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>>> Good morning, I'd like to call the city council meeting to order. We have a quorum once we get everybody together I've seen in the last several minutes. We have a quorum, so we'll go ahead and get started. A couple council members are still in the green room. If they can hear us. We are convening in open session to begin the morning as part of an effort to have more transparency on our labor negotiations. And so what will happen here in this session is Alex will make a presentation about the status of the proposals that we have received, and then we will adjourn into closed session to have a discussion, make decisions, ask questions, et cetera. But as part of this process, we will take comments from the bargaining units that are the subject of Alex's presentation so they can tell us if there were any inaccuracies or anything that was incomplete about the presentation, because the objective is to make sure the council has all the facts and we all hear the same story and the same information, but this is not a session in which we will do bargaining or direct dealing or bypassing, all of which are forbidden by state law, and so we're not looking for arguments about whether or not the proposals are great or not from the bargaining units. We're looking for corrections or additional information that wasn't included in the presentation. And then we'll adjourn into closed session to have a further discussion and council members can get greater detail at that time. And then we will take up the afternoon agenda at the regular time after we're done with closed session. So, with that, I'd like to turn it over to our city manager as we typically do in closed session to open it you.

>> Thank you, mayor. Yes, I often make introductory comments before the staff provides you their update and options for direction, so I would do that today. And yesterday's budget study session was a first look at the tremendously difficult choices that will be before us in the next few months, and I thought it was pretty interesting timing that today's "Mercury news" headline tough choices inescapable is reflective of our own situation especially in the key statements directly from the article. First, you're going to see a huge layoff of staff and a massive reduction in public services. The question isn't how to avoid that, the question is are we having the broader adult conversation of what kind of community we would like said Emmitt D. Carson president and CEO of the community foundation. The sources of tax revenue in Santa Clara and San Mateo counties are sales tax on goods, and it will continue to be hit by the downturn for some time to come said Doug Hinton of collaborative economics. Emmitt said we'll have to make hard choices. We no longer have the revenue stream for the world we want to have, so in labor negotiations, the choices don't get any easier or less painful and with that as a

context, I'll turn it over to Alex for a brief update on labor negotiations and options for direction for additional reforms, and then he'll turn it back over to you, mayor.

>> Good morning, with me are members of my staff. We do have quite a lengthy presentation this morning before we go into closed session, and as the city manager indicated, it is not just simply an update but request for additional direction. I have on the screen here again for anybody who may be listening wants additional information. All the documents, proposals, and other information is available on the city's website. We have provided the city council with copies of several documents that we'll be discussing today. They are available here in the council chambers at the top. In addition every document that we've given you is posted on our Internet site. So, our agenda we're going to go briefly over the negotiation teams. There's quite a few of them given that we have so many negotiations so we'll go quickly on that, but this presentation will be posted if people want to take a look at it. We'll talk about ground rules, information request to be received and give you an update by bargaining unit and seek additional direction from city council on additional reforms and directions from city council on sick leave payout. With those that are unfamiliar with how we give the presentations at least in closed session they are usually at the very last minute. This presentation was completed about ten minutes ago, but I think the important thing for people to know as we progress in labor negotiations, the decision making speeds up exponentially, meaning decisions that need to be made by both negotiating teams on the bargaining unit and the city side increase. We may have had negotiations the day right prior to closed session or we may have had many sessions in between and, again, that will really accelerate as we proceed in the next few months--- or few weeks, I'm sorry. Very quickly wanted to mention the issue of the timeline. The obligation to meet and confer in good faith comes from state law, and what it says is that you had have to endeavor to reach agreement on matters within the scope of representation. Prior to the adoption by the public agency of its final budget for the ensuing year, and we all know that happens in June, but the next sentence is also very important. The process should include adequate time for the resolution of impasse. Now, again, an impasse happens when the parties aren't able to reach agreement and hopefully that can be avoided, but in the event that it does happen, we need to make sure that we built in sufficient time for resolving those impasses. And in our local rules, the impasse procedure, if either sides elects it, is mediation through the state mediation and conciliation service. So, very briefly talking about the timeline. Given the fact that the council must pass the budget in June, this is, again, just

what our thinking is of when we'd have to reach agreement so that the council can consider any agreements on concessions by the time you pass the budget. We believe the timeline would be to have council approve on may 31st. That would, then, be before the mayor issues his June budget message and then the TWO actions that you take in June to adopt the budget. Backing that up, then, if that's the time frame, we would have to issue public memos on the labor negotiations 14 days in advance, which would be may 16th, so we would need to hopefully reach an agreement or get to the end of the process if we're not able to reach an agreement and complete the impasse procedures by may 13th. Why the 13th? It simply gives us three days which is actually a very short time period to turn around a council memo to have that issued, so if you think about the time frame and think about if we did have an impasse and have mediation, it really means that we need to really get going very, very quickly to make sure that we have sufficient time to endeavor to reach agreement as the act requires. We've talked to the council several times about the structure. This is now how it appears that we'll be proceeding in the negotiations with our 11 bargaining units. We have one coalition that is what we consider contract negotiation coalition of five bargaining units and that is going to cover all of the issues that are within the scope of bargaining at that one table, meaning retirement benefit second tier and the whole contract, anything that's within the scope of bargaining that either side brings up will happen in that coalition. The other coalition is MEF and CEO which are the two AFSCME bargaining units and the others on the right are individual bargaining. So, very quickly I'd like to go over the negotiation teams. First is the San José firefighters local 230 led by Jeff Welch and his new team Joel Phelan, Juan Diaz and Eric Wallace. I wanted to mention it's a new leadership of local 230 and we have the opportunity to meet with Jeff Welch in his new role and sincerely appreciate his professionalism and desire to work with the city as we move forward and, again, we just wanted to mention that. San José police officers association, again, very briefly, I don't want to go through every single one by name, but you can see here led by George Beatty, the San José police officers president and his team and then you can see our team down below on each particular slide. This is operating engineers, bill pope, we see the city job title when it says N./A, it means they are not city employees, bill pope used to be a city employee, but he's the lead, and the city's team is led by Gina Donald. This MEF/CEO team, MEF is the largest in the city by the number of employees they represent, and it's combined MEF and CEO. And Charles Allen is the new business agent for MEF replacing Linda Dittes who has retired. And this is the city's team. And as you'll notice we do invite people from city departments to participate on the negotiating teams, in some cases it's their first opportunity to participate in labor negotiation and

in other cases they've done this before, so as an example here we have Julia Cooper, assistant director of finance, and deputy fire director Ron de Colie. The association of legal professionals you see here is a team of four senior deputy city attorneys and our team is led by Gina Donnelly, and we do have outside assistance for these negotiations with the attorneys union and that's Charles Sakai. This is the coalition, again, this is, you know, when you have coalitions or multiple bargaining units, you'll have larger teams on the union side. Nancy Estrasky is the senior business executive for AFSCME. I hope I got your title right, Nancy, I hope. And, again, this is the team. Again, there are two bargaining units that are actually affiliated, and the coalition is also the building inspectors union, the electricians and the maintenance supervisors. And this continues here on to the second page you can see because it's five bargaining units, you have fight a few people and their city job titles and I'm going through this quickly but it will be posted on the Internet for anybody who would like to review it later. And that's our team. our team is led by Mr. Rodriguez, and you can see we've got other members of my staff as well as people from city departments, Vijay Sammeta, and Joe Horwedel has been on the city's team for the building inspectors the last TWO times I believe. Okay. So, moving into ground rules. We've discussed ground rules before. Ground rules although they are a mandatory subject of bargaining, they're not a requirement. In other words, you don't have to have ground rules in order to proceed in negotiations. We are already governed in the negotiation process as we mentioned several times before by state law, by the city charter and what structure it provides as well as the city's local rules which is the employer/employee relation resolutions. We've been discussing ground rules, in some cases for multiple sessions. From our standpoint, the Ponce of ground rules were elevated when we were thinking about having separate negotiations, how the separate retirement negotiations would work in connection with the main contract negotiations. It's no longer the case since we are no longer going to have a separate retirement coalition. And so, therefore, we don't believe the importance of having written ground rules are at the same level as we had had before. We have not been able to reach an agreement on ground rules with any bargaining unit, and we want to go through a couple of the ground rules now. These are selected, hard to FIT the entire ground rules that we've been presented on a slide, but you have them in front of you. And the first one is the attorneys union. I will turn it over to Gina Donnelly.

>> Good morning. As Alex stated we have provided the city council with a copy of the full ground rules proposed by the attorneys union and we also have copies available in the back for the public. The slide before you shows

just the select portion of the eight ground rules the attorneys union proposed. We find that ground rules are effective and helpful when they're both clear to the parties and provide guidance for things that happen at the table and the reason we selected these TWO particular ones to be able to discuss with you 3-A, the attorneys proposed ground rule relates to the conduct of individuals and activities occurring away from the bargaining table, and in some ways it appears to be binding on our interactions with our principals, specifically the city council. On number five appears to place burden of proof on the city for the legality of a proposal and certainly there are times when the city does receive legal advice that may be protected by attorney/client privilege and we wouldn't be able to provide something like that to them. And this is just, again, just select ground rules that were proposed by ASME and you also have a copy of the full 16 proposed ground rules that they provided to us. Again, on number four we discussed this issue with the city attorney's office, and our concern here is with having TWO mutually agreed upon members of the city council or representatives thereof may be a charter issue and that's something because of that concern, it would be difficult and challenging for us to agree to something like this. And number nine, in seeking clarification, we asked in terms of specifically the five working days prior to the next negotiation session. It's very common to have weekly negotiation sessions, if not more often than weekly, so we asked if this meant we met once a week and they provided us with information--- if we were, for example, meeting every Monday and on a Monday they provided us with an information request, in order to meet that five working-day requirement, would that mean that the information request would need to be responded to the same day that we received it, and they indicated that that was correct. Depending on the volume and the complexity of the information request provided, that could be very difficult to meet such a timeline.

>> Because of the very short time frame and the very significant issues that we have to discuss as a bargaining table, we are proceeding without ground rules so as not to cause further delay. Clearly if a bargaining unit still wants to discuss the ground rules with us, we will always be willing to do that, but we don't want to delay starting to make proposals, starting to give initial list of city interest and issues to the bargaining unit so that we can get to the substance of the negotiations as quickly as possible. So, the next thing we wanted to talk about a little BIT is the information requests. Bargaining units are entitled to make information requests and they receive information that they have requested. In the last couple of years the amount of information requests have increased significantly. An important thing to point out they are entitled to information that is, quote-unquote, necessary and

relevant, but it isn't without its limitations. When we get something at the bargaining table, we look at it from this viewpoint but also a public records standpoint. Even though we may not believe it may be relevant, if it's public information that would be responded to in a public records act request, we would provide it. So, for example, information requests pertaining to nonbargaining unit employees about other employees in other bargaining units is presumed not to be relevant, but if it's information we readily have and doesn't take a lot of time and expense to put it together, we'll provide it as an example so if people are asking for compensation information for employees in other bargaining units, as you know, the city has been extremely transparent and has provided information not just to the media but now there is a searchable database for every single city employees, that's an example, we would continue to do that to the extent that we can, but it's also important to note that we're not required to bear the burden if there are substantial costs for producing the information, and there is a requirement that the parties would have to bargain over what the costs would be and who would bear it. If it's information we have, it's readily available, we will provide it. And so we want to go through, again, there are information requests that we've received from TWO bargaining units. The full information requests are before you. They're all posted online so you can see them, Gina will go through a couple of examples of information requests we'd received.

>> Okay. The first one here, again, it's a select section of the full information request that we received from MEF and CEO. Now, certainly with the transparency efforts already under way in the city, there is a searchable database containing most of the information that's being requested in this first request. It's already publicly available. But it is important to point out that it is unclear how information for employees not represented by MEF or CEO would be relevant to the negotiations with them. And in the second one, the historical data for a 20-year history on the items you listed there below, a request for 20 years of data can be very voluminous and it is unclear how it is relevant to the negotiations today.

>> But, however, it is important to point out, if it's something we have readily available, there are historical documents, for example, available at the San José public library that go back, budgetary documents that go back many years, if there's online sources or places we can refer them to go look for these documents, we will, of course, provide them to them, but some of the information may be very, very difficult to go back 20 years and

compile. Especially in the time frame of the negotiations and the time frame that they--- for example, MEF and CEO asked for responses.

>> And the next select information request that we've received from the attorneys union, like MEF the attorneys union is requesting information related to employees not represented by the attorneys union, so it's unclear how it really will affect negotiations or how it will result in proposals in those negotiations. However, as Alex had mentioned, yeah, most of this information is already publicly available. And to the extent that it is, we've already provided it to the attorneys union.

>> The next step on the information request is we will continue to respond as we receive them as quickly as we possibly can and, again, we are posting the requests on our responses on the Internet, and in some cases we do have to provide--- ask for additional clarification of the request and make sure that we understand it and discuss anything that may not be available, may be costly to produce. So, now we're going to turn to updates on particular negotiations that we have, and probably most substantively for this morning is the San José firefighters union local 230. The contract did expire now coming on almost TWO years ago, on June 30th of 2009. We are proceeding to binding arbitration under the revised charter section, and president Jeff Welch did ask to meet with us, and we very much appreciated his initiative in asking to meet with us in presenting the city with a proposal and, again, the proposal was offered as a potential means for settlement but it would not delay proceeding to arbitration in the event we were not able to settle. So, we did meet with president Welch and his team on Friday afternoon. Later on Friday afternoon we did post the proposal on the Internet, and we're going to go through it today. The entire proposal is before you in hard copy. And, again, emphasize that it is also available to the public and posted online. Now, the next chart we're going to show is going to be hard to read from there, but what we thought was important was when you're in negotiations, even though negotiations with local 230 has gone on for quite some time, is when you receive a proposal, to compare it with the last proposal. So, that you can see, either side can see, what changes are there from the last proposal to this proposal. So, because a year has passed almost, the term that they are proposing--- well, let me back up a little BIT. In the second column, it says August 1, 2010, that is the last or before last week the most recent proposal that we had received. And then the right column is February 11th is the proposal that we received on Friday. So, the term is different, whereas last year it

would have expired this coming June. Their current proposal is expiring in June of 2013. Each proposal goes back to 2009, this most current one has an additional TWO years in it. For wages they were proposing zero wage, no general wage increase, they would still get step increase for those not at the top step, the 5% annually until you get to the top step, but they were proposing no general wage increase in 2010--- 9/11, sorry, in the August proposal. In the newest proposal there is no general wage increase but the step would continue. There's a parenthesis that they are asking for credit for 1.2% per year for an actuarial assumption credit and they've quantified that, they've attached a page from an actuary report that's attached to the package and I'll go over it in more detail in a few slides. The next line there says additional retirement contributions, and you might recall that several bargaining units including the police officers association offered to make additional retirement contributions. Now, it's important to point out, this does not increase the amount of money that goes into the plan. It simply is money that the city would otherwise have paid. So, it does save on the city side, but it doesn't actually net, add more to the retirement plan that would have gone there anyway. It's shifting costs from the city to the employees. So, in the August proposal, they were proposing 5.25% what's called pensionable pay which is the same as the police officers association agreement that we had reached. So, a significant--- one change that occurred in the February 11th proposal is they've increased that by three-quarters of 1%, so from 5.25% to 6%. But that actually is a little BIT different in that it continues for TWO years. So, whereas the last proposal last year would have stopped, the contributions would have sunseted in June of 2011, these sunseted in 2013. But they do sunset. In other words, they are not ongoing savings. They are onetime, two-year savings. The health care changes which are things we achieved with several bargaining units which is to increase the cost sharing to 85/15 and increase the co-pay plan, these are highlights of the changes in the plans. They still propose that, so we put no change in the right column. The next is the significant item which is the retiree health care prefunding. The San José firefighters union is the last union not to have agreed to start to phase in of full funding of retiree health care, as we discussed yesterday, retiree health care is significantly underfunded and they are proposing to start to phase into the full prefunding at the level that the police officers, although we did clarify one thing which we think is important. All of the bargaining units in the city and nonrepresented employees as well as the POA are in the second year of ramping up to the full funding. We're not actually going to be making the full annual contributions for five years from when we started at least, and everybody else is TWO years in. And so we asked a clarification, would they be starting at, for example, at the contribution rate that the police officers are making now,

which is, again, TWO years in, meaning not retroactive contributions, but simply at the rate that the police officers stepped up to, or would they be starting back to where the police officers started TWO years ago, and it's the latter, so they would not be making the same contribution starting when we reach this agreement. They would be making the contribution that we had started a couple years ago, if that makes sense. Happy to answer any questions about that issue. The next on vacation slots as you'll see in August of 2010, there was no proposal in that proposal on that item. They have now proposed to reduce the number of vacation slots. This is something that the city had actually and the fire department had actually in the past wanted to do, and still is interested in doing. Because they have a certain number of people that can be on vacation in any day, and because of minimum staffing requirements if somebody's on vacation, they can't just run short. They either have to have a relief personnel assigned to it or call somebody off of overtime to fill that slot. So, there is a connection between the staffing requirements, minimum staffing requirements, and the vacation slot issue. So, by reducing the number of vacation slots, it is very likely that there will be savings. It takes some estimating to say how much might we save if we lowered the number of vacation slots, and so that does--- that will save money. The fire department has done some calculations as to what that would be. But the next line item down is sort of connected to that proposal, and I think it's important to point out that with that agreement to reduce the number of vacation slots comes the next actually TWO rows. One is to lift the maximum vacation accrual caps that the city has now. This was a significant thing we did several years ago to try to cap the liability of vacation so that we wouldn't have vacation balance growing, growing. They would like to lift those caps for the two-year period for the period the expiration of the contract. But also to the extent that someone earns more than the cap, they at their option can get it cashed out. So, let me give you an example. If the cap is 200 hours and somebody now starts to be able to accrue more than the cap and now they have 240 hours, that employee can write a memo and get that 40 hours paid out in cash. So, there is an absolute cost to that item, a cash cost, that we have not been able to calculate. And the next item down is they'd like a vacation sellback program, again, for the TWO years of the contract, it would sunset at the end up to 120 hours that some of our employees have, but later in the presentation we'll be talking about the vacation sellback program because even our current sellback program is not budgeted and there is, again, it could be a savings to the extent it's, again, tied to minimum staffing, all right, so if you don't take vacation you may have to pull somebody back, but we'll be discussing vacation sellback a little BIT later. And uniform allowance, there was in the prior proposal, because it was connected to the negotiations

we were doing then, to reduce the uniform allowance, but there is no proposal on February 11th on that item. I know it's taking me a while, but it is a comprehensive proposal, so, again, I'm only summarizing it. They have in the past made a proposal about the firefighter bill of rights, and it's a state law that was passed. They had previously proposed incorporating in the MOA, it wasn't part of the August 1 proposal. It is now, they want it referenced in the MOA, so that item. Then I move into retirement issues where there are significant changes between the August proposal of last year and the current proposal on the supplemental retiree benefit reserve, they are suggesting to revise the payment methodology and have suggested getting together with the police officers association to also discuss that matter. On the second tier retirement, in August of last year, they sort of offered the city TWO options. One is to commence meeting and conferring on it within 30 days of the agreement or alternatively to accept a reduced pension at the time, last August, which would have been 80% of the final average salary upon completion of 30 years. You can see on the right, they are suggesting rolling back the retirement benefit to what it was prior to the enhancements that started happening in the '90s. So, a 75%, the final average salary maximum after 30 years, changing benefit factor to 21/2%, both of those match the current Federated benefit and what it had been in the police and fire plan for several decades. The other item is the change, the calculation of final average salary to the average 36 months instead of the average 12 months which it is now. Also suggesting changing the C.O.L.A., it would still be 3%, but it would now be tied to the cost of living index as opposed to a fixed amount. The SRBR would be closed to new employees and lastly the retiree medical, it would be now tied to what employees receive, so, for example, if employees are paying 15% of the premium, it's an 85/15, that's what retirees would be, it would be an 85/15 split, so it would be tied to that cost sharing in the future. A couple more items. The charter section 1111, that was right before the time--- at or around the time the council was putting the item at the ballot measure, so it was a proposal about that. Understandably, there's no proposal now since that change has taken effect. And there was a section on alternate deployment in their last proposal that, again, is not there. It's not reflective I believe of anything other than they have now been almost a year with a new chief, and I think working collaboratively with him on a variety of issues. So, that was my attempt at briefly going through a very comprehensive proposal. And I want to talk a little BIT about the savings from this proposal. So, what's sometimes difficult when you look at proposals to compare apples to apples especially when you cross fiscal years or you have contract proposals that go for multiple years. So, what we'd like to focus on for the purpose of this discussion is what does it save in 1112,

clearly the city council wants to balance a \$110 million shortfall and what does it save there. When we look at local 230's cost estimates and they provided a spreadsheet that specifies the cost savings that they've calculated for each item, for 11/12 only they calculate a savings of \$8.9 million. Primarily that is coming from the--- their estimate of the 6% of retirement contribution, plus this credit that I discussed earlier for the actuarial assumption changed and the health care changes. our estimate is \$5.38 million. Why the difference? Primarily it's because we are not assigning a credit to the actuarial assumption change. We want to talk about that in a couple of slides. So, how do you relate the millions? As we talked about before, when you talk about bargaining units, and we have bargaining units that range anywhere from the 40 or so people to the 2,000 people, the amount of money saved understandably will vary significantly. Bargaining unit of size, average pay is going to vary, so we translate that into how much is it in total compensation. The council's direction is 10% of total compensation, how much are these numbers. In the August 1, 2010, proposal, we calculated that it was 3.5% in total compensation reduction primarily one time because the only ongoing portion of the August proposal was the health care. In our calculations of the February proposal, it has gone up, but we would consider it modestly gone up because of the increase from 5.25% of contribution to 6%, so, again, there is a small movement, but very, very significantly far away from the council's direction of 10% and what has already actually been achieved with several bargaining units. Now, the issue for receiving credit for no pay increases is a complicated area that I'd like to be able to at least explain a little BIT. They provided us a page from the police and fire retirement board actuarial report. It's actually a very important page that they actually started adding into their valuations a couple of years ago. And what it does, this is not the entire contribution rate. That's important. You see the 10.96 at the bottom? It is by no means the entire rate. It's a breakdown in the increase in the contribution rate from last year to this year, and before it was hard for any layperson to read it and understand, well, what is leading to the increase in contribution rate changes. So, you'll see at the end of the day there's a 10.96% payroll increase. That's a significant increase and it's made up of a variety of reasons. As you heard yesterday from retirement director Russell Cosby, now in the next few years a big reason for the increases are the phasing in of the losses, sort of the smoothing effect of the losses, so you'll see effective investment losses, that's 5% of the 10.96% increase. And then you'll see effective contributions, less than expected because there's a one-year delay between what they call the lag between when the valuation is done and when contributions happen. That's 1.78, and the one we highlighted is the one the firefighters union is highlighting which is the effect of lower-than-expected salary increases. The

actuary makes many assumptions on all kinds of things including how long we'll all live, and to the extent that any one assumption isn't met precisely, there's an adjustment made, so that credit of 1.2. But you continue down the rest of them are somewhat smaller until you get to the end, a couple of small negative ones. And then you have down at the bottom effective reduction in investment return assumptions of 4.78. So, the issue isn't the fact that lower-than-anticipated salary increases don't have a positive overall impact, but it has to be balanced with the net effect on the city's contribution rate that goes from one year to the other. So, it doesn't actually reduce total compensation when you look at what's happening with firefighters city contributions to its retirement plan, those are actually skyrocketing from one year to the next. This shows you the contribution rate changes. So, in this current fiscal year, the contribution is 44.16% for pension and retiree health care. Again, for people that aren't familiar with it, you have a firefighter who makes \$100,000, the city has to contribute an extra \$44,000 into the fund, and in my example it increases, and \$55,000 for my example of \$100,000 earning firefighter. So, again, the contributions are going up significantly from one year to the next, even when you consider that assumption that was done better than expected which is the salary rate growth. So, that was the end of the firefighter proposal. We have the rest of it in negotiating update. We'll give a brief update on this one slide on the other negotiations, so I'll turn it over first to miss Rodriguez.

>> Good morning. We've met with the coalition several times. We have discussed ground rules, unfortunately we did not reach agreement, however, we've got understanding on several key items, for example, that any party can withdraw from the coalition at any time, that the city can enter into a tentative agreement with any of the union, and also if we proceed to mediation--- if we--- any party declares impasse and we proceed to mediation we do it collectively and even in mediation we can enter into a tentative agreement with any union. We've discussed the council direction including a second tier and we are scheduled to meet tomorrow.

>> With MEF and CEO, they have provided us with proposed ground rules as well as an information request. We reviewed both selectively with you this morning and we'll continue our discussions of those, but hopefully also getting to actually exchanging some proposals at our next meeting on the 16th. With OE-3, we had a discussion about the topic of ground rules and did come to agreement that we could proceed without them and we began

discussion about the council's direction. With ALP, with the attorneys union we discussed the information request as well as their proposed ground rules.

>> And lastly, we have continued to meet with the police officers association. We did as I mentioned earlier mutually agree to proceed without ground rules, and we have provided the POA with the city's initial list of interest and issues which is simply a listing of the topic areas that the city wishes to bring up during negotiations. There's no deadline, meaning that we can add items later in the negotiation process and that list has been posted on the Internet and we meet with them again this coming Friday. So, as I mentioned, appreciate bearing with us during a long presentation. We do have other items to discuss with the council, which is additional--- seeking additional direction, and I want to very briefly--- we don't have to spend a lot of time on this, I think we know what the council's direction is to achieve the 10% total compensation reduction, the entire portion of that being ongoing, to rollback general wage increases received in 10/11 and to achieve cost containment and the 85/15 and increasing the co-pay plans. And then lastly, the area that we want to talk a little BIT about in more detail it says in addition to the 10% total compensation reduction, achieve additional reforms, retirement, you've already given us specific direction on the second tier which we'll be proceeding with, sick leave payout, which you've given us direction to proceed but not specific direction on what our goals are in terms of savings what to achieve which is something we're seeking from the council this morning. And lastly, compensation structure which is to eliminate automatic step increases, modify the step structure, and modify overtime eligibility. These guiding principles were actually also adopted by the city council on November 18th. I don't want to go through them all, but one that I think is important is about the savings must be achievable and verifiable. That's one of the things we look at when we receive a proposal is do we agree on how much it saves, and is it money the city could use to balance its \$110 million deficit. If it's multiple year contract, we wouldn't look at only what it saves in that particular year, but identify how the money could be made available to the city council in balancing the budget. I'll skip down to the last one, which is inclusion of operational and other contractual issues, because as the council provides general direction it doesn't mean that there might be other items that the city council may authorize us to negotiate that are specific to a bargaining unit, an item in their contract that we want to bring forward or even items that may cross over multiple bargaining units that are still important to raise. One of the things that happened last year, although we were very successful in achieving 10% total compensation reduction and the 10%, by the way, was

all done through agreements that were reached that were ratified by the bargaining units, but they were achieved in very different ways. We tried our best to be flexible in how a bargaining unit wanted to achieve the 10% but there were big differences in how it was achieved. The top list which is the association of legal professionals, the attorneys union and the building workers who achieved 5%, they achieved 10% through the base pay reduction and the health care changes. The majority of the 10% was actually in a base pay reduction. Some of that, 5% of it, or almost 5% of it, on an ongoing basis, and the rest of it one time. The other bargaining units listed below that achieved the full 10%, the engineers and architects, the city association of management personnel, the electrician, operating engineers and the maintenance engineers achieved it in a different way. They wanted all of it to be in additional employee contribution to the retirement plan in lieu of city contributions. And, again, not to go over all of it, but you might remember we had city charter issues and limitations on how much could be put into those plans. It did not happen--- it did not occur without its complications in terms of trying to achieve their interests and having it to be mostly in additional retirement contributions. One of them was there is an impact to the retirement fund that we did raise last year that we were advised of, which is this that although the employees are making contributions that the city would otherwise would have made, we were advised that they must be treated, and that's the way the proposal was actually, that they must be treated as employee contributions. To make them pretax in the way that they had wanted it, they had to be considered as employee contributions like any other. Although we have a defined benefit plan, they do track employee contribution separately. The retirement system tracks how much an employee has put in over their career. If you end up retiring and receiving a benefit, it actually to the retiree it doesn't really matter how much they may have put in, because they're going to get a defined benefit no matter how much they have put in. But where it becomes important is if an employee leaves city service and takes their--- elects to take their money back. When does it happen? If an employee separates from city service whether voluntary or involuntary, layoff as an axam, and they're not vested, they're not entitled to leave their money in the plan other than circumstances if they obtain another public agency employment within, I think, six months, I believe, otherwise they get a return of contribution, and the money that they paid that otherwise the city would have paid, gets refunded to them. To the extent it happens, there's an actuarial loss when the employee takes that money back. Also to point out, there's a current pending disputes over the amounts and the calculations. Remember, this was very last-minute negotiations. We have grievances, I believe, three separate grievances over the calculation of the amounts of those contributions. Lastly, there are

some compaction issues that occur. Although everybody achieved their 10%, when some employees achieve it almost all through base pay and others achieve it leaving base pay intact almost or almost intact, at the end of the day, the total comp may be the same, but you may have at least perceived compaction issues of a base pay, actually, would be more than perceived, because you might have a base pay less than a person they supervised, some was left intact rather than others. We wanted to raise the issue as we look at how the options will be for this current year. So, I'm going to mention briefly the current direction that we already have on the reforms and so that we don't need direction to do the top ones other than more specific direction on the sick leave payout which we'll talk about in a few slides, but we are asking the council for authorization to add additional reforms and additional changes to our list of issues. One is to eliminate disability supplement, except for police and fire where we are legally required to provide. This was discussed yesterday in the budget study session. It is important to point out that the amount of disability leave supplement exceeds significantly the state mandated workers' comp amount. We supplement the workers' comp amount to bring people up to a higher level of income. This was part--- looking at this issue was part of the city auditor report. And we have made some progress towards reducing that amount, and the important part of the savings is there's not a separate line item for the budget for that, but it is in the departmental appropriations. And then lastly is a significant recommendation which is to eliminate the vacation sellback program. We have had a vacation sellback program for management employees, both organized and not, for many, many years. Last year we received advice from the city attorney's office as to the IRS implications of vacation sellback, which to be brief simply says that if--- when an employee has an option to sell it back, it's considered constructive receipt of that income whether they actually sold it back or not, so we had to make some very urgent changes to the plan for last year, so, for example, for last calendar year, even if an employee chose not to sellback 120 hours, they were taxed for the value of that. It was a very unfortunate thing that happened, but we, after talking to the attorneys office and outside tax council, had no option but to proceed TW that. We then tried to make some modifications for the program for this year to try to avoid the constructive receipt program. Several bargaining units opted not to go into the new option program and we've seen a very significant increase of vacation sellback because of it. Vacation sellback, again, is not budgeted, so, therefore, any cash expenditures that go out from the vacation sellback program comes from the departmental appropriations and since we've seen an increase--- a significant increase in that, we are recommending

eliminating that program. So, mayor, I leave it to whether you want to go back to the items later where we're seeking additional direction.

>> Yes, we'll go back to those when we adjourn to closed session.

>> Okay. Last, but certainly not least, and one item of significant controversy is the sick leave payout. I say controversy, again, because the issue comes up as to whether or not this is a benefit that can be negotiated and changed or whether it's vested and can never be changed during an employee's career. The city has maintained and does believe that this is an item that can be negotiated and it can be changed. The city council last year actually did have to implement terms on when bargaining unit which is the building inspectors which did include a change in the sick leave payout, but, again, there are differences of opinion between the city's position on this item and certain bargaining units about the legal issues related to that. But I want to go over, again, briefly what the sick leave payout benefit is. In fadder essentially the payout happens at retirement. It is not a retirement benefit. It's not in the retirement plan. It's not paid out of retirement funds. It's paid from the finance department by a check. It simply happens when an employee retires. But the other thing is that there is eligibility for someone who leaves city service before retirement, who's vested. Let me give you an example if somebody has 15 years of service and leaves at 40 years old, when they turn 55, they can retire from the plan, and then the city sends them separately the city then sends them a cash check for the sick leave payout. That's another feature of the current plan. The sick leave payouts have been in the news quite a BIT and I really believe it's because of this chart. You will see that just five years ago the little bar chart there on the left shows a \$6 million expenditure, and it has grown significantly to the 2009-'10 expenditures of \$14.57 million. This is an analysis of the top ten sick leave payouts for 2010. On the left side is the Federated payouts and what you'll see the highest payout, the department where the person worked, and the amount of the payout. You'll see on the Federated side, the top is \$104,000 payout, and you look on the other side on police and fire, the top payout is almost \$300,000, and then you go down the list of the top ten payouts. You'll see on Federated, it goes from \$104,000, and on the police and firefighters it starts at \$300,000 and the tenth is almost \$73,000. The total just for the top ten, just for the top ten, on the top ten payouts on the police and fireside is over \$2 million. And on the Federated side, \$658,000. On this slide we've also provided you with the average sick leave payout. This is calendar year 2010. This

matches up with the information we provided to the media and to our employees about compensation. It's a calendar year, not fiscal year. But you see the average payout on the police and fireside is \$85,000, and the payouts are higher on the police and fireside. A function of a couple of things. One is pay rates and the second and probably the most important on the police and fireside, there's no limitation if somebody retires on a service retirement as to how many hours they can be paid out for. On the Federated side you can't be paid out for any higher than a percentage of 1,200 hours, let's say on the police and fireside, if you have 2,000 hours of sick leave, you can get it all paid out, the entire 2,000 amount. That's one reason you'll get high payouts on the police and fireside. The authorization that we are recommending for new employees, we are recommending to stop the practice of sick leave payouts. It's very uncommon in the private sector. It is common in the public sector, but not even to the level of our payments, but we are recommending no sick leave payout for new employees. Important to point out, it would achieve no savings, zero, for 15 to 20 years by stopping it for new employees, because it isn't like retirement where you have a normal cost and you're funding it over time. Sick leave payout just gets paid out on a cash basis every year, so if you just eliminate it for new employees, you really wouldn't see any relief or any help with the current city budget situation. But we recommend that we stop that practice of a payout. The other issue about sick leave payout important to point out it almost in a lot of ways functioned as a savings account, because it is paid out at the rate that you retire. If you have an employee that spends an entire career and gets promoted, the sick leave hour that they have worked when they got started gets paid out at the hourly rate when they ended. Especially in years where we're having compensation reductions, you know, it is a way, though, to get a big payment at the end of a career, even when there is no, again, savings put aside every year to pay for it, it's a year at a time, budgetary savings. There are many options that the city has to try to negotiate changes to this. It really comes down to the amount of savings the city council would like to set as a goal to try to achieve. So we've provided you here with three options. It is by no means all of the options that are available. Option "A" would be to eliminate completely. This option is provided to you as an option that would provide the most savings for the \$110 million shortfall the city is facing in 11/12. That would save \$10.5, why? Because that's the amount the budget office has calculated what it anticipates the expenditures would be. They've done a careful analysis to try to be as accurate as possible about what that savings would be. So, if we were to eliminate completely, that would achieve it in 2012. Option "B" is do immediate change but reduce it by 50%. There are many ways to do it, to change the current formula, the payout structure, but if the goal was to achieve a 50%

savings, the savings would be \$5.25 million. If the city would like to proceed gradually to phase in a change, option "C" would be to phase in the reduction over a three-year period and that would save, it would range from \$800,000 to \$1 million. There are other options but those are our recommendations to the council. Give you an example how that could be done on the 50%. We've done calculations on the Federated side. If you lowered the maximum payout of hours from 1,200 to 800 hours and the payment of the hours to 50% whereas the maximum now is 75%, you can achieve that 50% savings. On the police and fire side, let me focus on the last one, if you cap the maximum hours to 1,200 instead of the unlimited cap there is now and reduce the 100% payout to 75%, and making the other changes, those TWO things combined we estimate we'd reach the 50% mark. So, I appreciate your patience in going through the long presentation, and open to any questions or how you would like to proceed in discussing the items that we are seeking additional direction on.

>> Thank you. Before we get into the council discussion, I do have some people that want to speak, take that, those comments now. Remember, the objective here is anything that was incomplete or inaccurate in the presentation, this is not a negotiating session, bypassing or direct dealing, et cetera. But we're interested in hearing what you think was incomplete or inaccurate. So, we'll start with Jeff Welch. And then Brian Doyle.

>> Good morning, mayor and council. Good morning, Alex. Thank you for the presentation. Good job. For representing local 230 proposal. There was a few things that I needed to just amend instead of maybe add some input on to so you can have a better understanding of it. But first and foremost, I just want to say that this proposal was not taken lightly. We come here with serious resolve to find solutions to the city's financial straits and keep the department intact to be able to provide services to the public, keeping them safe, keeping us safe while doing so, so that's our main goal here and we come with genuine intent to find real solutions, so I hope that you guys can appreciate that and appreciate the work that the firefighters are doing on the street every day. I'm not sure how this goes, Mr. Mayor---

>> We're not sure either because we haven't done this before. Give it a shot.

>> A little leeway on the time frame, I think we'll get through it. I won't be long-winded by any means.

>> As long as you're talking about what's incomplete or inaccurate.

>> That's my intention.

>> Good.

>> I will go through it because I happened to make adjustments as we were going through it. So, bear with me here for a second. The 6% pensionable base contribution is a value of \$4.8 million. It's this year, it takes into the personal service cost of salary and fringe for personnel for the fire department and that value as we calculated it was around \$4.8 million in change. Next year it goes up a little BIT because we take into assumption that the retirement rates increase from 55% to 65%. We included that as part of our calculations, the 6% pensionable base will be around \$5.1 million and change. The health care premium cost sharing, I wanted to highlight. We're acknowledging and accepting all of the city's recommended changes to that, the 85/15, the dual coverage elimination, all the other details within that and I'm sure Alex can go through that in closed session as he will, I have no doubt he will highlight all those bullet points. But I wanted to highlight that if we find an agreement and find this agreement soon, which is needed, we need to take action sooner than later. There's additional savings that we're proposing is those health care changes can be implemented at the time of signing the agreement, so if we sign it March 1st and we have a deal done by March 1st, March through July will have some additional savings to the city as far as health care costs that the employees will start picking up. The sooner we can sign it, the sooner the city can start realizing a little BIT of savings, \$900,000 is the annual savings per year, so a quarter of a year is \$300,000, \$250,000, something like that. The increase in the GASB payments. Local 230 has been willing to pay for the retiree health care prefunding. our main heartburn has been there's no vehicle in place to manage the payments. We still want that vehicle in place. We want to go and pay our due and pay our fair share, so we can have that trust fund established and start prefunding that to a level that can be satisfactory to limit the liabilities to the city and offset some of the costs. If we--- we have come to Alex and working with the POA and Alex in trying to develop the trust fund, we said we'd sign the agreement separate and apart from the global settlement, we're willing to take on the cost of a percent and a quarter of the same provisions that the

police and everybody else is paying starting now, like Alex said, we're not going to start paying that 2.50% cost but we're willing to start paying the 1.5% cost over the five years starting now separate and apart from the global package. Provided that it has a vehicle trust account in place to manage that money. It's kind of like going to a car dealership and buying a car and not being able to look under the hood, and that's all we want to do, we want to look under the hood and see what kind of engine there will be to manage those funds. In the--- one of the slides that showed the total comp savings at \$4.26, our total comp savings as we estimated it is at 6.1% total comp and that total comp slide of 4.26 did not include that I didn't see the value of the slot reduction proposal. The value of the vacation slot reduction proposal is valued at \$871,000, not included the battalion chief, that's the rank of captain and below. The overtime savings by reducing vacation slots from let's say there's eight people off per day and we'll reduce it down to five people off per day that reduces the amount of overtime the department has to suspend to backfill the slots. It also spreads out overtime throughout the year instead of being the predominantly big periods of vacation usages during the summer months and during the winter holidays, so it spreads out by allowing people, by forcing people to take more vacation during the spring and fall which reduces the overtime costs because the department will be better able to utilize the relief staff, the extra firefighters that are on duty a day, so they won't have to backfill with overtime. There's a true savings there that wasn't counted in the 4.26% I don't believe. And that savings was verified by the fire department. The numbers are verified through TWO years of actual experience looking back from 2010 calendar year, 2009 calendar year of what would have happened had we had these reductions in place during those TWO years and the average savings based on that per rank per spot per day. So, that's real money that's available to take advantage of and we're willing to do that. Part of those additional bullet slides that can create some confusion or heartache I guess, we know that there's a vacation cap accrual limit. That accrual limit could start. When people reach that accrual limit today, they lose the hours available. So, if I have 200 hours and I go over my limit because I can't take vacations because all the slots are full or I forget that my vacation are going over and I have to take vacation when I don't want to, I lose the hours. I lose the value of those hours, so one of the bullet slides is just to pay them out at straight time where I wouldn't lose the hours since they are going to have a limited ability to take vacation or take vacation when they don't want to, just to pay those hours out at straight time. Straight time is less than 2 1/2 times it is to backfill the spot. If they take a vacation, typically somebody would have to take a vacation day, you'd have to backfill the slot with time and a half or a vacation relief and that spot would be paid up at straight time or time and a half, so the---

by paying it out over the accrual cap limit, just for the time period that we have that's in place to save the city money, save the city money by paying the employee straight time and give the employee an opportunity to cash out the hours that he might otherwise lose. The ability to sell back vacation of up to 120 hours a year. With the significant pay reductions and increased health care cost sharing and the increase in the payments and the lack of ability to work overtime or the reduction in available overtime hours, this would give some employees, the younger employees especially, the ability, or any employee, found themselves in a position where they were falling short on a monthly house payment---

>> You are kind of getting off the track of what was incomplete or inaccurate.

>> Can I just finish that one point?

>> Wrap it up, please.

>> It allows the employee to make up that difference. Firefighter bill of rights, it was skimmed over. It is a state law. We need to implement it to protect both the employees and the city. Not skimmed over, I mean, you guys have had serious discussions about it, I'm sure, but we'd like to see it get done just to protect the city as well as employees. The retirement reform. There was accurately captured. We are taking retirement reform to pre-1996 levels to a 75% benefit level for 30 years of service. There was one point on the \$1.4 million or the 1.2% that I wanted to just capture. So, Alex is right in his explanation of the valuations and how they're performed and the assumptions that are used in the evaluations to adjust and reduce and the assumptions are met or if they're not met. The one thing that we do have that we do know is over the life of this contract there will be zero% raises, so that assumption of 4.25% is a 3.5% raise with inflation of .75% to equal 4.25% raise is what the actuary puts in as an assumption. We know that this year and next year that there will be no--- if this contract is accepted, there will be no raises. So inputs are still being put in, so there is a true value of the 1.2% credit that needs to be recognized by the city for the firefighters for taking a zero percent raise. It's true the contribution rates are put up by 55%, thank you, 55.46%, if we take it to zero in 11/12, if well didn't take a zero and the assumptions were what they were, the payment would be 56.66%, so there is that value of the 55% having a 1.2% reduction which equals

\$1.4 million and that calculation was not put into the overall total compensation savings of 4.26, so that's where we come up with the differences. It's really the differences of vacation sellback, the addition of the \$1.4 million or the 1.2% for the actuarial value that is being realized and not credited and that's where we come up with the total comp value savings of 6.1% this year. And just under 6% next year, 5.96%. Again, I want to thank you for the opportunity. I know I went over a little BIT in time, but it's a detailed proposal that requires serious deliberation. We're on a time crunch and I really appreciate you guys taking a serious look and deliberating quickly to provide direction to staff to come back to us quickly so we can take advantage of the opportunities that are before us. IE, the safer grant and put people back to work and keep people here, keeping the public safe. Thank you very much. Any questions?

>> No. We'll get all the testimony here before we think about questions. Brian Doyle--- we'll get all the testimony before we think about questions. We'll get Brian Doyle next.

>> Good morning, mayor and council members. Last time I came before you it was to bring you a deal, the first deal last year. I think the attorneys have proven that they are very reasonable and willing to work with the city administration and the taxpayers and your voters to work through this crisis. I do want to correct a few misconceptions raised during the presentation. One is with respect to the proffered ground rules, particularly on the issue of sunshine. The reason we have offered those as ground rules is because we feel that there were many, many missteps last year in terms of being able to come to an agreement. And a lot of that had to do with the way that we were jammed in terms of being able to make presentations at public meetings, knowing what was going to happen was very difficult, and that's why we offered these ground rules. Now, if you don't think the ground rules are appropriate for as something to be signed at the bargaining table, then we would like you to consider them as possible amendments to your own resolution, because I think they do involve the conduct between the city council and the city administration and us particularly with respect to public meetings. We have our negotiating meetings in public, and anyone can come and see and hear what goes on there. I think that's a very good first step. But particularly with regard to sunshine, I think it's important for the public to understand how difficult it is---

>> Brian, focus on the inaccuracies or incompleteness, not arguing the case.

>> These are issues that we did discuss that were not communicated to you.

>> Okay. Indicate them but---

>> Right.

>> You're not going to argue the case. That's not the point of this.

>> I'm doing the best I can, and so an example of that is exactly this, you have turned a process whereby a--- you call a council report a slide show and then you don't have to comply with the sunshine rules. I think you should reconsider that. We did bring up the issue of sick leave, and that was not discussed. And we did take the position that there is a legal impediment to changing the sick leave, and I'd just like to make just a few observations on that. Number one, one of the reasons you see that chart going up and the sick leave being cashed out is because so many people are afraid that it's going to be taken away, so there you go. That's one reason for that. Another thing that was not brought out was that our pay was reduced by 6.5% last year, our base pay. That's an automatic 6.5% reduction in my possible sick leave payout. Taking the sick leave away is an incredibly disparate activity. It punishes the people who actually came to work.

>> You're arguing the case, very well, I might add. Alex conveyed it.

>> He didn't bring up the fact that another ground rule you're not showing is that we requested that the level of conduct between us and the city be that we not just simply scrape the barest minimal legal argument at the bottom, and that's an understanding that we would like to have between you and us, and we offered that in our ground rules and it was not presented today. And it may be one thing to say we have a legal argument that we can take this away, and it's a whole nother thing to say that it's right to break your promises to people that have worked here for 20 years.

>> We do have all of these proposed negotiating ground rules in a hard copy.

>> And I thank you, all, for hearing me out.

>> Yolanda Cruz?

>>> Hello, I want to thank you for the opportunity to be able to provide our perspective or our clarifying remarks to the presentation that was provided by OER. First of all, for AFSCME, our joint bargaining discussion, for the ground rules, there was discussion on number nine, which is five days prior to discussion of topic is what we--- what our intention was that five days before we would meet with the city again. So, in the event that we were to ask for information on retirement, we would be requesting that that would not be a topic of discussion until we've had that information for at least five days so that we could have an opportunity to review and prepare appropriate proposals to meet the needs of the city. Number four, the request for TWO council members or designee to observe this is only for observation. We feel that this would be helpful in eliminating potentially misgivings that--- or misrepresentations, if it were to happen, that council members would be able to articulate what their perspective was in closed session. Because we believe closed session is a challenging position for us as individuals to not have the opportunity. This may serve as some purpose, this open discussion part here, may serve as some part for us, but it's important for us to make clear that it was at the urging of many council members who have--- especially council member Oliverio, who said he thinks there needs to be public airings, and we think this is important. And we think it's important for us in discussing the information requests, the reason why we've asked for all of the bargaining units, we think it's important for us, because we must be able to address questions and information to our members, because as you know, the final part of any negotiations with the city is bringing forth any tentative agreement for ratification vote. We've had a number of employees ask several different things. We need to understand the figures the city has presented. We know that lower-paid employees help make higher-paid employees' averages lower. We are very concerned that there are a number of misrepresented figures that are being presented. It may not be true but---

>> Did you hear any of those misrepresentations this morning?

>> Huh?

>> Did you hear any misrepresentations about figures this morning? Because that's the point of---

>> No---

>> -- the presentation.

>> This was in regard to the information request, this is in response to why we're asking for information.

>> The point of this is for you to tell us inaccuracies or incompleteness in the presentations.

>> It's justifying why we are requesting those--- that information.

>> That's a different topic.

>> Okay. That's fine. Again, ASME is interested in reaching a fair agreement with the city, and we believe that not all employees are created equal. We represent people in all funds. It's a concern we have with being able to figure out what's going on. One other issue is we presented ground rules to the city in anticipation of moving quickly past the relevant so we can get past these less relevant discussions, knowing that this has been a primary topic of discussion for other bargaining units, one of the reasons why we put it there. Just as a point of information, the city team that was presented on the slides to you today was not who was present at our--- not all of them were present at our first session, but our first session, Jennifer Schembri and mark Barton were present, and we don't have a problem with the city teams changing, but we're disclosing that this change has occurred. Thank you.

>> Laverne Washington.

>> Good morning, mayor and city council. Thank you for hearing me. ASME agreed to negotiate earlier than required to facilitate new contracts for the next fiscal year. This is the first I've heard the city intends to proceed with the negotiations without ground rules. We did present the ground rules at our first meeting assuming that that was what the city intended to do. We've proposed ground rules for these negotiations to ensure a smooth and collaborative process. We feel that ground rules are necessary to prevent any issues that may hinder the successful outcome of this very important process. We are concerned that by negating the use of ground rules, the city is setting this process up for rapid acceleration without a methodical, reasonable, and well-researched proposal-based process designed to come to a mutually mutual contract, but instead terms and conditions that will belittle city employees and have a devastating effect on morale. Thank you.

>> Nancy Ostrasnsky?

>> Good morning. By the way, Nancy, IPFE local 21, and on the coalition. I want to just state that accurately Aracely did note the activity that has taken place in our coalition meetings and to remind and just reiterate that we maintain the spirit in coalition. As you see, there's many of us that are on that list. On number one, we made movement in the ground rules. We mutually agreed to work on things and the union's coalition didn't want to get stuck in ground rules because we have so much more to take care of in a short period of time. The coalition, TWO notes. The coalition moved to request expert witnesses to start coming in to bargaining. So, that's a footnote, and then to let all of you know this coalition of ADA, ABMEI, AMSP, CAMP, and IBEW are bargaining three times this week, so we thank you.

>> That includes the comments on the section, I'd like to adjourn into closed session so we can take up the discussion of direction. Any questions or details that we want to ask, council member?

>> Mayor Reed, I believe the last time we had this as a public item, the council was allowed to ask questions. We can do it in open session?

>> No, I'd like to adjourn into closed session. If you still have questions, can take up questions later. The whole point is not to get into a dialogue or a debate or a discussion. The limitation was clarifying questions of something that somebody said, and if it's Alex, I'd like to have him clarify it in closed session, so that's really the scope of it is not to have that discussion in open session.

>> So, just to be clear, mayor, then, the first time we did this, then we kind of went off because council members had the ability to ask staff questions?

>> Yeah, I think we went off and we should have adjourned into closed session to have that discussion, because you get somebody to ask the question, other people want to engage in the question and really the place to do that this is closed session.

>> I understand. My preference would be to ask in public, but I respect that.

>> All right, we're going to adjourn into closed session. Continue this discussion with our negotiating team and lawyers. And we will finish public---

--ADJOURNMENT TO CLOSED SESSION--

>>> Good afternoon. I would like to call the San Jose City Council Meeting to order for February 15th, 2011. I guess we'll start with our invocator, the women's ensemble, District 2. The councilman will do the introduction.

>> Thank you very much, Mayor Reed. As these young ladies make their way to the front here, valley Christian high school is in my council district and in addition to offering a great education, they offer a number of different opportunities for the students to engage in activities that enhance their overall education. One example is the women's ensemble of the valley Christian high school conservatory, and they perform choral music, and it consists mainly of conservatory majors and minors. The ensemble is part of a recent European tour. And over the last two years, the ensemble has received unanimous superior meetings. The ensemble is directed by David hook, director of choral studies who founded the ensemble and has been its director since 2005. He has recorded and produced on many recording projects involving a variety of musical genres, including classical music, gospel music and rock and roll. So ladies and gentlemen, the valley women's Christian conservatory.[Applause]MMM

>> It's truly an honor to be here today. [Inaudible]

>>> Let the choir get off the stage before we do the pledge of allegiance. We are joined by some folks who are going to help us with the pledge of allegiance they're probably third graders, my guess, from Payne elementary school. So would everybody please stand for the pledge of allegiance? I PLEDGE ALLEGIANCETO THE FLAGOF THE UNITEDSTATES OF AMERICA,AND TO THE REPUBLICFOR WHICH IT STANDS ONE NATIONUNDER GOD,INDIVISIBLE,WITH LIBERTYAND JUSTICE FOR ALL.

>>> Thank you, Payne elementary school, from district 1. First item are orders of the day. We need to modify a couple of things from the printed agenda. First item, 2.3, rules, government committee report. January 26th. Should be deferred to March 1st. 3.3, team management agreement to March 1st. Team San Jose spending reduction plan for expansion to March 1st. And then one other note is we did not finish our closed session agenda this morning, so we're going to go back into closed session shortly. After we do the ceremonial items,

and then we'll complete the rest of the calendar. Any other changes to the printed agenda order? Motion is to approve orders of the day. All in favor?

>> Aye.

>> Opposed? Unopposed. That's approved. Closed session report. Attorney.

>> Mayor, as indicated, the council adjourned, but will be going back into closed session after the ceremonial. So there is no report currently, and we'll wait until we come back out.

>> Right. We'll now take up the ceremonial items. Would I like to start by inviting our local rotary club representatives to join me at the podium.

>> And I in turn would like to ask all Rotarians up here to join us as well.

>>> We're going to recognize February 23rd as rotary club day in the city of San Jose. I'm a Rotarian. Council Member Kalra, Council Member Chu and we have a few up here.

>> I'm not one, but I guess we'll have to join now.

>> I guess so.

>> Rotary club international has a long history of giving back to the community. Founded on February 23rd of 1905, in Chicago, Illinois, rotary is the world's first and one of the largest nonprofit service organizations. The rotary motto, service above self, inspires members to provide humanitarian service, encourage high ethical standards, and promote goodwill and peace throughout the world. In 1985, rotary launched polio plus, and spearheaded efforts with the world health organization, U.S. centers for disease control and prevention, and Unicef to immunize the children of the world against polio. Since 1988, polio cases have dropped 99%. And the

world stands on the threshold of eradicating the disease. To date, rotary has contributed more than \$900 million. And countless volunteer hours to the protection of more than \$2 billion children in 122 countries. There are seven rotary clubs in the city of San Jose, with over 600 members sponsoring service projects to address such critical issues as poverty, health, hunger, illiteracy and the environment in the local communities and abroad. Here to receive this proclamation today, during declaring February 23rd, 2011 as rotary day, in the city of San Jose, a representative of each of those clubs. They are district 5170, and we have Governor Roger Hassler, and area five assistant Governor Jose Rosinski.

>> Thank you. Rotary Club President Dion Callo. President-Elect Shirley Lewis. Rotor Club of San Jose East, President Eric Peterson. And Rotary Club of San Jose North, president Arthur Taylor. Rotary Club of San Jose Sunrise, President Patricia Fox. And last but certainly not least, Rotary Club of Willow Glen, President Jerry Ross. Would you all acknowledge them with your clap? [Applause] And Mayor, would you please give the commendation to Roger Hassler?

>> I'm here to present this proclamation proclaiming rotary day in San Jose, a percentage of the district governor, but in Rotary tradition, my guess is this will be auctioned off somewhere.

>> Absolutely.

>> Thanks very much. [Applause]

>> Thank you, Mayor Reed and council members. It's certainly an honor for me to accept this proclamation on behalf of the rotary clubs in the city of San Jose. Our members work very hard, day in and day out, to do community service work, and to work both in the local community and internationally. As you heard, our major project is the eradication of polio. We brought the numbers down from 350,000 cases in 125 countries in 1985 to less than 1,000 cases in foreign countries last year. So we are meeting our goal, and we have had the help of the Bill and Melinda Gates Foundation, who have given us \$355 million to achieve this program. They have asked us to raise \$200 million. I don't know how much I can get for this, Mayor Reed.

>> At least \$1 million.

>> There you go. So we would like to invite each and every one of you to join us on March 20th as we March from HP Pavilion to city hall to show the people of the city of San Jose that we are serious about ending polio now. Thank you again, Mayor Reed.

>> Thank you. [Applause]

>> Now, if we can form it up-- it will be a couple rows so we can get it into one photo.

>>> Council Member Kalra is going to stay down here. And we're inviting Council Member Nguyen and representatives from the African association to come down. As we recognize the month of February as African-American history month in the city of San Jose. Don't be shy. Come on down.

>> Thank you, mayor, and thank you Councilman Nguyen, for joining me, as well. And I'm going to introduce folks coming down before they get here, so we can-- in the interest of time. We have Ron Brown from Silicon Valley Hunter Black Men. Andre Chapman from the Black Leadership Kitchen Cabinet. Bill Kendrick, Everett Bobby Gasper, African-American Community Service Agency, Flynn, Martin Luther King Jr. Association of Santa Clara valley. Dr. Battles, faculty and staff from the University. Davis, pastor of the church. Bellenton from Santa Clara valley. Former council member Forest Williams. Michael Cunningham of Alpha Phi Alpha paternity. Carol Dixon of Alpha Kappa Alpha sorority. And as we join here today to recognize African-American history month, it really gives the community an opportunity to pay tribute to the generations of African-Americans who struggle with diversity, to achieve full citizenship in American society. Since 1976, African-American history month has been celebrated annually in the U.S. in the month of February. This annual recognition actually started as Negro history week in 1926 by noted historian Carter G. Woodson in emphasizing the importance of the achievements and roles of African-Americans in U.S. history. Now African-American history month is celebrated not only nationwide, but worldwide, to reflect upon and remember the courage and contributions of so many hard-working

African-Americans who have made the nation we are today. And African-American history's uniquely American history. And we should always remember that, when we consider our history as Americans, the legacy of African-Americans, and really we would not be the nation we are without African-Americans laying the foundation of what created this nation as a great nation that we are. And as president Obama stated earlier this month, we are heirs to their extraordinary progress. And as we recollect the past, let's also remember, there are many inequalities that exist today that we should use to reflect upon and work to resolve. And so with that, mayor, I would ask if you could present the proclamation, and I believe we'll have-- we'll have-- former councilman forest Williams accept it, and council member Williams make a few comments. [Applause]

>>> Thank you, mayor and Council Member Kalra. As you know, the significance of the contribution of any organization makes a great country. The African-American has been here, has built this country, the foundation of this country was on their backs. Many years, there was no recognition of that contribution. So through the efforts of many African-Americans, we have got recognition of a day or month to say, we thank you for your contributions. We thank you for helping us to have a great nation. For this I am proud. I am pleased and honored to be here today to receive this recognition from the city of San Jose. But I ask you, in your hearts, and all of the things that you do, remember, that the African-American contributed to this great nation. Thank you very much.

>>> Good afternoon. My name is Bill Kendricks, and I'm pleased to be standing before you, along with my colleagues who are many behind me. It's a pleasure to thank you, Mr. Mayor, council members, all of you, to stand here and commemorate-- I believe it's 85 years ago, Carter G. Woodson led the charge to make this an honorable day for African-Americans. We made a lot of progress over the years. We still have a ways to go. And we are happy and thankful that with this leadership, we'll get there. We'll get to the promise land. Thank you, and now I believe I have another colleague who is going to speak to you. Thank you. [Applause]

>> I'm Oscar Battle Jr., president of the African-American Association at San Jose State University. It's a pleasure to receive recognition from those of you, my colleagues, and who appreciate the contributions of African-Americans, particularly within the city of San Jose. Our organization has been in existence since 1974. We are

committed to ensuring that African-American history becomes an integral part of American history, because African-Americans have made significant contributions throughout the world. And we want to make sure that continues. We ask any one of you, and it's not either or, anyone who wants to make contributions to African-American history, we ask you to join us. Our club-- our organization is not a black group or an African-American group. It is a group, anyone who wishes to celebrate African-American history, we invite you to participate by becoming a member of our team. So I say continue the work you're doing supporting African-American history. We welcome the coalitions and co sponsorships that we have going. Thank you very much. Appreciate it. [Applause]

>> What I would like to do before we go back into closed sessions, try to complete the consent calendar. We have both a single item on the redevelopment agency's consent calendar and also items on the city consent calendar. I think we can get those done in a couple minutes here, and go back in closed session at 2:00. We have one request to speak on the consent calendar. David Wall.

>> It is fitting that after yesterday's budget soiree that we see on item 2.7\$1 million. Mr. Mayor, I think you should defer this to take a study on this. \$1 million. For consulting contracts. When you're looking at your big \$110 million deficit. Now, of course, these are specific use funds, probably related to the plant rebuild. But money is money. And you've got a lot of high-powered people on the payroll and environmental services that I would like some form of explanation why we're cutting four separate individual contracts for \$250,000, which, I might add, is a contractual limit that the city manager is permitted to have by your agreement authority. But I think it deserves a little bit more scrutiny. Thank you very much.

>> That concludes the public testimony and consent calendar items. Any items that council would like to pull for discussion? Council Member Chu? I'm sorry, which one?

>> 2.5.

>> 2.5. Motion is to approve the balance. We're also going to take up the redevelopment agency consent calendar, as well. Anybody want to pull anything off of that for discussion? All right. So we have a motion to approve both of those. The balance. All in favor?

>> Aye.

>> Opposed? None opposed. That's approved. Item number 2.5, Council Member Chu?

>> Thank you. I just wanted to report I attended the Board of Directors meeting in MODESTO, February 10th and 11th, last Thursday and Friday. The focus of most of our meetings was developing a strategy to fight the governor's proposal to eliminate the redevelopment agencies and to divert funding. After a pretty long discussion that the board has taken the follow actions versus to reaffirm the opposition of the proposal, and we-- we are going to take a three-pronged approach to find it. The first one is to convene a special general assembly meeting, maybe sometime in late March or early May that hasn't been decided yet. But we did direct the executive committee to convene a special general assembly meeting. Secondly is to prepare for the litigation. We have asked our lead partners to start raising money again, just after a short victory of the proposition 22. And we're asking them to donate to the legal fund again. The third one is to have a special task force. We have also directed the executive committee to appoint and convene a special task force that is composed of city officials and mayors to work with the legislators to see if we can reach any compromises. And I also want to take this opportunity to thank our Council Member Rose Herrera. The league-- we have approved creation of the woman's caucus-- a caucus last Thursday, and Council Member Herrera was very influential. I understand our city staff, Roseann Miller and Betsy Shawell was also very helpful in terms of drafting the by law. So this is going to be the fifth caucus that the league of cities has. Besides the Asian-Americans, African-Americans, Hispanics and gay-lesbian. And we do have a women's caucus. That's the end of my report. Thank you.

>> Motion to approve the report. Travel report. All in favor? Opposed. None opposed. That's approved. That concludes the consent calendar. We have one other item we should probably take up before we go back in closed session. Because the other items are scheduled not before 3:00. It's 3.6 and 3.7, but we have 3.5,

approval of 3.5. Approval of conduit financing for Rocketship for public school TEFRA hearing. We have a motion to approve that. I would just like to disclose that my staff had conversations with the ShaneAR group on this matter. I think there are some representatives from the public to speak. Council Member Campos.

>> Thank you, mayor. I think this is a wonderful project. Completely believe in the whole philosophy of our charter school system. One of the things that I just want to-- for planning and for our city to take into consideration is that in the future, as more charters come forward, it sounds like they-- they're under the jurisdiction in terms of land use by the state. And so they use the state guidelines over the city guidelines. And in this particular project, the parking counts, for example, only take into account the number of proposed staff. I think as more charters come before us, we need to work harder with schools, with the charter schools, to make sure that there's not just enough parking for staff, but there's parking for, you know, parents that are coming to visit the school, parents that are dropping off kids, and need to-- and need to, you know, walk the kids to school, or to the classroom, so that-- so that the mitigation measure isn't, well, there will be extra parking on the street. I don't really think that's a mitigation measure. But just food for thought, and that as a city we should be cautious about that. Thank you. [Applause]

>> Vice Mayor Nguyen.

>> Thank you, mayor. I just wanted to disclose that my staff met with Eric Shenghauer in preparation for this meeting.

>> Thank you, we have many so requests before we take action. Eric Shenghauer and Julio Calderon, and Gutierrez.

>> Good afternoon, Mayor Reed. My name is Eric Shenghauer, and we represent Launch Pad Development Company and Rocketship Education. Today your action is very narrowly focused on approving the issuance of tax exempt revenue bonds, it's not approving our project, per se. But we want to actually take the time to share our project with you. This financing will allow us to acquire land and to construct a school for 500 children at the

corner of Larcresia and Helsey. So we're going to take a vacate, blighted lot and turn it into a school for kids. We have a very active parent community. So I think there's a couple of them that want to share with you their experience with Rocketship. Many of you are familiar with our track record of success. This is-- this particular campus will be our fourth one we've built from the ground up. Our previous campuses have achieved test scores on par with Cupertino and Palo Alto. And we're doing that with kids in downtown, and the east side. So we have a real track record of achievement. So we hope to open many more schools. I did want to address Council Member Campos's comment about parking. We're talking about 23 parking spaces and that conforms to the city's zoning code. The zoning code says one space per employee. So if you take our staff count, it coincides with the parking. But I appreciate your comment about other visitors, and parents. I also wanted to mention that the legal bond council is here in the audience, as well as a representative from the California statewide communities development authority. So if you had technical questions about the bonds, they're available, if you would like to speak with them. With that, we would appreciate your approval and look forward to many other campuses here in San Jose. Thank you.

>> Leo Calderone and Gutierrez.

>> Hello. Thank you for the time. I wanted to share a little bit of myself. I'm 36 years old, married, I have two kids. I was laid off. I moved from a private school into a public system. Nothing wrong with it. But I thought we could do much better. We were looking for the highest-scoring academically school that we could find. We found Rocketship. And while I started to get involved with the school, I found a lot more than just a great school API wise. I found a community, a school that opens the door to the community, to the surrounding neighborhood. I know some of the neighbors themselves. I've gone in there, helped them with their different projects. My kids know them. We invite them into our events. And Nellie is here, for example, with great kids, as well. It is very inviting. It's something that I have not experienced anywhere else. So I cannot speak highly enough. As I continue to worry about my kids, their future, their schools, I can't help but worry about their friends, as well, our neighbors, and I would like to make sure that the rest of the community is able to take advantage of this school, as well. Not just for the APIs. Parking is not one of my issues, for example. I'm more concerned about the

school, the school experience, and what they're learning and how they're able to communicate and, you know, cooperate in the community.

>> Nellie Gutierrez.

>> Good afternoon. My name is Nellie Gutierrez, and I think Rocketship has provided an excellent education to my son. And I would like to see other families and students through San Jose to have an excellent education. To have this opportunity, and, yeah, to see for our children. Thank you for your time.

>> Thank you.

>> Thank you.

>> That concludes the public testimony. Council Member Liccardo.

>> Thanks, Mayor. I think the gentleman said it very well. It's a lot more than just the extraordinary API numbers that Rocketship has managed to demonstrate through their work. What they're doing in our communities is really extraordinary. And I'm certainly a strong supporter, based on what we have seen in our own Washington neighborhood, where Rocketship has really transformed a community of families who are now very strongly motivated to see every child in our college. And I know just about every kid is going to make it, because they've got really extraordinary program, and the parents are deeply involved.

>> Thank you. I'd like to just make a couple of comments. First explain to the public who are watching this at home, this is a tax equity and fiscal responsibility act hearing, which we are required to hold in order for tax exempt bonds to be issued not by San Jose but by the authorities. These bonds do not put the city at risk. The city does not have any funds in this. The bonds are issued by the authority and are secured by the project's revenues. So this is not an issue where we're spending city dollars, but we are having this hearing because we are required to under law because it will be built in our jurisdiction. That's what we are doing, having this hearing

and we also have to adopt a resolution of the mitigation already being considered by the board and a resolution approving the issuance of the bonds. Any further discussion? We have a motion on the floor to approve those three items. Further discussion? All in favor? Opposed? None opposed. That's approved. We will take up items 3.6 and 3.7 after 3:00. We will take the report of the city manager when we come back out of closed session if there is any additional closed session or report, we'll make that report at that time. So at this point, we're going to adjourn back into closed session to finish our work.

>>> The council is going to come back into open session in just a minute. We've finished the closed session. As soon as we-- one, two, three. We have a quorum here. So there is no report out of any action in closed session. So we will take up the two items that we said we would not take up before 3:00. It's now 3:05. The first would be item 3.6, interviewing and appointment of a board to the federated city employees' retirement system. Following that will be the report on election interview for appointment of fire representative to the board of the police and fire department retirement fund. Item 3.6. I don't know if there is going to be a staff presentation. We're in a slightly different process with our retirement boards, because they have their own independent ordinance on how we do this. So city clerk want to bring us up to speed on where we start?

>> Yes, Mr. Mayor. As the council is aware, in December, you interviewed approximately-- you interviewed 14 candidates for appointment to the two retirement boards. You made seven appointments on December 16th, and there are seven candidates remaining. The first item is for the appointment of the seventh and final member of the federated retirement board. The federated retirement board did review the seven remaining candidates from the council's nomination and selection process. And interviewed four of those candidates. And then on February fourth, the retirement board, federated retirement board unanimously recommended Martin DIRKS for retirement to the retirement board. So that is for you to consider today, the appointment. The council has already interviewed the candidate, but council is free to ask any questions they may like, or proceed as you deem appropriate.

>> Any questions or comments from the Council? I think I'll at least give Mr. Dirks a couple minutes to talk. We have seen him before when he did all the interviews, but we'll get a refresher. And any questions council

members might want to ask before we make a decision. Mr. Dirks? Yeah, come on down to the podium, if you could.

>> Good afternoon. I'm a candidate for the last position in the federated board. It's a great group of folks that you have chosen so far. I would be honored to be part of that group. I did appear before you before for an interview, and I would be pleased to answer any questions or do any follow-up that you would like to at this time.

>> Thank you. Council Member Constant, do you have any comments?

>> Thank you, mayor. I think that the federated board was very deliberate in their actions. They took the interviews very seriously, and asked some very good questions. In fact, I was impressed with the level of questioning that even the new members of the board proposed to the potential new members of the board. And I think that Mr. Dirks is a very good candidate, and I would love to see him part of the federated board. So I'd like to make -- is it-- are you entertaining a motion?

>> Yes.

>> I would like to make a motion to appoint him.

>> Okay. Council member-- we have a motion on the floor. Council Member Liccardo.

>> Yeah, I would just add, it's obviously great any time you can have somebody of Mr. Dirks' experience. I can see that 21 years of experience, including management of almost \$1 billion, the kind of experience we need. I didn't support the residential restriction anyway, so happy to see any flexibility we can apply to that. Ultimately, we want the best and the brightest, no matter where they might live.

>> Council member.

>> Thank you for coming back to us. This is an honor for us. Thank you.

>> We have a motion to approve the recommendation coming from the federated board. Mr. Dirks would be the person. All in favor?

>> Aye.

>> Opposed? Not opposed. It's approved. Congratulations.

>> Thank you.

>> Or condolences, as you may see them once you dig into the pile of work you have to do. We appreciate you being willing to step up and help us. As you know, the money we're spending on retirement benefits is growing dramatically. So we look forward to having you fully engaged and helping us out.

>> Thank you very much.

>> Thank you. That.

>> Conclude's 3.6. 3.7 is the police and fire department plan. City clerk?

>> Thank you, Mr. Mayor. This is a slightly different process. The council may recall, last August you passed an ordinance which changed the structure of both retirement boards. And for the police and fire retirement board, one of the changes was to also appoint a fire retiree representative to the board. There currently is already a police retiree on the board, and so the construct of the board would include two retirees, one police, one fire. Two active employees, one police, one fire. And five public members. The public member remaining public member of that board would be appointed at some future date. We begin the process back in September to bring forward a fire retiree nominee to you. And as part of the government structural changes, there were some changes in the

procedures. First of all, the fire retirees nominate the person who will be serving on the board. But both police and fire retirees vote in the election to nominate the retiree representative. And that would be true for the police retiree when that seat becomes vacant. So today we're bringing forward two candidates for you, Richard Santos and Cruz Tapia, the only two candidates who put forth nominations and were voted on. Mr. Santos was the top vote getter. We also concluded the required interview under the code. The interview consists of a representative from the police officers' association, local 230, and the city manager's designee. Significant to note that the panel made no recommendation to the council regarding the appointment of either gentleman to the-- as the fire retiree to the board. And with that, I'll turn it back to you, Mr. Mayor.

>> Thank you. I have a couple people who want to speak on this item before we interview the candidates. I think-- if that's okay with the council, Paul Mulholland and Jay Wendling want to speak. Let's take that now before we do the interviews. Okay, Paul and Jay.

>> Good afternoon, Mayor Reed and members of the council. My name is Paul Mulholland, I'm a retired San Jose firefighter. I would like to tell the board how much I appreciate the ability now that's going to change here today the ability for retirees to go into the process with a voting-- you know, with a voting power. I feel that it's-- you know, we have kind of been in the background for a long time, and we do appreciate your help and your thoughts on the matter. Thanks.

>> Jay Wendling?

>> Jay Wendling with the retired police and fire. Mr. Mayor, council members, and city staff, I'm here to recommend that the board seat be filled today. I know there are some areas that are lacking. But with all of these professionals, that have just been put on the board, I think that kind of mitigates the amount of professionalism that should be required from the fire seat on the board. So again, I would urge the council to resolve this issue today. Thank you for your time. And your patience.

>> That concludes the public testimony. Council Member Constant?

>> I had a question for the candidates, once they start--

>> Okay. Why don't we do that? We have two candidates. Let's bring Richard Santos down first. Give him a couple minutes to talk. And then we'll do whatever questions we have, and then we'll hear from the other candidate.

>> Good afternoon, Mr. Mayor, city council. Richard P. Santos.

>> I'll give you a couple minutes to say anything, or is that all you wanted to say?

>> I don't know. I thought you were going to ask me a question.

>> We are going to ask questions.

>> 33 year firefighter. Went through all the ranks to fire captain. Was a union member. Did a lot of volunteering and community work. Continuing to do that today. I have a lot of passion for it. And I'm the most qualified. I have 12 years of the vice chair from the retirement board from 1986 to 1998. It was a great time, did a great job, and one of the reasons I am seeking this position is I don't like what I read in the press. The fire and police are honorable people, they have done a great job, they invested in this system, built a foundation, and we've got to work with the city to get those fees down, collaborate, whatever it takes, and prevent these mess medicals from getting to be too outrageous for the retirees. The retirees need a voice, and I've been gone over ten years, and the members had an opportunity to say, hey, we want you back. Get the job done. So I'm here.

>> Thank you. I had a question, Mr. Santos. The governance documents that we have in our ordinance says that the appointment of the fire representative-- the police and fire retirement board is required to be routine business on the council agenda, and council must have cause for rejection and the nominee will receive the most votes and is recommended by an interview panel. In this case, you got the most votes from the retirees, there is no

recommendation from the interview panel, but I'm interested in the cause question. And the cause would be that you will not be able to attend meetings of the board and fulfill the time commitment as a member of the board. As far as I know, you live here locally. So any problem with you making the board meetings, or doing the duties, all the work of the board?

>> No, sir, I wouldn't have put in for it, if I didn't plan to be dependable and responsible. When I do something, I give 100%. I'll be here.

>> And you're familiar with the amount of work the board has to do?

>> I just had a board meeting myself today, and I'm over here.

>> I know that the police and fire board has had some difficulty getting a quorum recently. And at least one member of the board has been calling in from the beach or some place in Hawaii. Which is difficult-- creates a difficulty with the quorum. So I know that attendance is important, as well as doing the work. So that was just why I wanted to ask the question.

>> Well, let me answer also, if you take a look at back at 1986 and 1998, I never missed a meeting. I was on it one time in 28 years and I never had a sick day.

>> Okay. Council Member Constant.

>> Mayor, you pretty much asked my question, but I just wanted to ask almost identical. And I just wanted to make clear, first of all, I know you're committed to everything do you and I've watched you in action and I know you'll be there. I just want you to understand that being at the meetings means being at the meetings, not being on the phone on the meetings.

>> As long as the meetings are meaningful. As you know, you have a lot of meetings, and they're not meaningful. But I'll be there to take care of business.

>> Okay. I just want to make sure. That's my only concern.

>> I don't call on the phone. I'll be here in person.

>> Okay, good. Thank you.

>> Our welcome.

>> Any other questions for Mr. Santos? Nope? Oh, Council Member Liccardo. Sorry.

>> I just wanted to thank Dick for his service on many boards and commissions. Including the task force. He suffered there over three years. Thank you.

>> Thank you, Sam.

>> Okay. I think that's-- Council Member Pyle?

>> Yes, I just wanted to say I know Dick Santos because of his involvement in many levels, but currently the emergency management group. And I appreciate his input and being there.

>> We were--

>> All the time.

>> We were the only non-city to be appointed to that, because of my experience, being able to bring it to the board and work with you all. And we've brought some great resources and today-- we have worked with Mayor Reed with flooding and so on. And so to date we have done a great job. And thank you.

>> Council Member Chu?

>> Thank you. I just also wanted to add my appreciation to director Santos for his commitment to our community, especially in El Viso. The task force meeting. So I'm very confident that he would be very attainable and responsible member of the board.

>> Thank you.

>> I think that's it. We'll see if we can get Mr. Tapia back. I think he left.

>> Thank you very much.

>> Thanks. Have a seat, if you want. You're welcome to leave. We won't be offended.

>> I'll just sit.

>> Okay. The city clerk will get the other--

>> He's on his way.

>> Okay.

>>> Hello, Mr. Tapia. Yes, sir.

>> Welcome. Thanks for joining us. Thanks for your interest in this. We'll give you a couple minutes to talk about why you would like to be on this board and maybe we'll have some questions.

>> Okay. You know, I worked for the city for 42 years before I left here, 34 of those with the fire department. And the fire department and my union was good to me, and I'd like the opportunity to give something back to not only the people that are about to retire, somewhere down the road, but also to those of us that have already left, and are retirees now. And that's-- that's essentially why I want to do the job. When I talked to Mr. Hawkins, he had asked me to give an open statement, and I would like to do that, if you can bear with me for a couple of minutes, and maybe that will minimize or get rid of some of the questions that you might have. You know, I have lived in San Jose since 1960, so ins my home. I have raised my family here. I have two children in the fire department currently. Through my job in the fire department, I was able to work as an instructor, and then only locally, but on a state level, on a national level and on an international level. I have limited financial planning experience. And the only thing that I can tell you that I can bring to this job is honesty and integrity, and that I will defend the rights of the retirees to the-- my utmost ability. Once again, my financial planning is very, very limited, other than what I've done, you know, for my own retirement benefits.

>> Great. Are there any questions for Mr. Tapia? I think not. Thank you very much.

>> Thank you. Have a good afternoon.

>> Council Member Constant.

>> Thank you, mayor. I think it's really important that we honor our commitment of the routine nature of these appointments. As a routine matter of the council, given the significant changes we have made to the governance of the-- governance structure of the two retirement boards. And although there was some doubt by the interview panel, as is Mr. Santos' ability to serve on the board, I think I am very confident that he does have the ability to dedicate the time. He told us very directly here today. And many of us know him in his action, in previous boards

and commissions and other offices, like with the water district. Where he has fulfilled his commitments. So I would make a motion that we ratify the vote of the retirees by appointing Mr. Santos.

>> The motion is to appoint Mr. Santos. All in favor?

>> Aye.

>> Opposed? None opposed. That's approved. Congratulations, and thank you. Thank you all for your interest in the service to the city.

>>> The last item for the afternoon agenda is open forum. Any cards for open forum? Yes, we do. And we have an evening meeting that starts at 7:00 p.m. Mr. Larson, Norman Larson. Judy bender. Anybody want to speak? Come on down. Come on down. Somebody needs to grab the microphone and speak. Whoever wants to go first.

>>> My name is Sarah JO Larson. I was here last week speaking. On behalf of the seniors at south side senior center. I have one question. I'd like to know why the boutique who takes up space earns money regularly, but has no rent. They pay nothing back to the city for the use of the area that they use. And the money that they take in. This puzzles me, because I know from talking to others at willow Glen at their senior center, they do pay the city. And I'd like to know why the boutique there has no obligation to pay the city anything for the space that they use. Maybe we need an investigation into that. Thank you.

>> Judy bender. Norman Larson.

>> I'm Norman. I defer, because I was only here to respond to anybody else that had something.

>> Okay. Judy bender?

>> Mayor, council people, I-- in talking about what Sally just did, what happened is that we, the seniors, put together the boutique for them. But now that we are paying a dollar for every two hours of class, and the boutique pays nothing, we have over 100, 200 seniors paying this dollar, and the money is supposed to go to help the city. It doesn't sound like a lot, but you total it up, it's a lot. And it's not fair for the other hundred seniors to pay the dollar for two hours and the boutique pay nothing. And these are seniors, that's true. But the city provides the space. It's like the city is in business. And advertisement the goes out. And so if you can provide a space for boutique, then you should provide a space for everybody who is an artist, free. Bathroom facilities, electricity and everything. But what I wanted to say, really, is about the-- I ran into Albert Velasco, and we pay \$10 as membership fees to all the senior citizens, seniors, community centers, and the city. And yet the money definite go back to the city. The checks are made out to the city of San Jose. And yet at south side, they're made out to the senior advisory board. And I want to know why. Because that money is supposed to be going to the city. And we're talking not maybe \$1 million but \$100,000 a year. And you guys are hurting for money? And yet Albert can't explain why he doesn't take care of that money. He doesn't even know-- last week he didn't know what the money was for. Something is wrong when you've got a parks and rec guy that's supposed to know this. And I've been with the city for-- as a senior citizen for 15 years. And I know more about it than what's going on than he did. And that's not right. And also, I want to thank city manager's office for someone contacting me yesterday about my health. And I really appreciate that. I--

>> Sorry-- your time is up.

>> Thank you, Mr. Mayor. Thank you.

>> That concludes the open forum for the afternoon. That concludes our business for the afternoon. We'll be back at 7:00, and we are in recess until then.

>>> Good evening. I'd like to call the San Jose City council to order. This is the continuation of our afternoon session. I'd like to invite Council Member Constant and the students to join me at the podium. We're commending students as selections in the finalist 2011 Intel science talent search. Here are some details.

>> Thank you, mayor. Today we have Nikeil and Rojan. As you know, I love to come here and brag about the students that we have in district 1 that continue to do some just incredible things and consistently rank among the top students nationally. Today we have with us two students who have just done incredibly well in the Intel science talent search, which is the nation's most prestigious science research competition for high school seniors, often referred to as the little Nobel prizes. Alumni of the talent search hold more than 100 of the world's most coveted math and science honors, 7 different Nobel honors and these young men are in an elite group of some of the nation's brightest scientists. Every year when Intel has their talent search they recognize only 40 finalists from a pool of semifinalists of about 300 students nationwide. And it's usually chosen from about 1700, 1800 applicants. So it's some pretty significant competition. Every year the semifinalists receive \$1,000 and the finalists receive \$5,000 scholarships plus a trip to Washington, D.C., where they get to compete for even larger awards, a total pool of \$630,000 in awards, which the top scholarship is \$100,000 scholarship. Last year you may remember we had several students that made it into both the semifinals and the finals. This year we are lucky, we had seven semifinalists from Harker and four from Lynbrook and there was one semifinalist from outside district 1 somewhere else in the city. Overall, there were 11 finalists from California, 6 of whom were from the bay area. And schools in San Jose had the most semifinalists of any city in the entire United States. San Jose district 1 had more finalists than any city at all, which is pretty incredible. Harker school, which is in district 1-- I keep saying district 1, I know, but I try to emphasize that-- is the only school in the nation with more than one student in the finals. So we really do have the top of the top standing right here behind me. I'm going to tell you a little bit about the projects and I'm probably not going to get it right so they'll correct me. Nikeil's project was titled a morphological in the Hubble ultra deep field, which determined that the irregular shapes of distant galaxies differ from those in our neighborhood and must be characterized differently which has significant implications on how they understand galaxy formation. I think I got that right. Rojan's project is the effect of doping on cadmium for photo electrical chemical hydrogen generation. Which basically says, how can we efficiently convert water to hydrogen using sunlight and a photoelectrical chemical cell, which obviously will help us with fuel cell

advancement and research. They're incredible projects. Both worked with mentors from UC Santa Cruz. Additionally Nakeil plays classical guitar and is in a rock band with his friends. Mr. Mayor, if you could present each of them with their commendations, then we'll give you an opportunity to tell you what their projects really mean. [Applause]

>> Hi. My name is Nakeil. First I'd just like to thank the city of San Jose for this incredible honor. Yeah, that was a pretty good summary of my project. I basically studied galaxies, really distant galaxies, the structures of them and determined whether they're similar or different from galaxies in our local universe. I really would like to thank my mentors at UCSC and all the people there that really helped me a lot through the eight weeks I spent there this summer. I'd also like to thank my school for providing me this opportunity and also preparing me so well for doing everything I was able to do there. And finally my family for supporting me through everything. Thank you. [Applause]

>> Hi. My name is Rojan. First I'd like to thank the city of San Jose, Mayor Reed, Peter Constant for this amazing honor. I'd like to thank UC Santa Cruz where I did my research, the marker school and the teachers and my parents, too. My research was basically on photoelectrical chemical cells. Basically, instead of making electricity from sunlight we made hydrogen so I improved the efficiency by about six times. I enjoy research in science and we'd like to thank San Jose who fosters the community and this passion of mine. Thank you. [Applause]

>> Before we finish with a photo, I know these things don't happen by accident. I want the parents of these two boys to stand up. Parents, come on, stand up. [Applause]

>> Thank you. Now we'll take a photo.

>> Like to invite vice mayor Nguyen and the neighborhood action coalition to join me at the podium. Please come on down. I want to commend the members of the Tully center neighborhood coalition for their service.

>> Let me just start as they are coming down. I am just extremely proud to recognize members of Tully center neighborhood coalition. I want to commend these individuals to their commitment to the neighborhood. Everyone who is behind me along with countless members through the community have been more than active in their participation in organizing dumpster days and many other events in creating a safe and more vibrant community. An example of their dedication in their community can be found in the newly renovated neighborhood action center. For the past five years I have been holding community meetings at the center. At the conclusion of each meeting, I couldn't help but ask myself, how long can we keep this center open, given the fact that everything in it could collapse at any time? The renovation of this community center has been one of the top priorities of the Tully center NAC. So to speed it up, my office contributed \$50,000 from the district funds to help start the renovation project with the hope that organizations and corporations would follow suit. And they did. Some of the corporations stepped up and helped raise about \$19,000. Unfortunately, it was not enough-- it was kind of short of the projected \$97,000 to complete the project, but the community didn't give up. Instead they got together and put in over 800 hours of volunteer work, which is equivalent to approximately \$23,000 to renovate the center. So I went out there one weekend to help out and I just couldn't believe what I was seeing, mothers, fathers, grandparents, children of all ages, had their sleeves rolled up and digging in the dirt, some climbed to paint the trimmings. They worked so hard and did everything necessary to make their center look brand new. The people standing behind me are part of the 60 volunteer teams who gave up their weekends for months to help renovate the center. I wish I could show you a before and after picture. You would be blown away at the difference. For many community members the neighborhood action center is Like a second home. I'm glad they're able to utilize the center for many years to come. Thank you again to all the volunteers, to all the individuals here today and also to the staff for all the commitment to keeping the center open. I'd like to ask Mayor Reed to give the commendation on behalf of all the volunteers who worked on this project. Please give them a round of applause.
[Applause]

>> Thank you, vice mayor, for the nice words you said about us, but we couldn't have done anything without her help and her staff, too. Thank you, mayor chuck reed. We are so glad to have this recognition. And thank you to a lot of the volunteers. We had too many so we couldn't be here everybody, but-- and in the name of them I thank you very much for all the big effort that we did together as a team. And thank you again to the vice mayor for all

your help that you gave us. Without your help, I don't think we could have done anything. And thank you.

[Applause]

>> Thank you.

>> Thank you.

>> The business of the meeting is item 4.1, a follow-up on work regarding draft environmental impact report and actions, specifically matters. Councilman Liccardo.

>> Thank you, mayor. I know there's been a flurry of conversation between the staff of the city of San Jose and valley transportation authority. And I appreciate all the hard work, Joe and laurel, that you've put into smooth the path forward here. As I understand it, we've received a letter dated today from VTA indicating they're withdrawing the general plan amendments applications for both of the properties. Joe, am I right in believing we still would need to make a motion to continue to review and process the applications as to the two parcels on taming east? Is that right?

>> Councilman Liccardo, we are recommending those move forward through the journal plan update one of quasi public in the draft plan and the other has a residential designation. We would bring them all urban residential with the draft plan and all others would be withdrawn.

>> Then I have a revised recommendation that I'm happy to present to the city clerk. Perhaps I'll just read this first paragraph as it's been revised by Mr.Patel from VTA. The motion is to accept the staff's recommendation with the following changes to continue to review and process the application of VTA as of site A with request number BSJ-204004. To designate urban land approximately 2.88 acres and park open space approximately 3.46 acres and draft envision 2040 land use diagram also known as east and provide the northerly land currently designated as transit corridor residential or approximately 4.13 acres per staff's future recommendation of the plan that will come before the council. Thank you. That's my motion.

>> The motion-- I won't repeat it. Council Liccardo will hand it to the clerk so we can make sure it gets into the record correctly. Discussion on the motion? Council member Campos.

>> Thank you. As I shared with you a few weeks ago when this initially came before us, I completely support council member Liccardo's motion except for one item. Again, it's the Pueblo item on here. I just-- I can't see taking away 30 acres of open space that will never get back if housing is built on there, leaving behind impact that will just add on to the impact that currently exists to king road, king and Storey, the 680 king road exits going both north and south, those two exits, if you try to get off those exits at 5:00 or anytime in the evening rush hour, it's nearly impossible. I just can't support that portion. So I will not be supporting the motion for that reason. However, I do want to just make sure that a thorough outreach effort is not just made within the 1,000-foot radius, that there's an effort made to all parties that this could potentially impact, the seniors that use the golf course, schools that use the golf course, SNI groups around the area, and-- you know, I mean, in the staff report it does state that, you know, throughout the three-year envisioning process, the three-year envision process, this was designated as open space. To me it seems like it's the 11th hour, a request to study whether or not the change should be made, I question that. So I've made my feelings heard before, and that's where I stand. Thank you.

>> Staff, I'd like for you to clarify what exactly is in front of us tonight. I'm looking at staff recommendation with six different items on it, but I think we've taken care of all of them except the Tamien one.

>> That is correct, Mr. Mayor. I did want to clarify for council member Campos this is only about the Tamien station. Staff was directed how to proceed on the others. We're well aware of those concerns and up on the outreach related to the public golf course.

>> Then I've already opposed it. Well, this was all in the report here so I thought it was coming back again. But you know where I stand on this, and I will be supporting this motion. Thank you.

>> Council member?

>> Joe answered my question. We'll just be voting on the Tamien thing tonight.

>> The motion in front of us with the Tamien portion of the general plan amendments? Further discussion on the motion. All in favor? Opposed? None opposed. That is approved. Our next item is 6.1 actions related to street light installation.

>> Mr. Mayor, members of council, I'm Hans Larson, acting director of the department of transportation. I'm very pleased to present to the council some significant actions related to our street light system. The actions that we're recommending to you are fairly technical but have extraordinary significance. The actions that we're recommending to you help facilitate progress on our green vision goal and really helps expand San Jose's reputation as the center of clean energy innovation. So we thought we'd spend a little bit of time with the council to walk you through this and really highlight the significant accomplishment that we have here before you. Joining me with the presentation and any questions you might have, to my left is Laura, the department of transportation's sustainability officer and who's been our project manager on this effort, and to her left is Nancy Clanton, president of Clanton and associates in boulder, Colorado. She's been our consultant in supporting this effort.

>> In terms of context on our street light system is in San Jose we have 62,000 street lights across the city, and they use quite a bit of energy. We spend \$4 million a year on powering the street light system. In addition, in order to keep the system maintained, change the bulbs as needed, we spend approximately \$2 million for labor and materials to keep the system operational. From a historical perspective, San Jose took some very significant actions in 1980 in which we adopted a standard for low pressure and high pressure sodium lights which people commonly refer to as the yellow lights of San Jose. Those actions were taken for reasons of promoting energy efficiency at that time. And it was also guided by an interest to protect the night sky for the Lick Observatory, a research facility operated by the university of California having the yellow lights allows them to reduce the amount of skylight at night and allows them to provide good conditions for their research. In 2007, the city council adopted the green vision, and one of the goals, goals number nine, related to street lighting. In an effort to try to reduce energy consumption from street lighting. In terms of the amount of energy we use and as there's direction

in terms of how we power the street lights with an ultimate goal of using 100% renewable energy. To implement that goal, the council adopted in 2008 a revised street light policy which set forth the goals of having an energy-efficient system that would allow for lights to be dimmed late in the evening for additional energy savings. We wanted to do this to save energy costs as well as we wanted a system that would reduce ultimate operating costs. We wanted to move towards a system that reduced hazardous waste, the low-pressure sodium lights that we have now, when the lights are burnt out, it actually is a hazardous waste material that requires special disposal. We wanted something nonhazardous. We wanted to maintain the goals we have of protecting the night sky, to protect the interests of Lick Observatory. And then there was a bold feature in the policy that promoted an idea of an energy cap in which we wanted to cap the amount of energy our street light system used and if there were any new lights built in the cities through public or private projects there would be a requirement to replace existing lights with something more energy efficient so that we would not exceed the amount of energy consumption. I'll talk about that a little later because that was a point of controversy with the previous policy. To implement the policy, we needed to develop what we then called a master plan and what we're now calling a street light design guide. So these are specific technical specifications on the kind of light that we would have in San Jose. We started this work and interestingly enough we had a bold vision of doing something that never had been done before, and so in order to establish what this new kind of energy-efficient light would look like, with we embarked on doing a series of pilot projects. And using the council's demonstration partnership policy, we put out a request for interest for companies that wanted to work with us and develop new innovative technologies that would meet our green vision goals. So the very first application in the United States of a dimmable LED street light was right here at city hall as part of our green mobility showcase project in which we installed four dimmable L.E.D. lights that were remotely programmable. We followed that with a project in one of our neighborhoods in council district 5 with council member Campos' district where we installed 118 L.E.D. lights, and that was financed through CDBG grant funds. We did a third pilot project up in north San Jose to test this in an industrial application. This is in council member Chu's district in the north San Jose area where we installed 125 lights using a different kind of technology. I think all the pilot projects were found to be successful. The community responded very well to them, and then we embarked on a more rigorous study of determining specifically the best kind of L.E.D. light for a new standard. In march of last year out in the Edenville industrial area in council member district, we closed down a street there and over two days we invited the public to come out and evaluate six different types of lights,

including three types of L.E.D. lights, an induction light and as a control sample we also evaluated a low-pressure sodium and high-pressure sodium lights. And through the surveys, we did safety tests in terms of visibility, community preferences, and kinds of light that they like from an aesthetic perspective, as well as what provided the best visibility. This was a study that we did with the Virginia tech transportation institute together with Nancy our consultant. We had a very enthusiastic response from the community, over 110 people participated in this effort over the two nights. Overall, the effort that we've done has been in compliance with city council policy for community engagement for significant citywide policy changes. We had community outreach as part of the demonstration tests. We had two community meetings. We also had several meetings with developer groups, and those discussions largely focused on the issue of the energy cap, which I'll talk about a little bit more. And we got quite a bit of positive media coverage from the mercury news and television stations in the work that we did. I'll talk a little bit about some of the other media that we've gotten in the effort. Overall, what we're asking you to approve is a new street light design guide, and what this does specifically is it lays out the process in which we would replace our current yellow lights with lower wattage white lights. It provides guidance on the installation of new street lights with dimmable L.E.D. lights. And then it also deals with the issue of what we call adaptive lighting, and this deals with the topic of dimming, to what degree can we dim the lights late in the evenings to ensure safety on different roadways? So we have different dimming levels based on if the road has high traffic volumes, medium and low volumes. So those are the specifics of the design guide that we're asking you to approve tonight. To give you a sense of the results of this, this little table illustrates the difference between our old standard and our new standard, and from the community feedback, the color recognition and visibility of the old system was generally rated as fair to poor, and the response for the new white lights has been excellent. So the public response has moved from negative to positive between the two systems. You can see the significant energy savings if we completely replace our street light system, \$4 million a year of energy costs today, we can reduce that by 40% to 60% with a conversion. The other notable thing is that the replacement cycle between the current lights is about three years, and we would move to a replacement cycle of about ten years with the new L.E.D. lights. So this saves labor costs and materials costs with less frequency for replacement. And then lastly the issue of hazardous waste. We have a hazardous waste with the current ones. The new L.E.D. ones do not have hazardous waste. I just also wanted to add to working with Lick Observatory, we've had a great collaboration with them. I think you'll hear from a speaker here tonight, is that in order to maintain our goals in

protecting the night sky for Lick observatory, the dimming is a significant issue for them late in the evenings when they do their research, and the fixture design is important by directing the L.E.D. lights to light up the roadway and the sidewalks as opposed to the sky, as part of our standard is to have a fixture that minimizes the sky glow. So specifically the recommendations we have in our staff report are one to repeal the council resolution that supports the current design standards, secondly we're asking you to approve the new public street light design guideline. And the third action relates to modification of the council street light policy. As I mentioned, there's a provision in there in which we would have an energy cap. This essentially would place a burden on private development projects if they were doing additional new lighting under the energy cap policy, they would be required to convert other lights within the city to reduce energy consumption. They felt that there was difficulties for them added costs in the development process, additional process time, and they raised some questions about the nexus of our ability to do that. Given the environment that we're in now where we certainly want to support private development, we're recommending that we drop that element of the policy at this time. And if at a later date we think it's appropriate, we can bring it back. But we're proposing to take it out of the policy here tonight. I know there's a lot of enthusiasm and interest in converting our lights to this new better standard and wanted to touch upon some of the next step issues. The first one is working with PG&E and the public utilities commission to actually create a new rate for dimmable street lights. There's not one that currently exists. But we are working very well with PG&E on this effort and in negotiations on addressing this issue. And our hope is that we can have that resolved this year. We did submit testimony to PUC making a request in proposing to establish a new rate in this regard. There's a lot of interest in replacing our lights. We wanted to advise the council that to retrofit or convert all of the street lights in San Jose has an estimated cost of \$30 million, and we are not recommending that we move forward in a full-scale conversion at this time because the cost of the technology and fixtures is dropping so rapidly as more jurisdictions are creating a demand for this technology, we think that within a year two the prices will drop significantly. If we look at just over the last two years when we started working on this, L.E.D. light fixtures cost about \$1,000 each. Today they cost \$500 each. So this is like buying a big screen TV. If you're one of the early ones, you paid a lot of money. If you wait a while, you can get a much better rate. So we're working closely with the transportation environment committee on this and recommending a sort of year-by-year reassessment of where we're at and looking at potentially finance options or other creative ways to implement a conversion. So at this point, we're happy to accept grant monies and we've done quite well in getting

grant monies from various sources to do some street light conversion. So we would propose to continue with that tact at this point. Part of the green vision is to look at having the power for street lights be from 100% renewable sources. Our first approach is to deal with the energy consumption and the fixture. Then as the next phase looking at how we might power these, I know there are some areas-- I know council member Chu mentioned to me that China is doing some work with solar-powered street lights. We'll certainly look into those kind of technologies and recommend direction to council at the appropriate time. The work that we've done in that area is very much experimental, high cost at this point, and something that we'll be monitoring closely. The other-- the last point on this slide I wanted to highlight was also significant for the city in terms of energy consumption is addressing private outdoor lighting. And this is on the list of sort of policy initiatives the council actually looked at yesterday of good ideas for us to work on. The planning building and code enforcement department is looking at design standards for outdoor lighting, and this is something that Lick Observatory has raised as being very helpful to them, not only managing the public street lights but managing lighting from private sources as well. Just a couple more slides here. I wanted to highlight some of the cost and cost-effectiveness of converting our street lights and our current approach in terms of where we apply our grant funds. You can see the list here, 62,000 street lights and the \$4 million energy bill. If you start from the top, the most high-energy lights we have are in downtown and neighborhood business districts. And the cost of replacing these lights with L.E.D.s is very expensive at this point. What we see as the current sweet spot for conversion is on our major streets, and it represents about 36% of our total street lights, but it's 44% of our energy bill. So most of our funding efforts are being targeted toward the major streets. We've received \$2.4 million in primarily federal stimulus funds for street light conversion, and so we're recommending that we apply those moneys to our major streets. We think we can get the best benefit for the investment. We have monies in place right now to convert about 2,000 street lights on our major street system.

>> Just wanted to close with some perspectives regarding the street light program and just give huge compliments to the mayor and council for adopting the green vision. This is really what has sort of attracted attention to San Jose and the private sector wanting to partner with us and explore innovative solutions like what we're doing with the street light program. The demonstration partnership policy that the council adopted gives staff the tools to work with industry in a way that's creative and collaborative and really open up the city of San

Jose to be an applied research lab, that we've opened the invitation to the world to come to San Jose, demonstrate innovative products, and this helps drive business and industry in the area of technology and innovation. We are the first city in the United States to demonstrate smart L.E.D. street lights right here at city hall. We are the first city in the United States to do a study of visibility and dimming to prove the technology and develop standards which you are hopefully going to adopt tonight as a recommendation. And we're the first city to adopt adaptive street light design guidelines. These are very significant actions. We have generate the international attention for what we've done. A few months ago we had a group of tourists come to San Jose to look at our street light system. We had folks from India, China, Europe, Australia, and Canada. And, yes, they spent a hotel night in downtown San Jose to come see what we're doing here. So this is good for the economy to do this kind of innovation. We've gotten media attention from the "New York Times," the "Wall Street Journal," "mercury news" has been supported in our efforts and I think we can all feel very proud of what we've done here in this regard. Just to close, I want to provide sort of significant kudos to former director of transportation Jim Helmer. I think he took this on as kind of a personal project to help drive the innovation and this effort and really provided kind of the staff leadership to make this happen. Laura has been the person who's followed up on this and really made it happen. And we have wonderful support from Nancy, our consultant, on this. And I wanted to just allow her to take a couple of moments to just reflect for you-- hear from somebody else in terms of what we've accomplished here and let her close with a few remarks.

>> I'm learning the technology to push the button. Mr. Mayor and council people, I'm really excited that we have had the opportunity here to actually take our lighting standards and test them out in application. This is a dream come true. We have been looking at dimming street lighting successfully in Europe for many, many years, yet it has not come over the pond basically to the United States. And what you offered here, with the partnership and Virginia tech transportation institute, in looking at if you converted your lights to a white light source and you could dim them would you have the same visibility as what you have with your current street lighting? That's actually what we proved in the research. And thanks to the citizens of San Jose, we only needed 50 people, and 110 showed up, which is great. So we had more data than we needed. Now what's taking off is that the department of energy is so interested in what's happened here in San Jose, wants to use it as kind of how do you do demonstrations. How do you take theory and research and apply it to real application? And we have learned so

much that, yes, white light provides better visibility and by directing all of the lights straight down we're going to have less sky glow. And then, again, in low-activity times, like in the middle of the night when you don't have as many pedestrians out, you can actually dim the lights and still have the same visibility as what you have in your current street lighting system. So it's taking off, and the standards bodies are looking at what is going on here. We have several papers we'll be presenting on what happened here in San Jose and extending it hopefully to other cities in conditions, wet conditions, fog, snow. All of those. But thank you for the opportunity, and we basically have shown that you can do everything that was talked about tonight, save the energy, save the maintenance, and increase visibility through changing out your standards. So thank you.

>> With that, Mr. Mayor, members of council, we'd be happy to take any questions.

>> Thank you. We do have a few questions that council members want to ask. I'd like to thank the staff for making this happen. We watched the green vision of 2007. This was just an idea. But clearly you've demonstrated that it can work. I want to acknowledge the cooperation we've gotten from PG&E. I met with Chris Johns last week-- I think it was last week-- talked to him about getting a filing going. I think now they have made a filing for a rate for these lights. If not, they will very soon because that will help us save more money on it. And I might have missed this, but I don't want to pass the opportunity to underline it. We were the first city in the country to do L.E.D. traffic signals, and I think we save about \$1 million a year with L.E.D. traffic signals. And that was a long time ago we did that. It's good to see us finding out how to save money on the street lights. There's 62,000 out there. Great work, staff. Congratulations. I'm looking forward to seeing that price coming down more and more and more because that means we'll open up markets around the world for our local companies to produce the technology for the world. I do have I think every council member wants to speak on this. We're going to get through that and have a couple of speakers from Lick Observatory. We'll get to those in a minute. Council member constant.

>> Thank you, mayor. Thank you for a great presentation. I heard from several of my constituents who went to the demonstration project and were excited not only to participate but the results they got to see in realtime. I think this is a great idea for a number of reasons. One, we know the more we drive demand the lower the price

will come. It takes somebody to start. You can just look at the little L.E.D. flashlights that used to cost a fortune. Now they're grab items at all the different stores because the price has really gotten very competitive. I had a question on the chart that had the energy costs for the different types of lights that we have on the arterials versus the other streets. That one there. How does this correlate to that flat rate pricing we get from PG&E and the mayor just mentioned? It looks like we're starting to make progress. Do all these lights get treated the same with the flat rate? Or is it flat rate per type of light?

>> It's per type and wattage of that type of light.

>> And as we go forward, it seemed like the mayor was alluding to how PG&E is looking at how they're going to be able to charge us for lights or blocks of light we convert?

>> We made a proposal they charge us on the basis of the data that our street lights will be able to collect. So it will be based on, if PG&E would agree, the goal is a tariff for the amount of energy we burn. Regardless of the type of light.

>> Once we get that, we'd be able to plug into this chart and figure out what the ROI would be at today's costs and as costs come down in each category. Right now we say major streets is the one that would give us the most bang for the buck, but perhaps because of the larger number of residential street lights nationwide those prices could drop. I would just assume that's something we would monitor and start knocking them off based on ROI. Correct?

>> Correct.

>> One thing I don't think I caught or maybe I missed it. What about replacement cost? We know that L.E.D. bulbs last so much longer than traditional bulbs. Have we calculated the savings we'll have on burned-out bulb replacement over the long term? Or is it too early to know that?

>> We know that we'll save a lot in terms of replacements because L.E.D. fixtures will last at least three times if not longer than the fixtures. That's part of the maintenance costs we had in that estimate of savings.

>> Okay. And then, finally, with the adoption of these design standards, one of the things that you mentioned as new developments come in it will be part of the design standards. So the question I always ask is, where do we define that line in the sand? If we adopt this-- which I'm sure we're going to-- when would that affect projects for people to start calculating the costs? Have we thought about that?

>> Yes. Council member constant, it's part of the development with the community. It that's part of what's been discussed. We want to respect projects already in the pipeline that have invested in designing their projects. So we're looking at kind of a formal adoption date of July of this year. So any new projects that come in would need to be designed to the new adopted standards.

>> Okay. Great. I think those are all my questions. Again, thanks. I think it's a great move in the right direction for us on many different levels. And since I got the Mike first, I get to make the motion. I'll make a motion to accept.

>> Second.

>> Motion to approve the staff recommendations for the changes. Council member Pyle.

>> Yes. I just wanted to reaffirm the fact that this will not have any conflict with Lick Observatory. I did hear that, right?

>> Lick Observatory is supporting our conversion plan, the strategies we have outlined to mitigate. There will be an impact in switching to a white light, but one of the thing they asked is that we dim our lights, also some measures that we're taking. A good example, making sure the light is aimed down. That will also help and putting in a lower wattage of white light replacement.

>> That's great. I'd just like to congratulate you all. What a wonderful thing to bring another first to the city of San Jose. That's really exciting. And congratulations on the grants. 2.4 million, that's awesome. And with that I'd like to make a motion to approve.

>> Too late. We already have a motion.

>> Sorry. I got distracted.

>> Councilman Oliverio.

>> Thank you. There's a variety of L.E.D. manufacturers, I didn't see which ones you reviewed and then maybe who actually makes the light. Can you give me an idea what kind of companies we piloted?

>> Sure. The two pilots we did in the Cassell neighborhood were Beta, an L.E.D. manufactured in the Midwest and the controls, the first project was echelon and the second is Rome. Echelon is a San Jose company.

>> Just out of curiosity, Lumiled is in San Jose.

>> They weren't chosen for that pilot, but we'll be issuing a new one shortly.

>> Fair enough. Thank you.

>> Councilman Kalra.

>> I'm really looking forward to doing this conversion over the next few years. There are financing options that can work in terms of-- you know, I know that since the window-- the life of the bulb is ten years, right? So it may not be a large enough window to do some financing but I imagine there might be a tipping point with the cost of

the lights comes down where that will make sense. I can only imagine ten years it will be that much cheaper so even if it's cost neutral, there's a great enough benefit for us to go forward, both the environmental, general energy savings, as well as the quality of the light, which is certainly better than the lights that we currently have. And I'm also glad to hear the PG&E rates are going to be based on the energy used. So is that-- how are we going to link that-- in other words, if we're dimming-- I imagine a lot of the energy savings is the fact we can dim at twilight, dawn, as well as we discussed as we've been discussing through shutting off certain street lights instead. Because cutting half the energy you have the same amount of light. We don't necessarily have to go that far, but how is it linked in so that PG&E, is it all going to be connected to a network we have and we provide them with all the energy we're using? It seems kind of inefficient if it's light by light or a block or neighborhood or the entire city. Do we know that on these kinds of lights?

>> It hasn't been determined yet. The city is in confidential negotiations with PG&E. We hope to have that settled shortly.

>> I imagine this is the first of its kind type contract so no one's really been there before. Everyone is trying to work that out. Thank you very much.

>> Councilman Liccardo.

>> Thanks, mayor. I want to commend you Laura and Hans and your teams for the national leadership that we've sat through your efforts. Not only are you making us a national leader in all things green and technology but certainly also we're now bypassing Orlando apparently as a tourist destination so that's great. I had a question about what appears to be-- the bottom of page 7 in the report, there's some discussion about the lock rhythmic relationship between the energy consumed and the visibility quality. I'm assuming-- the bottom line is, you can turn down the amount of energy by about 50% or even 67% before anybody starts to notice that things are starting to dim. The question I have is, is that true both as to distance as well as to the quality of the light? That is, the context I'm thinking about, for instance, when I was in the D.A.'s office we had continual complaints both from the police department as well as from witnesses around the bad lighting in San Jose and how difficult it

makes it to make positive identification of suspects and for witnesses to see what's going on. So I'm wondering, by turning down the energy consumption, are we affecting the quality of the vision? To the same extent that we're affecting the depth?

>> That's a great question. Basically, the way that white light works at night, it works on our peripheral vision is enhanced when we have more broad spectrum lighting. And most of the lighting that you have right now we call very narrow spectrum so it's kind of one color, the low-pressure sodium. And our on-axis vision, which is only 3 degrees, works okay with that, but our peripheral vision doesn't. So what the white light does, it enhances-- like if someone's coming in from the side-- that you can not only detect movement but you can turn and look at them and identify colors and all of that. Everyone thinks that lighting levels equate to visibility, but foot candles of how we measure it is a linear scale and our eyes are Logrhythmic. So you really need three to ten times as much light level before you notice that the lighting has gone up because of the log. Similar to sound, which is in decibels. So we double or half the light level and the untrained eye won't detect it. But during our visibility test, we could see there wasn't a detection difference in, you know, a few meters as you would lower the light level in just how fast you could see a target. So what I think this conversion is going to do is enhance the peripheral vision, even though the lighting levels have dropped. It's not going to be perceived that the lighting levels have dropped, and it's working with our nighttime vision so much better than your monochromatic light source right now. That's probably why you had the complaints about not being able to identify people and you didn't feel safe because most of your vision was kind of in sleep mode.

>> Yes. Some people tell me it feels spooky.

>> Yes.

>> But since we live here we don't notice that. Anyway, the criteria that we're using for dimming in the adapted design guidelines, I see on the bottom of page 7 the criteria you use or identify, traffic, ridership, land use data.. I didn't see crime listed there. I know for those of us who represent neighborhoods with high crime levels that's a sensitive subject. Will crime data be utilized as a criterion?

>> Council member Liccardo, I think that's one of the benefits the adaptive light, that we did have more degree of control in terms of the lighting level that we want. So I think that the design standards that we have deal with saving energy in the late night, so 11:00, midnight to 5:00 in the morning or so, but certainly it would be an option that we would have that in certain neighborhoods we wanted to maintain a higher level of lighting, that's certainly something we could entertain.

>> I understand that-- thank you for the response. I guess what I would ask maybe is the maker of the motion would consider including crime explicitly as a criterion so it's made explicit both for staff and council as we're making decisions about different parts of the city about where we're dimming and where we're not.

>> I think that's okay, and I think what I didn't hear so I'll add that to the motion. If I can just-- you seconded it so I guess it's okay.

>> Yeah.

>> From my understanding, not only have police officers dealt with the misidentification of colors but also from my work in photography it's really the color temperature of the light that really affects more than anything. And these color temperatures of L.E.D.s are much closer to the 5,000 degree spectrum, right, that's more like natural light?

>> We're actually choosing to use 4,000 part because there were concerns about Lick. But it's a slightly warmer color that's closer to the color of the moon.

>> Right. At 4,000, the human eye doesn't see the difference of the 1,000 degrees. So no problem.

>> Mr. Mayor, council member Liccardo, the issue of looking at sort of a safety criteria, the design guidelines are really set to establish kind of a minimum lighting level that we would have in certain areas, primarily for visibility and traffic safety reasons. And so I think the guidelines in terms of establishing minimums we'd recommend

sticking with that. But if council from an operational perspective, if we wanted to look at where we dim, I think that's sort of a different question than what we're trying to address with really these kind of more technically focused design guidelines.

>> Okay. I'm-- I'm looking at the bottom of page 7 and beginning of page 8 where it describes the city plans to use a combination of vehicular traffic, transit ridership to ascertain peak and low traffic areas. The data will determine how much and when the city will program its street lights to dim on those roadways. So I understood that to apply to operational decisions to dim. Am I mistaken about that, Hans?

>> Yeah. I think this refers to-- I would say probably more as a kind of where you look at from a perspective of where you would dim, it's largely based on the level of traffic and activity that we have in an area. So what areas would you allow dimming in a safe condition, is that you can have more dimming, opportunity for dimming, is greater in areas where you have lower activity and lower traffic volumes. And so the level of dimming and sort of the minimum or the maximum level of dimming is determined by certain characteristics in the city related to really pedestrian and traffic activity. Now, whether you dim to those minimum levels is really kind of another question that we're really not intending to address with this action here tonight.

>> Okay. I'll be honest with you. I'm not that clear about the distinction, as I'm listening. I appreciate what you're saying. I understand that some of these are technical questions but some of these are also policy-based questions. So I would just appreciate it if crime were somehow another explicitly acknowledged criterion. However that's decided. Thank you.

>> Council member Chu.

>> Thank you, mayor. I wanted to thank the D.O.T. and redevelopment agency for choosing north San Jose as the test site for 125 L.E.D. lights. Many of my questions have already been answered. The dimming of I think everybody seems to have some questions and repeatedly I heard that while dimming the light approximately 50% the detection distance for those lights decreased only 12%. So you really couldn't tell the difference if we dim it by

50%. But my question is, why bother? Why don't we just leave it at 50%? And that will cut the additional energy saving and we will not be invested-- put more investment in the bells and whistles, the more fancier L.E.D. light or put some additional bells and whistles so we can remotely control it and remotely dim it? Would that drive the cost down?

>> Well, the question on why we shouldn't just dim all the lights to 50%, if we have increased detection, the standards that the city of San Jose use to actually design street lighting systems, you know, how to lay them out, the wattage, the standards are behind the times. And we basically have to meet the standards, and they do talk about traffic volumes, pedestrian activity, that you need to light to a certain level. But once those activity levels drop, then we can go to 50%. And what we did in the demonstration was to show that this does work, that you still have great detection distances. What we're hoping with this work is to accomplish exactly what you just said, to show if, with white light, we do get the superior detection distance even at 50%, why not change the standards to reflect that? And that's what this body of work is trying to do, to show.

>> Just by listening to the deliberation here, I feel that we have already reached a point because you repeatedly told me that you couldn't tell the difference if we dim them by 50%. So when is the appropriate time for us to revise that standard?

>> Well, the standard that's being used is a north American standard written by the illuminating engineering society, and it's on roadway lighting. So you have to meet that standard. What we're doing is, with this research, to show the people writing the standards that maybe your lighting levels are too high from what we've found.

>> I see. Thank you.

>> Council member Campos.

>> Thank you, mayor. And thank you for choosing my neighborhood. I actually live on the streets where the lights were converted. It's been that way for about a year, and, yes, the difference is night and day, literally. It is

a huge improvement. So great work. I do have one question regarding the grant. I believe you said there's the possibility of lighting up another-- or converting 2,000 lights. Would any of those lights include some of those that have been turned off with this money saving program?

>> My understanding is the precise streets have not been chosen yet, but that's certainly a possibility.

>> Then I would-- if you could take that into consideration because if we are saving money, then it would be wise, especially in some of the neighborhoods as council member Liccardo was talking about, where you really need to have more light because it's not just bringing more visibility for pedestrians but there's a number of our neighborhoods in council district 5 and 3 that have high incidences of tagging and graffiti and with more lights out there kids are less likely to want to be seen. So that could be a deterrent. So thank you.

>> Couple of questions from the public. Rick Hemburger and Roger Sakurta.

>> Mayor, council, thank you for the opportunity. I just wanted to comment, give you a little bit of background. I'm with Philips Lumileds. We do make the L.E.D.s and I'm involved in outdoor lighting so I've seen a lot of the outdoor lighting throughout the world. And I'm very impressed with the due diligence, the homework, the science that went into this. I've seen bad installations and now I'm seeing some really good installations. So I just wanted to comment and say, hey, this is a very-- the way they approached this, it hasn't been a very haphazard approach. A lot of science went into this, and I have to commend them on that. And second of all I have a couple of corrections on this-- Lumileds is involved in some of the street lights already out there, just to be known. Second of all, you have had people from Mexico, Honduras and Brazil also up here to see the street lighting. I just want to say from an L.E.D. perspective, the science behind this is solid and we look forward to being adopted in San Jose where we are based. Thank you.

>> Roger Sakurta.

>> Thank you, mayor and council. Thank you for giving me this opportunity. I'm a professor of astronomy and our campus operates Lick observatory. I couldn't have planned this better because we honored two students from the Harker school today and I organized the internship for them to come work at Santa Cruz. So there is living proof for you of the excellence in research that goes on in astronomy right in this area. So the great city of San Jose I think has done a tremendous job of partnering with our wonderful observatory. We are a historical institution here. It's been here for over 100 years. We'd like to continue this partnership. I really commend the team here on the steps they've taken. What I'd like to say is talk about three steps that they've taken that Lick Observatory truly appreciates. One is to use the lights where they're needed, the lights are needed on the ground. So by shielding the lights appropriately, the lights are sent down into the ground as opposed to up in the sky where it both does no good to the citizens and hurts astronomy. That's one important step. A second important step is using the light when it is needed. We've talked about dimming extensively so I won't go there. A third item that hasn't been touched upon yet, something I have great hope for and I've been working with Laura and her team on, and that has to do with the color of light. We've been talking about very narrow spectrum, monochromatic lights, the yellow lights of San Jose. You can provide a broad spectrum of colors in a couple of different ways. What we are doing now is going to a true white light, but you can imagine-- I've been talk to a lot of L.E.D. developers about this-- that in the future technology improves, white light can be composed of a series of very narrow bands of different colors. So white is composed of many different colors. Instead of having broad spectrum, you can imagine having a picket fence in terms of the spectrum. That what does for astronomy is damage very limited parts of the spectrum and has absolutely no impact on color from the perspective of human vision. So that's something I look forward to working with the lighting manufacturers and the city on in the future. Thank you.

>> Thank you. That concludes the public testimony. Council member?

>> I just want to get my thank you in and commend staff for this and Mr.Helmer. I remember a lot of years back him talking about this. At that time people weren't sure if that was a good idea or if we had the time or staff. Thank you, everyone.

>> We have a motion on the floor with the one friendly amendment regarding the crime issues. Further discussion on that? All in favor? Opposed. None opposed. It's approved. Thank you very much. Congratulations.

>>> We have a couple of matters in the land use category. First one is 11.2, administrative hearing on an appeal of the planning commission decision to deny a conditional use permit for public convenience or necessity. That's all about off-sale of alcohol in case anybody is trying to figure that out. Joe hurdle?

>> Thank you, Mr. Mayor. This is a request for an off-sale alcohol because of the criteria of the city's ordinance, it did go through the planning commission with a mandatory denial. Staff has reviewed this proposal because it was appealed to the council, and looked at whether this should be supported or not. Staff is recommending that the city council deny the proposed off-sale of alcohol, as you've heard staff previously say, as we are very supportive of off-sale alcohol for full-fledged grocery stores. We think they're critical providing fresh food into our neighborhood. We see alcohol sales as a tool to help the stores be competitive. The use of alcohol in other businesses we think dilutes that incentive so we are very protective of that. This is a location that already has the availability of alcohol. It has the Safeway, I think rite aid in the neighborhood, a liquor store and a wine shop in the neighborhood. So it does not in staff's opinion meet the need of necessity that the community has adequate opportunities for alcohol available so staff is not supporting the request.

>> Council member Oliverio?

>> Thank you, Mayor Reed. I think it would be best if the applicant would present and then take all the public comment.

>> Okay. We do have requests from the public to speak. I have a couple of people who may be representing the applicant. It's a little hard to tell from the notes. We will allow the applicant to speak. We give the applicant five minutes to speak. I think city attorney is looking over my shoulder. Five minutes for the applicant to speak and

then we'll take the public testimony. So the applicant, whoever is representing the applicant, come on down. We'll give you five minutes. You can spread it among all your experts however you wish.

>> Good evening. My name is Dan Cramer. I'm outside counsel for Walgreens. I want to thank you for the opportunity to speak before you. As staff indicated in its report, city council determined that public convenience or necessity exists if only one of four special plannings are met. Tonight I want to focus on D on page six of the report which reads the proposed sale of alcoholic beverages is incidental and pertinent to a larger retail use and provides for a more complete and convenient shopping experience. As you know, Walgreens sells thousands of items from fruit and milk and bread to pharmaceuticals. This particular store consists of over 15,000 square feet and Walgreens intends to use just one 10-foot cooler and 18 feet of shelf space for beer and wine. Accordingly, the sale of beer and wine will be very much incidental to a larger retail use, thus satisfying the first prong of the finding. Regarding whether the sale of beer and wine will provide a more complete and convenient shopping experience, evidence overwhelmingly supports this finding as well. Similar to every other national pharmacy chain, Walgreens sells beer and wine at a majority of its California stores. National chains would not carry alcohol if consumers did not expect to find this product at pharmacies or if they didn't like to purchase this product at pharmacies. With its safe and friendly environment and product mix that catered to looking for those who want a bottled wine for dinner or six-pack for the home, Walgreens should be a welcome alternative to the liquor store. Over 70% of Walgreens customers are women and many of them shop with their children. As a father of two little girls under the age of 4 and someone who shops at Walgreens every week, I can personally attest that just because there's a Safeway or Rite Aid down the road, it's not convenient to take small kids in and out of their car seats to go to a different store just to pick up a single item that one should be able to purchase at a Walgreens. Lastly, and very importantly, the citizens of San Jose have expressed that the sale of beer and wine will provide them with a more convenient shopping experience. In a period of just six days, over 775 Walgreens shoppers signed a petition state willing exactly this. In addition, local neighborhood associations which you'll hear from tonight have indicated their support of this use as well. As such, there's an overwhelming evidence that the sale of alcoholic beverages would provide for a more complete and convenient shopping experience, and we respectfully request that you make a favorable determination of public convenience or necessity. Thank you.

>> Thank you. You have a couple minutes left. I've got a card here from Greg Kaufman. Is he part of the Walgreens team?

>> Yes.

>> Okay.

>> Again, thank you very much for your time. My name is Greg Kaufman, I'm the community leader that oversees the store in question here on meridian. The reason why Walgreens is asking for beer and wine is to basically put us on a level playing field with our competitors. Every other drug/grocery retailer in San Jose sells alcohol. We want to level the field. We don't want to lose the sale of other merchandise just because our customers can't get the alcohol or beer at our-- beer and wine at our store and they go to one of our competitors. The main competitor for this store is the CVS located in Campbell. I've talked to several customers who have indicated along with some of the employees of that store that that's where a lot of our customers go to buy their beer and wine, from that area. Thus, San Jose is losing that tax revenue. We'd like to keep it in San Jose. I've had several meetings with local associations and neighborhood groups in the area. We've opened up a great dialogue, provided for their concerns. They express them to me. I'm going to continue that dialogue with them so we can work through any problems that they see in the neighborhood. Again, we don't sell single beers. We don't sell anything fortified. Basically you're looking at 12-packs, 6-packs, your Coors, miller, and a few imports. And on the wine side, it's nothing-- no fortified wines, no extra alcohol content. You're looking at wines you'd find at grocery store. It's a fairly nice selection. Again, just, like I say, we'd Like to keep the playing field level so our customers don't have to go somewhere else and we can capture the sales in San Jose. Thank you.

>> Take some public testimony now if people wish to speak on this. Come on down when I call your name. Jit Singh and John Danuzo and someone from-- I can't read the handwriting. Actually, I can read the handwriting. It's blank.

>> Mayor, good evening. My name is JIT Singh. Walgreens at the corner of meridian, they want to sell alcohol, beer and wine. Currently we have 13 location in the neighborhood, in the immediate area. Do we need another liquor store? There's already plenty of alcohol, beer and wine, good quality in the area. I have heard 200 people who oppose the idea. Also, in the past I would like to bring to the attention of the council that Walgreens was selling alcoholic beverage in the past, and I heard that their license was revoked due to the sales to the minors. By the ABC. And I think it would be contrary to the moral public and-- to issue another license to the Walgreens. Walgreens is a medicine store. Medicine and alcohol, they don't mix. They don't go together. If you take medicine and drink alcohol, you end up in the hospital. So I strongly recommend not issue the license to Walgreens.

>> Thank you.

>> Thank you. John DANUZO is our next speaker followed by someone else from the liquor store.

>> Hi, mayor and council. I live on Hamilton and meridian and I'm really appalled that Walgreens wants to take business away from family-owned liquor stores and things like that. In a mile radius there's seven or eight liquor stores and establishments that sell alcohol. There's a lot of young employees at Walgreens because I live across the street. And from what I understand, from one that quit, they lost their license because of selling to minors. I'm appalled with that. I mean, we don't need more alcohol in that area, beer and wine. It's a very busy intersection. Whether you go to Rite Aid or not, you've got to take your child out of the car anyway. Let's see. I'm just, as a concerned San Jose citizen-- I shop at Rite Aid. I'd rather not see-- they sell from holiday cards to garden equipment and they get a large clientele. Why do they want to sell alcohol now? I just don't believe it-- I would rather not see it. And I'm through. Thank you.

>> Cynthia Goodwin, Vince Malusky, Michael Lerner.

>> Thank you for listening to us. I'm a neighbor of the Walgreens area. There are 14 sites within a quarter of a mile of Walgreens that you can buy alcohol. I think that's quite enough, and I understand that the licensure is only

for two and the planning commission denied it. And I would like to request that the city council deny. The way that I see it is that Walgreens, talking about leveling the playing field, I think it's just pure greed. And as a neighbor I just don't want another liquor license given. Thank you.

>> Ms.Malusky, Michael Lerner and Richard Zapelli.

>> Thank you. I also live in the neighborhood, a block away. Within a one-block radius of Walgreens, within a one-block radius, there are 14 places where you can get liquor. There isn't going to be people having to go to Campbell to get liquor. This is crazy. We have Rite Aid, Safeway, lucky liquors, gun theirs, Eldorado, Taco El Pastor. We have a gas station that sells liquor. We have Joseph George, Three Flames, Rookie's Pizza, Fratello's and Tomato Time and I Love Sushi. There's enough alcohol in our neighborhood. We don't want to be the alcohol capital of the south bay area. We have three times as many liquor outlets as the state alcoholic beverage commission will allow. And apparently the city council can overrule that, but I don't see that that's doing a favor to our neighborhood. Thank you very much.

>> Michael learner and Richard ZAP ELLI.

>> Hi. Thank you for listening. I live three streets away from Walgreens. They're here because they've already been told no and they don't know what no means I guess. No means we don't need a liquor store on every corner of our neighborhood, okay? And as far as tax revenue is concerned, when he says tax revenue, I'm thinking police activity. It's a loser, okay? You bring in liquor, you bring in police activity. When I hear of tax revenue for liquor, I think of lower property values, more trash on the street, more of the kind of activity I don't want to see in my neighborhood. He says there's a major CVS in Campbell taking business from him. What about the Rite Aid across the street and the huge Safeway? This is it a small Walgreens store.They don't have a lot of footprint. There's a lot of reason for not finishing your shopping trip at Walgreens. There's a lot of stuff they don't have, okay? And if Campbell is taking business from San Jose, it's because Campbell is dripping with city pride and their streets are clean and safe and beautiful. And if you want to get business in San Jose, you don't do it by

selling alcohol. You do it by setting your standards you set with your lighting program and forward-thinking things you have here, not by lowering your standards. Thank you very much.

>> Richard Zapelli is our last speaker.

>> Good evening, mayor and city council. I'm representing the neighborhood association. I'm here tonight to ask you to support their appeal to sell beer and wine at that location. One of the major reasons in my mind, sending ABC rules aside for a moment, you have an excellent corporate neighbor here. They are and have been as far as my history with them goes back 25 years. This has been a corporate policy of theirs for many, many years. They engage the community. They support the community. To give you some examples, we just recently had a fundraiser for the sacred heart community center on willow street in willow Glen. They supplied 25 turkeys without a blink of the eye for needy families. Their store on willow street, there was an apartment building catty-corner from them, caught on fire, almost totally destroyed, the Walgreens people, their management staff, showed up with food, juice, miscellaneous items and went out and got blankets for the needy people that were homeless that night. It was a rainy night. Also, they get involved. They also have made a commitment for us for next week's safe route for \$1,000 toward the production of that event that we had last year next year as well. So you've got a corporate people here that really support the community and our efforts. Today when we're trying to support community centers and libraries, keep them going, we need more vendors like this. We need to send a message to the other corporate types in the area we appreciate vendors that support the community. I'm asking you to please support Walgreens. Thank you.

>> That concludes the public testimony. I think we'll have some council discussion. Before we do that, I want to disclose in preparation for this meeting my staff has had meetings and conversations with Dan Cramer representing Walgreens. I'd just like to thank Walgreens for being open in the middle of the night when my kids or family needs medicine. Every community and neighborhood looks forward to having a pharmacy in their neighborhood close by. So we appreciate that. Council member Oliverio.

>> Thank you, Mayor Reed. I do want to thank the applicant. Dan Cramer is an awfully nice person and the community person from Walgreens is a responsible, community-oriented person. But that said, the big thing is the convenience and necessity. The convenience is already in this neighborhood, as you've heard from a variety of speakers. There's already plenty of places to purchase offsite alcohol. The necessity, nobody has been calling me up saying, I want another outlet to purchase this. If you simply walked out of the store at meridian and Hamilton, fairly busy street, and just turn to the left, you would find a liquor store, and then the wine store. This is where you can purchase alcohol and bring it out. I'm not going to include the restaurants. If you simply look across the street, you would have the Rite Aid, which has been mentioned, a full-service Safeway and another liquor store as well as the AM/PM that sells beer and wine. There's plenty there. At this point in time, I could not support the appeal. I believe in my own philosophy that alcohol allows margins for businesses to exist and those should be awarded to restaurants that serve food and grocery store that's are a full-service food store, not just a partial thing as what we sometimes have at these hybrid locations. I want to make a motion to support planning staff's recommendation and deny.

>> We have a motion on the floor. Council member Pyle?

>> Yes, thank you. I was curious about somewhat of an allegation that alcohol was served to minors. Because I'm trying to get some legislation through that would prevent the sale of alcohol to-- well, we already have it, a state law. I'm talking about something a little further. Is that something that you would Like to address? Or not? I'd like to hear.

>> Come on down, Mr.Cramer, if you'd like to respond to that question.

>> I'd like to address that. I think it's unfortunate that this was brought up. This store has never, ever had a liquor license so I'm not sure how this store could have had any violations or had its liquor license revoked.

>> Thank you. Well, whether-- I'm glad that was clarified. It would not be fair to your company or for all the good work that you do in the community to have that kind of smear. I think, in terms of the fairness level, is it fair for

Rite Aid to be able to serve alcohol but not Walgreens? But then I think about another kind of fairness. Is it fair for kids to be absolutely deluged with opportunities at every turn? It's so easy for kids to buy alcohol and to use it inappropriately and to wind up killing themselves. So for that reason I'm going to back your motion. Thank you.

>> Thank you. I also met with representatives from Walgreens couple of months ago about their overall plans to embark on ABC permits for several locations. I have a differing opinion. I know that shocks people. I do think that clearly by the percentage of store area devoted to the alcohol sales it is very, very incidental to other sales. I think that there's really no problem with it. I know in the past when some Walgreens locations had multi-thousand-foot liquor stores inside their businesses that was not a good thing and Walgreens I think realized that as well because they changed their business model and no longer do that in their drugstores or pharmacies in our area. As the mayor pointed out, they are throughout our community, supporting not only our tax base that we so greatly need but also supporting our residents not only being open in the middle of night but on holidays, which seems to be when all the kids get sick, in the middle of the night and on holidays. I honestly don't see a problem with it, especially when you have Rite Aids and other stores Like Long's that are in the same communities having the same business model. This is part of the business model, and I think we should support it. And I also have a problem with the mandatory denials which is on our list of policies and procedures that we've been talking about for at least the four years I've been here. I look forward to hopefully getting that prioritized at some point so that our business customers don't have to go through the agony of two hearings especially when they know one there's no option but to get denied.

>> I think that concludes the council discussion. I have no other requests to speak. We have a motion on the floor to approve the planning commission's denial. Further discussion? All in favor? Opposed? Two opposed. Constant opposed. That passes on an 8-2 vote. With council member Herrera is absent. The appeal is denied.

>>> That brings us to number three.

>> Thank you, Mr. Mayor. Staff is recommending approval of the proposed rezoning and planning commission recommended approval.

>> Council member Pyle?

>> Thank you. I'm so glad you asked me to speak a little about this because this is a great project. Absolutely tremendous. First of all, it's had a unanimous approval of both the staff and the planning commission. I would like to thank summer hill for bringing forth a project that complements the existing neighborhoods, the community for participating in the process, and being involved. I would move approval with additional direction to the developer, too, and I believe this is part of what you agreed to, expand street improvements on south crest to include both sides of the street and construct the trail to the future Marshall coddle park. And this was a volunteer action from summer hill. We didn't have to get after them at all. They were great.

>> We have a motion on the floor.

>> But I wasn't quite finished. I wanted to tell you that--

>> Would you like to speak to your motion?

>> Well, I'm so excited about this because it not only matches upwardly mobile families with good prices and good quality products, but it enhances the neighborhood as well. We do not have nearly enough housing for young couples that are starting out. Thank you. With that, I move for approval.

>> Okay. We have a motion on the floor with the two additional items mentioned by council member Pyle. Any further discussion on this? I have no cards. All in favor? Opposed? None opposed. That's approved.

>>> Last item of the evening is open forum. Abraham Thompson and Carl Gordino.

>> Thank you, mayor and council members. I'm with the Asian art foundation and television. Every year we bring Shen Yun performing arts to the performing arts center. I know it's been three or four years now that we've been

doing that. I wanted you guys to mark the date, April 8th, 9th, and 10th. We have two matinees, one on Saturday and Sunday, and I know that's probably not too appealing to you guys because you're up so late tonight. Probably would like the night shows. Shen Yun is a wonderful performing arts, three companies based in New York. Being based in New York they can fully represent the authentic Chinese cultural arts. In China a lot of these arts are sanctioned so this is really a strong part of Shen Yun performing arts. They have three troupes that travel around the world and since the Asian art foundation is based here in San Jose, we're really proud to bring it here. Hope to have your support and hope the mayor can come see the show again. Thank you for all your support over the years. And also council member Liccardo, hopefully you can come and attend since it's in your district. We do appreciate that. In closing I'd like to wish you guys a happy new year because February is the Chinese new year. Thank you. Is that okay?

>> It is a great show. I'll vouch for that.

>>> Carl Guardino.

>> I'm fully aware I'm the only thing standing between you and your loved ones so I'll be very brief. But I'm cognizant that my former political science professor Terry Christiansen is in the audience and I feel like we should have number two pencils and a blue book.

>> A lot of pressure.

>> It is. I'd like to invite each of you to join us. As you know, president Obama is going to be visiting our region on Thursday. We think we should return the favor. So on March 15th through 17th we'll be traveling with 70 CEOs and senior officers to Washington, D.C., on an agenda of jobs and economic competitiveness for our nation led by the CEO of Sun Power Tom Westerner, the CEO of BROCADE and our Mayor Chuck Reed. So first we hope that you will strongly consider joining us. We break into teams. We meet with about 120 key members of the House, Senate and Administration in small groups where everyone has a role in every meeting. And you would provide a vital role on that trip. I want to thank Vice Mayor Nguyen in absentia Council member Herrera, Council

member Liccardo and the mayor for past visits to D.C. If you have fun on that trip, we want to invite you to continue the tour. We're going to get T-shirts with all the tour stops. The next one will be Sacramento on April 12th and 13th. Again, we divide into small teams, about 50 CEOs, senior officers, with you, with us advocating for the future of silicon valley and our innovation economy in Sacramento with an emphasis on budget, governance and other areas that we need to strengthen our state in terms of our economic competitiveness. With that, mayor and members of the council, on behalf of the 335 members of the silicon valley leadership group, we want to continue our long and strong partnership with you in Sacramento and D.C. Thank you for your time.

>> Thank you.

>> Mayor, could I add a plug for my colleagues who haven't done this? This is actually a great opportunity and great work on behalf of our region and our city. This is not a boondoggle. This is hard work. You're going to be put to work in small groups but it's an incredible learn being experience and great way to advocate for things you care about.

>> Thank you.

>> I want to thank council member Liccardo and Mayor Reed for the great news we all received yesterday in the president's budget, \$130 million allocation for fiscal year 2012 for the B.A.R.T. extension to San Jose. Equally important today was the FTA, the Federal Transit Administration's action recommending a full-funding grant agreement. People say, with republicans in the house, are you going to have a problem? We never take anything lightly, but hear this. There has never been in the history of the United States the federal government reneging on a full-funding grant agreement. Ever. So that's the recommendation if it's granted. I think history is on our side and B.A.R.T. is on the way. Thank you.

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