, I would just like for staff to make sure that the estimates used are realistic and conservative because councils before me had proposals brought before it for golf where it was supposed to be 100% paid for and obviously we subsidize it. I just want to be sure that we're candid in the discussion that the council chooses to move forward, that's fine but we need to be realistic NAACP what's coming before us. So thank you, Mr. Mayor thank you very much.

>> Mayor Reed: I have some requests from the public to speak, we'll take that noun, Ross Signorino and then David Wall.

>> Thank you, Mr. Mayor, members of the council. What I'm wondering about this whole project, it looks very nice and what I assume from that is there will be different lesion coming in and different teams from different parts of the country, if locally. There's one thing that puzzles me about this and I'm surprise surprised Councilmember Campos didn't mention this, maybe it's his head cold, I'm going to cover myself up. He mentioned kids in his neighborhood are poor. If they're going to use this system how are they going to get there? Wouldn't it be better to contemplate having teams, payable, parks, in the neighborhood, where they live? As opposed to have to travel all

the way over here, how is this going to be utilized in that regard? And I think when you have baseball teams right there in the neighborhood, fields I should say, then the kids, so on, can participate. We used to do it when we were kids, a bat and a ball and you just walk over there and start hitting the ball as best you can. But nonetheless, this thing here you're going to have to travel to this thing if it's meant to be for the community. Here again, I think the neighborhood would be served better if these ball parks were right there directly in the neighborhood itself and you know again we mentioned how they going to get there? Kids, parents are working, they have to go to work, they don't have the means of transportation. So again the distance here where they have to go for this, if it's again meant for local people how they going to get there? People working and they simply don't have the time to be driving kids there all the time. So again there that's something I'm a little worried you start using the terms, I hear the terms being used here I'm really excited about this. Be careful when you are getting too excited we should look a little carefully.

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

>> Could you please put on the aerial showing the methane device, capturing device? Ross Signorino is on the point, this is not for the kids of San José. This is for an upper echelon aspect of the community and or a corporate enterprise. We started off by a learned OED lady. No funds requested of the city at this time. Therein lies the beginning of the lie. Because the lie is that the funds for the city are being used, have been used are currently being used as we speak. Now, council should be well versed especially one who is about ready to leave service. The General Fund, fund zero 1 which all these people are funded from with the exception of the professional presenters. Now we have the issue here of this nice little landfill, we don't have the dates of its operation but I would suspect that it goes back to World War II. What we don't see is whether or not there are monitoring stations for any type of liquid infiltration to the surrounding neighborhoods. Now, this is specific with reference to mounding up dirt or disturbing the cap of a landfill with pressure. Now, what does the pressure of tons, maybe hundreds of tons have on the constituents that are down underneath? We don't even know how far down this material goes, how this material has bin accessorized and degraded over time because there is no monitoring. We also do not have adequate data as far as what type transparent or piggy bag chemicals can come on the back of methane. Although we started today's proceedings off with the death of a Vietnam veteran from

agent orange downtown baseball fields or basically the land for it. You have no abilities to get the A's because of the giants but you have all that land but you want to put it on the landfill and you don't take care of the people around it. I think the only thing we've seen here today, sorry.

>> Mayor Reed: Thank you. That concludes the public testimony. We do have a motion on the floor made earlier by Councilmember Rocha based on memorandum with the modifications that we've talked about. On that motion some all in favor? Opposed? I count none in opposition. All right. That was unanimous. None opposed. That is approved, good luck. See you back in four months. Or sooner. We will now move to item 3.1. Report of the City Manager. Ed Shikada.

>> Ed Shikada: Mr. Mayor, we have no report today.

>> Mayor Reed: Item 3.3, is the 2013 legislative guiding principles priorities and advocacy issues. We'll have a staff presentation on that we get to in a moment once we swap out the staff.

>> Betsy Shotwell: Thank you, mayor, members of the city council, Betsy Shotwell, Director of Intergovernmental Relations. And joining me is Roxann Miller, the City's legislative advocate in Sacramento. Before you is the 2013 legislative guiding principles. This is the foundation that the staff uses to bring recommendations to the city council for taking positions on legislation pending. This document went to all the council committees in the fall as it always does for discussion. And went to Rules Committee last week and is before you today. The 2013 state and federal legislative priorities and advocacy issues, the matrix that follows that document is established with the departments, lots of meetings, lots of discussion in the fall which specifically addresses perhaps federal funding requests or policy changes that the city would like to pursue. That went to Rules as well last week and is before you today for adoption. The 2013 federal forecast and overview of the federal calendar consists of a forecast that our city lobbyists in Washington, D.C, Patton, Boggs provided in the memo, of course all eyes focused attention on the lame duck session taking place as I speak, and we have been providing you with fiscal cliff updates that Patton, Boggs has been sharing with us as things are being negotiated. The federal session will begin in January with the inauguration of the president on the 21st of

January. Moving to the state, forecast and overview, I'll turn it over to Roxann Miller to give us a brief overview of the input that she's been contributing to as far as where we see things going in 2013 and a more detailed calendar is in the attachment in the memo that you have.

>> Roxann Miller: Thank you. Being Mayor Reed, members of the city council, it's a pleasure to join you this afternoon. We are at the beginnings of the commencement of a new full two-year legislative session. As you know, legislators elected per the November election have met in Sacramento the first week of this month, and been sworn in. So I'd like to just touch briefly on the results of the election, what it means in terms of decision making, and the structure of those who will be making the decisions. For the 2013 legislative session, it's the first in about 100 years that the state of California is going to have a two-thirds supermajority of membership in both the assembly and the senate. And obviously, as we discuss our strategy position re on state bills, as we move through this legislative session, that is an important element to keep in mind as far as ultimate outcomes, votes and decisions. However I would caution you or want to acknowledge to you that although the vote now in the state assembly, 80 members, is 55 Democrats, and 25 Republicans, and in the state senate of 40 members, it is 11 Republicans, with a special election coming up the first week of January, and it will be 20, currently 28 Democrats, two of those have already won their congressional seats, so we'll be down to 26 with two vacancies. The reason it's important to mention this as well is that although it is a supermajority, it is historic in nature in both houses. We want to keep an eye on what we call the moderate caucuses in each of those legislative houses because given the new elective process of two top vote getters and how that is played out, that moderates will be looking more than ever not as a part of a cohesive caucus necessarily but also on a given issue that's important to their district. It will be obviously at times a challenge for leadership to be able to hold their members so to speak and votes. With regard to our legislative delegation, we quickly just point out to you that with the maps drawn by the private citizens committee, we are now previously, our delegation, 11 members, we had four state senators out of 40, and we had seven assembly members out of 80. We are now shrunk in terms of numbers to three state senators and four assembly members. So roughly a -- just under a million for senate represented and a little over half million for members of the assembly. I'd like to report to you today that of those three senators, and the four assembly members, all of them have a strong background in elective holding at the local level. Whether a school board, county supervisor, or city council members. And also, want to point out that

carrying forward, we do have two members of our seven-member delegation of course who used to serve in your positions, as members of the city council. So all of these are important relationships and frame of references. I'd like to next move to where are we on the budget. With regard to the state budget, we can only imagine the nightmare we would be in if the voters had not entrusted the current governor Brown, our current governor, and the legislature, that, given this responsibility to carefully work with meeting the stressful needs, dire needs and the otherwise consequences had they not approved the temporary taxes that were approved under proposition 30. We do, however, in forecasting, with regard to the status of the new budget deliberations, the new budget, the governor will present by January 10th of next month. But we do want to keep in mind that the assumed deficit at this point is \$1.9 billion. And but that by comparison to where it's been, most recently in the last seven years, seems to be with competence, we'll probably see a budget message from the governor indicating that if there is restraint in what happens, that we will indeed for the first time in many years have a balanced budget for the 14-15 budget year. That's the projection. That's taking holding the line and doing a lot of things. Now, with regard to this legislative session and quickly what it means in terms of policies, and the City's priority areas of interest, and then of course, in the document before you today, is the definition of the actual priorities. Just wanted to point out to you, obviously, the highest priority for the City of San José with the dissolution of redevelopment agency authority is number one to continue to work through with department of finance, with the legislature, the dissolution and to make some sense of the trailer bills that have passed that make no sense as we unwind the Redevelopment Agency. Secondly and also important, what are going to be the new tools? We have got to come up with new tools in Sacramento, and we as the third largest city in the state, are positioned very well with our substantial reputation in what we always did and our conduct with regard to the utilization of redevelopment authority. And our generation of affordable housing. So we do have a tremendous -- this is the year we need to get those tools in place. And we point out to you, last year we had a legislation that would have expanded the using of the infrastructure financing authority. That was legislation that would have provided for that authority being able to be established and worked without a vote of the people. That legislation was vetoed by the governor, and senator Wolk has reintroduced that bill. So that will be back. Two other quickly bills to fill the void. The pro tem has again his legislation to create a joint powers authority. And whereby the funding source would be a sharing of your low -- a utilization of your local property tax increment. At times you could enter into a joint agreement with the counties. It's unknown at this point. Of how the governor will react to that ultimately. We

have obviously a couple of other issues I want to mention. With the dissolution of redevelopment, the county advocated for a dedicated funding source for the future post redevelopment, for affordable housing. That bill will be reintroduced again and will be brought back to you. Another financing issue obviously is cap and trade. The first option did not go as the governor and some folks had anticipated. Generated about a couple hundred million. The budget had for this current year anticipated it would be a billion dollars. So at the same time, other issues that will be worked on is a look at restructuring California's tax base. And by that there's already legislation in that would suggest to amend proposition 13 and provide for a split roll. So with that, and we certainly have two issues that are going to be back that are very important to San José. Those issues are what tools we have left the enterprise zone program. This is our ability to offer -- incentivize locational decisions by providing that entity with the opportunity for state funded tax credits, hiring credits. So we will need to work very diligently in a lead position ourselves and with a coalition to protect that program for which is still under attack including the governor's not supportive of the program. And lastly we just call to your attention, obviously, another huge stool for infrastructure, and this is an effort that's going to occur substantially across the state to finally provide authority below the two-thirds vote requirement for infrastructure financing. We've already had in this first week of the session, you'll probably note, we have to 55%, our D.O.T. department and you as leaders statewide with others from this valley have strongly endorsed last year ACA 23, which would have reduced the two-thirds to a 25 -- or 55% vote. So this will be back again, and it was also -- we will see it, it was introduced for libraries now, as well as other purposes. So this will be a major effort on our part. And lastly I'd like to call to your attention, this is someone representing you at the state level, but the analysis at this point in time that we're hearing is that California's economic recovery could come to a halt if Congress and the president are unable to avert the fiscal cliff. And specifically, what it would mean to the state of California in our very delicate situation at this point of starting to recharge and move our economy forward. Number 1, it will estimated that the automatic spending cuts would represent a loss of \$22.7 billion in gross state product and economy. The and that would be the annual measurement for goods and services produced in California. It would also mean, this is are we're trying to find jobs jobs jobs to strengthen the economy. It would also it is estimated mean the loss of 225,000 jobs statewide in California. So clearly, and lastly, we would see an end to unemployment benefits for Californians, in the range of 400,000 currently jobless citizens of California. So dire situation. I think it is encouraging because with the voters' approval, currently the governor, members of the legislature don't want to squander this opportunity. None of us

can. They are feeling that the trust is there. It's a limited and they must perform. So with that, I'd be pleased to answer any questions. And if I may add, our process as a city is one that is inclusive and throughout the organization, and it is only with your leadership and foresight that we are able to really make a difference in Sacramento, and with the governor, and I'd just like to share that it was this city, a number of years ago, showed leadership with the state legislature. When, in Stockton, California, and this was an elementary school, not my elementary school but not at that time, that there was a disastrous shooting, where children died. And it was that motivation in the late '80s that encouraged the legislature to take a lead role across the country and ban assault weapons. And the City of San José was one of those cities. We fought hard against a lot of odds and we contributed to the state legislature and the governor signing that bill. So I thank you for all of your efforts. And we look forward to a very, very highly charged and very important session, and thank you.

>> Betsy Shotwell: Thank you, that concludes our presentation. We're here for any questions.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: You knew I'd be first, right? I would like to say that now more than ever it's just so important to continue to make those trips to Sacramento. And I'm happy to say that Ash Kalra has -- he's not here to defend himself, is he? But he has promised that he would take over and make sure that our trips continue in Sacramento. I'm particularly disturbed by the fact that most people are not going to realize and we have to make sure they understand that the 30 million, proposition 30, I'm sorry, will just stop the bleeding that will simply triage.

>> Roxann Miller: Right.

>> Councilmember Pyle: And that we're kind of back on the same level and anything could tip that. What would be the effect on the schools, as well or are they somewhat protected?

>> Roxann Miller: Well as you are alluding to if it had not been approved by the voters, it would be an automatic take away of the \$6 billion of cuts and for the schools it would have been in the range of \$4.5 billion had the voters not acted as they did.

>> Councilmember Pyle: So if we don't want to get back to those same circumstances we have to be vocal and do whatever we can in the waive letters or whatever else. So I'm just making a suggestion that as councilmembers we get to our constituents as well through our homeowner groups or whatever, whatever methodology we can to make sure everyone understands that. And it's important for their voices to be heard. One of the things you mentioned in here is that the redevelopment, the ceasing of redevelopment had little or no effect in Sacramento, the money wasn't there. How many times did we say, you're not going to realize money from this? We did convince a number of legislators. But you can only go to 12 a day. And that's supersteroidal behavior. So I think communication with the public is so vital. And it would be helpful to use this information that Roxann and Betsy put together, so we can put that out in our newsletters or whatever way we can. Ignorance is the worst enemy, in my perspective. Thank you for all the work you do, really important.

>> Mayor Reed: Councilmember Chu.

>> Councilmember Chu: Thank you, mayor. I just wanted to thank you, Roxann, in public for this report and also your effort, your reputation of fighting for interest of the City of San José in Sacramento. You're there all by yourself, right? Your office has shrunk down to just you there.

>> Roxann Miller: I have a part time person. Half time.

>> Councilmember Chu: Okay, great.

>> Roxann Miller: Thank you.

>> Councilmember Chu: On a personal note I like to thank you for your assistance and the staffing, when I attended the league of California cities meeting. Thank you very much. Have a nice trip, nice drive home.

>> Roxann Miller: Thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks, mayor. Thanks, Roxann for all your hard work arounds Betsy as well, thank you for mentioning the opportunities we have to reduce two-thirds majority, 55%, I think that's going to be really important for our opportunities to expand. And restore transportation infrastructure. Quick question about I guess mentioning other opportunities that we have with Jim demint leaving the senate, my understanding the way is made clear for Michael Huerta for transportation administrator. Huerta has good ties in the Bay Area, used to work for Norm Mineta, we have opportunities at the FAA level that could help us here in San José try improve our traffic flow through the airport, whether it's through smog control or congestion pricing, whatever else it might be, I see we have general statements about supporting legislation that enhances additional air service. I wonder if we could actually try to be more specific in the principles or maybe it's somewhere else in another document to really see if we can force that a little bit.

>> Betsy Shotwell: The congestion pricing that was forgetsed at T&E?

>> Councilmember Liccardo: They've identified as a legislative priority for the region the MTC level they're going to activate the RAPSE some they have acknowledgment of the administrator of SFO as well as Oakland that they are willing to activate something regional the try get Washington to bite. I think we have an opportunity as long as Huerta is in office.

>> Betsy Shotwell: I don't know if the airport wants to comment on that, I see Jim is here, we can follow through on this this information is helpful and I appreciate it.

>> Councilmember Liccardo: Jim may be at a disadvantage, because MTC just decided this I think gosh four days ago that this was going to get on their legislative priority list. We did some pushing and San Francisco kind of got kicked into it. Jim?

>> Jim Webb with the airport. Councilmember Liccardo we would be happy to be a little bit more specific. We weren't aware of this new position at MTC but we wanted to lay out a principle which is in the guiding principles regarding air traffic congestion. If there is something more specific on the agenda we'd be happy to take a look at it.

>> Councilmember Liccardo: Ultimately be determined the process to come. I know Jim you and your team are going to be weighing through Kerrie on the RAPSE and hopefully we can come up something that will really work well for rest JC. Anyway, thank you, Jim. And then I guess the last question I had was, this is a sizable document and I haven't actually read through every word. I'm just curious. On the realignment issue I know this is a sore spot for a lot of big city chiefs about the fact that the counties are getting the money in realignment and the big city police departments are not getting any and we know the police departments are dealing with the challenges of realignment as much as anyone. Is there any legislation in the hopper and are we in a particularly strong position?

>> Roxann Miller: You are right on Point with what you just said. Obviously the voters approval of first of all proposition 30 means there will be substantial moneys dedicated for realignment implementation primarily two counties constitutionally guaranteed. We have been left out of the mix. And obviously, when you look at the demographics of the State of California, about 75, 77% of the population live in cities. Now, granted, some of those are small cities. And law enforcement is on contract or with the sheriff. But what we have been able to do most recently, and I'll be attending a meeting next week, is recognizing that the bulk of those release are back to cities like ours. That we are for the first time starting the flow of some dollars, \$20 million have been approved. The chief worked very hard on this, and I worked on it as well. And so there will be a distribution of \$20 million to cities which have their own police department and their own chief. So a distinction, if you're a contract city, you're not in that. Because you're already served by sheriff department. So that \$20 million will be distributed

for Santa Clara County it is at this point tagged at \$555,000. Now, obviously, that's a drop in the bucket. But it is a principle that, when realignment was initially brought to the table and discussed with the governor, the governor and others did recognize who was going to bear the brunt of bringing folks back in and particularly, working together to get the recidivism 70% down, for not returning to incarceration, that 20% represents a down payment on that recognition you referring to.

>> Councilmember Liccardo: Thank you.

>> Betsy Shotwell: And it is very much a legislative priority going into 2013.

>> Mayor Reed: I have one request to speak, David Wall.

>> Sir, we have no report as to how the legislature is going after redevelopment properties that are sequestered under hastily constructed sports authorities is such as our own for the A's. With reference to cap and trade there's been no real reporting to how much cost to the City of San José, during 2014, 2015 and onward when the energy sector comes on cap and trade. And energy sector means every sector of energy, light switch in your home to turning on your car whether it's gas or electric. With reference to the airport, you yourselves have are to blame for the rapid expansion of an airport within the three airport congestive airport areas so I have no sympathy for us here. For police, once again you are the real reasons why the City of San José isn't well staffed with police. Sir, I remind you the many times I've reminded you to call upon president Obama to send in military police units for stockades that will be discussed later today. We see really no report sir either from a real person from Patton, Boggs, outwe spent a lot of money for Patton, Boggs. Now with reference to the whole intergovernment agency that is off to basically my left, the cost for it is basically a reporting service like a newspaper. Councilmember Rocha was very right, asking for all these pills that go before you that San José should support or not support, that was correct. And you have been correct all along Councilmember Rocha on that point. So this cost of a reporting from Sacramento, is very costly, and yet we say to ourselves what has benefit Ed San José to date? Lastly, I do not like to see councilmembers sitting on the dais during the council meeting saying who we should vote for. Thank you.

>> Mayor Reed: That concludes the public testimony on this item. I think we still need a motion. We have a motion to approve the legislative guiding principles. Priority and advocacy issues. Staff of course taking into account the comments that they got today. On that motion, all in favor, opposed, none opposed, motion carries. We'll now move to item 4.1, sale of a portion of city owned property on Emery street. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. I would make a motion to approve this item. It declares 29,000 square feet of Emery Street be vacated, not be built on simply vacated. We will be receiving \$325,000 on that and for the City Manager oconclude any details.

>> Mayor Reed: We have a second from Councilmember Liccardo. We have some public testimony on that issue. Jeff Berdornt, and.

>> CFO of Bellarmine college prep I would just ask that you support this motion for the purchase of the street. It is unbuildable property. We plan on using it as a component of our drop-off and pickup location. It's a part of a long term project that we've been work with the neighborhood association, college park neighborhood association to reduce the amount of school related traffic in the neighborhood. We are paying what I believe is a fair price for it. It's about \$11.21 a square foot. It's unbuildable property. Primarily because there are two -- three easements underneath the street, a sewer and two water pipes. So again, I ask for your support of this motion. Thank you for your time.

>> Mayor Reed: David Wall and then Jeff Bedola.

>> Where I am in support of Bellarmine in all aspects I believe that this should be gifted to Bellarmine. Because basically God already owns this land. And God's work is being done on this site and therefore the \$325,000 should be gifted. Now for -- we started out some time today with a discussion of flames coming from a landfill by learned Councilmember Campos. Let us turn to item 4.7 on the agenda, where you are vacating San José land,

to a \$1.3 billion corporation, via, or West properties, mission West properties, the street is via Del Oro or vista of gold for absolutely nothing. You're giving it. Why don't you do the right thing and give Bellarmine the property versus the \$325,000 you're going to squeeze or steal from God's collection plate? Now I'm going to reference to all the practicing Catholics who sit before me. Vatican 2 never rescinded purgatory. And I guarantee you, this might be an offense, not given by me, but by the almighty, that might put you down there at least in purgatory if not on the boundary of the fiery pits of hell itself. But look again at 4.7 that you'll discuss, free property for a corporate entity, a heartless soulless creature of the devil. But yet, you raise your hand against God's holy Roman Catholic church. For the record I'm not even Catholic but I see the good work that they do. What are you going to do to sit there, special circumstances there too, as a criminal prosecutor would see it you're raising your hand against God in the third week of advent. I mean there has to be special circumstances for that crime alone. It's going to get hot for some of you possibly. Thank you.

>> Mayor Reed: Jeff Bedola.

>> My name is Jeff Bedola of the community here. Open development to the public. Dreams. Open development revitalizes the community, it's good for the city. It takes vision to create livable space in the community. We live in a world where law reigns. The law is a respecter of persons. This sale isn't that good a deal as it stands. At issue isn't what we want it's what's right. If you think that what is best, the highest and best use, is achieved by preferring expediency to truth I respectfully disagree. That's what ethics is for. It is a light pointing to where our true interest lies. Deviating from truth is also a loss of power and that reflects from economic and social programs such as now playing our cities. Your vote is not for or against the Emery street matter, it's for whether to decide to be in accord with truth, the law and power of which is inexorable. I'm willing to dispute to anyone's choice of the situation. The process that has led us to this has left a trail of abuses, that don't go away by ignoring them. Thank you.

>> Mayor Reed: That concludes the public testimony on this item. We have a motion on the floor. On that motion, all in favor? Opposed? None opposed, motion carries. Our next item is 4.2, administrative hearing and

consideration of a planned development permit and determination of public convenience or necessity. Joe Horwedel is here. I think he's going to have a couple of comments.

>> Joe Horwedel: Thank you, Mr. Mayor. This is a public hearing replace it with a new restaurant the reason for public convenience or necessity is that the restaurant does have a microbrewery component and they would like the ability to have offsale of the beer that they produce for their customers, that would not allow offsale of any other alcohol that they would serve on their on-site bar. Staff is recommending approval of the proposal.

>> Mayor Reed: We have a motion to approve. I have one request to speak, Mr. Wall.

>> Earlier for this baseball complex that we talked about the gentleman that looked like he escaped from F Pharaoh's tomb because of the traffic it increases and also the blight that it can. This project alone for example, could have been used for a softball field but it wasn't, another corporate enterprise. Chevy's building that learned director of PBCE has mentioned, is a perfectly great building. It is a brand-new building, it's a brand-new building that hasn't been used for some time. They want to demolish that and put something else there which is begin the builder's right. I'm afraid of the use, I don't want it going 24 hours, I'm blight bringing into my neighborhood and also to the vagrants and whatnot that live on Columbus park and on Guadalupe park land that will be discussed later on today's agenda or today's program rather, so I don't see any outreach to the alcoholic community that resides on Guadalupe river on the banks or in tents currently you can see them at Coleman at Taylor, Coleman at Hedding street. So no, as a resident there I say they can build their restaurant but no microbrewing operation, for that entire area from going 24 hours thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion to approve on the motion all in favor? Opposed? None opposed, motion carries. Item 4.3 is next, actions related to reallocation of affordable housing units under the North San José area development policy.

>> Joe Horwedel: Thank you, Mr. Mayor. As the council is well aware we have from time to time reported on activity on the North San José area development policy area. As the residential development has occurred we are

now down to the last approximately 200 units in North San José. We previously had worked on a project at the request of the city council for a dual high rise project by the airport that had two phases of 220 units each. We had included in our allocations for North San José 220 units but not the full buildout of the project. Originally we thought some of the other projects in North San José might not happen to date they have all moved forward progressing to construction. The developer of the tower had asked the city staff about the opportunity to use the last available units for the entire project for financing purposes, and they are here today to talk about the specifics and why that's important to them. Staff, from both the housing department, Planning, Building, and Code Enforcement, did reach out to other developers that were interested in North San José, the interest we heard was related to affordable housing projects. The units that we're talking about are set aside thus far for affordable. But we are looking at all the housing goals of the city, was there a combination or proposal that would make a greater good out of that and from our review as staff we believe the proposal put forward on the table actually achieves greater goals than it does encourage high rise housing which we as a community have said we want to invest on and encourage downtown. We also are trying to accommodate that citywide. This would move forward with no incentives required from the city. Such as we're doing downtown. It is also proposed for a approximately \$2.6 million contribution to the City's affordable housing fund which would allow us to fund projects citywide for affordable housing. We know that we still have a great demand for affordable housing in North San José so we have accounted in phase 2 for a greater share of units that we did not build in phase 1. So those would still be available. But we think in the near term generating the lack of redevelopment funding, really are stalled. And so it is an opportunity to move those projects forward as well as allowing a high rise project to break ground on a more expedited schedule. So staff is recommending reallocating the units from the affordable essentially side of the equation to the market rate, and to direct staff to return early next year with the development agreement that would memorialize all the specifics as disclosed in our staff report.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Thanks mayor. I wanted to thank certainly Joe, and his team, and Jackie and Leslye and their team, in their efforts to analyze. I think complex proposals recognizing we have diverse set of objectives in North San José and citywide, I think what we have is the best project and that's why I'm willing to

support this. I look forward to seeing this higher density product increasingly along that transit corridor in North San José that really complies with our larger vision and objectives throughout North San José and the city to build the density along the transit corridors recognizing that we're not going to be able to find space for it in the neighborhoods. I did also want to thank the team from Rohm for their engagement with city and their proposal. I do realize that down the road it is a long time before we see housing in North San José and for the short run I'm not losing any sleep over that because I think there's a lot of development opportunities throughout the city, downtown and elsewhere and we can continue to stimulate high density development in the places where it should be and certainly not in the neighborhoods. I am concerned I think at some point in the next couple of years we might want to start a conversation about how and whether we start to think about creating small allocations which developers would obviously need to submit the best possible projects to be able to be approved. And how we might create criteria to do something like that. I know that's not a conversation for today but I think it's something we ought to be thinking of in the coming years so with that I move to approve.

>> Mayor Reed: I have a motion to approve. I have one request to speak, Mr. Wall.

>> First of all I have been and will continue to be an outspoken opponent of high density living. You scrip city services bringing more people to San José is really a miss representation. You should have an outright residential housing moratorium because you just can't afford it. I accept, though, that houses that are here, though, should be at market rate. Because we have affordable housing. You can either afford to live here in San José, like all of you do, and myself, or you cannot afford to live here. So the actual representation is, government subsidized housing by the taxpayers of San José via in some sorts tax exempt bonds to where some of these properties don't even pay property taxes. And that you're to be cursed and damned as well as your issue earlier. But as far as shifting affordable housing from one phase to a different phase, no. No. They should all be just blanket affordable housing and God bless the governor. As mentioned by our Sacramento person earlier on a different issue for destroying redevelopment agencies and for what you have done and prostituted and got the city into over \$5.2 billion in debt that you do not have. So with this today, I give credence to learned director of PBCE for doing a great job. But no on the issue of this shifting of affordable to you know, market rate. Because let's call it for what it is. It's vote-buying, one way or the other. And you have what, transportation corridors? Transportation

corridors to where, Councilmember Liccardo? To the water pollution control plant? Because there's nothing in North San José that's worthwhile. Thank you.

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

>> Councilmember Chu: Thank you, mayor. Just to follow up on Councilmember Liccardo's question, we had a conversation with, I had a conversation with Councilmember Liccardo. Help me with the -- my memory, probably ask you that question many times, Joe. What does it take to increase that 8,000 by fixed amount of units dedicated to low income or below the market rate income housing?

>> Joe Horwedel: Well, so with a little bit of context to the question, remember that the housing or the phasing that we have in North San José is because without the phasing we have built 32 housing in North San José with no jobs. We deliberately went in a different direction housing at this point our energies are in getting the jobs the new square footage built in North San José. We're working very aggressively with that right now. To the direct question, it would retake or retake recirculating the environmental impact for North San José. The way the EIR was set up it did have specific phasing. With it, with traffic mitigation tied to each those phases so each project developed slice of the larger project in North San José. So we have not done any of that work yet to go and figure out how, is that a year's worth of work, two year's worth of work, we haven't looked at that piece of it.

>> Councilmember Chu: Any unit above the 8,000 would trigger an EIR?

>> Joe Horwedel: I think you could go in and argue one unit but as the council is well aware in these days of industrial conversions you heard every developer explain why their project was different than any other project you've seen that year. The one power is the fact that there is 8,000 so clearly we could go through and analyze what is the impacts of 8,005. But as soon as we move past 1, there are a thousand people that would want to be in phase 1 rather than phase 2.

>> Councilmember Chu: But I'm talking about limited to below the market rate housing.

>> Joe Horwedel: So from a traffic impact, they're the same. CEQA they're the same. From a policy standpoint they're different. So it's clearly you know a policy decision that the council would like to do that, as staff we would go do that work.

>> Councilmember Chu: So in other words we would have to go through the traffic impact analysis, the EIR and the whole nine yards, hmm?

>> Joe Horwedel: That's correct.

>> Councilmember Chu: For X amount of additional housing? Could you narrow down on that numbers of additional housing above the 8,000?

>> Joe Horwedel: It is probably possible to not do an EIR, to did one. You probably could be 12. It's just where you go and then once you do that one, you will then -- you will never have a stop to the next 12, or the next 20, the next 50.

>> Councilmember Chu: Okay, great, thank you.

>> Mayor Reed: I'm not willing to do one until we get a few million square feet of office, industrial, R&D space up there, just in case anybody's listening. That's it. We have a phase and I'm intent on sticking with it. Councilmember Rocha.

>> Councilmember Rocha: Thank you, mayor. Councilmember Chu was actually going to direction I was going to go. Where are we at on the industrial square footage? I hate to ask off the top of your head but --

>> Joe Horwedel: Of actually industrial square footage we've probably build about 300,000 square feet. We tore down 100,000 square feet to build the housing we did so we're actually negative right now.

>> Councilmember Rocha: What does phase 2 for affordable housing right now?

>> Joe Horwedel: Phase 2, let's see if I've got it off the top of my head here. It's in the staff report of what we calculated.

>> Councilmember Rocha: If you could get that to me another time you don't have to look FOB for it.

>> Joe Horwedel: It's over a thousand units that I think moved.

>> Councilmember Rocha: Okay. You also alluded to the allocations and none being unused. So in some cases they're entitled, they're being held or there's permits or grading permits so they're all under construction?

>> Joe Horwedel: The -- I was just updating this as we were talking. I think there are two projects that have not started construction. The Farks and markovits property. They have not actually started. The Irvine, they have not started that but they are in building permits with us, and the other projects we're talking about, I think all the other projects have started construction.

>> Councilmember Liccardo: The Rohm phase 2.

>> Joe Horwedel: The Rohm phase 2 has started.

>> City Attorney Doyle: The Fox and Markovitz.

>> Joe Horwedel: Phase 1.

>> Councilmember Rocha: Thank you I'd like to disclose 38 met with the applicants and representatives of Barry Swensen.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor Reed. My issue with this item is the \$2.6 million paid to us is actually discretionary. It's actually discretionary how it could be spent. So for example if we want to get to that next phase we need office, jobs, et cetera. If you applied the \$2.6 million towards the fees that office builders would have to provide you would be providing hundreds of thousands of dollars of potential built-out space. We previously voted to have \$8 million go to this fund as well, I voted against this and I'm I'll remain voting against this today, because when it's discretionary I'd rather use that money to invest to get future revenue to allow the traffic mission fees or just simply paving the roads in North San José which are part of the EIR process again it is a policy call. My taxable revenue et cetera. Thank you. -- taxable revenue thank you.

>> Mayor Reed: Councilmember Campos.

>> Councilmember Campos: Thank you mayor. I wanted to disclose I did meet with members of the Barry Swensen team. I did have some questions along the line that Councilmember Chu was asking. When the North San José EIR was certified by the council a few years back, I thought that studied 30,000 housing units to be built by 2030 or 2035. Why would you have to do another full blown EIR, knowing that this is phased and you know each time we get to 8,000 and we got to wait for X amount of industrial square feet to be built, trigger the next phase, why would we have to do an EIR to add even ten more units? So let alone a thousand or two thousand new units? And I'll tell you why I'm asking. Again, Councilmember Chu was describing it. You know, I don't think, at least from now until the foreseeable future not one unit of affordable housing is going to be built. I do agree that we have to -- the best thing to do is to get affordable housing spread across the city. But when you see where the majority of jobs are going to be growing in this city, not everyone's going to be an engineer. They're going to be folks that would love to live in a memo where they're going to work at, service or delivery type should have an opportunity of affording to live in North San José. So why would we need to do a full blown EIR?

>> Joe Horwedel: It is a question of traffic mitigation. Each of the phases are self-financed. The \$13 a square foot is about \$91 million of traffic fees that we need to collect to build all the transportation improvements before we can get into phase 2. Now clearly we could go influence and this would be part of what we would analyze, if we swapped residential traffic. you would end up building another you know 8,000 housing units but you wouldn't have the jobs that were there. So the other piece that went on is the internalized traffic, so when you get them lopsided again you would have to build other infrastructure.

>> Councilmember Campos: I got it, that makes sense.

>> Joe Horwedel: We are building 430 units of affordable housing in phase 1, of the Rohm project that was mentioned, of 1600, we built one quarter of what we set out to do. There would be 1200 that would carry over.

>> Mayor Reed: We had the issues about how many units we had to require and we had a lot more than we would be required by state law, when we started look at North San José.

>> You know, I think our redevelopment policy I thought was a 20% requirement. So I think this one is actually consistent with that.

>> Joe Horwedel: Yes, and I think when we did the satisfaction agreements one of the things we were looking at is how much redevelopment state law and we were trending ahead. Just over time, that we've been very aggressive on affordable housing here in the city. With that said, with all the housing we're going ogo ahead and build the 8,000 units we will have only done 400 out of that. So it works for this phase overall if you count it up but on a sustained basis it wouldn't so that's why we're kicking to phase 2.

>> Mayor Reed: My point is it works for this phase, it balances out, we have a general plan task force these things are all interrelated. That's why you policy decisions to convert industrialment? Additional industrial land to housing which I would not support. But that's not in front of us today, we're only dealing with 174 units. Councilmember Liccardo.

>> Councilmember Liccardo: Just want to disclose I've met with Mike Black and Scott Conley and mill creek folks and as I've conferred with Rohm as well.

>> Mayor Reed: Councilmember Constant.

>> Councilmember Constant: Just want to note that I've met with folks from Barry Swensen.

>> Mayor Reed: I don't think I met with anybody, I'm sure my staff did, in preparation for this meeting anything else Vice Mayor Nguyen.

>> Vice Mayor Nguyen: Yes, just want to disclose I met with representatives from Barry Swensen.

>> Councilmember Pyle: So did I.

>> Mayor Reed: I think we have a motion, lost track of it. Got a motion. Okay. Any further discussion on the motion? All in favor, opposed, one opposed, that would be Oliverio. Motion carries. That will take us to item 4.4. A hearing on the vacation of Chabolla alley. Councilmember Campos.

>> Councilmember Campos: Thank you. Not to get into the weeds on this. But Joe, on this one, I know that there's a vacation of the alley. And in the staff report, this is on page 2 of the staff report, it states that the sewer line will be abandoned. However in the same sentence it also says that St. James enterprise will maintain the existing sanitary sewer line once the subject alley is vacated.

>> Honorable mayor, members of the city council, my name is Harry Freitas, assistant director of Public Works. I guess when we say abandoned, we mean we're going to be leaving it behind, vacated, the city is responsible for the maintenance of that pipe.

>> Councilmember Campos: So if there's backup or anything, so it's on the property owner, so they're not going to --

>> Yeah, any backups on the street what we call the lower lateral would be the responsibility of the city. But onsite it would be the responsibility of the property owner.

>> Councilmember Campos: Got it thank you.

>> Mayor Reed: Councilmember Liccardo.

>> Councilmember Liccardo: Just had a quick question. The St. James enterprise, that's the Baccardo?

>> I'm not sure --

>> Councilmember Liccardo: It is. Quick question, is there any consideration for the easement?

>> No because the underlying fee --

>> Councilmember Liccardo: I'm sorry for the vacation?

>> We are holding the rights for the public, we don't own any fee interest on the property it isn't the City's it's the public's so we vacate it, the fee is owned by St. James. St. James basically receives -- they don't receive anything. They just have the removal of an encumbrance, a public encumbrance upon their property.

>> Councilmember Liccardo: That's a shame. I'll make if motion to approve.

>> Mayor Reed: We have one request to speak, David Wall.

>> This vacation opens up a unique argument. In my neighborhood, there is an alleyway in front of a former mayor's house. All those vacation were to be enacted today because they could say hey why don't you vacate the alley behind my house and therefore increase the square footage of my property, so to speak. Now, with the St. James enterprises, Mr. Mayor, does this business entity put up an annuity of an insurance that just if they went bankrupt or whatever and yet they had a major sewage backup along the laterals that were briefly described onto the streets and who else might effect, are they required to have some insurance posted by the city to pay for the damages? Or is this just another give away of land, an alley, a little tiny alley to a corporate entity for no consideration? Which means to the broader public for nothing, absolutely nothing? So but for the neighbors that are in my neighborhood, the former mayor of City of San José, with his alleyway are they going to be able to come to you and say hey, you gave St. James enterprises a great deal on vacation of an alleyway, why not vacate the alleyway behind our houses therefore, increasing our property values at nothing to the taxpayer, it's at no consideration, nothing. What are you going to do with that question? The bigger issue is the spilled sewage and other fluids flowing from St. James enterprises sewer that's under this alley. Thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion to approve. On that motion, all in favor, opposed? None opposed, motion is approved. We'll now take up item 4.5 an ordinance amending titles 13 and 20 to amend the tree removal requirements for single family residences.

>> Joe Horwedel: Thank you some Mr. Mayor. Staff has been working on updating the tree removal process to make it easier for homeowners as well as the city in processing these. We still have a little bit more work that we will bring back in early 2013. But we didn't want to hold up this as we move into the winter season and get lots of tree removal requests. We'll ask the city council to approve this.

>> Mayor Reed: I have one request to speak, Mr. Wall.

>> This portion of stream improvement is important and well well overdue. There are a lot of idiots that plant a redwood tree underneath their house, or this heaven of trees that are very brittle and clams. What I'm opposed to this is unwarranted government intrusion into the issue of replant or pay an in lieu fee. Now I'm not sure if this

charrette was just done at commission level, my paperwork escapes me. But it seems to me replant or pay an in-lieu fee of a \$300 donation to our city forest, looks in the way of payola, you want to take down a tree you don't like, you don't want to replant it, we're going to stick you for \$300. It's not like I don't like trees. I have probably more trees on my property, fruit trees, than each one of the councilmembers that sit before me. I like fruit trees, I grow them. Lastly, I would warn people, with the exceptional highest warning not to accept any street tree placed in mayor park strip. Because the City of San José is rather Draconian in this aspect and it makes the property owner responsible for the life that tree, all the maintenance of that tree, if it kicks up the sidewalk. All these things with the street trees. That doesn't mean that I don't want people to plant trees at all. Heck, tear up your front yard and plant apricots, plums, whatever. Unwanted government intrusion or the creation or expansion of empire vee the payola vee the \$300 or pay an in lieu fee. Thank you.

>> Mayor Reed: That concludes the public testimony. Is there a motion? Motion is to approve. On that motion, all in favor, opposed, count none opposed, motion is approved. Councilmember Liccardo has a yes on that motion. Item 4.7 is our next item, transfer of vacant city owned property on vee Del Oro to mission West properties. We have a motion to approve. I have one request to speak. Mr. Wall.

>> 4.7. Was this mentioned earlier in today's discussion. We see that the entire council voted to stick \$325,000 to the Jesuits with Bellarmine preparatory college. \$325,000 to Bellarmine, in which a scruffy long either little punk from Los Altos benefited, benefited from and voted against. But here we have transfer of vacated city owned property. For what? The costs of just a quitclaim deed? All the downed heads that sit before me I look at you in distaste. Here you gave a \$1.3 billion company, free land, except for a few dollars for a quitclaim fee. But you stuck it, you stuck the knife into the very blades of Jesus on advent, the third week of advent for \$325,000. You all voted for it. See how you vote on it but here you stewards of the public trust. Couldn't you have gotten pizza for the rest of the people that sit behind me that's probably in the green room that's before me? No, of course not. Why are you doing this? Why are you giving this type of deal? Now those that are coming up for reelection and want to go to the next step of the election cycle will this be revisited? Well, who knows, who remembers? What a deal it must be to be on your good side versus on the God-fearing side. And Councilmember Pyle, your last votes in office, you voted against Bellarmine. We'll see how you vote.

>> Mayor Reed: That concludes the public testimony. We have a motion to approve. Councilmember Liccardo.

>> Councilmember Liccardo: Just one question. Recognizing this was the -- that this is necessary to close a very large transaction, the \$1.3 billion transaction and part of that transaction is suing us, was, I know it's difficult to answer this question in open session. Was that topic ever brought up during conversations with the seller? Since we are trying to protect the public's interest in a \$6 million award that will come out of the General Fund as I understand it.

>> Mr. Mayor, members of the council, Nancy Kline director of real estate and deputy director economic development. As you note, the first action which took place in 1977 brought the land to us for no cost. And in 1982, the council voted to vacate the property and the property owner's been paying taxes on the property since that time. The declaration of surplus as well as the intended quitclaim never occurred. So it was an item that fell through the cracks, that did not get completed with the city action that should have been completed. So in essence, this is an error, and staff has had some conversations and believes that the best course of action is the good will that we're stepping forward with that we would not be able to enforce any action, as this is an error basically on staff's part.

>> Councilmember Liccardo: Is there any reciprocal goodwill that you feel coming from the other direction?

>> City Attorney Doyle: It would be nice but the topic was not broached. We don't have a judgment at this point so we're still in the process of posttrial motions and things of that sort. But they're very unrelated. I think as Nancy is indicating this was a mistake on staff's part. This should have been corrected in the 1980s it wasn't, it's only when you try to clear up title to do oa deal that it comes out. We're trying to clear title.

>> Councilmember Liccardo: Everything involves land and same parties and money it would seem like a reasonable topic of conversation to raise. I'm not in support of going forward. I suspect it is going to pass anyway. Would love to see this come up during negotiations.

>> Mayor Reed: Councilmember Oliverio.

>> Councilmember Oliverio: If staff puts it forward Eiffel support it because the parcel is so small. It's about 7 or 8% of an acre.

>> 2400, 3400 square feet.

>> Councilmember Oliverio: Pretty minor in comparison. It's not like it's a developable piece of land.

>> It is not.

>> Councilmember Oliverio: Okay, thank you.

>> Mayor Reed: It would be good way to get ourselves sued again if we decline to fix the clerical error. I'm going to support fixing the clerical error. We have a motion, right, we have a motion. Mr. Wall you want to speak? Oops, that's a card on the next item.

>> That's okay, thank you Councilmember Liccardo for your vote that's a good job.

>> Mayor Reed: All in favor, opposed, two opposed, one two three, Liccardo and Herrera are opposed the rest in favor so it carries. We had enough to get that done. We'll now move to item 6.1 and that's a property based business improvement annual financial report and agreements. All right we have a motion to approve. Mr. Wall.

>> I'd like to give my thanks to the downtown --

>> Mayor Reed: Ortbal not wall sorry.

>> No need Mr. Mayor, with the motion we're fine.

>> Mayor Reed: Okay, Mr. Wall you wanted to speak. Now is the time.

>> Continuing from previous interruption. I would like to give my thanks to the downtown business association for all their greatness that they've done to the City of San José. However, Groundworks I would like to give them thanks because they do a good job at what they do. My only concern here is it looks like this is an exclusive contract and I have problems with this type of apparent exclusive contract with reference to no competition, or perceived competition to clean the downtown. Thank you.

>> Mayor Reed: I see Scott Knies is here, he doesn't ask for a chance to speak, he doesn't want to snatch defeat from the hand of victory the district itself and everybody that's involved with the Groundworks people. They do a great job, all times and places keeping the downtown clean so I'm happy to approve the report and the agreements. Anybody else? We have a motion, a motion, all in favor, opposed, none opposed, that's approved. Next one is 9.1, assignment of the parking covenants for 50 West San Fernando of the City of San José from the successor agency to the Redevelopment Agency of San José. We have a motion to approve. On that motion, all in favor? Opposed? None opposed, that's approved. 9.3, approve a new José theater lease with the comedy club of San José. We have a motion to approve. I have one request to speak, Mr. Wall. 9.3.

>> 9.3, sir I'm just concerned about any during this negotiation and new lease, if the city actually loses money on this deal. It appears to me that this new lease is generated to retain the comedy club of San José LLC at any cost for downtown. And I would like a discussion about how much money that the city is going to lose during this new lease. Thank you.

>> Mayor Reed: That concludes the public testimony. We have a motion to approve. On the motion, all in favor? Opposed? None opposed, that's approved. Now we need to take up a joint city financing authority board matter. One item, that's regarding consent, recording the subordinated leasehold deeds of trust against the ground lease of the fourth street apartments. Let me read that language in to make sure the staff recommendation

is modified. So the new language for the section D of the recommendations is the recording of any regulatory agreements or covenants associated with the new loans or grants awarded to the project, that conversion against the ground lease between the authority and borrower for the project, as more specifically dated in the memorandum dated November 27, 2012 is hereby consented to by the authority. So as the make are of the motion to make sure the motion includes that change. okay, so we have a motion that incorporates that new language. Any other discussion on that? We have a motion to approve. All in favor? Opposed? None opposed, that's approved. Taking us to the last open forum of Nancy Pyle's career on that this council. She's been waiting for this moment. We'll make it a good one. David Wall.

>> I would like for the city to entertain an item. Councilmember Oliverio, the like the issue with the via Del Oro, I would like the city to succeed the amount of property that it has say my sidewalk space so I have control of it. It means nothing it's just a little bit of land. But like the same argument I would like or part of the city street in front of my house given to me same amount, thank you. But also Mr. Mayor, Columbus park has become an incredible shanty town. Columbus park in between Taylor, West Taylor, Coleman and Hedding street, also along the Guadalupe river you have an incredible growing shanty town of tents and what you have not. I contend sir I asked you before for you to ask President Obama for help from the United States military to deal with the vast numbers of homeless, vagrants, mentally ill, criminals that are on parole that can't make it that are using these areas as base camps for their own operations and survival. This is just one segment that I think that's happening throughout the city. And there's no leadership from this council outside of trying to secure section 8 housing vouchers to put these folks into our neighborhoods, in apartment houses or whatnot at taxpayer expense so you can wash your hands of it. The problem is intractable, sir. You don't have the resources to take care of it and that requires the intervention of the United States military for them to come in and take care of the vast numbers of people that are coming into this city that are already here in this city that can't take care of themselves. Furthermore, sir, if this fiscal cliff occurs, you're going to wish that you had the U.S. military here in the City of San José prior to all this business that's going on. Thank you. Madam Pyle, we'll see you on the streets.

>> Mayor Reed: Your time is up. Keith watt. Mr. Trout, you can't bring that sign up here so you might as well leave it at your seat.

>> Thank you, Mayor Reed, honorable city council. My name is Keith watt. I've been in business in San José for 52 years. And I have a theater down the street called the Trianon theater. I'm here today to speak to you about the theater. I acquired the building 30 years ago and since then we've turned it into an incubation spot where we grew different performing arts groups. We eventually had 34 groups that grew their performance there, concerts performances and other events there. And last year, there was a total of 998 different performances and events there. 64,000 people were there for attending these. The reason I'm speaking today is because I've had some difficulties with my theater over the past seven years. Currently, the theater is an appraised value with Norm Hoberg of \$3.5 million, has a mortgage against it of \$1.9 million. Has an annual income of \$300,000 and has a mortgage against it that is now currently 15% interest. I'm not able to save this theater on my own. What I'm suggesting to the City of San José, if they consider it of some value, was that I gift the theater to the City of San José. It comes with an income stream of \$300,000. Comes with an endowment or a dowry of 308 groups. Something to think about. Questions?

>> Mayor Reed: No questions. This isn't a question-and-answer period.

>> Councilmember Liccardo: I just ask Mr. Watt to remain after the meeting.

>> Mayor Reed: We'll have some questions after the meeting Mr. Watt.

>> Yes, thank you.

>> Mayor Reed: Ross Signorino.

>> Thank you, Mr. Mayor. I want to talk about the tragedy that's hit this country last Friday. And now we're starting to talk about gun control. That's all we're going to hear for a long time to come. Gun control, gun control. The

different types of guns. And we go on and on and on with this rhetoric. That's not the only thing we have to control. It's the violence that we show in our movie theaters. It's the violence that we bring into our homes. It's the violence we go out and pay for just to see for the thrill of it. And you seem to think that this, or maybe you seem to think that this does not have any effect on what we're doing and especially to the younger generation. This is something, too, that we have to look at. And parents should be aware that when you bring violence into the home, you become brutalized, you become callous towards your fellow human beings. This is not something that should be overlooked. We have to discuss. Then you have pornography. That's another thing that keeps on going in the minds of people. You see kidnapping of all kind. I notice that this is the last meeting that Councilmember Pyle is going to attend. And I'm wondering about something what happened here. Her light's out in the back. Did you notice that? That's the way they elect the pope. When that light goes out, then you become pope. I'm just wondering if you're not going to be the popist now after this? Mr. Mayor, I have to take issue with you. You've never stopped anyone from talking. You did stop me from talking. I thought anything on the agenda I could speak on but you forbid it. I defend you at the city, I defend you at that time democratic council meeting at that time county building that you never stopped anyone from talk, I'm surprised you do that to me. One time Mayor Gonzales did that and he was found to be illegal by the City Clerk's office, thank you.

>> Mayor Reed: Mark Trout.

>> You know Ross brought up a very good point there. Can we just give me a second here. In San Francisco they have the thing on the stopwatch on the thing so you can wrap up your thoughts and conclude your remarks, it would be good if we had that here. But Ross made a very good point, you know, I had planned on talking about compensation to the assistant City Clerk. You know, and by law, you know we're supposed to be able to talk on any point we wanted to. I've been hanging around for several hours here and have you know, so I don't know, that seems to be illegal. But what happened to me last month on the 27th, when we were up in Washington, D.C, and Vice Mayor was running the meeting, is I had -- she said that I had four minutes to talk because there were two related items on the agenda for the 27th. I think it was 2.12 and 2.13 which were crimes against children. And so I reaffirmed I got four minutes to talk, right? She says that's right. Then I wasn't one minute into my speech when Mr. Hawkins interrupted me, you know, so he cut me three minutes of my time. And I spent you know some

money to have this sign made up and I'm holding it up at Christmas in the park along with scriptures because they want to tell people about Christ. I really hope you google John DeCamp. We honored Frank Lopez. This guy John de CAMP is also a Vietnam vet, he is still alive, a war hero, he represented Paul Benasse up here at bohemian grove. And it relates to San José city -- this is a problem I'm running up against, it has repercussions to San José because we have a so-called child protective services. And what John de camp said in his book in the Franklin coverup I don't believe it, I'm out of time. Well google MK ultra, michael Aquino. Time is up. That does not conclude our meeting. Councilmember Rocha.

>> Councilmember Rocha: I wanted to take the opportunity to thank Councilmember Pyle for her eight years of service up here. It's been an honor serving with you. You are a class act. You are a champion. I couldn't imagine serving with anybody up here besides you, I really appreciate everything you have done for me and for the City of San José. Thank you very much. [applause]

>> Mayor Reed: All right, now we're done. We're adjourned. Thank you all.